By Mr. MONDELL: A resolution (House Res. No. 556) requesting the President to furnish to the House all reports and papers relating to the segregation from the public domain of the lands embraced in the Executive proclamation of February 22, 1897—to the Committee on the Public Lands.

By Mr. MURPHY of Arizona: A memorial of the legislature of the Territory of Arizona, urging the construction of the proposed Buttes reservoir, in Pinal County, Ariz.—to the Committee on Indian Affairs.

Also, a memorial of the legislature of the Territory of Arizona, asking Congress to provide by law for loaning to the University of Arizona ordnance and ordnance stores, etc.—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. BARTLETT of Georgia: A bill (H. R. 10363) to increase the pension now paid to Mrs. Lucinda Booth, widow of Wiley Booth, a soldier of the war of 1812—to the Committee on Pensions.

By Mr. MAGUIRE: A bill (H. R. 10365) granting increase of pension to Louise K. Hopkins—to the Committee on Invalid Pensions.

Also, a bill (H. R. 10366) for the relief of James Q. Shirley and the estate of Francis De Long, deceased—to the Committee on Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ARNOLD of Rhode Island: Petitions of the Advent Christian Church, of Providence, R. I., the Free Baptist Church and the Young People's Society of Christian Endeavor of Arlington, R. I., and the Arcadia Baptist Church, in favor of the Gillett-Platt bill (H. R. 7441), prohibiting the transmission of gambling matter by telegraph—to the Committee on Interstate and Foreign Commerce.

Also, petitions of Rev. J. B. Davis and Rev. J. D. Gardner, of Providence, R. I.; also of C. A. Pratt and others; also of W. S. Walker and others, favoring the passage of the Shannon bill (H. R. 9515), to raise the age of protection to 18 years—to the Committee on the Judiciary.

By Mr. BULL: Petition of A. S. Rounds, grand commander of the order of the Golden Cross, favoring the enactment of the bill regulating fraternal beneficiary societies (H. R. 10108)—to the Committee on the District of Columbia.

By Mr. BURTON of Missouri: Petition of A. Eppenawr and other citizens of Nevada, Mo., in favor of House bill No. 9209, granting a service pension to honorably discharged soldiers of the late war—to the Committee on Invalid Pensions.

By Mr. CANNON: Petition of William Aster & Son and other citizens of Momence, Ill., praying for the passage of Senate bill No. 3545 and House bill No. 10090, abolishing ticket brokerage—to the Committee on Interstate and Foreign Commerce.

By Mr. COUSINS: Petition of L. P. Bardwell, of Marion, Iowa, praying for the passage of House bill (H. R. 4566) to amend the postal laws relating to second-class mail matter—to the Committee on Post-Offices and Post-Roads.

Also, petition of 61 citizens of Cedar Rapids, Iowa, favoring the passage of the Sherman bill to abolish ticket brokerage—to the Committee on Interstate and Foreign Commerce.

By Mr. CURTIS of Kansas: Petition of J. W. Thompson and other citizens of Marion; also of J. W. Hughes and others, of Topeka, Kans., praying for the passage of House bill No. 10090 and Senate bill No. 3545, prohibiting the sale of railroad tickets by unauthorized persons—to the Committee on Interstate and Foreign Commerce.

By Mr. EVANS: Petition of Theodore Deetjen and other citizens of Hoboken, N. J., in favor of the Sherman bill to prevent ticket scalping—to the Committee on Interstate and Foreign Commerce.

By Mr. FLETCHER: Petition of N. W. Allen and other citizens of Minneapolis, Minn., asking for the favorable consideration of the antiscalpers bill—to the Committee on Interstate and Foreign Commerce.

By Mr. GAMBLE: Petition of George S. Rix and 44 other citizens of Milbank, S. Dak., praying for the passage of House bill No. 10108 and Senate bill No. 3589, relating to fraternal societies and orders—to the Committee on the District of Columbia.

By Mr. GILLET of New York: Petition of 242 citizens of Elmira, N. Y., in favor of House bill No. 354, to establish a national university—to the Committee on Education.

By Mr. HAGER: Petition of C. H. Cappellar and other citizens of Atlantic, Iowa, protesting against the passage of the Cullom and Sherman bill to prevent ticket brokerage—to the Committee on Interstate and Foreign Commerce.

By Mr. HENDRICK: Petition of J. A. Cope and other citizens of Glade, Ky., praying for the enactment of legislation prohibiting the sale of railroad tickets by unauthorized persons—to the Committee on Interstate and Foreign Commerce.

By Mr. HURLEY: Petition of E. Greenfield's Son & Co. and other business firms in the city of New York, in regard to rate of duty on desiccated cocoanut—to the Committee on Ways and Means.

By Mr. JOHNSON of North Dakota: Petition of Rev. S. F. Beer and 26 other citizens; also petition of C. A. Harris and 44 others, residing in the State of North Dakota, to raise the age of consent to 18 years—to the Committee on the Judiciary.

By Mr. LOUD: Resolution of the San Francisco Chamber of Commerce relative to the necessity for representation of the Territory of Alaska in the House of Representatives—to the Committee on Territories.

By Mr. PERKINS: Resolutions of the Farmers' Institute of Sac City, Iowa, protesting against the passage of House bill No. 10090—to the Committee on Interstate and Foreign Commerce.

By Mr. PRICE: Petitions of George G. Denor and other citizens of Patterson; J. H. Hoffmann and others, of Jennings; C. H. Vincent and others; V. E. Dupris and others, of Carevero; O. Cromwell and others, of Chacahaula; J. R. Parkerson and others, of Franklin; J. C. Morris, A. F. Barnett, and others, of New Orleans; William Millot and others, of St. Marys Parish; William J. McClellan and others, of Morgan City; George Malagarie and others, of Broussard; M. D. Kearney and others, of Lake Charles; G. A. Martin and others, of Lafayette; F. & D. Gande and others, of Lafourche Crossing, and John B. Lewis and others, of Jeousette, in the State of Louisiana, asking for the passage of the antirailroad ticket scalping bill (H. R, 10090)—to the Committee on Interstate and Foreign Commerce.

By Mr. SHERMAN: Petition of Louis Diss and other citizens of Ilion, N. Y., urging the passage of the McMillan-Linton bill (H. R. 10108)—to the Committee on the District of Columbia.

By Mr. SNOVER: Petition of P. Ross Parrish, of Romeo, Mich., in favor of the bill prohibiting ticket scalping—to the Committee on Interstate and Foreign Commerce.

By Mr. SOUTHARD: Petition of Campbell Coyle, of Toledo, Ohio, favoring the passage of the Cullom and Sherman bills to prevent railroad-ticket scalping—to the Committee on Interstate and Foreign Commerce.

By Mr. WATSON of Ohio: Petition of Emil Stampfli and other citizens of Columbus, Ohio, in favor of the Linton bill (H. R. 10108)—to the Committee on the District of Columbia.

SENATE.

FRIDAY, *February 26, 1897.*

The Senate met at 11 o'clock a. m.

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. MILLS, and by unanimous consent, the further reading was dispensed with.

LIST OF JUDGMENTS RENDERED.

The VICE-PRESIDENT laid before the Senate a communication from the Attorney-General, transmitting, in response to a resolution of the 24th instant, a list of all judgments rendered against the United States by the circuit and district courts of the United States, under section 11 of the act of March 3, 1887, entitled "An act to provide for the bringing of suits against the Government of the United States," which require an appropriation for their payment, and which have not heretofore been reported to Congress; which, with the accompanying paper, was referred to the Committee on Appropriations, and ordered to be printed.

SUPPLEMENTAL ESTIMATES.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting, in response to a resolution of the 24th instant, supplemental estimates of appropriations required by the several Departments of the Government to complete the service of the fiscal year ending June 30, 1897, and for prior years, amounting to $23,209.37, and for the postal service, payable from postal revenues, amounting to $3,620.09; which, with the accompanying papers, was referred to the Committee on Appropriations, and ordered to be printed.

HUGH T. TAGGART.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting a copy of a letter from the Attorney-General of the 25th instant, requesting that an appropriation of $25,500 be included in the general deficiency appropriation bill, for payment to Hugh T. Taggart for services performed under appointment by the Department of Justice; which, with the accompanying paper, was referred to the Committee on Appropriations, and ordered to be printed.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

ENROLLED BILLS SIGNED.

The signature of the Vice-President was announced to the following enrolled bills; which had previously been signed by the Speaker of the House of Representatives:

A bill (H. R. 948) to remove the charge of desertion against Jacob M. Hamburger;

A bill (H. R. 1984) to provide for the use and occupation of reservoir sites reserved;

A bill (H. R. 4156) to amend the postal laws providing limited indemnity for loss of registered mail matter; and

A bill (H. R. 9689) for the relief of Daniel E. De Clute.

CREDENTIALS.

Mr. BACON presented the credentials of Alexander Stephens Clay, chosen by the legislature of Georgia a Senator from that State for the term beginning March 4, 1897; which were read, and ordered to be filed.

EDWARD VUNK.

Mr. VILAS. I ask unanimous consent to dispose of a House bill proposing to grant a pension, being the bill (H. R. 3842) to increase the pension of Edward Vunk.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to increase the pension of Edward Vunk, formerly a member of Company D, Twelfth Regiment Wisconsin Infantry, to $45 per month, in lieu of the pension now paid him.

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

AMANDA M. WAY..

Mr. PEFFER. I ask unanimous consent to proceed to the consideration of the first pension bill on the Calendar, the bill (H. R. 5898) granting a pension to Amanda M. Way as army nurse.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to place the name of Amanda M. Way, of Los Angeles, Cal., on the pension roll as army nurse, and to pay her a pension at the rate of $12 a month.

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

SETH PORTER CHURCH.

Mr. BURROWS. I ask unanimous consent to call up the bill (H. R. 3292) granting an honorable discharge to Seth Porter Church, alias Samuel Church.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to grant an honorable discharge to Seth Porter Church, alias Samuel Church, from Battery I, Second United States Artillery, to date August 29, 1848.

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

PROTECTION OF NATIONAL MILITARY PARKS.

Mr. HAWLEY. I ask unanimous consent to proceed to the consideration of House bill 7320. It is a bill to prevent trespassing upon the national parks. The commissioners of the Gettysburg and Chattanooga parks are much troubled by trespassers of various sorts. There is an amendment to the bill.

The VICE-PRESIDENT. The bill will be read for information.

The Secretary read the bill (H. R. 7320) to prevent trespassing upon and providing for the protection of national military parks; and, by unanimous consent, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported from the Committee on Military Affairs with an amendment, to strike out section 4 in the following words:

SEC. 4. That any person to whom land lying within any national parks may have been leased, who refuses to give up possession of the same to the United States after the termination of said lease, and after possession has been demanded for the United States by any park commissioner or the park superintendent, or any person retaining possession of land lying within the boundary of said park which he or she may have sold to the United States for park purposes and have received payment therefor, after possession of the same has been demanded for the United States by any park commissioner or the park superintendent, shall be guilty of trespass, and is liable to a penalty of not more than $1,000. And it shall be lawful for the park employees by force to eject such person from the land so held and from the park.

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. HAWLEY. I move that the Senate request a conference with the House of Representatives on the bill and amendment.

The motion was agreed to.

By unanimous consent, the Vice-President was authorized to appoint the conferees on the part of the Senate; and Mr. HAWLEY, Mr. SHOUP, and Mr. WALTHALL were appointed.

PETITIONS AND MEMORIALS.

Mr. PERKINS. I present the memorial of David Lubin, of Sacramento, Cal., on behalf of the State Granges of California, Oregon, Illinois, Washington, Missouri, Virginia, and Pennsylvania, setting forth certain evils of the present system of protection, and suggesting modifications. The memorial is very short and I move that it be printed as a document and referred to the Committee on Finance.

The motion was agreed to.

Mr. PERKINS presented a petition of the Chamber of Commerce of San Francisco, Cal., praying that the Territory of Alaska be given representation in Congress; which was referred to the Committee on Territories.

Mr. VEST presented sundry petitions of citizens of Jefferson City, Kansas City, Kirkwood, Portland, and Columbia, all in the State of Missouri, praying for the passage of the antiscalping railroad ticket bill; which were ordered to lie on the table.

Mr. SHERMAN presented the petitions of W. E. Lynch and sundry other citizens; of Henry M. Green and sundry other citizens; of Rev. D. E. Hoffman and sundry other citizens; Fanny Miller and sundry other citizens; Charles Scharf and sundry other citizens, and of E. E. Weller and sundry other citizens, all of Fostoria, Ohio, praying for the enactment of legislation prohibiting the sale of intoxicating liquors in the Capitol building; which were ordered to lie on the table.

He also presented the petitions of Rev. William R. Evans, of Gallia; of Rev. T. K. Leonard and sundry other citizens of Clyde, and of Rev. S. H. Randelaugh and sundry other citizens of Lindsey, all in the State of Ohio, praying for the passage of the antiscalping railroad ticket bill; which were ordered to lie on the table.

Mr. DAVIS presented a memorial of the Chamber of Commerce of St. Paul, Minn., remonstrating against the removal of the office of supervisor of steamboat inspection from that city; which was referred to the Committee on Commerce.

He also presented a memorial of the Union Veteran League of Minneapolis, Minn., remonstrating against the extension of the civil service to cover pension boards of examining surgeons; which was referred to the Committee on Pensions.

He also presented a petition of the department of superintendence of the National Education Association, and a petition of sundry citizens of Mankato, Minn., praying for the passage of the antiscalping railroad ticket bill; which were ordered to lie on the table.

Mr. FRYE presented a petition of members of the Shaker church of Sabbathday Lake, New Gloucester, Me., praying that the movement to establish a court of arbitration between Great Britain and the United States be speedily consummated; which was ordered to lie on the table.

Mr. GEAR presented a petition of the Pleasant Plain Quarterly Meeting of Friends, of Woolson, Iowa, praying for the ratification of the pending arbitration treaty with Great Britain; which was ordered to lie on the table.

He also presented a petition of the Farmers' Institute of Sac County, Iowa, and the petition of Rev. J. A. Maple, of Keokuk, Iowa, praying for the passage of the antiscalping railroad ticket bill; which were ordered to lie on the table.

Mr. LODGE presented a petition of the legislature of the Commonwealth of Massachusetts, praying that an appropriation be made for the construction of a dry dock at Charlestown, in that State; which was referred to the Committee on Naval Affairs.

He also presented a petition of the Central Labor Union of Lawrence, Mass., praying for the passage of the so-called seaman's bill without amendment; which was ordered to lie on the table.

He also presented a petition of the Woman's Club of Amherst, Mass., praying for the ratification of the pending arbitration treaty with Great Britain; which was ordered to lie on the table.

Mr. NELSON presented the petition of H. H. Bergsland and sundry other citizens of Red Wing, and the petition of N. W. Allen and sundry other citizens of Minneapolis, Good Thunder, Freeborn, North Branch, Crow Wing, and Moose Lake, all in the State of Minnesota, praying for the passage of the antiscalping railroad ticket bill; which were ordered to lie on the table.

Mr. COCKRELL presented the petition of August Huge and sundry other citizens of Kirkwood, Mo., praying for the passage of the antiscalping railroad ticket bill; which was ordered to lie on the table.

Mr. MITCHELL of Wisconsin presented the petition of the Woman's Club, of Madison, Wis., praying for the ratification of the pending arbitration treaty with Great Britain; which was ordered to lie on the table.

Mr. VILAS presented the petition of Rev. S. Mereness and sundry other citizens of Oxford, Wis., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in the Capitol building; which was ordered to lie on the table.

Mr. TURPIE presented a petition of the professors and students Indiana of University, Bloomington, Ind., and sundry petitions

of citizens of Indiana, praying for the ratification of the pending arbitration treaty with Great Britain; which were ordered to lie on the table.

He also presented the petition of J. E. Elder, grand regent of the Royal Arcanum, and sundry other citizens of Indiana, and a petition of sundry citizens of Bristol and Elkhart, Ind., praying for the enactment of legislation regulating fraternal beneficiary societies, orders, and associations; which were ordered to lie on the table.

Mr. BRICE presented a petition of the Credit Men's Association of Cincinnati, Ohio, praying for the passage of the Torrey bankruptcy bill; which was ordered to lie on the table.

He also presented a petition of sundry citizens of Painesville, Ohio, praying for the enactment of legislation to punish contempts of court; for the appointment of an international arbitration commission, and also for the appointment of an impartial, nonpartisan industrial commission; which was ordered to lie on the table.

He also presented the petition of Rev. W. L. Y. Davis, in behalf of the Methodist ministers of Cincinnati, Ohio, praying for the enactment of legislation regulating the liquor traffic in the District of Columbia; which was referred to the Committee on the District of Columbia.

He also presented a petition of Hollingsworth Division, No. 100, Order of Railway Conductors, of Columbus, Ohio, and sundry petitions of citizens of Springfield and Noble County, Ohio, praying for the passage of the antiscalping railroad ticket bill; which were ordered to lie on the table.

He also presented the petition of Rev. Charles K. Hunton, in behalf of the Luther League of America, praying for the passage of the so-called Loud bill, relating to second-class mail matter; which was ordered to lie on the table.

He also presented a memorial of the Western Tract Society of Cincinnati, Ohio, remonstrating against the adoption of the proposed amendment to the so-called Loud bill, preventing agents from mailing periodicals at the same rate as publishers, etc.; which was ordered to lie on the table.

He also presented petitions of the Christian Endeavor societies of the Presbyterian churches of South Charleston, Castine, and Vinton County; of the Woman's Christian Temperance Union of Greene County; of the Young People's Society of Christian Endeavor of Columbus; of the Young People's Society of Christian Endeavor of the Central Christian Church of Cincinnati; and of the Christian Endeavor Society of the Reformed Church of Hartville, all in the State of Ohio, praying for the enactment of legislation prohibiting the sale of intoxicating liquors in the Capitol building; which were ordered to lie on the table.

He also presented a petition of the Western Reserve Society, Sons of the American Revolution, of Cleveland, Ohio, praying for the ratification of the pending arbitration treaty with Great Britain; which was ordered to lie on the table.

He also presented the petition of Eliza G. Rice, secretary of the Woman's Christian Temperance Union of Yellow Springs, Ohio, praying for the enactment of legislation to abolish the sale of intoxicating liquors in the Capitol building, and also for the ratification of the pending arbitration treaty with Great Britain; which was ordered to lie on the table.

Mr. HANSBROUGH presented the petitions of Henry Well and 61 other citizens of Cavalier; of Mrs. A. M. Cook and 40 other citizens of Cogswell; of C. W. Pollock and 49 other citizens of Casselton, and of C. A. Harris and 44 other citizens of Grafton, all in the State of North Dakota, praying for the enactment of legislation to raise the age of consent to 18 years in the District of Columbia and the Territories; which were ordered to lie on the table.

Mr. VILAS presented the petition of E. A. Abbott and sundry other citizens of Lodi, Wis., praying for the ratification of the pending arbitration treaty with Great Britain; which was ordered to lie on the table.

He also presented the petition of D. Grotophorst and 28 other citizens of Wisconsin, praying for the passage of the antiscalping railroad ticket bill; which was ordered to lie on the table.

Mr. GALLINGER presented a petition of the Grand Council of the Royal Arcanum of the District of Columbia, praying for the enactment of legislation regulating fraternal beneficiary societies, orders, and associations; which was ordered to lie on the table.

He also presented a petition of the Christian Endeavor Society, of Orange, N. H., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in the Capitol building; which was ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. HALE, from the Committee on Printing, to whom was referred the amendment submitted by Mr. VOORHEES on the 18th instant, intended to be proposed to the general deficiency appropriation bill, reported favorably thereon, and moved that it be referred to the Committee on Appropriations, and printed; which was agreed to.

Mr. MITCHELL of Wisconsin, from the Committee on Pensions, to whom was referred the bill (H. R. 5183) granting an increase of pension to Wesley A. Pletcher, reported it without amendment, and submitted a report thereon.

Mr. PERKINS, from the Committee on Appropriations, to whom was referred the bill (H. R. 10288) making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes, reported it with amendments, and submitted a report thereon.

Mr. HANSBROUGH. I am directed by the Committee on the Library, to whom were referred the bill (S. 3087) to incorporate the National Society of Colonial Dames of America, and the bill (S. 3356) to incorporate the Society of the Colonial Dames of America, to report them adversely, and to submit a report thereon.

Mr. ALDRICH. I ask that the bills may be placed on the Calendar, with the adverse report.

Mr. HANSBROUGH. I have no objection to that course being pursued.

Mr. QUAY. May I ask the Senator from North Dakota which of the societies of Colonial Dames the committee propose to incorporate, or whether both of them are to be incorporated?

Mr. HANSBROUGH. We are not reporting in favor of the incorporation of either one of the societies. The committee authorized me to make an adverse report on both bills.

Mr. QUAY. On both bills?

Mr. HANSBROUGH. Yes, sir; both the New York society and the Pennsylvania society.

Mr. QUAY. I did not notice. I supposed the bills were reported favorably.

Mr. HANSBROUGH. No, sir; adversely.

Mr. GALLINGER. Both of them are reported adversely.

Mr. HANSBROUGH. Yes, sir.

The PRESIDING OFFICER (Mr. PASCO in the chair). Does the Senator desire that the bills shall be placed upon the Calendar?

Mr. ALDRICH. I requested that the bills should be placed on the Calendar.

The PRESIDING OFFICER. It will be so ordered.

Mr. GALLINGER, from the Committee on Pensions, to whom was referred the bill (H. R. 6634) granting a pension to Sarah M. Spyker, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (H. R. 4930) granting a pension to Mary Forward, reported it without amendment, and submitted a report thereon.

He also, from the Committee on the District of Columbia, to whom was referred the amendment submitted by himself on the 20th instant, intended to be proposed to the District of Columbia appropriation bill, reported favorably thereon, and moved that it be referred to the Committee on Appropriations and printed; which was agreed to.

Mr. FAULKNER, from the Committee on the District of Columbia, to whom was referred the amendment submitted by himself on the 20th instant, intended to be proposed to the District of Columbia appropriation bill, reported favorably thereon, and moved that it be referred to the Committee on Appropriations and printed; which was agreed to.

Mr. CHANDLER, from the Committee on Naval Affairs, reported an amendment intended to be proposed to the general deficiency appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

He also, from the Committee on the Census, reported an amendment intended to be proposed to the sundry civil appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

REPORT ON IMMIGRATION.

Mr. HALE, from the Committee on Printing, to whom was referred the resolution submitted by Mr. CHANDLER on the 24th instant, reported it without amendment; and it was considered by unanimous consent and agreed to, as follows:

Resolved, That there be printed 800 additional copies of the report of the results of the mission of the Commissioner-General of Immigration to the Italian Government, October, 1896; 300 for the use of the Senate and 500 for the use of the Commissioner-General of Immigration.

PROPOSED RESTRICTION OF IMMIGRATION.

Mr. LODGE. From the Committee on Immigration, I desire to ask that an additional number of copies may be printed of the conference report on the immigration bill, for which there is a large demand. The print is entirely exhausted.

There being no objection, the order was agreed to, as follows:

Ordered, That the report of the committee of conference on H. R. 7864, an act to amend the immigration laws of the United States be reprinted.

BILL INTRODUCED.

Mr. GEAR introduced a bill (S. 3730) for the relief of the Columbian Dry Dock Company, of Baltimore, Md., which was read twice by its title, and referred to the Committee on Claims.

AMENDMENTS TO APPROPRIATION BILLS.

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

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

Mr. ELKINS 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.

HENRY A. DU PONT.

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

Resolved, That there be allowed and paid to Henry A. Du Pont, from the contingent fund of the Senate, the sum of $1,855.45, being the amount expended by him in prosecuting his claim to a seat in the Senate from the State of Delaware.

CONSIDERATION OF BILLS BY COMMITTEES.

Mr. VEST submitted the following resolution; which was referred to the Committee on Rules:

Resolved, That no report shall be received by the Senate from any standing or select committee, unless such report has been considered by said committee at a session attended by a quorum of its members.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had on the 25th instant approved and signed the following acts:

An act (S. 321) granting a pension to James W. Dunn;

An act (S. 1501) granting an increase of pension to Mrs. Lucy Alexander Payne, widow of Capt. J. Scott Payne, Fifth United States Cavalry;

An act (S. 1694) to increase the pension of Maj. Gen. Julius H. Stahel; and

An act (S. 2832) for the relief of Daniel T. Tollett.

METROPOLITAN RAILROAD COMPANY.

The VICE-PRESIDENT. As a part of the morning business, the Chair lays before the Senate a concurrent resolution, coming over from a previous day. The resolution will be read.

The Secretary read the concurrent resolution submitted yesterday by Mr. ALLEN, as follows:

Resolved by the Senate (the House of Representatives concurring), That the President is requested to return to the Senate for further consideration the bill (H. R. 9647) to authorize the extension of the lines of the Metropolitan Railroad Company, of the District of Columbia.

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

The concurrent resolution was agreed to.

PROPOSED EXECUTIVE SESSION.

Mr. PETTIGREW. Mr. President——

Mr. HILL. Will the Senator from South Dakota permit me a moment? I ask unanimous consent that we may have an executive session at 3 o'clock this afternoon.

The VICE-PRESIDENT. The Senator from New York asks unanimous consent that there be an executive session at 3 o'clock this afternoon.

Mr. FRYE. I object.

The VICE-PRESIDENT. Objection is interposed.

Mr. HILL. I give notice, so that no one may be taken by surprise, that at 3 o'clock this afternoon I shall submit a motion for an executive session.

NONPARTISAN INDUSTRIAL COMMISSION.

Mr. QUAY. The Senate will remember that some days ago I called up what is known as the labor-commission bill. At that time there were serious objections to some of its features, but since then a compromise bill has been arranged between the opponents of the original bill and the committee representing the labor organizations, to which I think there will be no objection by any Senator on the floor. I should be glad if the Senate would now take up the bill and consider the compromise bill and send it to the other House.

Mr. WHITE. May I ask the Senator from Pennsylvania what commission bill he refers to? I was unable to hear him.

Mr. QUAY. The labor-commission bill.

Mr. WHITE. I have no objection.

Mr. PETTIGREW. I demand the regular order.

The VICE-PRESIDENT. Does the Chair understand the Senator from South Dakota to object?

Mr. PETTIGREW. I understand that the regular order this morning after the routine morning business is the Indian appropriation bill, and I desire to proceed with it. I will yield to the Senator after the bill is laid before the Senate.

Mr. ALLEN. What is the request of the Senator from South Dakota?

Mr. PETTIGREW. Simply that the order of last evening be carried out, that after the routine morning business the Indian appropriation bill shall be taken up. Is the morning business closed?

The VICE-PRESIDENT. The Senator from South Dakota demands the regular order. The Chair will state that the morning business having been disposed of, the regular business is the Calendar under Rule VIII.

Mr. PETTIGREW. I understand that last evening unanimous consent was given to take up the Indian appropriation bill immediately after the routine morning business.

Mr. CHANDLER. That is true, Mr. President.

The VICE-PRESIDENT. With that statement, the Chair lays before the Senate the Indian appropriation bill.

The SECRETARY. A bill (H. R. 10002) making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June 30, 1898, and for other purposes.

Mr. ALLEN. Mr. President——

Mr. PETTIGREW. Now, Mr. President——

The VICE-PRESIDENT. The Senator from Nebraska has addressed the Chair.

Mr. PETTIGREW. One moment. Will the Senator from Nebraska yield to me for a statement?

Mr. ALLEN. Yes; I will yield for a statement.

Mr. PETTIGREW. There are two committee amendments which, of course, will be the first to be considered. I desire to take up the one first on page 70 and dispose of the two committee amendments; and then the amendments offered by the Senator from Nebraska will be in order.

Mr. ALLEN. I have been trying to get in an objection here.

The VICE-PRESIDENT. The Chair recognized the Senator from Nebraska, but he yielded the floor.

Mr. ALLEN. Last night I said I would object to taking up the Indian appropriation bill if it interfered in the slightest degree with the consideration of the Sanguily resolution.

Mr. STEWART. That does not come up until 1 o'clock.

Mr. ALLEN. Very well; let it go over until that time.

Mr. STEWART. It is the unfinished business at 1 o'clock.

Mr. PETTIGREW. I desire to proceed with the consideration of the amendment on page 70.

The VICE-PRESIDENT. The amendment of the committee has been read. The amendment of the Senator from Utah [Mr. BROWN] to the amendment of the committee will be read.

Mr. QUAY. I ask the Senator from South Dakota to yield to me in order that I may call up the bill which I mentioned a few moments ago.

Mr. PETTIGREW. With the understanding that it will lead to no debate, I will yield.

Mr. QUAY. If there is any debate or any objection, I will withdraw it.

Mr. HAWLEY. What is the bill?

Mr. QUAY. It is what is known as the labor-commission bill. I do not know whether the Senator from Connecticut, who, I believe, was rather hostile to the bill in its original form, is aware that a compromise bill has been arranged between the opponents of the bill and the committees of the labor organizations, which, I understand, is unobjectionable. I desire to call up the bill and substitute the compromise bill for the bill of the House, if there is no objection.

Mr. HALE. That is a very important matter. It will give rise to debate. I must object.

Mr. QUAY. I understand that there are no objections to it, and that is the reason why I have asked to take it up. I will adopt the suggestion of my friend from Minnesota [Mr. DAVIS], and ask that the substitute be read.

The VICE-PRESIDENT. The Chair was unable to near whether objection was interposed by the Senator from Maine.

Mr. HALE. I objected.

Mr. QUAY. Objection was interposed. I merely ask that the proposed substitute be read for the information of the Senate.

The VICE-PRESIDENT. The Secretary will read the proposed substitute.

The Secretary read as follows:

Substitute for 9188.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a commission is hereby created, to be called the "industrial commission," to be composed as follows: Five members of the Senate, to be appointed by the presiding officer thereof; five members of the House of Representatives, to be appointed by the Speaker, and nine other persons who shall fairly represent the different industries and employments, to be appointed by the President, by and with the advice and consent of the Senate.

SEC. 2. That it shall be the duty of this commission to investigate questions pertaining to immigration, to labor, to agriculture, to manufacturing, and to business, and to report to Congress and to suggest such legislation as it may deem best upon these subjects.

SEC. 3. That the commission shall give reasonable time for hearings, if deemed necessary, and if necessary it may appoint a subcommission or subcommissions of its own members to make investigation in any part of the United States, and it shall be allowed actual necessary expenses for the same. It shall have the authority to send for persons and papers and to administer oaths and affirmations. All necessary expenses, including clerks,

stenographer, messengers, rent for place of meeting, and printing and stationery, shall be paid from any money in the Treasury not otherwise appropriated; however, not to exceed $50,000 per annum for expenditures under this section.

SEC. 4. That it may report from time to time to the Congress of the United States, and shall at the conclusion of its labors submit a final report.

SEC. 5. That the term of the commission shall be two years. The salary of each member of this commission appointed by the President shall be $3,600 per annum and actual traveling expenses.

SEC. 6. That any vacancies occurring in the commission by reason of death, disability, or from any other cause, shall be filled by appointment of the President of the United States.

SEC. 7. That a sum sufficient to carry out the provisions of this act is hereby appropriated out of any moneys in the Treasury of the United States not otherwise appropriated.

Mr. HALE. That is a gigantic scheme for building up a great set of officeholders at the rate of $5,000 a year. I object to it.

The VICE-PRESIDENT. Objection is interposed.

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 following bills and joint resolutions:

A bill (S. 153) authorizing the persons herein named to accept certain decorations;

A bill (S. 1676) authorizing Rear-Admiral W. A. Kirkland to accept a gold box presented to him by the Emperor of Germany;

A bill (S. 3340) authorizing Herbert H. D. Peirce to accept a medal from the Russian Government;

A joint resolution (S. R. 76) authorizing Lieut. William McCarty Little to accept a decoration from the King of Spain; and

A joint resolution (S. R. 107) to authorize Prof. Simon Newcomb, United States Navy, and Prof. Asaph Hall, United States Navy, to accept decorations from the Government of the Republic of France.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7469) for the removal of snow and ice from the sidewalks, cross walks, and gutters in the District of Columbia, and for other purposes.

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

A bill (H. R. 849) to increase the circulation of national banks;

A bill (H. R. 3278) to amend section 1 of an act approved December 21, 1893, entitled "An act to provide for two additional associate justices of the supreme court of the Territory of Oklahoma; and

A bill (H. R. 4808) to increase the efficiency of the postal service.

The message also announced that the House had passed a concurrent resolution providing for the printing of 10,000 copies of the tariff hearings of the Committee on Ways and Means during the second session of the Fifty-fourth Congress; in which it requested the concurrence of the Senate.

The message further announced that the House had passed a concurrent resolution providing that during the last six days of the present session of Congress the engrossing and enrolling of bills and joint resolutions by printing, as provided by act of Congress approved March 2, 1895, be suspended, and said bills and joint resolutions may be written by hand; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

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

A bill (S. 3328) to amend an act entitled "An act to repeal the timber-culture laws, and for other purposes;"

A bill (H. R. 3842) to increase the pension of Edward Vunk;

A bill (H. R. 8706) to correct the military record of Patrick Hanley;

A bill (H. R. 9638) making appropriations for the support of the Army for the fiscal year ending June 30, 1898;

A bill (H. R. 9709) to better define and regulate the rights of aliens to hold and own real estate in the Territories; and

A bill (H. R. 9961) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1898.

INDIAN APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 10002) making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June 30, 1898, and for other purposes.

The VICE-PRESIDENT. The amendment proposed by the Senator from Utah [Mr. BROWN] to the amendment of the committee, beginning on page 70, will be stated.

The SECRETARY. After the word "Interior," in line 8 on page 72, insert the words "unless such award has been paid to and accepted by the claimant;" so that when amended the clause will read:

And no right of either party shall be impaired by reason of any previous award or ruling made by the Secretary of the Interior, unless such award has been paid to and accepted by the claimant.

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

Mr. BROWN. This is a very important amendment. We have partly discussed it. It was called up last night, and there was not a sufficient number present to consider it properly. I shall have again to ask for a full Senate before considering it. I suggest the absence of a quorum.

The VICE-PRESIDENT. The Secretary will call the roll.

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

Allen,	Cockrell,	Lodge,	Quay,
Allison,	Davis,	Mills,	Roach,
Bate,	Elkins,	Mitchell, Wis.	Sherman,
Berry,	Frye,	Morgan,	Shoup,
Blackburn,	Gear,	Morrill,	Stewart,
Blanchard,	Gorman,	Murphy,	Teller,
Brown,	Gray,	Nelson,	Tillman,
Burrows,	Hale,	Pasco,	Vest,
Call,	Hawley,	Peffer,	Vilas,
Cannon,	Hill,	Perkins,	Walthall,
Carter,	Hoar,	Pettigrew,	White.
Chandler,	Kenney,	Platt,	
Chilton,	Lindsay,	Pugh,	

The VICE-PRESIDENT. Fifty Senators have answered to their names. A quorum is present. The question is upon agreeing to the amendment submitted by the Senator from Utah to the amendment of the committee.

Mr. BROWN. The object of the amendment, Mr. President, is simply to carry out the scheme proposed by the committee to submit the whole question, with all its equities, defenses, and points, to the Court of Claims. It is claimed here that many of these claimants presented their claims to the Secretary of the Interior and he has adjusted them; that they had accepted the allowance and been paid the amount, and that they are satisfied with it. This amendment simply proposes that the court shall take that fact, among others, into consideration, and give it such weight as the court sees fit. I hope the amendment to the amendment will be passed at this time.

Mr. BURROWS. It seems to me that the amendment proposed by the Senator from Utah [Mr. BROWN] ought to be accepted by the committee. If this matter is going to the Court of Claims there is no reason why they should not examine the full question and ascertain how much has been paid each one of the claimants, and not bar the Indians from making any proper defense of the claims.

I have very great doubt myself whether there is any great merit in the claims whatever. In fact, from a conversation had with officials who are familiar with it, I am satisfied that the claims are without foundation. I hold in my hand a report made by the Secretary of the Interior upon these claims, embracing also the report of the Commissioner of Indian Affairs, from which it appears that out of this fund there have been paid to these attorneys in all the sum of nearly $200,000. It is true that did not exhaust the fund, and possibly that is the reason why these additional claims are filed, with a view of securing, if possible, from the Indians the remaining $80,000.

The Secretary of the Interior, in commenting on these claims, says, among other things:

It further appears that since the appropriation was made the following claims have been paid: September 6, 1894, to J. M. Bryan, 6½ per cent, $52,025.11; September 8, 1894, to William Wilson, 2 per cent, $16,007.72; September 8, 1894, to William H. Hendricks, 2 per cent, $16,007.72; total $84,040.55; that claims of attorneys for services were adjudicated by your office under section 2104 of the Revised Statutes and transmitted to the Department for its action, as follows: August 31, 1894, claim of Jones, Voorhees & Boudinot, 4 per cent, $32,015.45; September 5, 1894, claim of Garland & May, 1½ per cent, $15,000; total, $47,075.45.

These claims, as well as the claim of John T. Heard for $10,000, and of the Wilshire estate for $13,500, hereinafter referred to, have been approved by the Department by letter of January 5, 1895.

The Secretary of the Interior further says:

The claims of Messrs. Bryan, Hendricks & Wilson have been paid, and the claims of Messrs. Jones, Voorhees & Boudinot, Messrs. Garland & May, Mr. John T. Heard, and the Wilshire estate have been approved, as above stated, and now require no consideration.

The claim of John A. Sibbald.—

The Secretary says, speaking of this claim:

I do not think that Mr. Sibbald is entitled to anything more than one-fifth of the amount allowed on the Wilshire claim, in accordance with his agreement with Mr. Wilshire.

The claim of W. S. Peabody.—Upon this claim I am of opinion that Mr. Peabody's acceptance of employment under the Government of the United States can not be considered an abandonment of his contract. The proof filed shows that he performed very valuable services during a period of many years, extending from the year 1878 to the close of the case. I have carefully considered his claim, and I can not think that, however valuable and meritorious these services may have been, he is entitled to the enormous sum at which he rates them. I agree with you that the sum of $8,000 would be ample compensation for all the services rendered; and that sum is allowed.

And he was paid it.

The claim of E. J. Ellis.—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 think, however, that the compensation suggested by you is quite inadequate. I am of opinion that the estate of Mr. Ellis should be allowed the sum of $4,000 in full for his services.

And that amount was allowed and paid. The Secretary further says:

I do not see any merit in the claim set up by Mr. McKnight, as the surviving partner of the law firm of Ellis, Johns & McKnight, and his claim is rejected.

The claim of C. M. Carter.—Mr. Carter's legal services extended from the latter part of 1883 to the year 1893; they are fully recognized by Mr. Bryan, who swears in his affidavit on file that the Old Settler Cherokees were benefited to the full extent of the amount agreed to be paid to Mr. Carter for his legal services; that he has advanced $213 to pay costs in their case. I am satisfied that Mr. Carter is justly entitled to be paid the full amount of his claim for legal services, viz, $3,185, and that sum is allowed.

And he was paid.

The claim of Joel L. Baugh.—I am unable to see what services Mr. Baugh has rendered which would justify the payment to him of the sum of $6,000. His services may have been valuable, but it is not easy to perceive just exactly what they were. But, under all the circumstances, I would approve an allowance to him of the sum of $1,000.

The claim of John W. Douglas.—Mr. Douglas was employed as one of the attorneys of these Indians in the Court of Claims in the early part of 1884, and until the year 1889, when he was appointed one of the Commissioners of the District of Columbia. His services were valuable and meritorious, and the compensation which he asks is moderate, viz, the sum of $2,500, which is allowed.

The claim of John L. McCoy.—This is a claim filed in behalf of the administratrix of John L. McCoy, deceased, who was for a short time a commissioner for the Old Settlers. It appears that he was appointed in 1875 and served about two years. I am unable to see what claim Mr. McCoy has upon this fund, and I agree with you in its rejection.

And so the Secretary of the Interior comments upon all these claims, passing upon them and allowing what in his judgment ought to be allowed, having before him all the contracts and all the facts in the case. I submit that it is a little unsafe to adopt the amendment of the committee without the amendment proposed by the Senator from Utah. If gentlemen are anxious simply that justice should be done to these claimants, there is no reason why the Court of Claims should not have jurisdiction to inquire into all the facts and ascertain how much the claimants have received. It appears from the report of the Secretary, as I said before, that they have already been paid out of this fund $198,000, and then other claimants filed their claims and their claims were passed upon by the Commissioner of Indian Affairs and by the Secretary of the Interior; and many of them were disallowed because they were absolutely without merit; others were allowed for a small sum.

With the amendment proposed by the Senator from Utah, giving the court jurisdiction to inquire into all the facts, if these parties have already been fully paid and there is any sum remaining out of the sum of 35 per cent, it belongs to the Indians, and out of professed regard for the Indians we ought to do whatever we can to secure them in their rights.

Without reading at length this report, I ask to have it printed in the RECORD.

Mr. TELLER. It has been printed, and it has been read here half a dozen times.

Mr. BURROWS. Has it been printed in the RECORD?

Mr. PETTIGREW. Every item.

Mr. TELLER. And it has been discussed here. However, I do not object to its going into the RECORD.

Mr. BURROWS. Very well; instead of reading it to any further extent, as I would be obliged to do if objection is made, I will ask to have it printed in the RECORD.

Mr. TELLER. If the Senator desires to read it, I do not care.

Mr. BURROWS. I ask that it be printed in connection with the vote on this proposition, and I trust the amendment of the Senator from Utah will be adopted. It certainly can do nobody any harm, and it may be that it will preserve the right of the Indians to this fund.

Mr. TELLER. If the amendment of the Senator from Utah was that they should be charged with what they have got, so that when a man got within $500 of what he ought to have had he might be charged with what he had received, the amendment would be fair; but the amendment is just opposite; it prevents every man who has ever received a dollar from getting another dollar. That is the objection to it.

Mr. BROWN. Then let it read "and accepted in full payment."

Mr. TELLER. If you will add the words "in full payment" after "accepted," that will cover it, because some of these people entered a protest very vigorously that they were not properly paid.

Mr. BROWN. I have no objection to adding those words.

Mr. BURROWS. It can be modified in that way.

Mr. TELLER. If they received any money, and have not received as much as the court says they should have received, that is to be a charge against them.

Mr. BROWN. After the word "accepted," I will add the words "in full payment."

Mr. TELLER. That is all I desire.

Mr. BROWN. I understand the committee will accept the amendment.

Mr. PETTIGREW. I shall not accept it, but I shall not call for the yeas and nays. I want to have the matter disposed of.

Mr. BURROWS. I should like to have the document to which I referred printed in the RECORD.

The VICE-PRESIDENT. In the absence of objection, it is so ordered.

The following is the document referred to.

LETTER FROM THE SECRETARY OF THE INTERIOR, TRANSMITTING REPORT OF THE COMMISSIONER OF INDIAN AFFAIRS, IN RESPONSE TO SENATE RESOLUTION OF MARCH 2, 1895, DIRECTING THE SECRETARY OF THE INTERIOR TO REPORT TO THE SENATE ANY AND ALL PAYMENTS AND DISTRIBUTIONS FROM THE APPROPRIATION OF $800,386.31 IN FAVOR OF THE "OLD SETTLERS," OR WESTERN CHEROKEE INDIANS, MADE BY ACT OF AUGUST 23, 1894.

DEPARTMENT OF THE INTERIOR, *Washington, January 18, 1896.*

SIR: I have the honor to acknowledge the receipt of Senate resolution of March 2, 1895, in the following words:

"*Resolved*, That the Secretary of the Interior be, and he is hereby, directed to withhold any further distribution and payment out of the money derived from thirty-five per cent of the judgment in favor of the Old Settler or Western Cherokee Indians against the United States, in the sum of eight hundred thousand three hundred and eighty-six dollars and thirty-one cents, set apart for the payment of expenses and for legal services justly and equitably payable on account of the prosecution of said claim, until otherwise authorized by law, except allowances already made for legal services, and to report to the Senate any and all payments and distributions from said fund already made, with copies of all papers in any manner connected with said payments and distributions filed in the Interior Department and the office of the Commissioner of Indian Affairs, and the action had thereon."

In response thereto, I transmit herewith copy of a communication of the 17th instant from the Commissioner of Indian Affairs, to whom the resolution was referred.

The Commissioner states that copies of all material papers showing the conclusions of his office and the Department, and giving reasons therefor, are furnished, but that the papers are very voluminous, many of the exhibits being printed volumes of many pages, and with the clerical force of his office it is utterly impracticable to furnish the copies required.

Very respectfully,

HOKE SMITH, *Secretary.*

The PRESIDENT OF THE SENATE.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, January 17, 1896.

SIR: I have the honor to acknowledge receipt of Senate resolution of March 2, 1895, referred by you to this office for report on March 4, 1895, as follows:

"*Resolved*, That the Secretary of the Interior be, and he is hereby, directed to withhold any further distribution and payment out of the money derived from thirty-five per cent of the judgment in favor of the Old Settler or Western Cherokee Indians against the United States, in the sum of eight hundred thousand three hundred and eighty-six dollars and thirty-one cents, set apart for the payment of expenses and for legal services justly and equitably payable on account of the prosecution of said claim, until otherwise authorized by law, except allowances already made for legal services, and to report to the Senate any and all payments and distributions from said fund already made, with copies of all papers in any manner connected with said payments and distributions filed in the Interior Department and the office of the Commissioner of Indian Affairs, and the action had thereon."

The amounts paid from the appropriation of $800,386.31 in favor of the "Old Settlers," or Western Cherokee Indians, made by act of August 23, 1894 (28 Stat. L., 451), for legal and other services rendered those Indians in the prosecution of their claim against the United States, are as follows:

September 6, 1894, Joel M. Bryan, commissioner and treasurer of the Old Settler Cherokees, 6½ per cent on $800,386.31	$52,025.11
September 8, 1894, William Wilson	16,007.72
September 8, 1894, William H. Hendricks	16,007.72
(Commissioners, 2 per cent each, upon the amount of the judgment.)	
These three amounts were paid by authority of various councils of the Old Settlers, particularly of November 22, 1875, October 25, 1883, and October 31, 1884. (See Exhibits A, B, and C.)	
January 16, 1895, Garland & May	15,000.00
Paid upon recommendation of this office dated September 5, 1894, and the authority of the honorable Secretary of the Interior dated January 5, 1895. (See Exhibits D and E.)	
January 22, 1895, John T. Heard	10,000.00
Paid under act of August 15, 1894 (28 Stat. L., 31, Private Laws), and authority of the honorable Secretary of the Interior dated January 5, 1895. (See Exhibits E and G.)	
February 4, 1895, Jones, Voorhees, and Boudinot	32,015.45
Paid upon recommendation of this office dated August 31, 1894, and authority of the honorable Secretary of the Interior dated January 5, 1895. (See Exhibits F and E.)	
February 8, 1895:	
Catherine Wilshire, administratrix	10,800.00
John A. Sibbald	2,100.00
John A. Sibbald, assignee	600.00
Paid upon recommendation of this office of November 21, 1894, and authority of the honorable Secretary of the Interior of January 5, 1895. (See Exhibits G, H, and E.)	
March 2, 1895, J. W. Douglas	2,500.00
Paid by authority of the honorable Secretary of the Interior, dated January 22, 1895. (See Exhibit I; also Exhibit N.)	
March 4, 1895, J. J. Newell	10,000.00
Paid by authority of the honorable Secretary of the Interior, dated January 22, 1895. (See Exhibit I; also Exhibit N.)	
March 6, 1895, W. S. Peabody	8,000.00
Paid by authority of the honorable Secretary of the Interior, dated January 22, 1895. (See Exhibit I; also Exhibit G.)	
March 9, 1895, S. O. Hemingway	1,500.00
Paid by authority of the honorable Secretary of the Interior, dated January 22, 1895. (See Exhibit I.)	
March 9, 1895, C. M. Carter	3,185.64
Paid by authority of the honorable Secretary of the Interior, dated January 22, 1895. (See Exhibit I; also Exhibit G.)	
March 11, 1895, D. A. McKnight, administrator E. John Ellis	4,000.00
Paid by authority of the honorable Secretary of the Interior, dated January 22, 1895. (See Exhibit I; also Exhibit G.)	
March 11, 1895, Joel L. Baugh	1,000.00
Paid by authority of the honorable Secretary of the Interior, dated January 22, 1895. (See Exhibit I; also Exhibit G.)	
June 24, 1895, S. C. Dunham	545.30
Paid upon recommendation of this office, dated April 2, 1895, and authority of Secretary of Interior, dated May 15, 1895. (See Exhibits J and K.)	
September 26, 1895, Cherokee Nation, money loaned and interest—$3,600 loaned January 7, 1875, at 5 per cent, $7,295.50; $900 loaned December 27, 1859, at 5 per cent, $1,350.13	8,645.63
Paid by authority of the honorable Secretary of the Interior, dated May 18, 1895. (See Exhibits L and M.)	
Total	193,932.57

This disposes of all the claims that were paid. There were other claimants, but as the resolution calls only for the amounts paid, no report upon the unpaid claimants is made, except as they are discussed in the accompanying exhibits.

In reply to the request for "copies of all papers in any manner connected with said payments and distributions filed in the Interior Department and the office of the Commissioner of Indian Affairs, and the action had thereon," I have the honor to say that with the clerical force of this office it is utterly impracticable to furnish the copies required. The papers are very voluminous, many of the exhibits being printed volumes of many pages. There accompany this, however, copies of all the material papers, showing the conclusions of this office and the Department, and giving reasons therefor.

Very respectfully,

D. M. BROWNING, *Commissioner.*

The SECRETARY OF THE INTERIOR.

EXHIBIT A.

TAHLEQUAH, CHEROKEE NATION, IND. T.,
November 22, 1875.

The Western or Old Settler Cherokees, in pursuance of previous appointment, having met in convention under authority of the provisions of the Cherokee treaty of 1846, to consider the best method of prosecuting their claim for a balance due them of per capita funds from the Government of the United States, under the Cherokee treaties of 1835-36 and 1846, adopted the following resolutions:

"*Resolved by the Western or Old Settler Cherokees in general convention assembled*, That it is the sense of said Cherokees that the Government of the United States is legally indebted to them (the said Cherokees) for a balance of per capita moneys due under the Cherokee treaties of 1833, 1835-36, and 1846, with interest on the same up to date of final payment, and was withheld from said Cherokees when the per capita funds were paid the Cherokee people in 1851-52, under the provisions of the treaties of 1835-36 and 1846.

Resolved further, That the partial payment of said per capita moneys made to said Old Settler Cherokees in 1851 is not and can not be in law or equity a final and full settlement between the United States Government and said Old Settler Cherokees on account of their said per capita funds, due under said treaty of 1835-36 and 1846, for the following reasons:

"First. That the said partial payment was practically forced upon said Cherokees by the United States.

"Second. That at the time of said partial payment in 1851 said Old Settler Cherokees filed a written protest with the disbursing officer or paymaster of the Government (Mr. Drennen), protesting that the payment then made was not a full payment of the moneys due said Old Settlers under said treaties, and reserving their rights to the balance due them of said per capita funds, and that in 1849-50 the Old Settlers' delegate, J. L. McCoy, filed his protest in the Department at Washington, claiming the whole amount due.

"Third. That the treaty of 1846 referred to makes specific provisions that no misapplied funds or charges shall be deducted from the per capita funds, 'Old Settler Cherokees,' under said treaties in a final settlement.

"*Resolved further*, That inasmuch as the treaty of 1846 abolished all party distinctions in the nation except in so far as the same may be necessary to carry out the provisions of said treaty, and said treaty also made further provisions that the Cherokee people or any part of them could peaceably assemble and petition their own government or the Government of the United States for a redress of grievances, the said Old Settler or Western Cherokees have, from time to time, before and since the late war of the rebellion, met in convention for the purpose of prosecuting and recovering of their said claim for the said balance due them, but have so far failed to secure any final result or settlement for the want of funds to aid such prosecution.

"*Resolved further*, That it is deemed expedient and proper that the said Old Settler Cherokees prosecute the said claim before the Government of the United States to a speedy, just, and final settlement; and for that purpose the following-named persons, J. L. McCoy, J. M. Bryan, and William Wilson, be, and they are hereby constituted a commission, with full powers to represent said Cherokees before the Government, with full and ample authority to do and cause to be done any act and doing necessary and proper to be done in the premises; and with full authority to employ such assistance in the prosecution of said claim as they may deem necessary, and that a sum equal to 35 per cent of the amount of said claim when recovered, or so much thereof as may be necessary, be set apart and subject to the draft and receipt of said commission, and payable to them or their order by the proper authorities of the United States Government, which per cent shall be applied in the payment of said prosecution and all incidental expenses; *Provided*, That on a final settlement with said Old Settler Cherokees, the said commission account for their expenditures out of said per cent, and all receipts signed to said United States Government by said commission on account of said per cent shall be taken and deemed to be the receipts of said Old Settler Cherokees for the amount received.

"*Resolved further*, That said commission, either in whole or in part, at their discretion, be authorized to proceed at their earliest convenience to Washington, D. C., to prosecute said claim, and for that purpose they, the said commission, are authorized to make a loan from the Cherokee Nation for funds sufficient to defray their necessary expenses.

"*Resolved further*, That the president of this convention furnish the said commission with a copy of these resolutions."

I certify that the above and foregoing resolutions is a true copy of the original resolutions, this, the 25th day of November, 1875.

WILLIAM WILSON,
President Convention.
H. T. LANDRUM,
Secretary.

Approved:
CHARLES THOMPSON,
Principal Chief, Cherokee Nation.

UNION AGENCY, *December 20, 1875.*

I hereby certify that Messrs. J. L. McCoy, J. M. Bryan, and William Wilson, are known to me as Old Settlers, and were duly appointed November 22, 1875, as commissioners to represent the Old Settlers' claim before the Department and Congress at Washington.

G. W. INGALLS, *Indian Agent.*

EXHIBIT B.

Proceedings of the meeting of the ninth annual council of the Old Settler or Western Cherokee Indians, held at Tahlequah, in the Cherokee Nation, on the 25th day of October, 1883, to further consider the prosecution of their claim against the United States for moneys due them under the treaties of 1835-36 and 1846, and the several acts of Congress in relation thereto, and to authorize and direct their commissioners and treasurer in that respect, which convention is held in pursuance of the power and authority of that part of the second article of the treaty of 1846 which provides that all parties shall cease except so far as they may be necessary to carry out the provisions of the said treaty with respect to said Old Settler or Western Cherokee Indians.

Mr. William Wilson, permanent president, in the chair; Robert L. Owen, secretary.

A committee was appointed, after the annual report of the commission was read and adopted, consisting of the following representative Old Settler Cherokees, to wit: Judge Riley Keyes, Capt. B. W. Alberty, H. C. Barnes, Aaron Terrell, and R. L. Owen. The committee reported to the convention the following resolutions, which, after being fully discussed, were unanimously adopted:

RESOLUTIONS.

First. That we tender our thanks to the Secretary of the Interior and the Commissioner of Indian Affairs for their efforts to have justice done in the investigation and payment of our claim.

Second. *Resolved*, That we memorialize the Senate of the United States to appoint a committee, to be composed of three Senators, to take the "Old Settler" claim in hand, to investigate the claim, correct any errors that may have been made by any authority of the United States Government, and report the amount found for appropriation.

Third. *Resolved*, That our councilors and clerks be paid each $4 a day, and that a competent committee of three persons be appointed to sit at Tahlequah during the next session of the national council, to receive from each clerk and councilor and commissioner the amount then due: said committee to be appointed by the president of the present council, and said committee to be paid $4 per day for their services.

Fourth. *Resolved*, That at the earnest request of Mr. Bryan we hereby relieve him from acting as treasurer of the 35 per cent set apart for the purpose of prosecuting the Old Settler claim.

Fifth. *Resolved*, That when the amounts of our home council expenses and our commissioners' services shall be made out by the committee above provided for, the said committee shall forward a statement of the same, revised and approved by the commission, to the Secretary of the Interior, who is hereby authorized and requested to pay the same after the appropriation of the sums due us shall have been made.

Sixth. *Resolved*, That in consideration of the continuous and faithful labor and expenses of J. M. Bryan for eight or nine years in prosecuting, under much uncertainty of ever receiving a dollar's reward, the Old Settler Cherokee claim, at his own expense, even paying printing bills, expenses of attorneys who were helping the claim, etc., he having sold everything he has in the prosecution of this claim, practicing law whenever in the nation in order to keep up his expenses, and thus giving his entire time and energy to this work; and in further consideration of the said J. M. Bryan having contracted a large part of the 2½ per cent for assistance in the management of said claim, we, the Old Settler Cherokee Indians, in council assembled, agree to pay Mr. Bryan 2½ per cent additional, making in all 5 per cent; and the Commissioner of Indian Affairs is respectfully requested to have the same paid to J. M. Bryan out of the 35 per cent set apart for the prosecution of our said claim. The honorable Commissioner of Indian Affairs is respectfully requested to pay to Mr. Bryan, our Old Settler commissioner, for his services as such, out of the 35 per cent as above stated, at $4 a day from November 22, 1875, until the claim is closed: *Be it further resolved*, That all contracts with attorneys, or any other person or persons, for services hereafter to be presented for the approval of the Secretary of the Interior of the United States be first approved by our three commissioners, J. M. Bryan, William Wilson, and W. H. Hendricks.

Seventh. The acts of all previous councils of the Old Settlers are hereby reaffirmed and declared to be in full force, except where contrary to these resolutions, in which case such acts or parts of acts are repealed.

WILLIAM WILSON,
President of the Convention.
R. L. OWEN, *Secretary.*

Approved November 9, 1883.
[SEAL.] D. W. BUSHYHEAD, *Principal Chief.*

EXHIBIT C.

Proceedings of the meeting of the tenth annual council of the Old Settlers or Western Cherokee Indians, held at Tahlequah, in the Cherokee Nation, on the 31st day of October, A. D. 1884, to further consider the prosecution of their claim against the United States for moneys due them under the treaties of 1835-36 and 1846, and the several acts of Congress in relation thereto, and to direct and authorize their commissioners and treasurer in that respect, which convention is held in pursuance of the power and authority of that part of the second article of the treaty of 1846 which provides that all party distinctions shall cease except so far as they may be necessary to carry out the provisions of the said treaty with respect to said Old Settlers or Western Cherokee Indians.

Mr. William Wilson, permanent president, being ill and unable to attend the convention, Mr. Henry C. Barnes was elected by the convention as president pro tempore, and after a full and exhaustive report of the management and status of the claim by Col. J. M. Bryan, spokesman for the commission, a committee was appointed, after the report was read and adopted, consisting of the following representative Old Settler Cherokees: Clem Hayden, chairman; Robert L. Owen, secretary; Aaron Terrell, E. Cornelius Boudinot, and Joseph Gladney, for the purpose of examining the report of the commissioners, Bryan, Wilson, and Hendricks, and reporting to the convention what they should deem a judicious course.

After thoroughly discussing the report of the commission, with contracts, documents, etc., submitted therewith, the committee unanimously reported the following resolutions:

RESOLUTIONS.

Be it resolved by the Old Settler Cherokees, That there having been contracted, by our authority, with different attorneys in the States, by our commissioners, Bryan, Wilson, and Hendricks, the amount of 22½ per cent of the amount recovered of our claim for services actually rendered in the prosecution of the Old Settler Cherokee claim, of which 13 per cent has been approved and 9½ per cent is as yet unapproved by the Interior Department, we hereby approve the two other contracts, to wit, John A. Sibbold's, for 5 per cent, and C. M. Carter's, for 4½ per cent, of the recovery, and respectfully request, if necessary, that the honorable Secretary of the Interior also approve the same.

Be it further resolved, That as no suitable or proper fee has been allowed our commissioners, William Wilson, president of the commission, and William Hendricks, for their enterprise and foresight in reviving the claim and working in its behalf so faithfully, we hereby allow them 2 per cent each in full of their services, and that this and the per diem allowance for the services of J. M. Bryan as our special attorney and commissioner, as well as the 5½ per cent provided for him by our councils of 1877 and 1883, be also approved by the Interior Department, if necessary, and that the honorable Secretary is especially requested to have the same done, our said attorney and commissioner having devoted his entire time for nearly ten years and his whole fortune to the interests of the Old Settler Cherokees.

Be it further resolved, That for the purpose of harmonizing all our contracts for defraying expenses of our commissioners and home expenses, and the payment of two attorneys' fees not approved by the Interior Department, and for the payment of borrowed money from the Cherokee Nation, as authorized by our council, that Col. Joel M. Bryan be, and he is hereby, appointed treasurer of the Old Settlers, and as such is hereby authorized to receive from the proper officer or officers an amount of money out of any sum or sums that may be allowed said Old Settlers or Western Cherokees, as may be necessary to meet the provisions of this our council's decisions,

the amounts of which are hereinafter itemized, to receipt to the United States therefor in the name of and for us, which said receipt shall be as binding upon the Old Settler Indians as if executed by them individually, and shall be the Old Settler Cherokees' receipt therefor.

Be it further resolved, That the following amounts are hereby approved, and our treasurer is hereby authorized to disburse said funds when received in payment of said amounts, to wit:

	Per cent.
1. For attorneys' fees not as yet allowed by the Interior Department, 9½ per cent of the entire claim recovered	9½
2. For Joel M. Bryan, himself as by act of the councils of 1877 and 1883, 5½ per cent of the entire claim recovered	5½
3. For Joel M. Bryan, as commutation of his per diem allowance, 1½ per cent of the entire claim recovered	1½
4. For our commissioners, Wilson and Hendricks, 4 per cent of the entire claim recovered	4
5. For our debts to the Cherokee Nation for borrowed money and for home and contingent expenses, 2 per cent of the entire claim recovered	2
Total amount	22

Be it further resolved, That J. M. Bryan is hereby authorized to present the claim of the Old Settler Cherokees to the United States Government for the value of the lands and improvements at the old Cherokee Agency in the State of Arkansas, on the Arkansas River, due to us under the treaties of 1828 and 1833.

Signed by the committee.

CLEM HAYDEN, *Chairman.*
ROBERT L. OWEN, *Secretary.*
AARON TERRELL.
JOS. B. GLADNEY.
E. C. BOUDINOT, JR.

The above resolutions, being read and fully discussed, were unanimously adopted.

HENRY C. BARNES, *President pro tem.*
ROBERT L. OWEN, *Secretary.*

Approved.

D. W. BUSHYHEAD, *Principal Chief.*

EXECUTIVE DEPARTMENT, *Cherokee Nation.*

I hereby certify that the foregoing five pages is a true copy of the original proceedings of the Old Settler or Western Cherokees, as placed on file in the executive department of the Cherokee Nation, as furnished by Col. Joel M. Bryan on this 6th day of November, 1884.

[SEAL.]

GEORGE O. BUTLER,
Assistant Executive Secretary Cherokee Nation.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
March 2, 1885.

It appearing from the proceedings (herewith) of the tenth council of the Old Settler or Western Cherokees, held at Tahlequah, Cherokee Nation, October 31, 1884, that Col. Joel M. Bryan was appointed treasurer of the Old Settler or Western Cherokees, I know of no objection to such appointment.

H. PRICE, *Commissioner.*

I concur.

DEPARTMENT OF INTERIOR, *March 3, 1885.*

H. M. TELLER, *Secretary.*

EXHIBIT D.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, September 5, 1894.

SIR: I have the honor to transmit herewith, for your consideration and approval, an affidavit of Heber J. May, representing the firm of Garland & May, as to the professional services rendered under their contract dated December 9, 1889, in the prosecution, before the Court of Claims and the United States Supreme Court, of certain claims of the Old Settler or Western Cherokee Nation of Indians against the United States, for which services said Garland & May are to receive, in accordance with the terms of said contract, the sum of $15,000.

Very respectfully,

D. M. BROWNING, *Commissioner.*

The SECRETARY OF THE INTERIOR.

EXHIBIT E.

In the matter of the claims for attorneys' fees in the Old Settler Cherokee cases.

DEPARTMENT OF THE INTERIOR,
Washington, January 5, 1895.

SIR: Pending the consideration of the claims of various attorneys for fees in the above-stated matter, I have concluded that inasmuch as there is no contest over the fees claimed by the following-named persons, to wit, Jones, Voorhees & Boudinot, for $32,015.45; Garland & May, for $15,000; John C. Heard, for $10,000, and the Wilshire estate for $13,500, the same should be paid without further delay.

I therefore approve your findings in respect to these claims, and direct that the same be paid.

Very respectfully,

HOKE SMITH, *Secretary.*

The COMMISSIONER OF INDIAN AFFAIRS.

EXHIBIT F.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, August 31, 1894.

SIR: I have the honor to submit herewith, for your consideration and approval, an account in favor of Messrs. John Paul Jones, Reese H. Voorhees, and E. C. Boudinot, accompanied by the affidavits of Reese H. Voorhees and other papers and documents in connection therewith, for professional services rendered in behalf of the Old Settler Cherokee Indians, under their contract dated November 4, 1889, in procuring for the benefit of said Indians, by act of Congress approved August 23, 1894, the sum of $800,386.31, of which sum the claimants herewith are to receive as compensation for said services an amount equal to 4 per cent on said sum, amounting to $32,015.45, under the terms of said contract.

Very respectfully,

D. M. BROWNING, *Commissioner.*

The SECRETARY OF THE INTERIOR.

EXHIBIT G.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, November 21, 1894.

SIR: An appropriation was made by a clause in the general deficiency act approved August 23, 1894 (28 Stat. L., 424, 451), to pay a judgment of the Court of Claims in favor of the Old Settler or Western Cherokees, as follows, viz:

"The Old Settlers or Western Cherokee Indians, by Joel M. Bryan, William Wilson, and William H. Hendricks, commissioners, and Joel M. Bryan, treasurer, and so forth, eight hundred thousand three hundred and eighty-six dollars and thirty-one cents; 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 said Indians to pay the expenses and for legal services justly or equitably payable on account of said prosecution."

The claim which this appropriation was intended to satisfy had been pending for a great many years. In 1875 the Old Settler or Western Cherokee Indians held a council and appointed commissioners to prosecute the claim, setting apart for defraying the expense of such prosecution 35 per cent of whatever sum might be recovered to the Indians on account of the claim. Out of this 35 per cent the commissioners were authorized to employ the professional services of attorneys at law and to pay the other expenses incidental to the prosecution of the claim. Subsequently to the setting aside of this percentage the Indians in council at various times made specific appropriations therefrom for different purposes, as follows, viz:

	Per cent.
For J. M. Bryan, commissioner and treasurer	6½
For William H. Hendricks, commissioner	2
For William Wilson, commissioner	2
For payment of debts of Old Settlers, money borrowed from Cherokee Nation	2
Total	12½

These appropriations by the council of the Old Settlers reduced the amount that was available for use by the commissioners in the employment of counsel to 22½ per cent of the amount recovered.

Lawful contracts made by the Old Settlers commissioners have received the approval of this office and the Secretary of the Interior, providing for fees as follows, viz:

	Per cent.
W. W. Wilshire	5
W. S. Peabody	8
E. J. Ellis (conditional)	2
Jones, Voorhees & Boudinot	4
Garland & May (about)	1½
C. M. Carter	¼
Joel L. Baugh (conditional)	1½
Total	22¼

The condition on which Mr. Ellis's contract was approved was that the value of the services rendered by the attorney prior to his death and under the contract as a quantum meruit should be left to be thereafter adjudicated, and the condition on which Mr. Baugh's contract was approved was that the fee payable thereunder, together with the fees allowed under other approved contracts and the amounts appropriated by the Old Settlers council, should not exceed 35 per cent.

Since the appropriation has been made, the following claims have been paid:

September 6, 1894, to J. M. Bryan, 6½ per cent	$52,025.11
September 8, 1894, to William Wilson, 2 per cent	16,007.72
September 8, 1894, to William H. Hendricks, 2 per cent	16,007.72
Total, 10½ per cent	84,040.55

Claims of attorneys for services have been adjudicated by this office under section 2104 of the Revised Statutes and transmitted to the Department for its action, as follows:

August 31, 1894, claim of Jones, Voorhees & Boudinot, 4 per cent	$32,015.45
September 5, 1894, claim of Garland & May, 1½ per cent	15,000.00
Total, 5½ per cent	47,015.45

Claims have been filed in this office by attorneys and parties in whose favor the Old Settlers have made appropriations, including those whose claims have been paid, as follows, viz:

	Per cent.		Per cent.
J. M. Bryan	6½	Joel L. Baugh	1½
William Wilson	2	John T. Heard	1½
Wm. H. Hendricks	2	J. W. Douglas	¼
J. M. Bryan (treasurer)	2	S. O. Hemingway	¼
Jones, Voorhees & Boudinot	4	John L. McCoy	2
Garland & May (about)	1½	Richard C. Wintersmith	25
W. W. Wilshire	1¼	Belva A. Lockwood	10
W. S. Peabody	8	J. J. Newall	2½
D. A. McKnight, for estate of E. J. Ellis	2	Total	72$\frac{3}{16}$
C. M. Carter (about)	¼		

The total of the claims submitted in excess of the amount available for fees to attorneys in this case is 50$\frac{1}{16}$ per cent, and in excess of fees provided for in approved contracts is 49$\frac{7}{16}$ per cent. This includes 1½ per cent which the act of August 15, 1894 (28 Stat., 31, Private Laws), authorizes to be paid to Mr. John T. Heard on the determination of the Secretary of the Interior that services were rendered the Old Settlers by said Heard and were contracted for in good faith by persons authorized to represent said Indians, and 12½ per cent appropriated by the Old Settlers' council. There remains in claims presented, not covered by approved contracts, resolutions of the councils of Old Settlers, nor the act of Congress of August 15, 1894, above referred to, 35$\frac{3}{16}$ per cent.

Some of these claimants for themselves, and others by their attorneys, claim that the provisions of the law making the appropriation authorizes the payment of their claims as being "equitably" due on account of legal services rendered in the prosecution of the claim of the Indians. This claim involves the pro tanto repeal of the laws relating to Indian contracts and the adjudication and payment of the fees of attorneys under such contracts. Before entering into a discussion of the specific claims, therefore, it seems expedient that I shall consider the scope and effect upon the claims that should be given the language used in the act making the appropriation to meet the judgment in the case.

That part of the act relied upon by the attorneys claiming under unapproved contracts is the following:

"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 Indians for the prosecution of their claims as is necessary for him to pay the expenses and for legal services justly or equitably payable on account of said prosecution."

The law relating to contracts between Indian tribes and individual Indians, not citizens of the United States, and attorneys, is section 2103 of the Revised Statutes, which requires that such contracts shall contain certain prescribed stipulations, and shall be executed in a peculiar manner, and be approved by the Secretary of the Interior and the Commissioner of Indian Affairs.

Section 2104 of the Revised Statutes provides for the payment by the United States, out of the Indians' moneys, of the fees of attorneys earned under such contracts, and is as follows:

"And no money or thing shall be paid to any person for services under such contract or agreement until such person shall have first filed with the Commissioner of Indian Affairs a sworn statement showing each particular act of

service under the contract, giving date and fact in detail, and the Secretary of the Interior and Commissioner of Indian Affairs shall determine therefrom whether, in their judgment, such contract or agreement has been complied with or fulfilled; if so, the same may be paid, in proportion to the services rendered under the contract."

Section 2105 of the Revised Statutes prohibits the payment of any fees to attorneys for Indians, except as provided in the two preceding sections, and also prohibits the attorney from receiving such fee contrary to law, heavy penalties being provided both against the unlawful paying and the unlawful receiving of such money or fees.

There are no words of repeal used in the act making the appropriation, and before the language used in said act can be construed as it is claimed by the claimants under unapproved contracts it should be, it must be held to have the effect of repealing the statutes of the United States above referred to by mere implication. It is probably not material to the determination of the question whether the sections of the Revised Statutes bearing on the case have been repealed by the act making the appropriation to state the purposes for which it was deemed desirable to amend the language of the appropriation as originally introduced in the bill; but as this office is fully aware of the object of the attorneys who first suggested the amendment, there having been several conferences on the subject between said attorneys and myself, it may not be deemed improper for me to state those purposes as I understood them at the time and do now understand them to have been.

In rendering the opinion of the Supreme Court (148 U. S., 427) giving judgment against the United States in favor of the Old Settlers, Chief Justice Fuller made use of certain language which might be construed to deny to some extent the right of the Old Settlers to maintain a tribal organization for any purpose, and to operate to prevent the payment of fees earned by attorneys under contracts made with said Indians as a body politic and approved by the Secretary of the Interior and the Commissioner of Indian Affairs.

Another consideration was that by the rules of the Treasury Department under the old methods of accounting, all judgments of the Supreme Court were paid by the First Auditor and First Comptroller. This appropriation would not, therefore, come on the books of this office, and the Commissioner of Indian Affairs and Secretary of the Interior would not be able to pay the fees due attorneys under approved contracts. No other officers of the Government have jurisdiction to adjudicate such claims, and the attorneys would in consequence be likely to lose the fees that had been earned by them even should it have been eventually determined that the Supreme Court's opinion would not interfere with their payment.

It was to meet the possible contingency of such a construction of the opinion of the Supreme Court in the case and to bring the appropriation within the jurisdiction of this office that the attorneys thought it desirable to amend the appropriation, and in informal discussions of the situation with Mr. Voorhees and other attorneys in the case I agreed with them as to the expediency of such a step. It was under the circumstances and at the instance of attorneys having approved contracts that the amendment to the appropriation was made.

The statute must be construed in accordance with the ordinary rules laid down by the courts for the construction of statutes.

As to the construction that the Revised Statutes have been repealed by implication and a new rule established by the appropriation act to govern the payment of attorneys' fees in this case, it is a well-established rule of construction that repeals by implication are not favored and are never admitted where the former can stand with the new act. (Chew Heong *vs.* United States, 112 U. S., 536; United States *vs.* Henderson, 11 Wall., 652.)

In Wood *vs.* The United States (16 Peters, 362) the Supreme Court said:

"The question then arises whether the sixty-sixth section of the act of 1799, chapter 128, has been repealed or whether it remains in full force. That it has not been expressly or by direct terms repealed is admitted; and the question resolves itself into the more narrow inquiry, whether it has been repealed by necessary implication. We say by necessary implication, for it is not sufficient to establish that subsequent laws cover some or even all the cases provided for by it, for they may be merely affirmative or cumulative or auxiliary. But there must be a positive repugnancy between the provisions of the new laws and those of the old, and even then the old law is repealed by implication only pro tanto to the extent of the repugnancy."

Under the rule laid down in this case repeals by implication must be necessary; that *is*, it *must* be necessary to imply the repeal of a former to give effect to a later statute before such repeal will be admitted. There must be such a repugnancy between the laws of the old and those of the new statute that they can not be construed nor administered together.

Upon examination of the language of the appropriation it will be observed that it is not in any manner repugnant to section 2104 of the Revised Statutes. It does not purport to establish in this case a new rule to guide the Commissioner of Indian Affairs in adjudication of the claims of attorneys. In fact, it implies a power already possessed by the Commissioner to withhold from distribution among the Indians some part of the money appropriated, and purports only to give him specific direction as to the exercise of that power. "The Commissioner of Indian Affairs is directed to withhold from distribution among said Indians *only* so much," etc. The law is merely directory, and relates to the exercise of a power already resting in the Commissioner under existing law. The Commissioner of Indian Affairs is directed to withhold, etc., "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," etc.

This authority to withhold only so much of the part of the judgment set apart by the Indians for the prosecution of the claim as is necessary for him to pay the expenses and for legal services justly or equitably payable on account of said prosecution does not change the law that authorizes him to pay out such funds, and although authorized to withhold a certain part of the fund from distribution among the Indians, yet when payments of fees out of that fund come to be made he must be governed by the law which provides how legal claims can be established. Persons without approved contracts who are now insisting that they shall have this fund paid out to them knew when their supposed agreements were made and the service, if any, was rendered that they were not only prohibited from receiving payment, but that to do so they would be guilty of an offense punishable under section 2105 of the Revised Statutes.

The question might be raised whether the term "legal services" as used in this provision of law does not mean services lawfully rendered.

The payments out of this appropriation for "legal services" must be restricted to such fees as may be shown to be "justly or equitably payable" to those attorneys who rendered service under approved contracts which did not expire by limitation prior to the recovery.

This rule must be varied from somewhat in the cases of the estates of W. W. Wilshire and E. John Ellis, who died before the expiration of their contracts, and after rendering "legal services" thereunder, and the claim of John T. Heard is governed by the special act of Congress for his relief.

As the statutes relating to Indian contracts and the payment of fees thereunder is still in force and applicable in this case, they would operate to prevent the payment of any fees to those attorneys who base their claims on informal or unapproved contracts.

Having thus disposed of all claims of attorneys who have no approved contracts as a class, it is not necessary for me to specifically discuss any of the claims of that class; but in order to show the absurdity of some that have been filed, I will cite briefly the claims of R. C. Wintersmith and Mrs. Belva Lockwood.

Mr. Wintersmith's claim is for 25 per cent of the amount appropriated, or $200,000, and it is based on a power of attorney dated November 29, 1873, and signed by Riley Keys, J. A. Scales, and John L. McCoy, who held themselves out as the legal representatives of the Old Settler Cherokees. It is not signed by Mr. Wintersmith, and there is no evidence that said Keys, Scales, and McCoy were ever authorized by the Old Settlers to represent them or to make a contract on their behalf. It does not appear from the records of the Old Settlers case in this office that either Keys or Scales were ever appointed by the Indians to represent them in the suit. McCoy was appointed in 1875 as a representative, but served only about two years in that capacity, when he was dropped by the council, and Hendricks was appointed in his stead.

Furthermore, Mr. Wintersmith does not show by proper proof that he ever rendered any services under his alleged contract. He states, however, that since his so-called employment in 1873 to the present time he has labored as attorney for these Indians. This is a singular statement in the light of the fact that Mr. Wintersmith was never known, so far as the records of the case show, to have been interested in the prosecution of the Old Settlers claim until he filed his claim for services.

Mrs. Lockwood's claim of 10 per cent, or about $80,000, is based on several powers of attorney to J. J. Newell, herself, and others, given by various parties claiming authority to bind the Old Settlers. Some of these powers of attorney and contracts were given by parties authorized to make contracts, but they were never approved as required by law, although they had been filed for approval. It is not necessary to set out here the reasons for not approving them. In her claim Mrs. Lockwood seems to have confused the claims of the Western North Carolina Cherokees and of the Eastern Band of Cherokees with that of the Old Settlers, and most of the services she claims to have rendered related to the suits of the Indians of the former classes exclusively. She mentions an informal contract between J. M. Bryan and herself stipulating for the employment of her services in the Old Settlers case.

In her claim Mrs. Lockwood files a contract between herself and James Taylor, John L. McCoy, and James M. Bell, claiming to represent the Western North Carolina Cherokees, i. e., the North Carolina and Eastern Cherokees, who were residing east of the Mississippi River at the date of the treaty of 1835, and who have subsequently removed to the Cherokee Nation, Indian Territory, and the Old Settlers, or Western Cherokees, who were residing west of the Mississippi at the date of said treaty of 1835, by virtue of resolutions of a council of the Western North Carolina Cherokee Indians held November 17, 1884.

At the time of this council the Old Settlers or Western Cherokees were represented by a board of commissioners properly authorized and composed of Messrs. J. M. Bryan, William Wilson, and William H. Hendricks. It is hardly necessary for me to say that apart from the fact that the Old Settlers by their own council had provided a commission with authority to represent them in the prosecution of their claim, the council of the Western North Carolina Cherokee Indians had no power to authorize the appointment of a representative to prosecute the Old Settlers claim, and therefore Mrs. Lockwood would not have been entitled under her contract to any fee out of the Old Settlers appropriation even if there were not other objections thereto.

The first claim for "legal services" to be considered is that of the estate of W. W. Wilshire, and is based on services rendered by Mr. Wilshire before his death, under two contracts, the second being a continuation of the first. Mr. Wilshire was first employed by the Old Settlers July 1, 1882, the date on which the first contract was made. That contract expired by limitation July 1, 1886, and was renewed by contract dated September 28, 1886, which was limited by its terms to expire September 28, 1891. Both of these contracts were approved by the Commissioner of Indian Affairs and the Secretary of the Interior. The contract expired finally in 1891, more than two years prior to the ultimate recovery on behalf of the Indians, and if Mr. Wilshire had been living it is doubtful whether any fees could be paid him on account of his services, notwithstanding they might have been of great value to the Indians in the prosecution of the claim.

This conclusion is based on the well-established rule that where an attorney voluntarily abandons a case in which he has been employed, and thereby makes it necessary for his client to employ the services of other attorneys or counsel, he has no claim against his client for compensation, notwithstanding his services may have been of great value in the preparation and prosecution of the case. The rule would be the same in a case where an attorney has been employed for a term of years to prosecute a claim on compensation of a rate per cent on the amount recovered thereunder. If the recovery is not had before the expiration of his contract, he is not entitled to his fee nor to demand as a matter of right the extension of his employment to cover a further term of years, and if the client shall see fit not to extend the time, but shall employ other counsel, who recovers on the claim, the attorney first employed would not have a right to claim his fee under his expired contract.

This rule does not apply, however, in a case where the abandonment of a suit by the attorney is involuntary, as where he dies before recovery and after rendering services of more or less value to his client. In such an event it seems that the rule is the deceased attorney's estate should be paid a compensation in proportion to the services rendered by him. Upon this rule Mr. Wilshire's estate is entitled to be paid a fee for the services rendered by him in this case prior to his death. It is impossible, however, for the estate to comply with the provisions of section 2104 of the Revised Statutes, which requires the filing of a detailed statement of service under his contract; but as the law should not be construed as requiring a claimant, whose good faith is apparent as in this case, to perform a palpable impossibility, I do not see any legal impediment in the way of paying a reasonable fee in this case.

In arriving at the amount justly due for such services as were rendered by Mr. Wilshire, it is not sufficient to consider the amount of service, but rather its character and value as compared with the services remaining to be rendered before a final recovery was reached. In this view of the matter, I must conclude that the services rendered in securing the report of the special commissioner appointed to investigate the Old Settlers' claim and the concurrence of the Secretary of the Interior in that report were insignificant in value, for the reason that those reports were totally ignored and repudiated by Congress first and the courts afterwards. Congress refused to recognize the findings in those reports as sufficiently accurate to warrant the appropriation of the money to pay the claim, and it was referred by a committee of the Senate to the Court of Claims for a finding of fact under the provisions of the Bowman Act, so called. The Court of Claims reported the findings of fact, and while in the reports of the special commissioner and the Secretary of the Interior it was found that $421,653.68 were due, the court found only about $224,975.68 to be due, and the final judgment of the Supreme Court reduced the amount to $212,376.94.

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.

Mr. Bryan, on the part of the Old Settlers; and Mrs. Wilshire, on behalf of the estate of W. W. Wilshire, have entered into an agreement of compromise in the case, by which it is understood the estate shall receive the sum of

$13,500 in full satisfaction of the claim. This agreement is not, of course, binding on this office nor on the Department, but considering the services rendered by Mr. Wilshire, and that by his death the Indians were placed under the necessity of employing other attorneys to carry on the prosecution of the suit, for whose services they will pay fees aggregating more than the total fee provided for in Mr. Wilshire's contract, I think the amount agreed upon in this compromise is not more than should be paid, and I therefore find the estate entitled to receive that amount as the value of Mr. Wilshire's services as a quantum meruit.

A one-fifth interest in the contract was assigned by Mr. Wilshire in 1883 to Mr. John A. Sibbald, and he has filed in the case a protest against the compromise agreement between Mr. Bryan and Mrs. Wilshire, and also a sworn statement, in general terms, of the services rendered by Mr. Wilshire and himself in the case, and claiming (1) the allowance of a fee of 3½ per cent of the sum recovered as the reasonable minimum value of the services rendered by Wilshire & Sibbald under the contract prior to the death of Wilshire; and (2) the allowance of at least one-half of 1 per cent of the sum recovered for the services rendered by Sibbald under the contract after the death of Judge Wilshire.

The services claimed to have been rendered by Mr. Sibbald after Judge Wilshire's death has relation to the passage of the act of February 25, 1889 (25 Stats., 694), referring the case to the courts for final adjudication. Doubtless Mr. Sibbald rendered some service in this connection, but it will be observed by an examination of the report of the Senate committee on the bill (No. 217, Fiftieth Congress, first session) that the reasons given by every member of the committee except one (Senator JONES, who was opposed to the claim) for the passage of the bill were based on the findings of the Court of Claims, and it would seem, as said by Mr. Heard in a letter of September 1, 1894, on the subject, that the second reference was practically compelled by the findings of fact already reported to the committee by the court.

The services rendered under the contract prior to Mr. Wilshire's death, which Mr. Sibbald values at 3½ per cent of the total amount of the judgment, have been considered above in the discussion of the compromise agreement referred to, and I find nothing in the papers filed by him to warrant a modification of the conclusion reached to allow the amount fixed in that agreement.

I therefore find that there is justly and equitably payable for "legal services" rendered under the Wilshire contracts the sum of $13,500.

Taking up the claims in the order of the date of the contract on which they are based, the next to be considered is that of W. S. Peabody. This claim is for a fee of $64,030.90, and is based on a contract entered into between said Peabody and the Old Settlers by J. M. Bryan, their agent, attorney, etc. The contract provides for the employment of Mr. Peabody "to prosecute said claim before the proper committees of Congress, the Departments, or courts of the United States to a final termination and collection of the same," for a compensation of 8 per cent on the dollar of the amount collected on said claim. It was to run for four years, and was approved by the Commissioner of Indian Affairs and the Secretary of the Interior. As it expired from time to time it was renewed, the last renewal having been approved March 11, 1892.

Mr. Peabody declares himself as being unable to submit a statement of each act of service under this contract, giving fact and date in detail, as required by the statute, but has filed four affidavits, alleging in more or less general terms that he has performed the services called for in the contract.

Before entering into a consideration of the affidavits filed by Mr. Peabody, it seems to me best that I should discuss another matter which has a material bearing on the claim—that is, the fact that for over two years during the life of his contract Mr. Peabody was in the service of the Government, and therefore not in a position to render any service under the same without laying himself liable to heavy penalties under section 5498 of the Revised Statutes. Mr. Peabody entered into the employment of the Government on April 21, 1891, he having been appointed by the Secretary of the Interior to a position in the Geological Survey on that date, and continued in that position until October 20, 1893. While he was so employed, namely, on February 10, 1892, his contract with the Old Settlers was renewed, which renewal, as I have said, was approved by the Department March 11, 1892.

This removal was entered into two months after Mr. Peabody's contract had expired, and when it was presented to this office for approval the question was raised whether the contract could be revived to cover the time which had elapsed between the expiration of the contract and the date of the renewal, the office being of the opinion that, the contract having expired, it was necessary for the parties to make a new contract complying with all the formalities of the statute, and that all rights of the attorney under the old contract had lapsed with its expiration. The question was submitted to the Department with a report of February 24, 1892, with a request that the office be instructed as to whether there was any legal impediment in the way of the approval of the renewal, in view of the time that had passed since the expiration of the contract.

In response to this request the Department, under date of March 5, 1892, transmitted an opinion by the Assistant Attorney-General for the Interior Department, in which he held that there was "no legal objection to the approval of the agreement submitted," and the Secretary advised this office that he concurred in this opinion and saw no objection to the approval of the contract, if it received the favorable consideration of the Commissioner of Indian Affairs. Accordingly it was approved March 10, 1892, by the Commissioner.

Mr. Peabody has employed Mr. J. M. Vale to prosecute this claim on his behalf, and some time in the latter part of August I requested him to discuss in a brief the question whether Peabody's acceptance of employment by the Government was not such an abandonment of the Old Settlers' case as to debar him from recovering any fee on account of services if any had been rendered by him prior to entering upon such employment.

Mr. Vale claims that Mr. Peabody was exempt from forfeiture on account of his abandonment of the case and acceptance of other employment which prevented him from rendering further service without criminal liability on two grounds, viz:

First. That the contract by its terms left it optional with him to render the service in either one of three places, "the proper committees of Congress, the Departments, or courts of the United States."

Second. That the question was passed on by the Department at the time of the approval of the last renewal, while Mr. Peabody was in the employment of the Government, and it is held that there was "no legal objection to the approval of the renewal."

As to the first ground assigned by Mr. Vale why Mr. Peabody's acceptance of employment by the Government during the life of his contract, and when he might reasonably be called on to render services thereunder, should not be considered an abandonment of the service of the Old Settlers—namely, that the contract contemplated an election by Mr. Peabody of the forum in which his services should be performed—I have to say that it seems to me that such a construction of the contract is not warranted by its terms.

The contract was for Mr. Peabody's employment "to prosecute said claim * * * to a final termination." Where? "Before the proper committees of Congress, the Departments, or courts of the United States;" not either of these places, but wherever it was necessary to appear to prosecute it. Otherwise Mr. Peabody would have been at liberty to elect to prosecute before the courts, and if Congress itself had allowed the claim, and not referred it to the courts for adjudication, he would have had no service to perform.

In that event I apprehend that it would not have been seriously contended that he should have a fee for the services he had elected to perform but was prevented from doing by a settlement of the claim before it reached the courts, yet this is what Mr. Vale's argument would imply. Mr. Vale cites quite a number of authorities in support of his interpretation of the word "or" as it appears in the contract, none of which seem to me to reach the case in point. In fact, to give the word the interpretation he claims for it would have the effect to defeat the apparent purpose of the contract and the clear intention of the parties to be plainly gathered from the context. This seems so plain that I do not feel it necessary to cite authorities on the subject.

With reference to the claim of Mr. Vale that this office and the Department are now estopped from raising the question of Mr. Peabody's abandonment of the Old Settlers' claim in accepting service with the Government by the act of the Commissioner of Indian Affairs and the Secretary of the Interior in approving the renewal of his contract at the time of his employment in the Geological Survey, the attention of the Department is invited to the fact that there is nothing said in the correspondence relative to the approval referred to which discloses a knowledge on the part of this office or on the part of the Department that Mr. Peabody was so employed. It is possible that the fact of his employment in this Department was a matter of which the office and the Department should have taken judicial knowledge, but I doubt whether that is so, at least so far as this office is concerned. However this may be, I do not see how the fact of the approval of the renewal of Mr. Peabody's contract at the time of his employment by the Government can be said to estop the office and the Department from the proper adjudication of a claim for fees under the contract. The question of whether the attorney would be entitled to any fee at the showing of service was not involved in the consideration of the renewal, and could not arise at that time.

It will be observed that the only question under consideration at the time the renewal was approved was whether the contract could be revived and renewed in the manner in which it was proposed to do so. The question of the payment of fees was a matter to be considered at another time, and could not be passed on at that time. It would seem to me that it could be just as well said that the Secretary and the Commissioner are estopped by their approval of a contract from allowing a less compensation than is provided therein when they come to pass on the claim for fees thereunder.

I am therefore of the opinion that Mr. Peabody was under obligation to render service under his contract in the prosecution of the Old Settlers claim at all times during pendency of the suit, and in every place where the issues between the Indians and the Government were to be tried, and that his acceptance of employment by the Government before the final recovery on the claim was a voluntary abandonment of the prosecution of the case and a forfeiture of his fees for services thereunder, if any had been rendered; also that the approval of the renewal of the contract by the office and the Department during his incumbency in office was not a decision that the services called for in the contract had been rendered so as to entitle him to the fee provided for therein.

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 statutes. 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 services, 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 re-reference 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.

The first date given by Mr. Peabody is that of his contract, and the second date given is that of Mr. Clements's report. The next date is December 12, 1883, which is the date of the report of the Secretary of the Interior on the claim, and February 13, 1884, the case was referred by the Committee on Indian Affairs of the Senate to the Court of Claims under the Bowman Act. February 9, 1885, the Court of Claims reported its findings of fact under that reference, and March 8, 1889, the law was passed referring the case to the courts for adjudication.

It will be observed that all of the dates given by Mr. Peabody are dates of public reports and other actions of public officers, and that his affidavits upon which the law declares the Secretary of the Interior and the Commissioner of Indian Affairs shall determine the amount of fees to be paid to an attorney under his contract are not sufficient to show any service whatever under said contract.

An examination of all the records in this case and all the correspondence relating thereto on file in this office fails to disclose the fact that Mr. Peabody performed any service in the case which would place him on record. The principal acts of service that he seems to claim to have rendered were in connection with the report of Mr. Clements, the special agent, and of the Secretary of the Interior, made in 1883, relative to the claim. As I have said, these reports were, in my opinion, insignificant factors in the case. They were ignored and repudiated by Congress and by the courts. In addition to the fact, therefore, that Mr. Peabody forfeited his fee by entering into the service of the Government during the life of his contract, I am of the opinion that he fails to sufficiently show that he rendered any considerable service in the prosecution of the case under said contract.

In support of his claim Mr. Peabody has filed, in addition to his own affidavit, communications from several gentlemen who were connected with the case, and one from Mr. Bryan himself, in which reference is made in a general way to his services, but these references are too general upon which to base any conclusion as to the value of those services.

Mr. Peabody claims, in round numbers, a fee of $64,000. Taking into consideration the fact that there is evidence of Wilshire's work in connection with all of the matters to which Mr. Peabody claims to have directed his services, and in addition to this that Mr. Wilshire rendered valuable services

in the Court of Claims in the prosecution of the case on references for findings of fact, I am satisfied that if Mr. Peabody is entitled to anything at all, it would be much less than has been allowed Mr. Wilshire's estate; not more than $6,000 or $8,000 worth of service, it seems to me, could have been rendered by him, even on his own showing.

I do not, however, for reasons stated above, find that Mr. Peabody is entitled to anything at all under his contract.

The next claim is that of David A. McKnight, as surviving partner of the law firm of Ellis, Johns & McKnight, for compensation for professional services rendered the Old Settlers or Western Cherokee Indians. This claim is based on a contract dated December 15, 1888, between the Old Settlers, by J. M. Bryan, their attorney, etc., and E. John Ellis, then a member of the law firm of Ellis, Johns & McKnight, stipulating for Mr. Ellis's employment as assistant counsel or attorney for said Old Settlers or Western Cherokee Indians to prosecute their claim before the proper committees of Congress, the Departments, or the courts of the United States, to a final determination and conclusion of the same, for a compensation to be paid him or his legal representatives or assigns of a sum equal to 2 per cent on the dollar of amount collected on said claim.

Mr. Ellis died on April 25, 1889, after having rendered some service under his contract.

The contract was not approved until March 3, 1893, some time after its expiration. This fact is not material in view of the opinion of the Attorney-General, August 4, 1876 (15 Opinions, 585), that the approval of a contract operates by relation to the date of the contract, and has the same effect as if it had then been given, and that a claimant under the contract is not confined to acts of service done subsequently to the date of approval, but may show acts done at a time after the date of the contract.

It is therefore important for those representing Mr. Ellis's estate to show that he had rendered services subsequently to the date of his contract in order for them to recover quantum meruit for services rendered by Mr. Ellis, the compensation to be in proportion that the services rendered bear to those contracted for. (Glendennin *vs.* Black, 23 Am. Dec., 149; Weeks's Attorneys at Law, sec. 334.)

Mr. McKnight claims first an allowance of the contract fee of 2 per cent on the ground that the contract was made with the firm of Ellis, Johns & McKnight, of which firm Mr. Ellis was a partner, and that the applicant is a surviving member of that firm and the administrator of Mr. Johns, deceased.

Mr. McKnight discusses this claim at some length, and cites authorities to show that a contract made with a member of a firm on firm business is a firm contract. I have not been able to examine all of the references cited by Mr. McKnight in support of this contention, but 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 he 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 the other members of his firm that this was a firm contract to sustain his claim.

The record in this case shows that Mr. McKnight, as a representative of the survivors of the firm of Ellis, Johns & McKnight, tendered their services in carrying out the terms of the contract with Mr. Ellis, which services were rejected by Mr. Bryan or by attorneys employed by him in the case, and in accordance with his directions. The contract made by Mr. Ellis with Mr. Bryan might have been treated by the members of his firm among themselves as a firm contract and regarded as an asset of the firm, but that would have been a matter between the parties composing the firm and of which this Department could take no notice. I am of the opinion that the contract with Mr. Ellis was not one on which a suit for specific performance of its terms could have been maintained in the courts against the surviving partners, and therefore was not a firm contract so far as the Indians were concerned.

Second. That if the contract was with Mr. Ellis and not with the firm, the allowance of a fee of 1½ per cent of the amount recovered is a reasonable minimum value of the services rendered by Ellis prior to his death.

In support of this claim it is submitted that Mr. Ellis was entitled to at least 1 per cent for passing the bill of February 25, 1889, referring the case to the courts for adjudication, and that he was entitled to at least one-half per cent for his services in preparing the petition and entering his appearance as counsel in chief or attorney of record in the Court of Claims.

With reference to the claim of 1 per cent for passing the bill of February 25, 1889, the attention of the Department is invited to the fact that nearly every attorney who has submitted a claim in this case has claimed exclusive credit for the passing of this bill. Mr. Ellis being dead it is impossible to require in this case the filing of an affidavit of each act of service, and as the law should not be construed to require that impossible acts should be performed, the value of Mr. Ellis's services in this connection must be determined from proofs of another character.

The Hon. John T. Heard, in a letter to which I have referred above, suggests that the passage of the act of February 25, 1889, was practically compelled by the findings of fact by the Court of Claims on the references under the Bowman Act by the committee of the Senate.

Mr. Sibbald, in his affidavit relative to the services rendered under Mr. Wilshire's contract, claims that the bill was prepared by Mr. Wilshire, and introduced at his instance in Congress. Mr. Peabody claims that he rendered services in connection with the passage of that bill, and, in fact, I think all of the attorneys make this claim in their affidavits in this case, except Mr. Heard, and possibly Messrs. Douglas and Hemmingway. It would therefore be impossible, in view of the record, for this office to hold that Mr. Ellis alone was entitled to the credit of securing the passage of the act of February 25, 1889, by Congress, but that he did perform some service in connection with the passage of that bill is shown by letters from Hon. S. W. Peel and Hon. H. L. Dawes, both of whom said that they knew that Mr. Ellis was interested in the prosecution of the claim, and that he frequently consulted with them upon the subject and with other members of the Committee on Indian Affairs of the House of Representatives and of the Senate. Mr. Peel was chairman of the Committee on Indian Affairs in the House of Representatives in the Fiftieth Congress, and Mr. Dawes was chairman of the Committee of Indian Affairs in the Senate during that Congress.

While it is a fact that Mr. Ellis signed the first petition that was filed in the court in behalf of the Old Settlers as attorney of record, the record in this case is not sufficiently clear to satisfy me that Mr. Ellis prepared that petition or that he had any other connection with it than as a consulting attorney and the signing of the same as attorney of record. Considering all together the evidence submitted in other cases bearing on the facts in this case, I do not think that the claim of Mr. McKnight should be allowed as submitted.

But as Mr. Ellis has been shown to have rendered services under his contract, and as he died during the existence of the contract without recovering anything thereunder, his estate, or the assignees of his estate, would be entitled to recover quantum meruit for said services a compensation in proportion that the said services bear to those contracted for. The services contracted for were the prosecution of the claim of the Old Settlers before the proper committees of Congress, the Departments, or the courts of the United States to a final determination and conclusion of the same; that is, the prosecution of the claim before the proper committees of Congress while it is pending before those committees; before the Departments of the United States while it might have been pending before the Departments, and in the courts of the United States, should it be pending before the courts.

There were but little over four months between the date of Mr. Ellis's contract and his decease, and during that time there was nothing to be done, or nothing was done, except to secure the passage of the act of Congress referred to and the filing of the first petition in the Court of Claims. As has been shown, several attorneys had connection with the passage of the act, and I think it is sufficiently shown that the petition was drawn by Messrs. Jones & Voorhees; so that Mr. Ellis's services in connection with this matter were very small. It is, of course, a most difficult thing to decide, upon the uncertain evidence presented in this case, what an attorney's services, such as were rendered by Mr. Ellis, should be valued at, but it seems to me, in view of the compensation payable to other attorneys in this case, that Mr. Ellis's estate, or assignees of his estate, would not be entitled to recover on account of those services more than $2,000, and I therefore determine that that amount is justly or equitably payable to Mr. McKnight, as an assignee and administrator of an assignee of the estate of Mr. Ellis, for legal services performed by him under said contract.

The next claim in order of date of contract is that of Messrs, Jones, Voorhees & Boudinot. This claim was discussed in a report of August 31, 1894, wherein I submitted my determination in the case to the Department and reference is had here to that report.

The next claim in order is that of Messrs. Garland & May, which was discussed in my report of September 5, 1894, to which I here refer.

The claim of C. M. Carter is based on a contract of February 15, 1893, and is for $3,185. In addition to this he claims the sum of $333, which was advanced by him to Mr. Bryan to pay the expense of printing, etc. Inasmuch as the Old Settlers or Western Cherokee Indians have by their council appointed a treasurer and set apart 2 per cent of the amount recovered to pay the debts of the Indians, money borrowed or money advanced to Mr. Bryan must be paid by him as the treasurer of the Old Settlers.

Mr. Carter has filed two affidavits in support of his claim, one dated March 13, 1894, and the other dated September 7, 1894, but neither one of these affidavits is sufficient to authorize the payment to him of the fee under his contract. They show services in general terms rendered under so-called contracts of different dates from November 28, 1883, to and including January 27, 1893. None of these contracts were ever approved by this office and the Department as required by law, and the services rendered thereunder can not be paid for under sections 2104 and 2105 of the Revised Statutes.

The contract of February 15, 1893, was approved by this office February 28, 1893, and by the Department March 2, 1893. Prior to the approval of this contract the office, in a letter of February 21, 1893, advised Mr. Carter that it could not approve a contract for services rendered prior to the date thereof. It would be impossible, therefore, for this Department to authorize the payment of any fee to him on account of services rendered under any alleged former contract which had not been approved in accordance with the provisions of the statutes, but that his contract could be approved so as to authorize him to render services thereunder after its date, and receive a proper compensation therefor.

He was also advised that the amount of fee or compensation to be paid under his said contract, if it were approved, must be determined by a showing made by him as to the services actually rendered after its date, such showing to be made in accordance with the provisions of section 2104 of the Revised Statutes, and that if he desired the contract approved upon these conditions, and would advise this office to that effect, proper consideration thereof would be given.

Under date of February 23, 1893, Mr. Carter filed in this office in quadruplicate an affidavit made by him February 22, 1893, setting forth the services that he expected to render under the contract, and informally indicated to the office that it was his wish to have the contract approved, so that he might be paid for services rendered after the date thereof, and in view of this the contract was approved by the office and transmitted on February 28 with a report to the Department for the action of the Secretary of the Interior thereon, the approval being indorsed on the contract in the following language, viz: "The within contract is hereby approved so that payment may be made for such services only as may be rendered by the attorney thereunder after the date thereof."

In a communication of September 7, 1894, Mr. Carter says that in making the contracts with Mr. Bryan he understood that he was contracting with a white man, a citizen of the United States domiciled in the Cherokee country and duly and properly delegated and authorized by the Old Settlers to attend to the prosecution of their claims, and that his authority as such agent and representative was recognized by the Department; therefore he did not deem it necessary under the law to seek to have his contracts approved. The mistake that Mr. Carter made in this respect is that the contracts were not with Mr. Bryan, but with the Old Settler Cherokees, by Mr. Bryan, their attorney in fact. Mr. Bryan is one of the Old Settler Cherokees and was properly delegated to represent them in making these contracts.

Under date of November 14, 1894, I wrote Mr. Carter, asking him to furnish this office with an affidavit setting forth his services under his contract, which had been approved. This, I infer, he declines to do from his letter of November 16, 1894, in which he takes the position that the language used in making the appropriation in Congress lays down a different rule for the adjudication of the claims and that his fee is justly and equitably due, and therefore the claim is not to be adjudicated under the statute. I think Mr. Carter is mistaken in this position, for the reasons that I have set out in another part of this report. In view of the fact, therefore, that Mr. Carter does not show that he rendered any service whatever under his contract, I am unable to find that he is entitled to any fee thereunder.

The only other claim based on an approved contract is that of Joel L. Baugh, whose contract was dated February 14, 1894, and which provides for a fee of 1½ per cent. Mr. Baugh has submitted an affidavit showing that he is an Old Settler Cherokee, and that on June 29, 1891, the Old Settlers in council appointed him as an assistant commissioner to act as such in the aid of or in the place of Joel M. Bryan, their commissioner, in the prosecution, winding up, and final settlement of all matters appertaining to their claim against the Government. These council proceedings directed Mr. Bryan to enter into a contract with Mr. Baugh, otherwise there would have been no necessity for such a contract, and he might have been paid his fee if sufficient money remained out of the 35 per cent, in the same manner as Mr. Bryan, Mr. Hendricks, and Mr. Wilson, the Old Settlers' commissioners. This contract, however, was not made, as I have stated, until February 14, 1894.

Mr. Baugh's affidavit shows that he has been diligent in rendering services in assisting Mr. Bryan, who is his grandfather, in the prosecution of the case since his appointment both before and since the date of his contract, giving date and fact in detail of the services rendered by him since the contract; the other services, those rendered prior to the date of his contract, being stated in general terms.

I can not, however, conclude that the services rendered by him are worth 1½ per cent, or about $12,000, but will allow him three-fourths per cent, or $6,000, for said services.

This includes all of the claims that can be paid under contracts by the

Department as I construe the law. There is one other claim which is especially provided for by an act of Congress dated August 15, 1894 (28 Stats., 31, Private Laws of the United States), an act to enable the Secretary of the Interior to pay John T. Heard for professional services rendered the Old Settlers or Western Cherokee Indians out of the funds of said Indians.

This act authorizes and directs the Secretary of the Interior to pay to John T. Heard, for professional services rendered, out of any money appropriated, or to be appropriated, by Congress for the Old Settlers or Western Cherokee Indians, by reason of a judgment rendered by the Court of Claims in favor of said Indians, the sum of $10,000, or such part thereof, if any, as shall remain of the 35 per cent set apart by resolution in various councils of the Old Settlers for the expense and prosecution of said claim after the ascertainment and determination of the amount of such fees and charges and other claims as are properly chargeable against said 35 per cent, provided that the Secretary shall first determine that the professional services were rendered to the Old Settlers and were contracted for in good faith by persons authorized to represent the Indians.

There are three things to determine in the adjudication of this claim: First, that there is sufficient of the 35 per cent set apart by the Old Settlers to defray the expenses of prosecuting this claim to pay the $10,000; second, that Mr. Heard rendered the professional services claimed; and third, that they were so rendered under a contract entered into in good faith by some one authorized on behalf of the Old Settlers to make such a contract.

If the Department should concur with me as to the amounts found in this report to be due the claimants, there would be left out of the 35 per cent set apart a little over 13 per cent, and therefore ample money to pay Mr. Heard's fee, and even if the Department should determine that anything is due and payable on account of the Peabody claim, and should Mr. Carter furnish the proof necessary to establish his claim under the statutes, there would still be left enough, and more than enough, to pay Mr. Heard's fee.

I think it is sufficiently shown by Mr. Heard's affidavit in his claim, and by all the papers and correspondence had with reference to the matter, that the services claimed to have been rendered by him were so rendered on behalf of the Old Settlers, and that these services were valuable and contributed largely to the ultimate recovery of the claim.

Attached to Mr. Heard's affidavit are several affidavits by prominent attorneys of this city, one of whom had personal knowledge of the amount and character of work performed by Mr. Heard, tending to show that the fee of $10,000 is a very reasonable compensation for those services.

It was satisfactorily shown by Mr. Heard, when he submitted his contract of July 25, 1893, to this office for approval, that he had rendered the services under contract with Mr. Bryan, who was authorized to make such contracts on behalf of the Indians. The Department will recall that this matter of Mr. Heard's fee was discussed in office reports of September 6, 1893, and January 2, 1894, and that the office was directed to prepare a bill, to be acted on by Congress, having in view the granting of authority to pay this claim. There is ample proof, therefore, in my opinion, that Mr. Heard rendered the services alleged, and that they were rendered under contract with a proper party, who had authority to represent the Indians in such matters, and I therefore see no reason why the claim should not be paid, and I find that he is entitled to receive $10,000, in accordance with the act for his relief.

A claim has been filed on behalf of the estate of John L. McCoy by Walter A. Duncan. Mr. Duncan bases the claim of the estate on Mr. McCoy's services as a commissioner for the Old Settlers. Mr. McCoy was one of the commissioners appointed in 1875, but served only about two years, and William H. Hendricks was appointed in his place. The estate claims for McCoy's services the same amount that has been paid to Mr. Hendricks and Mr. Wilson, Mr. Bryan's co-commissioners, who have been engaged in the prosecution of the case with him since 1878.

There was no provision made by the Old Settlers' council for the payment of any compensation to Mr. McCoy, and as Messrs. Wilson and Hendricks were paid their compensation under authority of the Old Settlers' council, I do not see how this Government can pay Mr. McCoy's estate anything, even if it were shown that his services during the two years were of such a valuable character that they entitled him to receive the compensation. The only remedy for Mr. McCoy's estate that I can see must be sought by the application to the council for the payment thereto of such amount as the council shall determine Mr. McCoy's services were worth. There is a fund of 2 per cent set apart for the payment of debts, out of which the claim of the estate might be in part paid, if it is just and right.

Another claim has been filed by the Cherokee Nation for $4,500, on account of moneys advanced by the said nation to the Old Settlers. This claim can not be paid by the Government, but must be paid by the Old Settlers' treasurer out of the fund set apart by the Indians to pay such debts. The Old Settlers' commissioners were required by the act of the Cherokee Nation to give bond for the repayment of this money, and the Old Settlers' treasurer, Mr. Bryan, is responsible to the Indians for the proper disbursement of the fund set apart for the payment of debts.

All the papers that have been filed in this office relating to these claims are herewith transmitted to you.

Very respectfully, your obedient servant,

D. M. BROWNING,
Commissioner.

The SECRETARY OF THE INTERIOR.

EXHIBIT H.

DEPARTMENT OF THE INTERIOR,
Washington, September 28, 1894.

SIR: I acknowledge the receipt of your communication of the 4th instant, transmitting an assignment to Mr. Sibbald of one-fifth interest in the contract of Mr. Wilshire with the Old Settler Cherokees, with request for instructions.

In response thereto I transmit herewith an opinion, dated the 27th instant, from the honorable Assistant Attorney-General for the Department of the Interior, in which I concur, and you will be governed in your action in this matter by the opinion herewith transmitted.

The papers accompanying your communication are returned, and those filed in the case are herewith transmitted.

Very respectfully,

WM. H. SIMS,
Acting Secretary.

The COMMISSIONER OF INDIAN AFFAIRS.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE ASSISTANT ATTORNEY-GENERAL,
Washington, September 27, 1894.

SIR: I have given attentive consideration to the claim of John A. Sibbald, esq., and to the questions in connection therewith presented in the communication from the Commissioner of Indian Affairs, dated September 4, 1894, which on the 5th instant was referred to me by Acting Secretary Sims, with a request for an opinion thereon.

The matter has been orally argued by counsel for Mr. Sibbald and the estate of Mr. Wilshire, respectively.

The statement of facts in the letter of the Commissioner of Indian Affairs renders it unnecessary for me to recite them.

The principal question on which my opinion is asked is as to whether the agreement of the Old Settler or Western Cherokee Indians with Mr. Wilshire of September 28, 1886, is a renewal and extension of the agreement entered into between the same parties of July 1, 1882, or a separate and distinct contract between the parties thereto.

It appears from the papers presented that the original contract of employment was to continue for four years, it having been so limited in the approval indorsed thereon, and was approved by the Indian Office on October 9, 1882, and by the Department October 10, 1882.

This contract expired on July 1, 1886, and on September 28, 1886, the Old Settler Cherokees entered into a new contract with Mr. Wilshire, to continue for five years from the date thereof.

The first question that arises is, Can such a contract be revived and renewed after its expiration, and extended to cover the period intervening between its expiration and subsequent renewal and revival?

Upon this question I have only to say that the identical question was considered by Assistant Attorney-General Shields in the case of the renewal of the contract between the Old Settler Cherokees and W. S. Peabody, and answered in the affirmative (Fifty-second Congress, second session, Ex. Doc. No. 18, p. 476), and I see no reason to dissent from that opinion.

The question, then, is, Can the construction of the contract of September 28, 1886, contended for by Mr. Sibbald, that this contract is not a separate and distinct contract of employment, but a renewal and extension of the original contract of July 1, 1882, be maintained?

It is said in Professor Parsons's work on Contracts (vol. 2, p. 511): "No precise form of words is necessary even in a specialty. Thus words of recital in a deed will constitute an agreement between the parties on which an action of covenant may be maintained. And the recital in a deed of a previous agreement is equivalent to a confirmation and renewal of the agreement." And it is a rule of construction that the whole agreement is to be considered and such a meaning given to the particular parts as will, without violence to the words, be consistent with all the rest, and with the evident object and intention of the contracting parties. (Smith on Contracts, p. 543.)

That it was the intention of the parties when they executed the contract of September 28, 1886, that the original contract of July 1, 1882, should be revived and renewed by the new contract, I can not doubt, and I think that this intention is sufficiently manifested by the language they have employed.

The first recital in the contract of September 28, 1886, refers to the original employment of Mr. Wilshire under the contract of July 1, 1882; in the second, reference is made to the limitation of the original contract to the term of four years from its date; in the third, it is stated that Mr. Wilshire had faithfully performed his duty as attorney of the Old Settler Cherokees "up to the present" under the original contract, and in the last recital it is stated that it is the desire of the Old Settler Cherokees that Mr. Wilshire's employment as their attorney should be continued until their claim be finally disposed of.

The contract then sets out: "Therefore the said J. M. Bryan, etc., duly authorized by their general council for that purpose, doth hereby agree, for and on the part of said Indians, to and with said William W. Wilshire, to continue his said employment as the attorney for said Indians in the prosecution of their claim against the United States, etc., until the same shall be finally settled and disposed of, etc.; and in consideration thereof the said J. M. Bryan, etc., for and in behalf of said claimants, hereby agrees to pay, or cause to be paid, to the said William W. Wilshire, for his services in the prosecution and collection of said claim as aforesaid, a sum equal to 5 per cent of any and all sums that may be collected for said claimants from the United States: *Provided*, that said compensation shall be in full of all demands of the said Wilshire for any and all services rendered by him at any time for said Indians. And the said William W. Wilshire, for and in consideration of the promise and agreement of said Indians as aforesaid, hereby agrees to continue his services as the attorney of said Indians," etc. Then follows an agreement as to continuance of the contract for five years from and after the date thereof.

Not only in the recitals of the contract under consideration is there an evident intention to connect the employment of Mr. Wilshire under the new contract with his previous employment under the original contract and to continue it, but in the contracting part it is explicitly stated that it is the desire of the Old Settler Cherokees to continue Mr. Wilshire's employment as their attorney.

And I can see no reason for the proviso, unless the new contract was intended to embrace a compensation for the services rendered under the original contract, and by inference to continue it.

The last question upon which I am called for an expression of opinion, to wit, whether the indorsement on the contract of July 1, 1882, assigning one-fifth interest therein to Mr. Sibbald, is a valid assignment, and can be approved at this time, so as to authorize the payment to him of one-fifth of such sum as may be found due to Mr. Wilshire's estate, for services rendered by Mr. Wilshire under the contract of July 1, 1882, must, I think, be answered in the affirmative.

The provision relative to assignments of contracts with Indians is found in section 2106, Revised Statutes of the United States, which reads:

"SEC. 2106. No assignment of any contracts embraced by section twenty-one hundred and three, or any part of one, shall be valid, unless the names of the assignees and their residences and occupations be entered in writing upon the contract and the consent of the Secretary of the Interior and the Commissioner of Indian Affairs to such assignment be also endorsed thereon."

The assignment to Mr. Sibbald, indorsed on the contract of July 1, 1882, complies with the requirements of the statute, and needs only the approval of the Secretary of the Interior and the Commissioner of Indian Affairs.

As the contract of 1886 was, in my opinion, merely an extension of the time limit in the contract of 1882, I am unable to see any valid reason against the approval now of the assignment to Mr. Sibbald of an interest in the contract of 1882.

If all the facts in respect of Mr. Sibbald's connection with these contracts have been submitted to me, the approval of the assignment will, in my opinion, give to him the same interest in the renewal or extension contract that he had in the original.

I therefore answer the questions submitted in the affirmative.

Very respectfully,

JOHN I. HALL,
Assistant Attorney-General.

The SECRETARY OF THE INTERIOR.

Approved.

WM. H. SIMS, *Acting Secretary.*

EXHIBIT I.

In the matter of the claims for attorneys' fees, etc., in the case of the Old Settler Cherokees *vs.* United States.

DEPARTMENT OF THE INTERIOR,
Washington, January 22, 1895.

SIR: I acknowledge the receipt of your communication of November 21, 1894, submitting for the decision of the Department the claims of attorneys

and others for services on account of the claim of the Western or Old Settler Cherokee Indians against the United States Government.

At the request of the counsel for the parties an oral discussion was had before the Secretary. Counsel were fully heard and their arguments have been carefully considered. It is only necessary very concisely to recite the *facts:*

An appropriation was made by a clause in the general deficiency act approved August 23, 1894 (28 Stat. L., 424, 451), to pay a judgment of the Court of Claims in favor of the Old Settlers or Western Cherokees as follows, viz:

"The Old Settlers or Western Cherokee Indians, by Joel M. Bryan, William Wilson, and William H. Hendricks, commissioners; and Joel M. Bryan, treasurer, and so forth, eight hundred thousand three hundred and eighty-six dollars and thirty-one cents; 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 said Indians to pay the expenses, and for legal services justly or equitably payable on account of said prosecution."

The claim which this appropriation was intended to satisfy had been pending for many years. In 1875 the Old Settlers or Western Cherokee Indians appointed commissioners or agents to prosecute the claim, setting apart for defraying the expenses of such prosecution 35 per cent of whatever sum might be recovered by the Indians on account of their claim. Out of this 35 per cent the commissioners were authorized to employ legal counsel and attorneys, and to pay for their services and for other expenses incident to the prosecution of the claim. Subsequent to the setting aside of this percentage, the Indians at various times made specific appropriations therefrom for different purposes, as follows, viz:

"For J. M. Bryan, commissioner and treasurer, 6½ per cent; for William H. Hendricks, commissioner, 2 per cent; for William Wilson, commissioner, 2 per cent; for payment of debts of Old Settlers, money borrowed from Cherokee Nation, 2 per cent."

Certain contracts with attorneys, made by the commissioners or agents, received the approval of your office and of the Secretary of the Interior, viz:

"W. W. Wiltshire, 5 per cent; W. S. Peabody, 8 per cent; E. J. Ellis (conditional), 2 per cent; Jones, Voorhees & Boudinot, 4 per cent; Garland & May, for a fee of $15,000 (conditional); C. M. Carter, a conditional fee; Joel L. Baugh (conditional), 1½ per cent."

It further appears that since the appropriation was made the following claims have been paid: September 6, 1894, to J. M. Bryan, 6½ per cent, $52,025.11; September 8, 1894, to William Wilson, 2 per cent, $16,007.72; September 8, 1894, to William H. Hendricks, 2 per cent. $16,007.72; total, $84,040.55; that claims of attorneys for services were adjudicated by your office under section 2104 of the Revised Statutes and transmitted to the Department for its action as follows: August 31, 1894, claim of Jones, Voorhees & Boudinot, 4 per cent, $32,015.45; September 5, 1894, claim of Garland & May, 1½ per cent, $15,000; total $47,075.45.

These claims, as well as the claim of John T. Heard for $10,000, and of the Wilshire estate for $13,500, hereinafter referred to, have been approved by the Department by letter of January 5, 1895.

It further appears that claims were filed in your office by attorneys and parties, including those whose claims have been paid, as follows, viz: J. M. Bryan, 6½ per cent; William Wilson, 2 per cent; William H. Hendricks, 2 per cent; J. M. Bryan (treasurer), 2 per cent; Jones, Voorhees & Boudinot, 4 per cent; Garland & May (about) 1½ per cent; W. W. Wilshire, 1½ per cent; W. S. Peabody, 8 per cent; D. A. McKnight, for estate of E. J. Ellis, 2 per cent; C. M. Carter (about) three-eighths per cent; Joel L. Baugh, 1½ per cent; John T. Heard, 1½ per cent; J. W. Douglas, five-eighths per cent; S. O. Hemingway, five-eighths per cent; John L. McCoy, 2 per cent; Richard C. Wintersmith, 25 per cent; Belva A. Lockwood, 10 per cent; J. J. Newall, 2½ per cent.

It further appears that the contracts made with the commissioners of the Old Settler Cherokees, and approved by the Commissioner of Indian Affairs and the Secretary of the Interior, were executed and approved in conformity to the provisions of the Revised Statutes (sec. 2103).

When these contracts were so approved by the Secretary of the Interior, it being supposed that the Old Settler Cherokees were an Indian community, endowed with a capacity to act collectively, the contracts were not made with the individual members of that part of the Cherokee Nation known as the "Old Settler" or "Western" Cherokees, but with commissioners appointed by a council or convention of the Old Settler Cherokees.

Section 2103 of the Revised Statutes provides, among other things, that contracts with Indians shall contain the names of all parties in interest, their residence and occupation, and if made with a tribe by their tribal authority, the scope of authority, and the reason for exercising that authority, shall be given specifically. It also provides that the judge before whom such contract or agreement is executed shall certify officially the time when and place where such contract or agreement was executed, and that it was in his presence, and who are the interested parties thereto as stated to him at the time; the parties present making the same; the source and extent of authority claimed at the time by the contracting parties to make the contract or agreement, and whether made in person or by agent or attorney of either party or parties.

The contracts under consideration were not executed by the individual Indians comprising the Western Cherokees; they did not contain the names of the parties in interest, who were the individual Indians, but of the commissioners of the Old Settler Cherokees, who, it now appears, had no capacity to act collectively.

Mr. Chief Justice Fuller, delivering the opinion of the court in United States *vs.* Old Settlers (148 U. S. R., 427, 478), said:

"The question remains as to the character in which petitioners came into court, and to whom the amount awarded should be distributed.

"The Old Settlers or Western Cherokees are not a governmental body politic, nor have they a corporate existence, nor any capacity to act collectively. The money belongs to them as individual members of an Indian community, recognized as such by the treaty of 1846, and treated as distinct and separate from the Cherokee Nation, so far as necessary, to enable the Government to accord them their treaty rights. They are described in the fourth article of the treaty as all those Cherokees west of the Mississippi who emigrated prior to the treaty of 1835; and they might be held to include those now living who so emigrated, together with the descendants of those who have died, the succession to be determined by the Cherokee law. The petition does not set forth their names, nor the extent of the rights and interests claimed, respectively, but purports to be brought by three persons, for themselves and as commissioners of the Western Cherokees; and they alleged that the claimants are the remaining part of those Cherokee Indians who formed and composed the Western Cherokee Nation, and that they have maintained their separate organization so far as to adjust and settle their claims against the United States. 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."

Under these circumstances, valuable services having been rendered to the Old Settler Cherokees, both under contracts supposed to be valid under the provisions of the Revised Statutes, designed for the protection of the Indians from improvident agreements and contracts, and under agreements made with the Indians, but not strictly within the rigid requirements of the Revised Statutes, which gave just and equitable claims on the Old Settler Cherokees, for professional services in the prosecution of their claims, the act of Congress, making the appropriation to pay the judgment in favor of the Old Settler Cherokees, provided that "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 said Indians to pay the expenses, and for legal services justly or equitably payable on account of said prosecution."

What construction should be put upon this provision? I am of opinion that it was intended to vest the Commissioner of Indian Affairs with the same power to adjust the claims of attorneys for professional services that a court of equity possesses in passing upon claims for legal services.

It is seen that according to the decision of the Supreme Court these Indians had no power to act collectively; and it being well known that there were claims for valuable professional services rendered to them in the prosecution of their claim against the United States which were not in exact conformity to the provisions of the Revised Statutes, Congress plainly intended that claims for professional services should be adjusted without reference to the Revised Statutes, which, if applied to the case, would deprive every claimant of his merited reward, but upon those principles which would govern a court of equity in like circumstances.

But it is urged by the counsel for the Indians that the words in the appropriation act, "and for legal services justly or equitably payable on account of said prosecution," were added ex abundanti cautela, lest the decision of the Supreme Court in Old Settlers *vs.* United States, supra, should "give trouble to those gentlemen who had for several years, under approved contracts, devoted their professional ability, time, and labor continuously and faithfully to this case."

In reply to this argument it is sufficient to say that if that was the intention of Congress it has been very unhappy in its choice of terms to express its meaning. But the argument is entirely gratuitous.

The language used clearly indicates an intention to place no other limit upon the power of the Secretary of the Interior to adjudicate these claims than that they shall not exceed the 35 per cent set apart by the Indians, and that they shall be just and equitable, according to the rules which govern courts of equity in such cases.

After this statement of my general views on the subject, I shall do no more than state in a few words my conclusions upon the claims presented.

The claims of Messrs. Bryan, Hendricks & Wilson have been paid, and the claims of Messrs. Jones, Voorhees & Boudinot, Messrs. Garland & May, Mr. John T. Heard, and the Wilshire estate have been approved, as above stated, and now require no consideration.

The claim of John A. Sibbald.—I do not think that Mr. Sibbald is entitled to anything more than one-fifth of the amount allowed on the Wilshire claim, in accordance with his agreement with Mr. Wilshire.

The claim of W. S. Peabody.—Upon this claim I am of opinion that Mr. Peabody's acceptance of employment under the Government of the United States can not be considered an abandonment of his contract. The proof filed shows that he performed very valuable services during a period of many years, extending from the year 1878 to the close of the case. I have carefully considered his claim, and I can not think that, however valuable and meritorious these services may have been, he is entitled to the enormous sum at which he rates them. I agree with you that the sum of $8,000 would be ample compensation for all the services rendered; and that sum is allowed.

The claim of E. J. Ellis.—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 think, however, that the compensation suggested by you is quite inadequte. I am of opinion that the estate of Mr. Ellis shonld be allowed the sum of $4,000 in full for his services.

I do not see any merit in the claim set up by Mr. McKnight, as the surviving partner of the law firm of Ellis, Johns & McKnight, and his claim is rejected.

The claim of C. M. Carter.—Mr. Carter's legal services extended from the latter part of 1883 to the year 1893; they are fully recognized by Mr. Bryan, who swears in his affidavit on file that the Old Settler Cherokees were benefited to the full extent of the amount agreed to be paid to Mr. Carter for his legal services; that he has advanced $213 to pay costs in their case. I am satisfied that Mr. Carter is justly entitled to be paid the full amount of his claim for legal services, viz, $3,155, and that sum is allowed. The claim for $333 advanced by him to Mr. Bryan can not be paid out of this fund.

The claim of Joel L. Baugh.—I am unable to see what services Mr. Baugh has rendered which would justify the payment to him of the sum of $6,000. His services may have been valuable, but it is not easy to perceive just exactly what they were. But, under all the circumstances, I would approve an allowance to him of the sum of $1,000.

The claim of John W. Douglas.—Mr. Douglas was employed as one of the attorneys of these Indians in the Court of Claims in the early part of 1884, and until the year 1889, when he was appointed one of the Commissioners of the District of Columbia. His services were valuable and meritorious, and the compensation which he asks is moderate, viz, the sum of $2,500, which is allowed.

The claim of S. O. Hemingway.—In 1886 Mr. Hemingway was employed by Mr. Bryan to assist the other counsel in the prosecution of the claim of the Old Settlers, and appears from his affidavit to have performed meritorious services in their behalf, which are therein detailed. I do not understand that this is denied, but it is said that his contract was not properly executed and approved under the Revised Statutes, which is true; but I think his services were meritorious, and that he should receive a reasonable compensation for them, and a fee of $1,500 is allowed.

The claim of John L. McCoy.—This is a claim filed in behalf of the administratrix of John L. McCoy, deceased, who was for a short time a commissioner for the Old Settlers. It appears that he was appointed in 1875 and served about two years. I am unable to see what claim Mr. McCoy has upon this fund, and I agree with you in its rejection.

The claim of Richard C. Wintersmith.—This claim was rejected by you. I am unable to discover any contract under section 2103 or otherwise upon which he can predicate a claim. His power of attorney was signed by Keys, McCoy, and Scales, none of whom were authorized at the time to represent the Old Settlers; besides, the proof of his services is so indefinite that a claim could scarcely be based upon it.

The claim of James J. Newell.—Mr. Newell is certainly entitled to be paid for the services which his proofs show that he rendered. They were of the most meritorious character. He was one of the pioneers in the prosecution of the claim. He largely contributed to lay the foundation on which ultimate success depended. He labored and other men entered into his labors.

The beneficial character of his services is shown by the affidavits on file in your office. It was principally owing to his efforts that the agencies were brought into activity which eventuated in final success.

It is upon the contract acknowledged in the city of Washington on the 8th day of January, 1877, by Mr. Bryan in his own right and as delegated attorney for Messrs. Wilson and Hendricks, his cocommissioners, that Mr. Newell

relies as evidence of his employment as attorney for these Indians to prosecute their claim. The value of these services was recognized by the Indians by the adoption of the resolutions unanimously adopted by the council held October 13, 1882, set out in the report of the House Committee on Indian Affairs. (House Ex. Doc., Fiftieth Congress, first session, Report No. 342, p. 18.)

But it is said that by his contract Mr. Newell was only to be paid in the event of his securing payment to the Old Settlers of their claim; that his fee was entirely contingent upon his success; if he failed he was to receive nothing.

Now, what is the language of the contract? "And we do hereby agree and contract with the said J. J. Newell to pay him for his services as attorney a sum equal to eight per cent of the amount which may be allowed or recovered on said claim, the payment of which is hereby made a lien upon the said claim, and is to be paid out of the said thirty-five per cent set apart by the convention as aforesaid." Did that make Mr. Newell's fee entirely dependent upon his success? It certainly made his fee dependent upon the recovery of the claim, but he was to be paid for his services as the attorney for the Indians. If he had abandoned the employment before the recovery of the claim, he would have forfeited his right to compensation. That is the law governing all contracts.

It is then said that "he abandoned fully and absolutely, in 1883, all efforts in behalf of the Old Settlers. He refused to keep his contract with the Old Settlers, and by so doing he compelled the Old Settlers to employ additional and other attorneys to secure the payment of their claim, which Mr. Newell admits that he was employed to do for the compensation in his contract, and which he admits he did not do."

There is no evidence that Mr. Newell abandoned the employment; on the contrary, it appears that in the latter part of the year 1882 he applied to the Indians, through Mr. John L. McCoy, who had been one of their commissioners, for a renewal of his contract with Messrs. Bryan, Wilson & Hendricks, and that in a council held October 13, 1882, the following resolution was passed:

"*Resolved further*, That the proposition of J. J. Newell, made through John L. McCoy to us, to renew any contract made by said McCoy or any Old Settler Cherokee commissioner or commissioners, is hereby rejected."

The Indians then employed other counsel in place of Mr. Newell.

The conduct of one party to a contract, which prevents the other from performing his part, is an excuse for nonperformance. (United States *vs.* Peck, 102 U. S. R., 64.)

The sum of $10,000 would, I think, be a just compensation, and is allowed.

The claim of Mrs. Belva A. Lockwood.—Mrs. Lockwood's claim can not be recognized as an original claim upon the fund. It appears, however, that Mrs. Lockwood has an agreement with Mr. J. J. Newell (which is filed with her claim) by which it was agreed that the fees which should be received by Mr. Newell under his contract with the commissioners of the Old Settler Cherokees should be divided into three equal portions, of which she should be entitled to one portion.

I agree with you that the claim filed by the Cherokee Nation for $4,500, on account of moneys advanced by them to the Old Settler Cherokees, can not be paid out of this fund.

The claim of Stephen W. Parker.—This claim was referred to me by your letter of January 9, 1895. I am unable to discover any merit in it. Mr. Parker does not appear to have had any contract with the Indians or their commissioners, formal or informal, nor am I able, from the statement in Mr. Parker's petition, to understand what are the professional services for which he claims compensation. The claim is consequently rejected.

This disposes of all the claims submitted to me.

The papers accompanying your communication of November 11, 1894, are herewith returned.

Very respectfully,

HOKE SMITH, *Secretary.*

The COMMISSIONER OF INDIAN AFFAIRS.

EXHIBIT J.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, April 2, 1895.

SIR: I have the honor to submit herewith for your consideration a letter addressed to you by Samuel C. Dunham, under date of December 13, 1894, and filed in this office on the 24th day of the same month, inclosing affidavits of himself and Reese H. Voorhees in support of his claim for services as stenographer in connection with the Old Settler or Western Cherokee claim against the United States, amounting to $545.30, in accordance with the terms of a contract made between Joel M. Bryan, on behalf of the Old Settlers, and the said Samuel C. Dunham, dated March 15, 1892, as shown on page 705, Senate Ex. Doc. No. 18, Fifty-second Congress, second session.

Although the services referred to were rendered prior to the date of the contract, thereby rendering it impossible for this office to approve said services so as to allow payment for the same under said contract, there seems to be no reasonable doubt that the services were actually rendered, or that the compensation allowed by the contract is reasonable. I therefore respectfully recommend that authority be granted for the payment to Mr. Samuel C. Dunham for said stenographic services in the sum of $545.30, and that the office be instructed to state an account for the same, to be referred to the accounting officers of the Treasury for payment from the appropriation "Judgment in favor of the Old Settler or Western Cherokee Indians."

Very respectfully,

THOS. P. SMITH,
Acting Commissioner.

The SECRETARY OF THE INTERIOR.

EXHIBIT K.

In the matter of the claim of Samuel C. Dunham, filed in the Indian Office on the 24th of December, 1894. Old Settler Cherokees case.

DEPARTMENT OF THE INTERIOR,
Washington, May 15, 1895.

SIR: On the 2d of April last you referred to me for consideration the claim of Samuel C. Dunham for compensation for services as stenographer in connection with the Old Settler Cherokees' claim against the United States, amounting to $545.30.

These services appear to have been rendered in accordance with a contract made with Joel M. Bryan on behalf of the Old Settlers, and are shown by the affidavit of Reese H. Voorhees, esq., counsel for the Old Settlers, to have been for reporting the arguments made in the Court of Claims in the trial of the Old Settler case in that court for the purpose of preserving them for further use in their case against the United States.

Mr. Voorhees swears that the work was done under his personal observation and fully met the requirements of his employment and contract, and Mr. Voorhees thinks the charges for his services reasonable and just. The claim is also supported by the affidavit of claimant. You recommend that authority be granted for its payment, and that your office be instructed to state an account for the same, to be referred to the accounting officers of the Treasury for payment from the appropriation "Judgment in favor of the Old Settler or Western Cherokee Indians."

I think the claim is just, and should be paid as one of the debts incurred in the prosecution of the Old Settlers claim. It is therefore approved. The papers transmitted with your office letter are herewith returned.

Very respectfully,

HOKE SMITH, *Secretary.*

The COMMISSIONER OF INDIAN AFFAIRS.

EXHIBIT L.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, February 21, 1895.

SIR: I have the honor to submit herewith for your consideration the application of J. M. Bryan, as treasurer of the Old Settler Cherokees, through his attorney, Joel M. Baugh, for the 2 per cent of the sum appropriated under act of August 23, 1894, for the benefit of the Old Settler Cherokees, amounting to $16,007.72.

This 2 per cent of whatever sum might be secured to the Old Settler Cherokees through Congress was set aside by a council of said Indians assembled in 1884, a report of the proceedings of which, duly approved, is herewith inclosed, for the payment of debts contracted and expenses incurred by them in securing said appropriation, to be disbursed by their treasurer, J. M. Bryan.

I would therefore respectfully recommend that the said application for this 2 per cent receive the approval of the Department, and that authority be granted this office to forward the same to the treasurer for payment.

Very respectfully,

D. M. BROWNING, *Commissioner.*

The SECRETARY OF THE INTERIOR.

EXHIBIT M.

In the matter of the claim of Joel M. Bryan, filed in the Indian Office February 16, 1895. Old Settler Cherokees case.

DEPARTMENT OF THE INTERIOR, *Washington, May 18, 1895.*

SIR: With your letter of February 21, 1895, you transmitted for my consideration the application of Joel M. Bryan, as treasurer of the Old Settler Cherokees, for 2 per cent of the sum appropriated under the act of August 23, 1894 (28 Stat. L., 424, 451), to pay the judgment of the Court of Claims, as modified by the decision of the Supreme Court in United States *v.* Old Settlers (148 U. S. R., 427).

Before considering this claim, it is proper to refer to the resolution passed by the Senate of the United States on the 2d of March, 1895. The resolution is as follows:

"*Resolved*, That the Secretary of the Interior be, and he is hereby, directed to withhold any further distribution and payment out of the money derived from thirty-five per cent of the judgment in favor of the Old Settler or Western Cherokee Indians against the United States in the sum of eight hundred thousand three hundred and eighty-six dollars and thirty-one cents, set apart for the payment of expenses and for legal services justly and equitably payable on account of the prosecution of said claim, until otherwise authorized by law, except allowances already made for legal services, and to report to the Senate any and all payments and distributions from said fund already made, with copies of all papers in any manner connected with said payments and distributions filed in the Interior Department and the office of the Commissioner of Indian Affairs and the action had thereon."

While a resolution passed by either branch of the Congress of the United States is entitled to great respect, in so far as the Secretary of the Interior is directed by this resolution of the Senate to withhold from distribution and payment that part of the $800,386.31 appropriated by the act of August 23, 1894 (28 Stat. L., 424, 451), set apart by these Indians to pay the expenses and for legal services justly or equitably payable on account of the prosecution of their claim against the Government of the United States. I can not think that the Senate possesses the power under the Constitution to interfere with a Department of the executive government in the performance of a duty imposed upon it by an act of Congress, involving the payment of private claims which may be found to be justly due. If I had any doubts on the subject the opinion of Mr. Attorney-General Hoar (13 Opin. Atty. Gen., 113) would serve to dispel them.

In the case of the new Idria Mining Company, submitted to him for his opinion by the Secretary of the Interior, he said:

"If, as I understand the New Idria Mining Company are prepared to establish, to the satisfaction of your Department, their claim under the statute of 1866, chapter 262 (14 Stat. L., 251), to receive a patent for certain lands in California, they have a legal right to have the question of their claim to such patent passed upon, such that your Department is bound to consider and determine the same, notwithstanding the request of the Judiciary Committee of the House of Representatives for a suspension of action. Their claim, as I understand it, is of a title to land created by law. If under the law they have this title, and are prepared to furnish the proofs of it, the law gives the right to a patent, and the issuing of a patent is not made discretionary with the executive officers of the Government. The question, then, resolves itself into this, whether, when a right is created by law and a duty devolved upon an Executive Department under the same law, the enjoyment or enforcement of such right can be suspended at the request of a committee of the House of Representatives.

"I am unable to see that this result could be attained by any action even of the whole House of Representatives or of both branches of Congress, unless by a change in the law itself. To deprive any person of a right which the law creates at the request of anybody would be a novel idea under a system of government which is supposed to be a government of laws and not of men. If it were a subject depending upon your discretion, where you might properly regard all the equities of the case, and the probability that a decision at one time or another might affect them favorably or otherwise, the probability that Congress would take material action upon the question involved might well have an important influence in determining your action, and the suggestion of a committee of Congress, or its chairman, would be justly entitled to great respect. But it can not be that any person can rightfully be hindered in the enjoyment of his legal rights upon the suggestion of a possibility that the law may at some time or other be changed."

It appears by the papers submitted that this 2 per cent of whatever sum might be secured to the Old Settlers was set aside by a council of the Old Settlers assembled in 1884, for the payment of debts contracted and expenses incurred by them in securing their claims against the Government of the United States, to be disbursed by their treasurer, Joel M. Bryan.

The action of this council can not be recognized as conclusive evidence in support of claims against these Indians, for the reason that they are not an Indian community, endowed with the capacity to act collectively. (See my letter to you of January 22, 1895.) Under the authority given in the act of August 23, 1894, to the Commissioner of Indian Affairs "to withhold from distribution among said Indians only so much of that part of said judgment set apart by said Indians to pay expenses and for legal services justly or equitably payable on account of said prosecution," all claims and debts

incurred in the prosecution of their claims should be paid when properly verified. But, with the exception of the debt of $4,500 due to the Cherokee Nation for money loaned to the Old Settler Indians, Mr. Bryan has furnished no evidence of such indebtedness. He should be required to furnish an itemized account, with vouchers, and such claims for expenses as are properly verified should be allowed.

The claim of the Cherokee Nation was rejected by my letter of January 22, 1895, upon the recommendation contained in your letter of March 21, 1894. But it should be paid out of the fund retained for the payment of expenses to the Cherokee Nation directly or to its constituted agent upon a release being filed in your office and proof that the moneys borrowed were expended for expenses properly incurred in the prosecution of the claim of the Indians.

Very respectfully,

HOKE SMITH, *Secretary.*

The COMMISSIONER OF INDIAN AFFAIRS.

EXHIBIT N.

MEMORANDUM.

Claims of attorneys in appropriation to pay claim of Old Settler or Western Cherokees.

[Prepared in the Indian Office for use in their discussion.]

The act making appropriations to pay the Old Settler or Western Cherokee claim (Public, No. 202) directs the Commissioner of Indian Affairs to withhold from distribution among the Indians only so much of that part of the judgment set apart by the Indians for the prosecution of their claims as is necessary for him to pay the expenses and for legal services justly or equitably payable on account of said prosecution.

This memorandum is prepared on the assumption that no attorney is entitled, either legally or equitably, to payment of any fees unless his contract was a lawful and valid contract and alive at the date of the recovery on behalf of the Indians, and he can show services that conduced to such recovery in accordance with section 2104 of the Revised Statutes.

No contract between an Indian tribe and an attorney would be lawful or valid so as to authorize the payment of a fee to the attorney unless it had received the approval of the Commissioner of Indian Affairs and the Secretary of the Interior, as required in section 2103 of the Revised Statutes. Where an attorney had a lawful and valid contract which expired by limitation (the statute requires that all Indian contracts shall be limited as to time or duration), and which has not been renewed, he will not be entitled, either legally or equitably, to any fee for such services as he may have rendered under such expired contract.

Attorneys have filed claims for fee in this case as follows:

1. *Belva A. Lockwood and J. J. Newell.*—These claimants appear from the papers filed to base their claims on unapproved contracts with Jim Taylor and others as representatives of the Western North Carolina Cherokee Indians.

The contracts were not approved by the Commissioner of Indian Affairs and the Secretary of the Interior, and it is perhaps not necessary to discuss the merits of the claims. However, I will state that it does not appear from the records or files of this office that Jim Taylor, or any of the other parties signing the contract with Mrs. Lockwood, was ever an authorized representative of the Old Settlers, except McCoy, who appears to have been a commissioner of the Old Settlers during the year 1875 and a part of 1876, and as Mrs. Lockwood's contract was made in 1885, it was at a time when McCoy was without authority to act in the matter. The council proceedings authorizing the appointment of the attorneys in fact who made the contract with Mrs. Lockwood was designated by the clerk of the council in his affidavit as "the convention of Western North Carolina Cherokee Indians."

This convention would have no power to authorize the employment of an attorney to represent the Old Settlers, and it would appear that Mrs. Lockwood would not be entitled to the fee she claims.

Mrs. Lockwood admits, on page 3 of her statement of May 18, 1894, that the Eastern Cherokees appointed delegates to prosecute their claim and the claim of the Old Settlers, and her contract was executed by these delegates.

Furthermore, if the contract were one under which Mrs. Lockwood would be otherwise entitled to pay, she would not be entitled for the reason that the contract under which she claims expired by limitation April 23, 1890, and was not renewed. The failure to renew could be construed in but two ways, namely, Mrs. Lockwood either voluntarily abandoned the service or was dismissed the service by the Indians. As all contracts with Indians for contingent compensation contemplate the recovery on the claims to which they relate, no attorney who has failed to accomplish the purpose of his contract has the right, on account of services rendered without result, to demand a fee or the continuance of his employment by the Indians. The Indians having the right to refuse to keep in their employ an unprofitable attorney, the results of their refusal to renew Mrs. Lockwood's contract would be the same as her voluntary abandonment of the service, namely, to deprive her of any right to demand or receive the fee provided therein.

Mrs. Lockwood, who is also prosecuting Mr. Newell's claim, does not appear to have filed the contract under which he claims, and, as it was never approved by this office, it is not of record here. It is impossible, therefore, to determine what it provided. As, however, it expired long before any recovery was had in behalf of the Indians, he would not be entitled to the fee, especially as the Old Settlers in 1882 expressly refused to renew his contract.

In connection with these two claims attention is invited to Department letter of January 23, 1886 (2453, 1886).

Messrs. Marble and Hazleton have filed a brief in the J. J. Newell claim, with affidavits, but, as his right is dependent upon a question of law, no material difference is made in the case.

2. *J. W. Douglas, attorney for G. L. Douglas.*—There is no formal contract on which to base this claim. The claimant seeks his fee under a letter of March 20, 1884, from Mr. Bryan to J. W. Douglas, advising him that Messrs. Wilshire and Heard had informed him (Bryan) that they desired said J. W. Douglas to assist them in the case, and that said Douglas would do so for $5,000; therefore Bryan agreed to pay him the $5,000 if he would render the services desired.

This letter is not even formally accepted by Mr. Douglas, who assigned it to his son on taking office under Mr. Harrison's Administration. He was District Commissioner.

It would seem that there is no lawful authority for this office to pay Mr. Douglas's claim. He might, however, have his remedy against Mr. Bryan, as to which, however, there is some doubt in view of the statute on the question of Indian-attorney contracts.

3. *John L. McCoy's estate.*—The estate of John L. McCoy makes claim for $16,000 on account of services alleged to have been rendered by McCoy as a commissioner of the Old Settler or Western Cherokees in 1875–76. This claim is one with which the Government has no concern, in view of the fact that the Old Settlers did not, by any of their councils, provide for Mr. McCoy's compensation, as they did in the case of Wilson, Hendricks, and Bryan. If Mr. McCoy rendered the services claimed, his estate should apply to the council of the Old Settlers, who may, if his claim is deemed a proper one and there is sufficient money remaining of that set apart for the payment of debts of the Old Settlers, direct the treasurer to pay the claim.

4. *C. M. Carter.*—The first six contracts mentioned in the affidavit of Mr. Carter were never approved by the Commissioner of Indian Affairs and the Secretary of the Interior, as required by section 2103 of the Revised Statutes, and were not, therefore, valid contracts.

The seventh contract provides in its terms for payment for services rendered prior to its date, as well as for services to be rendered subsequently thereto. Mr. Carter was advised, in a letter of February 21, 1893, that his contract could not be approved for services rendered prior to its date, and that it would be impossible for this Department to authorize the payment of any fee to him on account of services rendered on account of any alleged former contract (see Opinions Atty. Gen., vol. 18, p. 517) which had not received the approvals required by the law; but that it could be approved to authorize him to render services thereunder after its date and to receive proper compensation therefor, and that if he would indicate his desire to that effect it would be approved to that extent. He informally asked for its approval as indicated, and it was so stated in a report of February 28, 1893, to the Secretary, submitting the contract approved in the following language:

"The within contract is hereby approved so that payment may be made for such services only as may be rendered by the attorney thereunder after the date thereof."

Mr. Carter's affidavit shows services rendered under his old (so-called) contracts, but it is not sufficient, under the statute, to show services under the contract of February, 1893. The alleged contracts not having been approved can not be taken into consideration, and any service rendered thereunder was at his own risk.

He should be called upon to make proof under the approved contract only, and in accordance with section 2104.

5. *Richard C. Wintersmith.*—The claim of Mr. Wintersmith was filed by Hon. Phil. B. Thompson, who has a power of attorney to represent him therein. It is based on a power of attorney given in 1873 by Riley Keys, J. A. Scales, and John L. McCoy, and which provides for the payment to said Wintersmith of 25 per cent of whatever amount the Indians might recover on the claim, in consideration for services said Wintersmith might render as attorney for said Indians. This power of attorney is not signed by Mr. Wintersmith and was never approved by this office and the Interior Department. It is not a legal contract, and Mr. Wintersmith can not therefore be paid.

In addition to the fact that the contract was not a legal one, Mr. Wintersmith showed no service on behalf of the Indians further than to say that from November 29, 1873, when he was appointed by the parties above named as attorney, to the present time, which embraces twenty years, he has labored as their attorney.

6. *Cherokee Nation.*—The Cherokee Nation files its claim for $4,500 against the Old Settler Cherokees for money loaned said Old Settlers in 1875 and 1889.

This claim is a matter with which the Interior Department has no concern, inasmuch as the Old Settler council has appointed a treasurer to disburse the money which was set apart for the payment of debts, which money should be paid over to the treasurer and he should be held accountable to the council therefor.

7. *E. John Ellis.*—This claim is based on a contract entered into December 15, 1888, between the late E. John Ellis and Mr. Bryan, as Old Settler commissioner and treasurer. This contract was not filed in this office for approval until 1892, some time after the death of Mr. Ellis, which occurred in April, 1889. It was approved by this office March 2, and by the Department March 3, 1893. It provided for the payment to Mr. Ellis of a fee equal to 2 per cent of the amount recovered to the Indians on the claim, and stipulated for his employment to prosecute, as attorney of record, the suit against the United States on behalf of the Old Settlers.

The contract was filed in this office by Mr. D. A. McKnight, who was a member of the firm of Ellis, Johns & McKnight. Mr. McKnight claimed that the contract was a firm contract, notwithstanding it was made with Mr. Ellis personally; and after Mr. Ellis's death Mr. McKnight offered to continue the prosecution of the claim on behalf of the firm. His offer, however, was declined by Mr. Bryan, through his attorneys, Messrs. Jones & Voorhees, and he filed letters from Hon. S. W. Peel and Hon. H. L. Dawes in support of the claim that during the period between December 15, 1888, and April, 1889, Mr. Ellis rendered valuable service in behalf of the Old Settlers. They submit, as a part of the record in the case, copy of a petition which was filed in the Court of Claims at the beginning of the suit, and which was signed by Mr. Ellis as attorney of record in the case; and both Mr. McKnight and Mr. Johns (the latter of whom is now deceased) filed affidavits relative to the making of the contract and services rendered by Mr. Ellis.

On the other hand, Mr. Bryan filed several affidavits in this office tending to show that Mr. Ellis did not do anything whatever in the prosecution of the claim of the Old Settlers. One of his affidavits is made by Hon. J. W. Douglas, whose claim is discussed in another part of this memorandum, and who makes oath to the fact in this case that he, with Messrs. Jones & Voorhees, met Mr. Ellis in the office of said Jones & Voorhees in 1889, the object of which meeting was to discuss the institution of the prosecution of the claim of the Old Settlers in the courts under the act of February 25, 1889; that at said meeting Messrs. Jones & Voorhees suggested and urged the adoption of a plan upon which to prosecute the claim, involving considerable novelty as compared with the plan pursued under the Bowman Act, and that because of its novelty it received considerable criticism and discussion; that after the plan had been fully explained and the objections thereto answered, it was agreed to by all present, and Messrs. Jones & Voorhees were requested to prepare a petition embodying the same, and a second meeting was agreed upon to consider the petition when so prepared; that in accordance with this agreement, Jones & Voorhees prepared the petition, called the attorneys together when it was completed, presented said petition to them, and Mr. Ellis, having been selected by the attorneys as attorney of record, signed it as such.

This affidavit is to meet the claim of Mr. McKnight that Mr. Ellis prepared the petition which he signed.

An affidavit by Hon. John T. Heard, to practically the same effect as that of Mr. Douglas, was also filed by Messrs. Jones & Voorhees as attorneys for Mr. Bryan.

Mr. Joel L. Baugh makes affidavit to the fact that he thoroughly and carefully examined all papers which were before the Committees on Indian Affairs in the House of Representatives and the Senate of the United States in the claim of the Old Settler Cherokees during the Fiftieth Congress, and which are now in the files of Congress. Among said papers are briefs and other papers signed by attorneys in the case, but there is no paper of any character whatsoever on file in said claim bearing the name of the late E. John Ellis, and no evidence whatever of the fact of Ellis having ever appeared before the committee in connection with the claim.

Mr. Bryan makes an affidavit in answer to the claim of Mr. McKnight that Mr. Ellis did service before the passage of the bill authorizing the Court of Claims to adjudicate this bill, in which he states that at the date of his employment of Mr. Ellis the work necessary to, and which in fact did secure, the passage of the bill had been done.

The papers in this case are voluminous and affidavits on both sides are positive. If the assignees of Mr. Ellis's estate can show that any service was rendered by him under his contract, his estate would be entitled to compensation on account of the fact that he was prevented by death from carrying

out the provisions of his contract and the abandonment of the service was involuntary.

8. *W. S. Peabody.*—This claim is based on a contract between said Peabody and the Old Settler Cherokees made December 9, 1882, and renewed December 6, 1886, and February 10, 1892. Of this contract Mr. Peabody has assigned three-eighths of the compensation provided for to one C. Hayden, of Choteau, Cherokee Nation. The fee provided for is 8 per cent of the amount of the recovery, or $64,030.90.

Mr. Peabody makes a claim for legal services under his contract, and makes affidavit that the account is correct and just, and that the services charged for were rendered and charged under and in accordance with his contract; that his services actually date from early in the spring of 1882, he having been brought into the case through Mr. Wilshire, acting then for Mr. Bryan, the terms of his contract having been verbally settled for several months before the contract as reduced to writing was actually signed; that he actively cooperated with counsel for Eastern Cherokees in securing clause in the sundry civil bill for the fiscal year ending June 30, 1883, authorizing the Secretary of the Interior to investigate and report upon the Old Settler claim, along with other claims in dispute; that on the signing of his contract he continued his services in the line of their inception; the resolution of December 15, 1892, was an incident of his advice and counsel, and its prompt answer by the Interior Department on the 16th of December, 1892, was at his instigation; that the resolution and report of the Secretary of the Interior thereon is embodied in Senate Ex. Doc. No. 17, Forty-seventh Congress, second session; that he assisted C. C. Clements, special agent of the Department, in collecting the data embraced in his report dated December 12, 1882; that it was understood that in the division of the labor among the counsel he should take the lead and assume the responsibility and labor incident to the departmental branch of the case and before committees of Congress, while other counsel should lead and assume the labor and responsibility of the case in the courts, should it ever reach the court for trial.

Except as thereinafter stated, he had been at all times, from the inception of his service in 1882 down to the final passage of the act appropriating the money, ready to consult with his associates and render service in the case, and has so consulted and rendered service covering a period of approximately twelve years of continuous service, with the exceptions above referred to. That on the reopening of the matter in the act of 1882 before the Interior Department, and following the report of Mr. Clements, he appeared before the Commissioner of Indian Affairs and urged the transmittal of the report to the Secretary, which was done December 14, 1882; that he also appeared from day to day before Mr. Clements and assisted him in an examination of the matters under his consideration affecting his clients, which resulted in his further report of January 24, 1883, in which he increased the amount theretofore found due over $50,000. He refers to certain Senate executive documents in support of this statement in his affidavit.

The affidavit is 10 pages in length and the statements contained therein are detailed, date and fact being given. He states that he had frequent conferences with Mr. Wilshire, of which he kept no memorandum, and that he kept no memorandum of his conferences with other counsel since in the case, or of acts to forward the case, because such conferences and acts were so frequent and so a matter of course that he could not keep a minute thereof without noting substantially how he was employed every day. That, as in other cases wherein he has been engaged, he has kept right at work to accomplish the end in view, thinking of success and directing his efforts thereto, and not to keeping a diary, and he is therefore compelled to rely upon printed records of the Government to a degree in pointing out his particular acts of service, with the dates thereof; but that he "desires it to be understood that each of the steps which the case has taken in its forward movement since his connection therewith, except, possibly, the appeal to the Supreme Court of the United States and certain of the latter proceedings in the Court of Claims, was with his knowledge and consent; and that when in charge of the particular work in hand such work was not accomplished in any one of its steps without many repeated efforts." That at no stage did the matter move forward of its own motion and inherent justice, it requiring attention and receiving notice from him; that after the finding of fact by the Court of Claims it was plain that the matter should be again referred to that court with power to hear and determine the case to final judgment, and in connection with explaining the same to the proper committees of Congress he appeared from time to time; that as one of the results of such appearance and efforts in which he participated, he refers to Report No. 1680, Forty-ninth Congress, second session, from the Committee on Indian Affairs, attached to his affidavit; that he was diligent in his efforts before the proper committees of the Forty-seventh and Forty-eighth Congresses, and, whenever necessary, before the Interior Department, in explaining and clearing away whatever difficulties were found to exist from the want of a proper understanding of the merits of the case; that the work particularly assigned to him was accomplished when the case was sent to the Court of Claims the second time, so far as his leadership was concerned, but that he continued to be consulted from time to time until April 21, 1891, when he accepted employment in the Geological Survey, where he continued until October 20, 1893; but during that period the case was in the courts under the management of able counsel, employed especially to conduct it there, and no occasion existed for calling him into consultation, and he rendered no service during that time in the case, though his contract was extended during that period to cover twelve years from its original date by the approval of the Commissioner of Indian Affairs and the Secretary of the Interior; that when he retired from the service of the Government in October, 1893, the case had been remanded back to the Court of Claims from the Supreme Court of the United States, with directions as to judgment, and it again became a part of his duty to give it attention before the Departments and the committees of Congress. In this service, from December, 1893, he gave the matter his personal attention whenever required so to do by the exigencies of the case; but the array of counsel had been increased from what it had been originally, and less work devolved upon him than in the earlier stages of the case.

Mr. Peabody's affidavit is so long and contains so much that ought not to be therein that it is almost impracticable to determine what service he rendered the Indians as set forth therein. I fail to find that he has specified a single day on which he performed any act of service, the only dates contained therein being dates of documents or public records. As to that part of Mr. Peabody's affidavit which relates to securing the passage through Congress of an act referring the matter to the Court of Claims for adjudication, Mr. John T. Heard has filed a letter inviting attention to Senate Report No. 207, Fiftieth Congress, first session, wherein it is shown that a favorable report was made by the Senate committee on the claim only because of the finding of fact in the case by the Court of Claims in Congressional case No. 14.

This report contains also the views of Hon. J. K. JONES against the bill, wherein he declares that he did not believe that the claimants had any case, and that if they had, he would not be willing to refer the case to the Court of Claims to render judgment after its findings of fact. Mr. Heard was one of the attorneys employed by Mr. Bryan to prosecute the case before the Court of Claims while it was there for finding of fact, and he files this letter because he feels that through his exertions he secured from the Court of Claims a favorable finding, and he does not feel that any other attorney should claim credit for doing the work.

Mr. Voorhees has informally requested that this matter be held up until he has an opportunity to file some papers in the case.

EXHIBIT O.

MEMORANDUM.

Request of John A. Sibbald for the approval of an assignment by W. W. Wilshire.

[Prepared in the Indian Office for use during its consideration.]

This assignment is indorsed on a certified copy of a contract dated July 1, 1882, between J. M. Bryan, attorney in fact for the Old Settler Cherokees, and W. W. Wilshire. This contract was approved by the Commissioner of Indian Affairs October 9, 1882, and by the Secretary of the Interior October 10, 1882, and expired July 1, 1886. The assignment recites, "For value received I hereby sell and assign to John A. Sibbald and his assigns one-fifth interest in the within contract, which assignment is also indorsed upon the original," and is signed by Mr. Wilshire. Proof is presented by Mr. Sibbald that it is impossible for him to procure the original of said contract, in order to file the same, to have the assignment indorsed thereon approved by the Commissioner and the Secretary.

After the expiration of the contract, one-fifth of which was assigned to Mr. Sibbald, Mr. Wilshire entered into a new contract with the Indians on September 28, 1886, which was to run for five years, having in view the prosecution of the same claim referred to in the old contract. No assignment appears to have been made to Mr. Sibbald of this new contract by Mr. Wilshire, who died August 19, 1888, pending the prosecution of this claim.

The new contract of Mr. Wilshire was approved by this office February 2, 1887, and by the Department February 3, 1887, and is recorded in Miscellaneous Record Book, volume 2, page 47, one of the records of this office.

This assignment of Mr. Sibbald was filed in this office by Mr. J. Walker Cooksey, of Washington, D. C., with his letter of August 1, 1893.

In a letter of September 28, 1893, Mr. Cooksey was advised as follows:

"The contract between Mr. W. W. Wilshire and the Old Settler or Eastern Cherokees, which was entered into July 1, 1882, expired July 1, 1886, without Mr. Wilshire having secured any settlement of the claim in favor of the Indians, and he made a new contract with them September 28, 1886, which was to run for five years, but, as we have seen, he died August 19, 1888. There does not appear of record that any assignment was made of the last contract, or any part thereof, and it is not understood that Mr. Sibbald makes any claim to an interest therein, although it was expressly intended to be in lieu of the other.

"The first contract expired by limitation July 1, 1886, and it could not be recognized by this office as authority for the payment of attorney's fee thereunder, and it is not seen how my approval of any assignment of an interest therein, even if regular, would be of any value or benefit to the assignee."

The ground upon which this view of the matter was taken was that as Mr. Wilshire's estate, if it were paid anything at all on account of his services, would be paid under the contract of September 28, 1886, alone, and not in any manner under the contract of which Mr. Sibbald claims to have an assignment.

In Mr. Sibbald's letter of August 31, 1894, he discusses the opinion of the Attorney-General in the E. John Ellis case (18 Opinions, 517) as one of the reasons supposed by him to have been given why the assignment ought not to be approved. This reason was not raised officially, but the objection was pointed out to him as applying to the contract of which he has an assignment as a part interest; that is, the Wilshire estate have to make their claim under the contract of 1886. Proof of services rendered under the contract which expired could not be recognized as sufficient to pay him under the other, because of the opinion of the Attorney-General that the Department is not authorized to pay for services rendered prior to the date of the contract providing therefor. The contract of 1886 was, it is true, for the continuation of Mr. Wilshire's services, but his rights under the contract of 1882 expired with the contract, and his estate will be required only to show services under the contract which was in existence at the time of his death. This opinion was not cited as an objection to approving Mr. Wilshire's assignment, but to paying anything under the expired contract.

The other objection to the approval of the assignment discussed is that it is for an interest in a contract which has expired, which objection was made in letter of September 28, 1893, above referred to. As to this objection, Mr. Sibbald claims in his letter that the contract of September 28, 1886, was an extension of the contract of 1882, on account of recitations therein contained. The contract provides for the continuance of Mr. Wilshire's employment in behalf of the Old Settler or Western Cherokees, and the consideration of this continuance is that he had efficiently performed his duties in prosecuting their claim under the former contract, and that his familiarity with said contract and laws was such that it was the desire of the claimants that his employment as attorney to the Indians should be continued until their claim should be finally disposed of, and therefore the Indians agreed to continue his employment.

Mr. Sibbald also calls attention to the fact that the contract stipulation that the compensation agreed upon should be in full of all demands of said Wilshire, and any and all services rendered by him for said Indians, and that Mr. Wilshire in consideration of the promises of the claimants and their agreement agreed to continue his services as attorney for said Indians.

Mr. Sibbald claims that these recitals in the contract should be conclusive; that it is a renewal and extension of the first contract upon all the parties for the same consideration; that it recited and proclaimed the services faithfully performed thereunder, and made it a continuation and extension of the first contract, and as such was confirmed by the approval of Commissioner Atkins and Acting Secretary Muldrow, without any modification or explanation whatever. Aside from the legal aspect of the case, Mr. Sibbald claims that by the amendment to the general deficiency act to pay the Old Settler or Western Cherokees the Commissioner's power to approve his claim is beyond all question and removed from all doubt, for, he says, it is a well-settled principle of law that even an equitable assignment passes to the assignee all the rights of the assignor in the entire assignment, and the latter can not, from the time of the assignment, exercise any control over it (6 American and English Cyclopedia of Law, 663), and the question of power to approve his assignment under the appropriation act is discussed by him at length.

It is true, as stated by Mr. Sibbald, that in a letter of April 5, 1887, from this office, it is stated that there is returned to Mr. Wilshire one part of a contract of September 28, 1886, for the extension of the period of five years from September 28, 1886, the contract of 1882 between said Wilshire and the Indians. It appears from this that the office at that time regarded this contract as a renewal and the extension of a contract which, however, had not been in existence for nearly three months, it having expired and all rights having lapsed with its expiration on July 1, 1886.

The office is not bound by this statement in the letter of April 5, 1887, to Mr. Wilshire, for the reason that the question to which it relates was not a point in issue, and it could not be presumed that the Commissioner of Indian

Affairs would give as particular attention in that matter as he would when the rights of claimants are raised under it.

The recitals in the contract which referred to the contract of 1882 could not have been intended as an extension of the old contract, which was made for the purpose of continuing Mr. Wilshire's services on behalf of the Old Settlers.

The recitals by Mr. Sibbald from said new contract are merely facts recited by the Indians in the beginning of the contract or preliminaries to the contract, as showing the reason and the consideration which moved them in making the new contract.

As to Mr. Sibbald's claim that his assignment can be acted upon favorably by the Commissioner of Indian Affairs under the general powers given in the act making the appropriation, it would seem that this is not such a case as would authorize the Commissioner to exercise his powers in the premises from the fact that the services rendered by Mr. Sibbald were not rendered to the Indians, but to Mr. Wilshire, and that it is not a claim against the Indians, but a claim against his estate. Mr. Wilshire was the responsible party in this contract, the Indians looked to him to perform the work called for in the contract, and the assignment is not out of moneys of the Indian tribe, but out of whatever fee may be allowed Mr. Wilshire's estate.

(Letter to Secretary September 4, 1894.)

The VICE-PRESIDENT. The question is on agreeing to the amendment, as modified, of the Senator from Utah, to the amendment of the committee.

Mr. BROWN. Let the amendment to the amendment be read as modified.

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

The SECRETARY. After the word "Interior," in line 8, page 72, insert the words "unless such award has been paid to and accepted in full payment by the claimant."

The amendment to the amendment was agreed to.

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

The amendment as amended was agreed to.

Mr. PETTIGREW. I think there is but one other committee amendment, and that is with regard to the Five Civilized Tribes.

Mr. BATE. Do I understand that the vote just taken was upon the amendment of the committee providing that the claims shall go to the Court of Claims? Do I understand that to be the fact?

Mr. PETTIGREW. Yes, sir; that was the vote.

Mr. BATE. It all goes to the Court of Claims?

Mr. PETTIGREW. It all goes to the Court of Claims.

Mr. BATE. Before that is done, I have a document I want to have read touching this contract.

Mr. PETTIGREW. I think the document has just been read, and ordered to be printed in the RECORD.

Mr. BATE. I think not. This document bears particularly on the contract and original parties to the contract between these Indians and Bryan and his associates who did the work.

I will state in a word my object. The original contract between these Old Settler or Cherokee Indians and the attorneys does contain that condition about which we have been contending, that is to say, that they shall set apart 35 per cent to meet contingent expenses, including attorneys' fees. It has in it that clause which has been a subject of material difference, for after speaking of the fund to be set apart, qualifies it by saying "or so much thereof as may be necessary." It was upon that clause in the original resolutions, I take it, that the Secretary of the Interior acted at the time that he appropriated this fund to the extent of $198,000 to the payment of the attorneys' fees. I want that understood, Mr. President. I have here a copy of the original contract in Senate Document No. 77 of the Fifty-fourth Congress. The resolutions are short, and I should like to have those bearing directly on this point likewise inserted, along with the other document, in the RECORD. However, I will read a brief extract from the document, No. 77, in regard to the contract. It is the original contract, signed by the proper parties:

Resolved further, That it is deemed expedient and proper that the said Old Settler Cherokees prosecute the said claim before the Government of the United States to a speedy, just, and final settlement; and for that purpose the following-named persons, J. L. McCoy, J. M. Bryan, and William Wilson, be, and they are hereby, constituted a commission, with full powers to represent said Cherokees before the Government, with full and ample authority to do and cause to be done any act and doing necessary and proper to be done in the premises; and with full authority to employ such assistance in the prosecution of said claim as they may deem necessary, and that a sum equal to 35 per cent of the amount of said claim when recovered, or so much thereof as may be necessary, be set apart and subject to the draft and receipt of said commission, and payable to them or their order by the proper authorities of the United States Government, which per cent shall be applied in the payment of said prosecution and all incidental expenses: *Provided*, That on a final settlement with said Old Settler Cherokees, the said commission account for their expenditures out of said per cent, and all receipts signed to said United States Government by said commission on account of said per cent shall be taken and deemed to be the receipts of said Old Settler Cherokees for the amount received.

Resolved further, That said commission, either in whole or in part, at their discretion, be authorized to proceed at their earliest convenience to Washington, D. C., to prosecute said claim, and for that purpose they, the said commission, are authorized to make a loan from the Cherokee Nation for funds sufficient to defray their necessary expenses.

Resolved further, That the president of this convention furnish the said commission with a copy of these resolutions.

I certify that the above and foregoing resolutions is a true copy of the original resolutions, this, the 25th day of November, 1875.

WILLIAM WILSON, *President Convention.*
H. T. LANDRUM, *Secretary.*

Mr. BERRY. There is a committee amendment in regard to the Five Civilized Tribes. I call the attention of the Senator from Connecticut to it. It is the next one to be considered, I understand.

The VICE-PRESIDENT. The amendments will be stated in their order.

The SECRETARY. On page 56, under the heading of "Miscellaneous," the Committee on Appropriations propose, in line 8, after the word "dollars," to insert "of which sum so much as may be necessary for expenses of employees for 1897 to be immediately available;" so as to read:

For salaries of the Commissioners appointed under acts of Congress approved March 3, 1893, and March 2, 1895, to negotiate with the Five Civilized Tribes in the Indian Territory, $25,000; for expenses of Commissioners and necessary expenses of employees, $10,000, of which sum so much as may be necessary for expenses of employees for 1897, to be immediately available.

The amendment was agreed to.

The next amendment was, on page 56, line 11, after the word "of," to insert "a clerk detailed as;" and in line 17, before the word "thousand," to strike out "forty-three" and insert "forty-two;" so as to read:

Provided, That $2 per diem for expenses of a clerk detailed as special disbursing agent from date of original detail by Interior Department, while on duty with the Commission, shall be paid therefrom; for clerical help, including secretary of the Commission, $5,600; for contingent expenses of the Commission, $1,400; in all, $42,000.

The amendment was agreed to.

The next amendment was, under the same heading, page 57, line 1, after the word "reimburse," to strike out "himself" and insert "A. S. McKennon."

The amendment was agreed to.

The VICE-PRESIDENT. The next amendment of the committee will be stated.

The SECRETARY. Under the heading "Miscellaneous," page 57, line 2, after the word "services," insert:

Provided further, That said Commission shall set apart the lands upon which any town is now located in the Indian Territory, together with a reasonable amount of land to provide for the future growth of said town; also all lands occupied by any church, cemetery, school, charitable or penal institution, or public building of any sort outside of the limits of any town; also all mineral lands, including coal-oil and natural-gas lands, now leased, occupied, and improved for mining purposes; that the use of the surface of all other lands in the Indian Territory belonging to the Chickasaw, Choctaw, Cherokee, Muscogee (or Creek), and Seminole tribes shall be allotted equally among their respective citizens, area and value being taken into consideration, such allotments to embrace other Indians and freedmen now living with said tribes, according to the provisions of existing treaties and laws in relation to such other Indians and freedmen.

That the United States courts in said Territory shall have full and exclusive jurisdiction and authority to try and determine all civil causes in law and equity hereafter instituted and all criminal causes for the punishment of any offense committed after the passage of this act by any person in said Territory, and the United States commissioners in said Territory shall have and exercise the powers and jurisdiction already conferred upon them by existing laws of the United States as respects all persons and property in said Territory, and the laws of the United States and the State of Arkansas in force in the Territory shall apply to all persons therein, irrespective of race, said courts exercising jurisdiction thereof as now conferred upon them in the trial of like causes; and any citizen of any one of said tribes otherwise qualified who can speak and understand the English language may serve as a juror in any of said courts.

Mr. PETTIGREW. I think in line 25, on page 57, the word "court" should be inserted between "States" and "commissioners;" so that it will read: "United States court commissioners."

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. After the word "States," in line 25, on page 57, it is proposed to insert the word "court;" so as to read:

And the United States court commissioners in said Territory shall have, etc.

The amendment to the amendment was agreed to.

Mr. CALL. Mr. President, I understood the Senator from Wisconsin [Mr. VILAS] proposed to raise the point of order on so much of that amendment as relates to the allotment and setting apart of town sites, and I suggest that so much of that part of the amendment be allowed to go over until he appears.

Mr. VEST. I should like to say to the Senator from Florida that if he will wait until the amendment is read, I propose to make a motion which materially changes the issues presented in the amendment as it stands. I will wait until the Secretary has read the amendment, and then submit the motion.

The PRESIDING OFFICER (Mr. PASCO in the chair). The reading of the amendment of the Committee on Appropriations will be continued.

The Secretary resumed and continued the reading of the amendment, as follows:

That there shall be appointed by the President, by and with the consent of the United States Senate, two additional judges for said Territory; and the appellate court of said Territory shall designate the places in the several judicial districts therein at which and the times when such judges shall hold court, such courts to be held at the places now provided by law, and at such other places as shall be designated by the appellate court; and said judges shall be members of the appellate court, and shall have all authority, exercise all powers, perform like duties, and receive the same salaries as other judges of said courts, and shall serve for a term of four years from the date of appointment.

That said commission shall continue to exercise all authority heretofore conferred on it by law to negotiate with the Five Tribes, and any agreement

made by it with any one of said tribes, when ratified, shall operate to suspend any provisions of this act if in conflict therewith as to said nation.

That no act, ordinance, or resolution of the council of either of the aforesaid Five Tribes hereafter passed shall be of any validity until approved by the President of the United States.

Mr. VEST. Mr. President, I move to strike out all after the words "Provided further," in line 3 on page 57, down to and including the word "freedmen," in line 18; also to strike out all of lines 3, 4, 5, and 6 on page 59.

The effect of this motion—and it is a very important question, especially to the States bordering the Indian Territory—is to eliminate from the amendment the allotments of land there provided for, and also to eliminate that portion of the amendment which relates to the leases which now exist in the Five Civilized Tribes by the action of the councils of those tribes ratified by the Interior Department. It also strikes out that portion of the amendment which submits all the proceedings or laws and resolutions of the Indian councils to the President for his ratification, leaving only in the amendment those provisions which affect the substitution of the jurisdiction of the United States courts for those of the Indian tribunals as they now exist.

Mr. President, no one can feel a greater interest in this legislation than I do. I have for years been familiar with the condition of affairs in the Indian Territory. The State I represent lies immediately contiguous as to a large portion of its southern frontier upon this Territory, or upon those Five Civilized Tribes. Texas, Arkansas, and Missouri are necessarily more interested in this question than any other of the States of the Union, although it is a question which affects vitally the autonomy of all these Five Civilized Tribes and the general interest of the people of the United States. No one who has not given attention to it can for an instant or to any degree appreciate the situation of affairs now among those Indians. They were removed there from east of the Mississippi River under agreements or treaties made between them and the United States Government. Those treaties, the principal of which was made in 1866, immediately after the termination of the last war, gave to those Indians the occupation of this Territory upon which they now are so long as they maintained their tribal relations and continued to live there. They have never had a fee-simple title; they have had a conditional fee in those lands, and nothing more. But that fee ought to be respected, and their rights, if possible, ought to be respected by the people of the United States. The fact that these are a weak people comparatively, that they have just emerged from a condition of savagery, that they have been greatly wronged in all portions of the Union, makes every generous mind consider their situation with all the forbearance that can be possible under the circumstances. I have always been their friend. I have acted in my capacity as a Senator from the beginning of my service here in the interest, as I believe, of those Indians, in the preservation of their rights, in the advancement of their social and political condition. But we have come to that place where something must be done as a matter of self-preservation to the Indians and to ourselves.

The first preliminary and necessary condition to all agreements made with them has been, and must be, that they would so govern themselves as to preserve life and liberty and property not only for their own citizens, but for those of the States immediately contiguous. It is not possible that this Government ever abdicated the right to protect its own people; it is not possible that they could have made an agreement which would put a social and political cancer in the middle of our territory which threatens the security of the people of the United States immediately contiguous to this area.

Without going into details, I assert as a fact which can not be denied, about which the proof is so overwhelming as to make it absurd to contradict it, that the authorities of the Indian Territory in the Five Civilized Tribes, because of circumstances, probably, for which they are not responsible, are unable to protect life, liberty, and property in their own midst, and that Territory has become a harbor for criminals.

I will confine myself to a personal statement as to the condition of the southern part of my own State. Property has been depreciated 25 per cent in southern Missouri by reason of the condition of affairs in the Indian Territory now. Towns in Kansas and in Missouri have been attacked openly, banks robbed, and railroad trains stopped by armed banditti, whose haunts are in the Indian Territory, among the full-blooded Indians in the mountains. They attack our settlements, perpetrate deeds of unparalleled outrage, and then dash back into the recesses of the Indian Territory, where they are as absolutely secure as if in the middle of the great Sahara Desert.

Along the line of the Missouri, Kansas and Texas Railroad, which runs from north to south 240 miles through that Territory, the towns are inhabited by whites. There are to-day in the Indian Territory some 275,000 white people and 80,000 Indians. We have the anomaly of an Indian Territory in which a large majority of the residents and inhabitants are of the white race. It has become, as I say, a harbor for criminals.

More than that, Mr. President, their courts are a travesty upon justice. They are governed by corruption, bribery, and open and notorious fraud. They have laws absolutely antagonistic to our civilization. Their punishments are entirely different from ours. They inflict whipping and even torture, and when death is inflicted, it is done with the rifle, and after the fashion of an Indian when he goes upon the warpath.

Mr. FRYE. That is an improvement on our way of taking life.

Mr. VEST. I shall not stop to discuss whether or not taking life by electricity or the rope is preferable, but I simply mention the fact that they adhere to the rifle because it is indicative of their preference still or prejudice for the old condition and the old weapon to which the Indian has been accustomed in his predatory warfare.

More than this, we intended that Territory as a home for these Indians, where they might learn from us our habits, our laws, and our form of government. They hold their lands to-day by tenure in common, and not by severalty, and what is the result? A few men have there a vast monopoly of all the lands in the Territory. One man has more than forty farms, and under the tenure in common any Indian can fence in any land unoccupied and improve and cultivate it at his will. Some of the half-breeds, with the aggressive and monopolizing tendency of the white race, who have intermarried with the Indian women and become entitled to the rights of members of the tribe, have fenced in more than forty farms, upon which they have put nomadic white men not entitled to be in the Indian Territory. Capital has been furnished by outside speculators, and those farms are cultivated and the proceeds divided, while back in the hills are the peon Indians, the blanket Indians, still in the condition of savagery, not speaking the English language, with no sympathy with the white race, and they are made simply the argument for appealing for the sympathy of Congress and the American people, while that sympathy furnishes money to those half-breeds who cultivate the land, and take the proceeds, and pay nothing to the blanket Indians. The men whom we see here in these galleries representing the Indian tribes represent this system, utterly alien to the purposes of the Government in setting aside that area to be inhabited by them.

Mr. President, we have been forced heretofore by conditions there to establish United States courts. In the treaties made in 1866 with those Indians, after the close of the war, stipulations were made that the United States might establish courts within these Five Civilized Tribes. In three of those treaties these stipulations are contained. It is true—and I want to be entirely frank in the matter—that these treaties also provided that, as to their local affairs, their local Indian tribunals should be permitted to exist. But, as a matter of course, it never was intended that there should be provisions made by law in the way of establishing United States courts which are absolutely inconsistent with the existence of those Indian tribunals. These treaties were made before the smoke had cleared from the battlefields of the last war, and they are necessarily crude and imperfect. Nobody thought then that railroads would run in a few years through that country, and that the scream of the locomotive would be heard in the recesses of the Indian Territory.

What has been the result of our establishing United States courts? We have now three courts with a limited jurisdiction. At the same time we have the anomaly, absolutely impossible, as every lawyer will see, of Indian tribunals exercising jurisdiction over the same subject-matter and in absolute conflict with the tribunals of the United States. In other words, we have 275,000 white people whose lives, liberty, and property are controlled by the jurisdiction of the United States courts established by Congress; we have some 80,000 Indians who appeal to Indian tribunals under different laws with a different legal autonomy; and I assert as a lawyer that it is absolutely impossible that this condition of affairs can continue to exist.

I think the amendment as it is now drawn goes too far. I believe that no drastic enactment is absolutely necessary further than that which I have endeavored upon my motion to retain in the bill. I would do away with this legal inconsistency. I would put the Indians in the Territory under the same laws with the white people. I would endeavor as far as I could kindly, justly, reasonably to meet the new condition of things and to make those two races, if possible, mingle and look to the same source for protection to themselves and their children. Of course we shall be told that even this enactment that I propose partially violates the treaty rights of the Indians.

Mr. President, my answer to that is that there is no intelligent man in the Indian Territory, or outside of it, who does not recognize the fact that these treaty conditions must be done away with to a large extent. It is impossible for the status to be maintained as it now is. All I seek to do is in a spirit of justice and forebearance to meet the absolute necessities now imposed upon us. It is obvious that there was no intention to rob the Indian by this amendment, as proposed by the committee, with which I have

nothing to do, because I call attention to the fact that the amendment as it stands under the allotment clause, which I propose to strike out, takes every acre of land in that Territory and divides it among the Indians, and does not give one inch of it to any white man or to any corporation.

The Missouri, Kansas and Texas Railroad Company, of which I was formerly attorney for a long number of years, has a grant of nearly 2,000,000 acres of land in that Territory conditional upon the fact that the Indian title shall be extinguished. Under this amendment as it stands that title of the railroad, or claim of the railroad, is absolutely eliminated, to which I have not the slightest objection. I shall never vote for any legislation which takes from those Indians one cent which belongs to them, either in real estate or in money. It is their country under the grant given to them, not an absolute, but a conditional fee by the United States. They are entitled to receive all that was granted to them heretofore. No railroad company, no white man, no intruder should ever be permitted to take from them one cent to which they are entitled.

Mr. BERRY. There is nothing in the amendment to give the railroad company anything.

Mr. VEST. Nothing at all. I alluded to that, as I said, to prove that this amendment was not drawn in order to rob the Indians. It gives to them every acre of land in the Territory as it stands now. But my idea is that the Dawes Commission should regulate that matter. That commission has been eminently successful, far more so than I ever expected them to be, I must confess. They are now progressing satisfactorily, and the Indians have at last come to one mental condition for which I am very grateful. They have now ascertained, I believe for the first time, that the United States Government is in earnest. The intelligent men amongst them have now come to what is inevitable—the conclusion that their present condition must be changed. I have told them repeatedly for the last fifteen years, yes, for nearly twenty years, that it was their duty to themselves, to their tribe, and to their children to meet the United States in a fair, friendly, and just spirit, to give up their close corporation, to take their lands, and to change the tenure in common to one in severalty. They have advanced in civilization until now they stand beneath the blazing sun of enlightenment and Christianity. They have schools and legislatures. Let them go still further and assume the full citizenship and the full responsibility that ought to be imposed upon all the denizens of this great country.

This is not a proposition to rob them, to oppress them; it is to protect them; it is to protect the citizens of the contiguous States. Senators who live in States at a distance have no idea of the outrages committed upon the people of Kansas, Missouri, Texas, and Arkansas by reason of the unfortunate situation which now prevails in that Territory.

Mr. MORGAN. Mr. President, all in this bill that relates to the disposal of Indian lands, whether that disposal reaches to the title or whether it reaches to the right of occupancy, ought to go out of this bill and ought to be referred to the Committee on the Five Civilized Tribes, with express and serious mandatory instructions to that committee to take this subject under consideration and report a bill to cover the whole subject. It is a subject, Mr. President, that we can not deal with or afford to undertake to deal with by piecemeal. If every hour of the remaining days of this session was devoted to an honest, sincere, and close debate upon the questions of law and fact that are involved in this amendment, the Senate of the United States would then barely be able to reach an intelligent and just conclusion as to what we ought to do in this, the most delicate of all the trusts that we have ever had to execute on the part of this Government.

I will allude very briefly to the history of this matter.

Mr. PETTIGREW. I should like to make an inquiry of the Senator. Do I understand him to make some proposition in regard to the matter? Perhaps there can be some understanding, so that we can stop the debate.

Mr. MORGAN. I want to take all of the subject out of this bill and refer it to the Committee on the Five Civilized Tribes.

Mr. PETTIGREW. All of the subject?

Mr. MORGAN. Yes; I mean all that relates to the disposal of the lands.

Mr. PETTIGREW. We do not dispose of any lands at all by this amendment.

Mr. MORGAN. Well, we shall see about that.

Mr. PLATT. Mr. President——

Mr. MORGAN. If Senators will allow me, I have the floor and I intend to hold it in spite of interruptions until I have the opportunity in a few words to present some views which at least concern me as a Senator.

Mr. PLATT. Then the Senator does not wish me to ask him a question?

Mr. MORGAN. I will hear the Senator's question.

Mr. PLATT. I wanted to know whether the Senator understood that the Senator from Missouri [Mr. VEST] had moved to strike that part from the bill.

Mr. MORGAN. I understood he had.

Mr. PLATT. I did not know whether the Senator understood that.

Mr. MORGAN. I think the amendment is subject to a point of order.

Mr. BATE. With the permission of the Senator from Alabama, I rose at the time he did, but he got the eye of the Chair first, in order to make a point of order on the amendment, and I expect to make it.

Mr. MORGAN. I think the amendment is subject to a point of order, and I think it is also subject to a very much more serious objection, and that is that we are undertaking here to legislate in the dark.

I am informed here, Mr. President, that everybody is in favor of the motion to take the amendment out of the bill. If so, I do not care about delivering any views upon it to the Senate, I prefer to wait until the proper committee get charge of it and go before them.

Mr. PETTIGREW. I will say to the Senator that what I was aiming at was to close the debate on this question and adopt the remainder—that portion in relation to the court and the enactment of laws in the Territory. I consent to striking out the portion with regard to the apportionment of the lands.

Mr. MORGAN. That is all I want.

Mr. BATE. That is not all I want, Mr. President.

Mr. PETTIGREW. If there is no objection, I will consent to the amendment offered by the Senator from Missouri.

Mr. JONES of Arkansas. We all consent to that.

The PRESIDING OFFICER. Is there objection to the amendment of the Senator from Missouri, to strike out the portion of the pending amendment indicated? The Chair hears none, and it will be agreed to, in the absence of objection.

Mr. PETTIGREW. I should like to ask a question. I supposed the amendment offered by the Senator from Missouri took out that portion from line 3 to line 18, inclusive, on page 57.

Mr. PLATT. It does; but, if the Senator from Missouri [Mr. VEST] will give me his attention, I think the amendment also included lines 3, 4, 5, and 6, on page 59.

Mr. VEST. It did. I have it marked here, and the Secretary can read it.

Mr. PETTIGREW. I will accept that portion of the amendment which relates to page 57, but not the other.

Mr. VEST. That strikes out all after the words "*Provided further*," in line 3, on page 57, down to the end of line 18, on the same page.

Mr. PETTIGREW. That I consent to.

Mr. VEST. That leaves out of the question the other portion of my motion, which strikes out lines 3, 4, 5, and 6, on page 59.

Mr. PETTIGREW. I am willing to modify that portion of the amendment so that the laws of the Indians shall be in force unless disapproved by the President.

The PRESIDING OFFICER. The portion of the amendment referred to will now be stated.

The SECRETARY. After the words "*Provided further*," in line 3, on page 57, it is proposed to strike out all of the amendment of the committee down to and including line 18, on the same page, as follows:

That said commission shall set apart the lands upon which any town is now located in the Indian Territory, together with a reasonable amount of land to provide for the future growth of said town; also all lands occupied by any church, cemetery, school, charitable or penal institution, or public building of any sort outside of the limits of any town; also all mineral lands, including coal-oil and natural-gas lands, now leased, occupied, and improved for mining purposes; that the use of the surface of all other lands in the Indian Territory belonging to the Chickasaw, Choctaw, Cherokee, Muscogee (or Creek), and Seminole tribes shall be allotted equally among their respective citizens, area and value being taken into consideration, such allotments to embrace other Indians and freedmen now living with said tribes, according to the provisions of existing treaties and laws in relation to such other Indians and freedmen.

Mr. COCKRELL. I suggest to the Senator to retain the words "United States commissioners," in lines 24 and 25. I see that was amended to read "United States court commissioners." That is not correct. It should be "United States commissioners."

Mr. PETTIGREW. I move to strike out the word "court," inserted a few moments ago.

Mr. COCKRELL. Let it remain "United States commissioners," just as it was before.

Mr. PETTIGREW. I had asked to have the word inserted because that is the general title of those officers; but these courts were created by a special act and the title of those officers is "United States commissioners;" therefore the word "court" should not be inserted.

The PRESIDING OFFICER. In the absence of objection, the amendment suggested by the Senator from South Dakota will be agreed to. The Chair hears none.

Mr. HALE. Let that portion of the amendment relating to the

supervisory power of the President be read, so that we may see exactly what is contemplated.

Mr. CHANDLER. You have not provided it yet.

Mr. VEST. The Senator in charge of the bill does not agree to the amendment.

Mr. HALE. I understood the Senator did agree to the proposition.

Mr. VEST. No; he agrees to it if it is changed so as to state "unless disapproved by the President." As it is now, it is an affirmative statement that the President shall approve.

Mr. PLATT. Does not the Senator think that the President ought to have power to disapprove?

Mr. VEST. I should prefer myself that the President should have nothing to do with it. I think his labors are sufficient now; that his duties are enough. To make him virtually the governor of the Five Civilized Tribes is a little too much.

Mr. HALE. Then the Senator does not agree to any proposition which confers final supervisory power upon the President?

Mr. VEST. I think that matter ought to be left to the Commission which is now in the Indian Territory, to arrange it with the consent of the Indians, and I think it will be properly adjusted. I do not like to take away from them all governmental control of themselves. We have never had any such enactment as this at all.

Besides that, it seems to me physically impossible for the President of the United States to look into the proceedings of every one of those Indians' councils and pass upon every resolution, every appropriation, every police enactment. What does the President of the United States know about those questions?

Mr. HALE. There is now no tribunal that scrutinizes and scans these acts and passes upon them beyond the council itself, is there?

Mr. VEST. That is true; and their governors. They have a government something like ours. They have a council, or a legislative body, and they have a governor.

Mr. HALE. Has the governor, the official who acts as governor, any power to veto an act of the council?

Mr. VEST. I understand he has the veto power. They drew their constitution in similitude of ours.

Mr. HALE. And he must sign every act passed by the council?

Mr. VEST. Yes, sir; and the council can pass it over his veto.

Mr. HALE. After the fashion of the State governments?

Mr. VEST. Yes, sir.

Mr. PLATT. The trouble about it is that all important legislation in those nations is carried through by bribery and corruption.

Mr. VEST. I think that is true.

Mr. PLATT. It does seem to me that the President or somebody ought in those cases to have power to disapprove.

The PRESIDING OFFICER. Does the Chair understand the Senator from Missouri to insist upon his further amendment to strike out on page 59?

Mr. VEST. Yes, sir; but we can determine that hereafter.

The PRESIDING OFFICER. The amendment to the amendment will be stated.

The SECRETARY. It is proposed to strike out of the committee amendment, on page 59, after line 2, the words, "That no act, ordinance, or resolution of the council of either of the aforesaid Five Tribes hereafter passed shall be of any validity until approved by the President of the United States."

Mr. HOAR. I should like to suggest whether it would not be well to have in there also a provision that the bill shall become a law if the President of the United States does not disapprove it within a certain time, like our constitutional provision? That was the arrangement in all our early colonies. It may be very inconvenient for the President in some particular condition of the public business to make such a thorough examination of a legislative enactment as would justify a positive veto. I do not remember which Senator moved the amendment.

The PRESIDING OFFICER. The proposition is to strike out.

Mr. PLATT. Before the question is taken on the motion to strike out, I will move to perfect the text in the line the Senator from Massachusetts desires, I think.

Mr. HOAR. Very well.

Mr. PLATT. I move to amend the text by striking out the word "no," in line 3, and inserting "the;" by inserting the letter "s" after the word "act," after the word "ordinance," and after the word "resolution," so as to be "acts," "ordinances," and "resolutions;" after the word "ordinance" to strike out "or" and insert "and;" and after the word "passed" to strike out the words "shall be of any validity until approved" and insert "may be disapproved;" so that it will read:

That the acts, ordinances, and resolutions of the council of either of the aforesaid Five Tribes hereafter passed may be disapproved by the President of the United States.

Mr. JONES of Arkansas. Ought there not to be a limit to the power of disapproval?

Mr. HAWLEY. A time limit.

Mr. JONES of Arkansas. A time limit.

Mr. PLATT. Say six months.

Mr. HAWLEY. I suggest three months.

Mr. BATE. On that amendment I agree with the Senator from Missouri that it is physically impossible for the President to examine the act. In the next place, I contend that it is amenable to the point of order, of which I have already given notice I intend to make when I shall have the floor. In relation to this particular amendment, it is proposed that the President shall give his approval to the acts of those Five Tribes which may be passed by the council. He has no right to do it under the treaties and under the arrangements which have been existing heretofore, and I shall contend that it is amenable, under the third clause of Rule XVI, to the point of order that it is general legislation.

The PRESIDING OFFICER. The Senator from Connecticut moves to amend the clause which the Senator from Missouri moves to strike out.

Mr. PLATT. Let the amendment be stated.

The PRESIDING OFFICER. The amendment suggested by the Senator from Connecticut will be stated from the desk.

The SECRETARY. It is proposed to modify the amendment so that it will read as follows:

That the acts, ordinances, and resolutions of the council of either of the aforesaid Five Civilized Tribes hereafter passed may be disapproved by the President of the United States at any time within three months.

Mr. BERRY. Ought there not to be a provision that the acts shall be in force until disapproved, because there are a number of laws—like those to pay mileage and providing for clerks and all that—which, if they had to wait, would be inoperative?

Mr. WHITE. I should like to have the amendment stated again.

Mr. PLATT. I move to insert the words "within three months after the passage thereof."

The PRESIDING OFFICER. The amendment will again be stated.

The SECRETARY. It is proposed to modify the amendment so as to read:

That the acts, ordinances, and resolutions of the council of either of the aforesaid Five Tribes hereafter passed may be disapproved by the President of the United States at any time within three months after the passage thereof.

Mr. HOAR. It seems to me a more convenient way would be to shorten the time, and to say that those acts shall not go into effect within thirty days or fifty days after their passage, and may in the meantime be disapproved by the President.

Mr. HALE. "And shall be certified to the President of the United States."

Mr. HOAR. "And shall be certified to the President of the United States." I think any Senator will see that it might be very inconvenient in many cases to have these acts go into force for thirty or forty days. Suppose, as I think the Senator on my left suggested, it were an act for the payment of money and it were in force for a time. The President's disapproval would be of no account. Suppose it were an act involving succession to real estate or personal property or affecting a crime. To have a little period of twenty or thirty or forty days when the old law was changed and have it changed back at the end of that time would be infinitely inconvenient. I suppose the mail from that Territory does not take more than three days to come to Washington.

Most of the States—my own State has a provision that laws shall not take effect ordinarily, though they may make an exception in particular cases, for thirty days after their passage. It seems to me the best way would be to enact that all laws shall take effect thirty days after their passage, unless in the meantime disapproved by the President of the United States, and that they shall be certified to the President upon their passage. I should like to have the clerks take down the amendment:

All acts, ordinances, and resolutions of the council of either of the aforesaid Five Tribes hereafter passed shall take effect thirty days from their passage, unless in the meantime disapproved by the President of the United States, to whom they shall be certified upon their passage.

Mr. VILAS. Suppose it were a resolution for an adjournment?

Mr. JONES of Arkansas. Then I would like to call the Senator's attention to the fact that there would be great inconvenience about the pay of members. They ought not to be subjected to that sort of restriction.

Mr. HOAR. There ought to be some exception to the general rule, if the language I propose is clear.

Mr. CALL. Mr. President, I should like to make a suggestion with reference to the proposed amendment. By the fifth article of the treaty of December 29, 1835, the United States guaranteed to the Cherokee Nation the right by their national council to make and carry into effect all such laws as they may deem necessary for the government and protection of persons and property within their own country belonging to their people or to such persons as have connected themselves with them.

The treaty has been reaffirmed time and time again in pursuance of many decisions of the Supreme Court of the United States declaring its validity, as much so as if we were treating with a foreign nation. In the pending bill we are providing for the continuance of the commission to negotiate with these independent nations. Now, how you can upon any bill, and particularly upon an

appropriation bill, undertake to declare the invalidity and destroy the obligation of this treaty, it is difficult to see; but how you can do it at the same time that you are authorizing a commission to negotiate to obtain the consent of these people is an inconsistency which certainly ought not to be placed upon an appropriation bill.

Mr. GRAY. I rise to a parliamentary inquiry, which is, whether there is not now before the Senate a point of order in regard to the whole amendment, as being in the nature of general legislation on an appropriation bill?

The PRESIDING OFFICER. The Senator from Tennessee announced his intention to make a point of order.

Mr. BATE. I am waiting for that purpose.

Mr. GRAY. May I ask the Senator whether he has made the point of order?

Mr. BATE. I will make it when I get the floor.

Mr. GRAY. Why should not the Senator do it now?

Mr. BATE. Mr. President——

Mr. BERRY. Will the Senator from Tennessee permit me to make a suggestion?

Mr. BATE. Certainly.

Mr. BERRY. I suggest that the text be perfected before the point of order is made. The amendment might be changed so as to affect the question whether the point of order is well taken.

The PRESIDING OFFICER. The Chair understood that the Senator from Tennessee was withholding his point of order until that had been done.

Mr. BATE. I was, sir.

Mr. BERRY. Let the amendment of the Senator from Missouri be disposed of.

Mr. PLATT. It has been disposed of.

Mr. BERRY. Entirely.

Mr. PLATT. Not this part of it.

Mr. BATE. I raise the point of order——

Mr. BERRY. That part with reference to the President's approval has not been disposed of. I suggest that it be disposed of.

Mr. BATE. I have the floor.

Mr. HOAR. I have dictated to the Secretary the amendment which I propose.

The PRESIDING OFFICER. The Chair will state the condition of the question. The Senator from Missouri has made a motion to strike out certain lines on page 59. The Senator from Connecticut [Mr. PLATT] has offered an amendment modifying the text, which will be acted upon before the motion to strike out is put. The Senator from Massachusetts [Mr. HOAR] now proposes an amendment.

Mr. HOAR. I desire that my amendment may be read for information, and that I may be allowed to make one observation in regard to it.

The PRESIDING OFFICER. The Chair has not finished the statement of the parliamentary condition of the question.

Mr. HOAR. I beg pardon.

The PRESIDING OFFICER. While the amendment of the Senator from Connecticut is pending, the Senator from Massachusetts proposes a further change in language, which will be read at the desk.

Mr. BATE. I believe I have the floor.

Mr. PLATT. I wish to withdraw the proposed amendment.

Mr. HOAR. Then I ask leave to propose mine.

The PRESIDING OFFICER. The Senator from Connecticut has withdrawn his amendment. The Senator from Massachusetts now offers an amendment, which will be stated.

The SECRETARY. The following is proposed in substitute for lines 3, 4, 5, and 6 on page 59:

That all the acts, ordinances, and resolutions of the council of either of the aforesaid Five Tribes hereafter passed shall be certified immediately upon their passage to the President of the United States, and shall not take effect if disapproved by him or until thirty days after their passage: *Provided*, That this act shall not apply to resolutions for adjournment.

Mr. HOAR. I desire to point out that all the matters necessary for conducting the current business of the legislature, like the payment of employees or governing their conduct, can be provided for in advance by a general law submitting to each house, or the houses acting without the form of legislature, the power of dealing with those matters just as we deal with our printing or the contingent fund.

Mr. HAWLEY. I would suggest the amendment be put in this form:

No act, ordinance, or resolution of the council of either of the aforesaid Five Tribes hereafter passed shall be valid until the lapse of thirty days after their submission to the President of the United States, except only such as relate to members, employees, and the contingent expenses of the council.

However, I will not move the amendment.

The PRESIDING OFFICER. The Chair understands the amendment to be withheld. The question is on agreeing to the amendment of the Senator from Massachusetts to the amendment. [Putting the question.] The noes appear to have it. The noes have it.

Mr. PETTIGREW. What is the question?

The PRESIDING OFFICER. The question was on agreeing to the amendment offered by the Senator from Massachusetts to the amendment. It was disagreed to.

Mr. PETTIGREW. I did not hear the vote on the amendment. I can not hear the Chair.

The PRESIDING OFFICER. It was disagreed to.

Mr. PETTIGREW. No one heard that the question was put. I did not hear it, and I thought I was paying attention.

The PRESIDING OFFICER. The Chair will again submit the question.

Mr. ALLEN. A point of order has been raised by the Senator from Tennessee, and that is the only question before the Senate.

The PRESIDING OFFICER. The Chair stated some time ago that the Senator from Tennessee suggested that he intended to make a point of order.

Mr. ALLEN. I understood the Senator from Tennessee to say that he did make it.

The PRESIDING OFFICER. The Senator from Nebraska will allow the Chair to get through its statement.

Mr. ALLEN. Certainly.

The PRESIDING OFFICER. The Chair understood that the point was being withheld pending the effort to amend the text, and the Senator from Tennessee stated that that was the actual status of the matter.

Mr. ALLEN. The Senator from Tennessee has been making the point of order here for half an hour.

The PRESIDING OFFICER. The Senator from Tennessee is on the floor of the Senate, and can correct the Chair if it is in error.

Mr. BATE. I understand the pending question is on the amendment of the Senator from Massachusetts.

The PRESIDING OFFICER. That is the pending question. The amendment proposed by the Senator from Massachusetts [Mr. HOAR] will again be stated.

The SECRETARY. It is proposed to strike out of the committee amendment lines 3, 4, 5, and 6 on page 59 and insert:

That all acts, ordinances, and resolutions of the council of the aforesaid Five Tribes hereafter passed shall be certified immediately upon their passage to the President of the United States, and shall not take effect if disapproved by him or until thirty days after their passage: *Provided*, That this act shall not apply to resolutions for adjournment.

The PRESIDING OFFICER. The question is on agreeing to the amendment to the amendment. [Putting the question.] The ayes appear to have it. The ayes have it; and the amendment to the amendment is agreed to.

Mr. BATE. Mr. President, the condition of the amendment from the committee has been somewhat changed by the various motions which have been made and adopted, especially that of the Senator from Missouri, which has stricken out a good deal of that which was objectionable to those who oppose this character of legislation. There is left, however, in my judgment, the most objectionable feature in the bill, and I invite the attention of the Senate to it because we shall have to vote upon this perhaps very soon, and it, is very important not only to the Indians, but likewise to the Government.

Now, we have stricken out the amendment beginning with the words "*Provided further*," in line 3, down to line 18, page 57. That involves a good deal of matter that was objectionable, and which I thought was amenable to the point of order I proposed to make. But there are other things in the amendment which are equally objectionable, and upon which I propose to make the point of order. It is obnoxious to section 3 of Rule XVI; and I will read only that part of it which relates to this matter:

No amendment which proposes general legislation shall be received to any general appropriation bill.

This is a general appropriation bill, and the amendment proposes general legislation. All the general legislation has not been stricken from the bill which is obnoxious to that rule, and therefore I say it should not be ingrafted upon the bill, but should be set aside.

Beginning in line 19, where the motion to strike out ceases, because it extended to and included line 18, it reads thus, and this remains in the amendment:

That the United States courts in said Territory shall have full and exclusive jurisdiction and authority to try and determine all civil causes in law and equity hereafter instituted and all criminal causes for the punishment of any offense committed after the passage of this act by any person in said Territory, and the United States commissioners in said Territory shall have and exercise the powers and jurisdiction already conferred upon them by existing laws of the United States as respects all persons and property in said Territory; and the laws of the United States and the State of Arkansas in force in the Territory shall apply to all persons therein, irrespective of race, said courts exercising jurisdiction thereof as now conferred upon them in the trial of like causes; and any citizen of any one of said tribes otherwise qualified who can speak and understand the English language may serve as a juror in any of said courts.

The next clause is that there shall be appointed by the President, by and with the consent of the Senate, two additional judges for said Territory, etc. We see now by this that they are to take control absolutely of the entire judiciary of the Civilized

Tribes; they are to deprive them of their existing law; they are to deprive them of their existing courts; and they are to violate the treaties which have been solemnly entered into between the Government of the United States and those Indians; and that goes to the vitals of their existence. It not only does that, but it will extend to the destruction of that race of people, so far at least as their present organization is concerned. It will tend to destroy their tribal relations, which in my judgment are essential to the Indians' prosperous existence. My point is, when you do that here by legislation, it is general legislation, and should not be placed upon appropriation bills, and therefore it is obnoxious to the point of order, and should be set aside.

Let us look for a moment and see. We are aware, as has been stated by the Senator from Florida [Mr. CALL] just now, that these tribes of Indians have certain powers of government granted to them. In other words, a fee-simple title to the lands they now hold and local self-government was given by the United States in consideration of lands in Mississippi, Georgia, Alabama, Tennessee, and other States which to-day are worth millions and millions of dollars, and these Indians, under an arrangement made by the United States, went West and settled upon these lands. Now we are told here that in process of time it has become necessary for us to control the Indians who are there and put a different government over them to that which they now have, that will be more acceptable to the United States.

I was somewhat surprised at the statement of my learned friend the Senator from Missouri when he said that the Five Civilized Tribes of Indians have not a fee-simple title to these lands. The best way to answer an argument of that kind is not by discussing it, but by turning to the patent itself and producing the highest affecting this title known to the law. I have a copy of the original patent to this land as granted by the United States to these Indians, which was signed by President Martin Van Buren, and let us see whether it is a fee-simple title that was granted to them. If it was a fee-simple title, then the next question which presents itself is, If they have such title now, what right have we to put, without their consent, a government over that land which we have thus ceded to them? What right have we to take away from the Indians the courts which they have established for their government under the protecting shield of the United States, with guaranty of protection, and which for the last fifty years they have been accustomed to, which have been working well, and have in the main been very successful?

I especially invite the attention of the Senate to this fact in regard to the fee-simple title, as heretofore it has been the subject of much discussion, and the matter has been left in doubt. I looked the matter of title up. I now read from that portion of the treaty which relates to it, and this will show the conditions and how egregious the error of the Senator from Missouri touching the land tenure of these tribes. On page 423 of this treaty, in the appendix, it reads thus:

Therefore—

It is the conclusion of this treaty, and this is a treaty signed by the United States with them when they procured these lands—

Therefore, in execution of the agreements and stipulations contained in the said several treaties, the United States have given and granted, and by these presents do give and grant, unto the said Cherokee Nation, the two tracts of land so surveyed and hereinbefore described, containing in the whole fourteen millions three hundred and seventy-four thousand one hundred and thirty-five acres and fourteen-hundredths of an acre, to have and to hold the same, together with all the rights, privileges, and appurtenances thereto belonging to the said Cherokee Nation forever.

This is a sample of the treaties which were executed, as I understand, with the other tribes. Now, that is certainly a fee-simple title. No lawyer can dispute that fact. What are the conditions that would do away with that fee-simple right? Let us see. Without troubling the Senate with reading all of this, I turn to where it sums up in a few lines, just above the signature of President Martin Van Buren. What does it say, and what are the conditions to which the Senator from Missouri [Mr. VEST] alluded? I read:

And which condition is, that the lands hereby granted shall revert to the United States if—

"If," mark you, that is a qualification—

if the said Cherokee Nation becomes extinct or abandons the same.

And not having become extinct and not having abandoned the same, of course that fee-simple title which has been granted heretofore by the United States still exists. They own it in fee simple, and owning it in fee simple, what right, I ask, has the Government of the United States, especially when you take into consideration its various treaties, to take possession of this land, change their courts, change their autonomy, and uproot everything connected with their government, and destroy their rights? What right has the Government of the United States to do it? In doing so we are trampling upon the rights of the weak. We are depriving them of that which we have given them under the terms of solemn treaties. We are denying to them that fee-simple title which we have granted solemnly unto them with conditions, and the conditions which would vacate it have not yet transpired. Although there have been repeated attempts to oust them of this fee-simple title and to oust them of their rights under these treaties, yet they have not been able as yet to do it. The United States Government not only acknowledged this right in the Indians but agreed to pay for the land or property in their possession that it may use. It has agreed to pay the Indians in this very treaty, which provides that—

The United States shall always have the right to make and establish such posts and military forts—

This is the reservation—

in any part of the Cherokee country as they may deem proper for the interest and protection of the same, and the free use of as much land, timber, fuel, and materials of all kinds for the construction and support of the same as may be necessary: *Provided*, That if the private rights of individuals are interfered with a just compensation therefor shall be made.

That is the right, the fee-simple title, that they have in these lands, and the Government, in that solemn treaty, agrees to pay them for any damage to their land or for taking any of their land or other property for public use. Therefore, might I not say, sir, that unless it was taken by the consent of the council of these tribes, which consent is required by every treaty, every acre of land that has been taken for the purpose of running railroad tracks over that Territory 200 feet wide, and there are five or six railroads two or three hundred miles long, the United States Government should pay under the treaty these Indians for that land a just compensation?

Not only that, Mr. President, but the Senator from Missouri [Mr. VEST] in his speech just concluded alluded to the fact that there had been some grants of land made to the Neosho Valley Railroad Company. Now, what is the history of that transaction? I have it here before me. I say, Mr. President, the United States is standing upon dangerous ground; it is trembling upon the brink of bringing on itself a large indebtedness—of millions. This land is now worth, as I understand it, from $5 to $25 per acre, and being worth that much, if the United States should take away all the rights of these Indians to it, which she seems to be doing by rapid legislative strides, and assume the ownership of this property and the rights to this land in violation of the treaty, will the Government not be bound to these Indians for the land it has granted to this railroad company? And would not this railroad company have a right to it? This, I believe, was the first road constructed through the Indian Territory, and is now known as the M., K. & T., and extends from the Kansas and Missouri line down to the Texas line at a place called Preston, some 250 or 300 miles long, running through the entire Territory. By permission I will give two extracts—but not stop to read them—from that charter by the Congress of the United States, granted in 1866.

[July 25, 1866.]

CHAP. CCXLI.—An act granting lands to the State of Kansas to aid in the construction of the Kansas and Neosho Valley Railroad and its extension to Red River.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of aiding the Kansas and Neosho Valley Railroad Company, the same being a corporation organized under the laws of the State of Kansas, to construct and operate a railroad from the eastern terminus of the Union Pacific Railroad, eastern division, at the line between Kansas and Missouri, at or near the mouth of the Kansas River, on the south side thereof, southwardly, through the eastern tier of counties in Kansas, with a view of its extension, so as to effect a junction at Red River with a railroad now being constructed from Galveston to Red River at or near Preston, in Texas, there is hereby granted to the State of Kansas, for the use and benefit of said railroad company, every alternate section of land or parts thereof, designated by odd numbers, to the extent of ten sections per mile on each side of said road, to be selected within 20 miles from [of] the line of said road, etc.

* * * * * * *

SEC. 9. *And be it further enacted*, That the same grants of lands through said Indian Territory are hereby made, as provided in the first section of this act, whenever the Indian title shall be extinguished by treaty or otherwise, not to exceed the ratio per mile granted in the first section of this act: *Provided*, That said lands become a part of the public lands of the United States.

Thus it will be seen how, by such legislation as this, we are approaching this responsibility for millions. The Government transcended its rights in granting these lands conditionally, and I fear it will turn to plague us.

But, Mr. President, we are told that there is a nest of robbers in this Territory. Well, if so, who makes it so? Is it not the white men who go there? According to the statement, they do go there; and very likely while there they perform some very evil deeds. They form organizations that perhaps ought not to exist and are unlawful; but the United States Government is to blame for it. For the treaties say the Government shall keep whites from molesting them. White people have gone there and outnumber the Indians, and they control to a great extent the government of that country. Because these lawless bands of white men—not Indians—are there, is no reason why we should go and take away from the Indians the rights which we have solemnly granted to them.

Is there any part of this country that is exempt from raids upon trains and banks and stores, which have characterized those in this Territory, as the Senator from Missouri [Mr. VEST] says? You will find them in the North. You will find them in the

West and South; and in New England, the other day, parties went into a bank and robbed it. You will find them doing it in Chicago only last week. You will find them in St. Louis and elsewhere. These marauders in the Indian Territory are not alone in that character of crime. While the James brothers live in history, Missouri, the home of the Senator, will be known as a prolific field of such operations. Yet there is no more crime in that State than in any other part of our country. Missouri is a State that observes the law with as much promptness and pertinacity as any State in this Union; yet she is not free from such troubles, no more than is the Indian Territory.

Mr. President, the point I wanted to make especially is that this amendment would be an enforced obligation. These Indians deny the right of the Government to do what it is now seeking to do, to despoil them of their rights which they hold under solemn treaties. If you take the history of the Dawes Commission for some four or five years, since 1893, it will be seen that Congress has been strengthening its power at every session. They, the Commissioners, have been in this Territory and tested the matter in some cases, and I think it proper that the sentiments of these Indians as regards this Commission should be known. The Indians are accepting the situation, not as a matter of choice, but as the best they can do under the embarrassing situation; they are agreeing to the Dawes Commission, They have had their meetings; they have had their councils or legislatures; they have appointed their agents, and they have in some instances met the representatives of the Government in the Dawes Commission in conference; they have sought to treat with them. I believe the Cherokees did enter into an agreement with the Commission, but none of the others have done so for want of time, as the report will show.

One of the ugly features in this—and I know no man here appreciates it more sensibly or highly than the Senator from Missouri—is that while we are holding out to them the hand of negotiation we hold in the other hand a bludgeon with which to brain the Indian. Shame upon us! That is the situation, or at least that is the force and meaning of this amendment when taken in connection with the Dawes Commission. I say this is unmanly; it is cowardly in the Government of the United States thus to extend negotiation to these Indians, and while that negotiation is pending and being considered, that we strike them down with a blow, which we do by this amendment. Why do I say this? Because one of the parts of this bill not stricken out is the following:

That said Commission shall continue to exercise all authority heretofore conferred on it by law to negotiate with the Five Tribes, and any agreement made by it with any one of said tribes, when ratified, shall operate to suspend any provisions of this act if in conflict therewith as to said nation.

This is intended to drive them into an agreement with the Dawes Commission, and if they do not agree to it, they shall get this terrible blow couched in this amendment.

In proof of what I said just now I beg to read a sentence or two from the appeal that is made by these Indians.

We represent—

They say—

70,000 faithful, law-abiding, liberty-loving people, who have, perhaps, too blindly trusted in their treaties as sacred and incapable of being violated.

The act of June 10, 1896, declared for the first time that it was the duty of the United States to establish a government in our country. It was the first declaration of a definite policy.

That met with some success, and now this provision is put in, more drastic, more aggressive, and more ruinous and destructive to the Indians than any measure that was ever offered in Congress. They say even then of the former commission:

Our commissions were authorized, ready, and willing to treat, and of this the United States commission was fully advised (see Senate Ex. Doc. 94, 111, 112, etc.), but these important matters could not possibly be closed up in six days.

They say further that it destroys their judiciary, that it paralyzes their executive department.

I read what these Indians through their representatives have said in their "appeal" to this Congress:

Emasculating our legislative bodies, partitioning and administering our great estates without our consent, without proper safeguards, and regardless of vested rights, as a measure of coercing agreements we are ready to make without coercion.

We earnestly appeal to your high sense of justice and to your magnanimity against this extreme measure.

First. Because it is not necessary. The record proves this (Senate Ex. Doc. 94, 111, 112), but, in addition, we here register our solemn declaration that our people are ready and earnestly intend treating on the lines heretofore indicated by Congress.

That they have not had sufficient opportunity of negotiating, after resolving upon this course last fall.

Second. This measure is unjust, because it puts our people under extreme duress and ruinous conditions, as a manifest and declared preliminary to a proposed negotiation.

We feel that "consent" under such conditions is no consent at all, but the submission of the weak to the impatient violence of the strong, that will give our people a false idea of the great Republic and its citizenship.

It is beneath the dignity of the United States to strike our people to the earth while inviting negotiations. We can not believe that the advocates of this measure would feel justified in pressing it if they should examine the correspondence submitted, and realize the sincerity of our purpose to negotiate.

We earnestly trust that this solemn declaration, made on behalf of the sincerity of our people, will suffice to induce the Congress not to press at this time such an extreme and unnecessary measure.

S. H. MAYES, *Principal Chief, C. N.*	J. B. JACKSON,
G. W. BENGE,	G. W. DUKES,
W. W. HASTINGS, *Cherokee Delegates.*	E. N. WRIGHT,
	D. M. HAILEY, *Choctaws.*
JOHN F. BROWN, *Chief Seminole Nation.*	R. M. HARRIS, *Governor Chickasaw Nation.*
P. PORTER,	WM. L. BYRD,
G. W. GRAYSON,	ISAAC O. LEWIS,
G. A. ALEXANDER,	WM. M. GUY,
WM. A. SAPULPA, *Creek Delegates.*	RICHARD McLISH, *Chickasaw Delegates.*

They assert here in their organization, through their representatives, that they intend to treat with the Dawes Commission, yet this Senate is trying to force this measure upon them.

I now ask the Senate if it is not general legislation, if this is not objectionable to the point of order that I have made, when it reads:

That the United States courts in said Territory shall have full and exclusive jurisdiction.

Who has that jurisdiction now? Let us see if this is not general legislation. Had not the Indians, through their council, through their legislative organization, the control of their own tribe, of their own people? Does not the law, as it now stands, allow only the white man to go before the white man's court? If he has trouble with the Indian, the white man's court has jurisdiction over both. The Indians have exclusive jurisdiction, where Indians alone are concerned, in both criminal and civil suits. This amendment takes the jurisdiction away from those Indians and gives it exclusively to the white man, and hence, you see, it is general legislation, and as such it is amenable, I say, to the point of order.

I read from that part of the amendment not stricken out:

Shall have full and exclusive jurisdiction and authority to try and determine all civil causes in law and equity hereafter instituted, and all criminal causes for the punishment of any offense committed after the passage of this act, etc.

Now, Mr. President, that is taking the jurisdictional authority from them and applying it to another. Is not that general legislation? And is it not obnoxious to paragraph 3 of Rule XVI? I ask that we have a vote on this part of the amendment under my point of order.

In conclusion I assert it deprives the Indian of his rights, and it is general legislation. It is destructive of their courts, their autonomy, and their rights in every respect. It is in violation of the solemn treaty with these Indians entered into with them. Therefore, I say it is general legislation in the wrong direction, and it is general legislation upon that which is vital to them, and more vital to them than anything which has been stricken out. I approve, of course, the striking out of that which has been done on the motion of the Senator from Missouri, or has been conceded by the chairman of the Committee on Indian Affairs, who has the bill in charge. I concede all that, but this objectionable point, and the most vital, still remains. I think the best thing to do is to get rid of the whole matter. Let us maintain the point of order and let this be stricken out, and on some future day, as suggested by the Senator from Alabama, there can be a general bill framed to regulate all these matters and put the Government of the United States and the Indian also in a proper position.

I ask that my point of order be maintained.

HOUSE BILLS REFERRED.

The bill (H. R. 849) to increase the circulation of national banks was read twice by its title, and referred to the Committee on Finance.

The bill (H. R. 3278) to amend section 1 of an act approved December 21, 1893, entitled "An act to provide for two additional associate justices of the supreme court of the Territory of Oklahoma," was read twice by its title, and referred to the Committee on the Judiciary.

The bill (H. R. 4808) to increase the efficiency of the postal service was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

TARIFF HEARINGS.

The PRESIDING OFFICER laid before the Senate the following concurrent resolution of the House of Representatives; which was referred to the Committee on Printing:

Resolved by the House of Representatives (the Senate concurring), That there be printed for the use of the two Houses of Congress 10,000 copies of the tariff hearings of the Committee on Ways and Means during the second session of the Fifty-fourth Congress, of which 3,250 copies shall be for the use of the Senate and 6,750 copies for the use of the House.

JULIO SANGUILY.

The PRESIDING OFFICER. The hour of 1 o'clock having arrived, it is the duty of the Chair to lay before the Senate the unfinished business, which will be stated.

The SECRETARY. A joint resolution (S. R. 207) demanding the release of Julio Sanguily, an American citizen imprisoned in Cuba.

Mr. PETTIGREW. I ask that the unfinished business be laid aside, and that we proceed with the consideration of the Indian appropriation bill.

Mr. BERRY. Temporarily, without prejudice.

Mr. PETTIGREW. Temporarily, without prejudice, if it is desired.

Mr. MORGAN. It was the understanding, by unanimous consent yesterday, that the joint resolution was to come up at 1 o'clock to-day.

Mr. PETTIGREW. Then I move that it be laid aside.

Mr. MORGAN. The Senator can not do that without violating the unanimous-consent agreement.

Mr. WHITE. I am entitled to the floor on the joint resolution, I believe.

Mr. PETTIGREW. I am not aware of any such unanimous-consent agreement. I should like to have it read.

Mr. WHITE. I do not object to the request of the Senator from South Dakota.

Mr. PETTIGREW. I do not intend to violate a consent agreement.

Mr. LINDSAY. There was no consent agreement about it, that I understand.

Mr. BERRY. Is the joint resolution to be temporarily laid aside? The Senator from California who has the floor has no objection to that until we can get through with the bill that is now before the Senate. I appeal to the Senator from Alabama not to urge the joint resolution at this time.

Mr. FRYE. I hope the Senator from Alabama will consent to allow the joint resolution to go to the Calendar. The telegraphic communications received to-day, undoubtedly reliable, show that Sanguily, by advice of his attorney, has, under duress of a two-years' imprisonment, consented to the judgment and the sentence by withdrawing the appeal; that the Queen Regent has signed the pardon, and that Sanguily is free.

Now, while I regard that as unfortunate in many respects, it seems to me it leaves the joint resolution without any necessity of further consideration. I do not believe, and never did, in wasting powder simply for the purpose of making a noise.

I shall vote, under these circumstances, to proceed with the appropriation bill. I do not believe anyone doubts my friendliness to Cuba. Every pulsation of my heart is with the patriots who are fighting for liberty, and I have an utter detestation of the brutalities of Spain; but I do not believe there is any further necessity of considering the joint resolution. I hope it will be permitted to go to the Calendar.

Mr. MORGAN. I am acting here——

Mr. CALL. I ask the Senator from Alabama to allow me to say——

Mr. MORGAN. Who has the floor?

The PRESIDING OFFICER. The Senator from California [Mr. WHITE] has the floor. Does he yield to the Senator from Alabama?

Mr. PETTIGREW. I move to take up the Indian appropriation bill.

Mr. WHITE. I am entitled to the floor; but I have stated that I have no objection to yielding the floor; but I should like to say a word. However, I will yield temporarily to the Senator from Alabama. I do not wish to incommode the Senator in charge of the appropriation bill, and will not do it; but, having the floor, I think I am entitled to the courtesy of a request before I yield it. I may be mistaken.

The PRESIDING OFFICER. The Senator from California yields to the Senator from Alabama.

The speech of Mr. WHITE begun yesterday and not concluded is as follows:

Mr. WHITE. Mr. President, some time ago I determined to offer certain suggestions with relation to the Cuban question, and especially concerning the Presidential jurisdiction regarding recognition of independence. But as the session was drawing to a close, and as the chairman of the Committee on Appropriations and other members of that committee specially charged with the consideration of those very important measures warned us that there was no time to be spared, I concluded that the Senate would devote itself to the examination of the appropriation bills, and felt that it would be inopportune for me to interject remarks upon another subject. I therefore withheld my views, intending to offer them later on if they seemed relevant to anything that might hereafter occur. But the proceedings this morning have demonstrated that it is not the intention of the Senate of the United States to engage in the business of considering appropriation bills and that we are to spend valuable hours in sensational utterances. We are to engage in fruitless argumentation upon a resolution which can not pass, and which, if passed, would not become effective or even receive Executive consideration; a resolution which could not aid Mr. Sanguily and would, on the contrary, interfere with the effort now being properly made to accomplish his release.

A resolution was offered several weeks past in this body with reference to Cuban independence. That resolution was not pressed. It came in here with considerable flourish of trumpets, if I may be permitted to use such an expression, and was sidetracked. Some reason, no doubt, existed for this. I have no complaint to make on this account, for I am now and have been opposed to its passage.

When the chairman of the Committee on Appropriations [Mr. ALLISON] last night informed the Senate that it was necessary to sit until midnight in order to pass bills to appropriate money to maintain this Government, we were all made aware of the danger of delay, and yet this morning the Senator deliberately displaced the appropriation bills, and practically declared to the people of the United States that the Senate will not, though it can, pass measures of controlling importance, and will needlessly thus create an absolute necessity for the calling of an extra session, while in the opinion of some of us such necessity would not exist if we attended to our plain duty and ceased the making of disturbing remarks.

If we are to discuss Cuba, we shall go on and discuss it. Both sides shall be heard. After a debate which can not be short we will vote upon a resolution, the passage of which can not, as I have said, be followed by any desirable consequences.

Mr. HALE. Will the Senator from California yield to me?

The PRESIDING OFFICER. Does the Senator from California yield to the Senator from Maine?

Mr. WHITE. Certainly.

Mr. HALE. Allow me to suggest here that up to this moment from the beginning of the session all the time on this great subject-matter has been taken up by those who are in favor of what are called the Cuban resolutions. Senators who have not believed it was wise to embark upon that subject or to pass declarations inflammatory in their nature, which would tend to complicate the situation, have contented themselves, as the Senator from California has, as I have, and as have a dozen other Senators, with saying nothing, but depending upon the general conservative spirit of the Senate to go on and do business. We are now within seven or eight days of the end of the session, and Senators should understand that, with this whole subject precipated, those Senators who heretofore have declined to participate in the debate and have allowed it to go on by the advocates of the Cuban resolutions, can not consent that this matter shall be voted upon until it is thoroughly debated, and it can not be said and urged that it is in the interest of delay, because up to this time hardly one Senator has lifted his voice against any of these resolutions. We have been content to go on and do business, I repeat, and desire now to do that, but Senators may as well understand that here, within one week of the end of the session, with all the appropriation bills which have not been passed pending, to take up this question and to begin to debate it and to follow its debate until the question is taken, substantially confiscates every hour of this session, and no appropriation bill can be passed.

I trust the Senators who voted to displace an important appropriation bill in order to take up this joint resolution will realize that we shall not be taunted because we choose to debate this subject, which the Senate has taken on against our votes, with the charge that we are delaying matters. We have a right to be heard, Mr. President, on this question as well as all of the Senators who have fulminated before the country ever since last December, and who will only be content now in dragging this discussion before the Senate. The matter will be discussed, and the other side will be presented.

Mr. WHITE. Mr. President, in connection with the remarks of the senior Senator from Maine, I may be permitted to observe that I have taken much interest in the legal aspects of this question; but I have refrained from indulging in any lengthy debate, or doing more than to ask a very occasional question of Senators occupying the floor, because I did not wish to interfere with other measures.

The resolution now forced upon us presents so many grave questions that those of us who differ from the majority of the Committee on Foreign Relations should not remain silent, and I for one do not propose to do so. I intend expressing my opinions. It can not be truly stated that I am so acting to consume time, because my course in the past has been demonstrative of my desire in the other direction. If I can prevent the accomplishment of a mistaken plan, I will do so.

Let me ask, preliminarily, What is the object attempted to be brought about by precipitating this discussion at this time, really in violation of the agreement which was tacitly had last night, to devote this day's session to the consideration of appropriation bills? From 11 o'clock this morning until this moment we have been engaged in discussing this resolution reported by the Committee on Foreign Relations only yesterday, accompanied by a report of 96 pages, a large portion of it closely printed. Are we entitled to examine that report? Can this be done in a minute?

Assuming that there is reason for the passage of this resolution, assuming that there is a result in sight, and a desire to benefit

this unfortunate man—though the course adopted is most hurtful to him—assuming all this, let me inquire by what authority and in what manner do Senators who are so fervid expect to accomplish anything by its passage in this body? Let it be granted that the Senate of the United States shall adopt it; let it be granted that those of us who oppose the views of the majority of the Committee on Foreign Relations shall remain silent and allow everything to be said by the other side and permit the resolution to go through intact. Then the House of Representatives is reached; grant that it shall be accorded a favorable reception there—and this is purely a matter of assumption—then, as the resolution is joint, it must be presented to the President of the United States. Is it to be supposed that he will approve it? Manifestly not. I speak from the record, a record of which every Senator should be thoroughly cognizant. The executive department of this Government has had this affair under advisement. The President has been acting within the lines of his authority and has considered this very issue. He has done his duty as he understands it, and if he is to be consistent he will pocket this joint resolution. Do the advocates of this resolution think that anything practical is to be gained by pressing it here and now? It will not benefit Sanguily. It will avail no one.

Mr. HILL. Will the Senator allow me a moment?

Mr. WHITE. Certainly.

Mr. HILL. The premier of the next Administration reported this joint resolution to the Senate yesterday.

Mr. WHITE. Yes, sir.

Mr. HILL. And while he would not ask it to be acted upon then, he expressed a hope that the Senate would take it up to-day and pass it at once. It is whispered to me from the rear that he voted against its consideration to-day; but I was not going to make that statement. I simply suggest that even if the Senate alone passes the resolution, it will at least have some moral effect upon the next Administration, I should hope.

Mr. WHITE. I differ from the Senator from New York. I hope the Senator from New York will not make it incumbent on the chairman of the Committee on Foreign Relations to carry into his policy as Secretary of State the views which he has announced in this Chamber.

Mr. HILL. Why should he not be consistent?

Mr. WHITE. It is within his power and sole jurisdiction, Mr. President, it appears to me, to be or not to be consistent [laughter], and I submit that the Senator from New York should not seek to tread within that sacred circle. [Laughter.]

It is a fact that the Committee on Foreign Relations, having had Cuban affairs under their consideration, and having had an opportunity to press them when a final vote might have been reached, have nevertheless waited until the appropriation bills have come here, and then have sought a final decision. I for one, occupyiny a seat upon the minority side of this Chamber, do not wish it truthfully charged that I have been a participant in the defeat of appropriation bills, but I do not propose to be foreclosed of mp right to discuss this subject which has been incontinently and improperly interjected into our business.

I think I have shown, Mr. President, that nothing of good can follow the adoption of this joint resolution even by the Senate and the House. It has no place here. Sanguily does not need it. Common sense dictates that his case will not be furthered by its adoption. Why not withdraw it?

Mr. President, there are several resolutions on the Calendar touching the Cuban question. That part of our history which covers Cuban disturbances is rather a peculiar one. I will present the general resolution 163, which I ask may be read at the desk.

The PRESIDING OFFICER (Mr. FAULKNER in the chair). The Secretary will read as requested.

The Secretary read as follows:

That it is hereby declared that a condition of public war exists between the Government of Spain and the government proclaimed and for some time maintained by force of arms by the people of Cuba, and that the United States of America should maintain a strict neutrality between the contending powers, according to each all the rights of belligerents in the ports and territory of the United States.

Mr. WHITE. Then there was introduced the following resolution by the Senator from Georgia [Mr. BACON]:

Resolved by the Senate (the House of Representatives concurring), That the question of the recognition by this Government of any people as a free and independent nation is one exclusively for the determination of Congress in its capacity as the lawmaking power.

Resolved further, That this prerogative of sovereign power does not appertain to the executive department of the Government, except in so far as the President is, under the Constitution, by the exercise of the veto, made a part of the lawmaking power of the Government.

Then we have the joint resolution of this morning, which has already been read, but which I shall incorporate in my remarks, accompanied, as I said before, by Report No. 1534, comprising 96 pages of largely, closely printed matter.

The joint resolution is as follows:

Resolved by the Senate and House of Representatives, etc., That the Government of the United States demands the immediate and unconditional release of Julio Sanguily, a citizen of the United States, from imprisonment and arrest under the charges that are pending and are being prosecuted against him in the military and civil courts of Cuba, upon alleged grounds of rebellion and kidnaping, contrary to the treaty rights of each of said Governments and in violation of the laws of nations.

And the President of the United States is requested to communicate this resolution to the Government of Spain, and to demand of that Government such compensation as he shall deem just for the imprisonment and sufferings of Julio Sanguily.

We have not adopted the resolution regarding independence. At the last session we expressed an opinion favoring recognition of belligerency. This was a mere expression of opinion. It was in no way binding on the Executive. Our attitude is peculiar. We are not willing to recognize the independence of Cuba. In my judgment we are without power to do so. Then we are expected to demand the release of an alleged American citizen charged with the commission of crime abroad. We are required to find his citizenship, to declare him innocent, and to, by implication, censure the Department of State. All this is to be done without examination—proceeding upon faith entirely—in the last days of this Congress.

Mr. President, the termination of this Administration will soon be witnessed. Everyone in this Chamber knows that upon the most important and radical issue before the American people I dissent from the position of Mr. Cleveland as clearly and as fully as I expect to dissent from the financial policy of the Administration of Mr. McKinley, but I do not permit my views upon one or a dozen subjects to interfere at all with my defense of the conduct of the Executive in the matters now under review. I deem it my duty to see that something is presented in justification of the President and the Secretary of State with reference to unfounded accusations of usurpation which have been repeated with wearying frequency here and elsewhere. Were the appropriation bills allowed a right of way, I would postpone my observations; but I must deal with conditions as I find them.

The joint resolution reported by the Senator from Alabama who sits in front of me [Mr. MORGAN], with the indorsement of the Senator from Ohio [Mr. SHERMAN], who is to be the Secretary of State, comes to us just as this Administration is going out. The Senator from Ohio, as the head of the diplomatic department of the incoming Government, will soon attend to this matter himself. Instead of coming here as chairman of his committee and now seeking to put the burden upon us, let him wait a few days and take the responsibility himself. He will have to do so ultimately. Why does he not abstain rather than to join in an effort to defeat the appropriation bills and precipitate a discussion which can have only that result, and which will not, I assure him, end in the passage of the joint resolution here pending?

Mr. SHERMAN. Will the Senator allow me?

The PRESIDING OFFICER. Does the Senator from California yield to the Senator from Ohio?

Mr. WHITE. I yield to the Senator from Ohio gladly.

Mr. SHERMAN. Mr. President, the Senator from California seems to desire to drag me into this debate when I certainly do not care to enter upon it.

As to the joint resolution which is pending, I think it ought to command the unanimous approval of the Senate. I believe in the declaration that injustice, gross injustice, almost barbarous injustice, has been done to a naturalized citizen of the United States, and I say, therefore, that his rights, the rights of even a single person, ought to be respected, guarded, and protected by the Senate of the United States.

I have not, however, been in favor, and am not now in favor, of passing this joint resolution at this moment when it stands in the way of appropriation bills. I have so voted and shall so vote again, and I trust that, after the debate has gone on for a while, Senators here will see the necessity of taking up the appropriation bills and passing them.

I do not think there is any matter of criticism in the fact that this joint resolution was reported from the Committee on Foreign Relations by the honorable Senator from Alabama [Mr. MORGAN] rather than by myself. That was done because he has taken a more active interest in the subject than I. He has prepared a long, full, and detailed report setting out every material fact which bears upon the case. Therefore at my request that Senator properly reported the joint resolution, and I shall vote for it.

I hope that Senators will not be carried off merely because they have been defeated upon a question of the order of business. They themselves stand in the way of a vote on this resolution. I believe the friends of the joint resolution are willing to vote upon it without delay, and thus the opinion of the Senate may be had and the appropriation bills be taken up; but to say that, because we desire this joint resolution to be passed, we are opposed to the passage of appropriation bills is a gross injustice to us. I intend to support and stand by the Committee on Appropriations this day and until the end of the session, in order that they may complete all the appropriation bills which are necessary in order to carry on the operations of the Government; but that shall not prevent me from doing what I think is right in behalf of any of the people

of the United States to protect our citizens against unlawful insolence, violence, and wrong. I trust in God the time will never come when I shall see an American citizen wronged of his rights and persecuted and prosecuted unjustly by any power, great or small. That is the way I feel now.

I am in favor of protecting this particular American citizen, although he is a naturalized citizen, in all the rights of man. I would not see him destroyed or driven to the fate of another naturalized citizen who was probably compelled to kill himself, or who was killed in custody. I am opposed to wrong and violence and tyranny wherever it is exercised, and when it is inflicted upon a citizen of the United States I will stand by him if I am alone.

Mr. WHITE. Mr. President, we are all opposed to wrong. Of course we are all in favor, I hope, of protecting American citizens. I am as resolute in this as the Senator from Ohio. Some of us differ as to exactly how we should go about it; some of us prefer that an American citizen should be actually protected, while some prefer to talk of protection without bringing it about. The American citizen who behaves himself will be protected. Whether he acts lawfully or otherwise, he will be guarded in his rights. But I must have a case reasonably proven before I can act.

The Senator from Ohio, as chairman of the Committee on Foreign Relations, allowed this joint resolution to be brought in, when he knew that thereby he would precipitate a debate and that nothing practical could come of it. Did he think that those of us who have refused heretofore to engage in discussions because we did not wish to interfere with legislation would be driven from the assertion of our conscientious opinions by the pretext that we were consuming time, and this because we do not wish an obnoxious resolution to be voted upon? The Sanguily matter has been before his committee for months, and he selected the most inopportune time for this display. The Senator from Alabama is an able man and thoroughly conversant with these questions, but the Senator from Ohio did not escape any responsibility for himself when the Senator from Alabama reported the resolution. The Senator from Ohio, knowing that this resolution could not be adopted, knowing that within ten days he will be in charge of the State Department, still risked the defeat of the appropriation bills. Having done that, he turns around and says he is in favor of taking up the appropriation bills and regrets the disturbance which he himself has inflicted upon us. This may appear to the Senator from Ohio to be consistent. It does not appear to me to be very consistent.

More than that, the Senator says that he ascertained that Julio Sanguily was being badly treated. When did he learn that? Within the last two or three days? As chairman of the Committee on Foreign Relations, he ought to have known as much about this matter as those of us who are not upon that great committee. There was brought into the Senate many, many days ago, Senate Document 104, setting forth all the evidence contained in the report of the committee presented to us this morning. So this subject was before the Senator from Ohio, and before those who sympathize and agree with him, weeks ago, and action was withheld until this late hour, when, as I have stated, the able and conservative Senator who is chairman of the Committee on Appropriations had announced the impossibility of legislation unless we devote unremittingly each full day remaining to our proper work. Senate Document 104, containing all this evidence, was filed here on February 1 of this year, and its contents, it is safe to say, were known to the Senator from Ohio much earlier. If he has other information, he has not disclosed it.

The merits of Julio Sanguily's complaint can be dealt with by the Senator from Ohio in ten days from this date in accordance with his views of the proprieties. That it can not be dealt with earlier, except in accordance with the views of the present Administration, is a fact which, whether he likes it or not, he must concede. Why, then, press the resolution? The first and most important question, perhaps, calling for examination, is that involving the power of Congress to pass a general resolution of recognition, either of belligerengy or independence. It is not proposed to rely upon legislation enacted upon any supposition or presumption, but it is sought to directly recognize the independence of an alleged Cuban republic, not only without Executive concurrence, but in the face of the fact that the Executive has steadfastly declined to make such recognition. It is the determination of the advocates of Congressional power to force recognition in spite of the Executive. Can this be done? At the outset it is proper to consider whether Congress has any such power, and if it is ascertained that the authority exists, whether a proper case has arisen for its exercise.

When it was stated that the Secretary of State claimed that the Executive possessed the exclusive authority to recognize independence, he was denounced in many quarters, not only in various newspapers, but also upon this floor; and it was even stated here that the doctrine which he advanced was absolutely novel, and that no similar pretension had ever been made. This groundless assertion has been so far modified that a distinguished Senator who ably advocated the so-called Cuban side of the controversy declared that the claim was first made twenty-three years ago. It will be easy to show that not only is there nothing new in the recent announcement of the Secretary of State, but that the view which he has taken seems to be supportable on principle, and is certainly in accord with the best precedents, diplomatic and judicial. There is nowhere in the Constitution a direct delegation, in terms, of power to recognize belligerency. Nothing of the kind is contained in the legislative grant, nor does specific phraseology conferring the authority manifest itself in that part of the organic law which is devoted to the executive department. It was lately said by a most able and learned Senator, with regard to the constitutional provisions referring to the Congress, that—

> There are more provisions devoted to that subject than to any other. It precedes the judicial department; it precedes the executive department; it is first in time, first in right, power, and authority.

And the same learned Senator further remarked:

> If, then, the President perversely and lawlessly refuses or declines to appoint an ambassador when Congress desires one in the form of law, we could direct by law that he should appoint one to a particular country; and in case of his further refusal, we could name and designate a person as our political agent to perform such duties as are usually performed by the Presidential appointee, because such a power is necessary and proper to the execution of the paramount power of Congress to regulate our intercourse with foreign nations. And we may well note here how close this construction is in harmony with the Constitution, a harmony designed in all its parts, because such an appointee by Congress, the person temporarily designated by Congress, vested with ambassadorial, consular, or ministerial powers would receive a two-thirds vote of both Houses of Congress, the Senate and the House of Representatives, a larger majority than if he had been appointed and commissioned by the President and the Senate to that office, for such law could only be passed over the veto of the President by a two-thirds vote of both the Senate and the House.

Notwithstanding my high regard for the abilities and character of the distinguished Senator from whom I have quoted, I find myself unable to subscribe to this doctrine. While it is true that a law which passes over the Presidential veto receives a larger majority than would an appointee of the President confirmed by the Senate, yet it appears to me that this is not the point at all. The treaty-making power is vested in the Executive, subject to the advice and consent of the Senate, and while a treaty may be repealed by a law, it can not be made in any other way than that designated in the organic instrument. The President must propose the treaty. He may withdraw a treaty before ratification. He may decline to submit an amended treaty to the other contracting power. If the Senate unanimously votes to make a treaty, such vote is of no effect unless the Executive submits the convention.

President Harrison, without consulting the Senate or either branch of Congress, recognized the Dole Government of the Hawaiian Islands, and the Secretary of State, on the 15th of February, 1893, placed before Congress a treaty of annexation entered into by this Government with the representatives of the new establishment of Hawaii. This treaty was being considered by the Senate when it was withdrawn by President Cleveland, and although it has been generally supposed that a majority of the Senate favored the scheme outlined in that document, no opportunity was given to vote upon it, and no one denied the authority of the President to withdraw the proposition; and whether the Senate relished Mr. Cleveland's action or did not relish it was entirely immaterial. He had the constitutional power to act as he did, and although Senators might have considered that they were better advised in the premises than the President, nevertheless this faith in themselves was not potential enough to overcome constitutional obstacles.

I can not bring myself to believe that the mere fact that Congressional powers are enumerated earlier in the Constitution than those of the Executive adds anything to the authority expressly given. The words used to confer power upon the Executive are just as potential for the purposes named as those which demark legislative limits. While it is true, perhaps, that the more weighty obligations are assigned to the Congress, yet this does not affect the completeness and exclusiveness of the Presidential grant as far as made. If the Supreme Court, contumaciously or corruptly, fails to decide cases submitted to it, Congress can not, for that reason, do the work of the court. The argument that there is danger that the President may refuse to do his duty is not new. It was largely acted upon in the formulation of the Articles of Confederation, but the views of our early statesmen were considerably modified when the constitutional convention met. That power given might be abused all knew. It was not expected that a system could be devised which would render usurpation or other misconduct impossible. Various duties were assigned to different officers in the hope that such distribution would result beneficially, and that evil would less frequently prevail than under other dispensations. The claim made that the President represents the one-man power and Congress the people is mythical.

The President and Congress and the judiciary each and all represent the people, and the Government thus formed constitutes

that system, composed of three independent departments which the people have ordained. The department which is the repository of executive power is the creation of the people and represents their behests, and he who seeks to deprive the executive of those rights attacks the people and endeavors to avoid the popular will constitutionally expressed. Congress can not usurp executive functions. If the President may not exercise power conferred upon Congress, so also is it true that Congress can not trench upon executive territory. The functions permitted to the executive and those committed to the judiciary and Congress in the aggregate constitute, as I have said, the governmental scheme outlined in the organic law. It appears to me peculiar to hold that the defined and limited jurisdiction of the Congress possesses an absorbing and accumulating nature adequate to draw to itself the nonasserted powers of the other departments, that Congress is the beneficiary of executive nonaction.

If it be true that we are governed under a system of delegated powers, under what rule of construction can we hold that, although the Constitution gives to the President and does not give to Congress the power to appoint ambassadors, nevertheless, if the President refuses to do so, Congress may undertake his constitutional duty? It seems to be thought that the exigencies of the situation will justify this. No exigency can warrant the doing of any act by either department not permitted by the Constitution. The powers not conferred by the Constitution are reserved. This reservation is not made in favor of Congress. It was not designed to give plenary authority to Congress. The people, it is true, jealously guarded their rights, but the whole plan was formed to protect their interests. The experiences of the confederation had not been lost. The ablest men of the time believed that three departments, distinct, independent, each separated from the other by impassable lines, were essential to the perpetuity of free institutions. Neither of these can lawfully grasp jurisdiction because of nonexertion by the department to which it has been committed.

The absolute separation of the executive from the other departments was early the subject of solicitude. In the convention Mr. King expressed his apprehension that an extreme caution in favor of liberty might enervate the Government we were forming. He wished the House to recur to the primitive axiom that the three great departments of government should be separate and independent; that the executive and judiciary should be so as well as the legislative; that the executive should be so equally with the judiciary. Those who desire to study this portion of the debates will find it in the Second Journal Constitutional Convention (Madison), page 394.

During the debate upon the executive power, Mr. Madison said (I Journal, page 387):

> If it be a fundamental principle of free government that the legislative, executive, and judiciary powers should be separately exercised, it is clear also that they be independently exercised. There is the same and perhaps greater reason why the executive should be independent of the legislative than why the judiciary should.

This, Mr. President, is the language of Madison.

It was well said by the Supreme Court of the United States in Marbury *vs.* Madison (1 Cranch, 176):

> The powers of the legislature are defined and limited, and that those limits may not be mistaken or forgotten, the Constitution is written. To what purposes are powers limited and to what purpose is that limitation committed to writing if these limits may at any time be passed by those intended to be restrained? The distinction between a government with limited and unlimited powers is abolished if those limits do not confine the persons on whom they are imposed, and if acts prohibited and acts allowed are of equal obligation.

And in the same case it was also said:

> Questions in their nature political, or which are by the constitutional laws submitted to the Executive, can never be made in this court.

In Kendall *vs.* United States (12 Peters, 610) the court said:

> The executive power is vested in a President, and as far as his powers are derived from the Constitution he is beyond the reach of any other department, except in the mode prescribed by the Constitution through the impeaching power.

The very basis of our governmental plan is the distribution of responsibility among the several departments. Unquestionably the Executive may fail to do his duty, and great public interests may be sacrificed; but so, also, may it be said that Congress may fail to act discreetly, and thereby sacrifice grave public interests. Charges of that kind have been often made, and there has been much evidence in support of the accusations.

If Congress has the right to appoint an ambassador in the case already mentioned, who is to determine whether the refusal of the President to make an appointment has been perverse or lawless? The answer will probably be that Congress must determine the fact. Therefore, it necessarily results that whenever the legislative department may decide to harass the President, it can find this jurisdictional fact and can thereupon assert his prerogatives, and practically exercise the functions of government committed to him.

But I am unable to find a word in the Constitution directly or by implication assigning Presidential functions to Congress when the Executive declines to act affirmatively. As well might it be urged that a similar failure of Congress, with reference to some conceded duty, such as appropriating money for necessary public purposes, would vest authority in the President to meet the exigency. With equal reason it might be contended that because the Senate to-day declines to act upon appropriation bills, and devotes itself to issues upon other topics, that therefore the President alone has the power to appropriate money.

Presidential obligation or Congressional duty are not enjoined conditionally. The grant is in each instance absolute. Neither department has a contingent right to move. The location of jurisdiction is fixed by the instrument and not by the whim or caprice of the official. It can always be found. It needs no expert to discover it, nor is it located first here and then there. The plea that somebody could act the fool or the knave was no doubt a factor in the convention's deliberations. If it was believed that a man selected to the highest national office could be trusted to obey the Constitution, especially with the sword of impeachment hanging over him, such assumption was probably based upon the idea that the people would most likely choose an honest and capable man, and that the presence of such honesty and capability was necessarily involved in the faith of the fathers that a republican government was possible.

The authors of the Federalist frequently had occasion to refer to the division of power, and they strenuously contended that proper lines of demarcation had been provided. There is not a hint anywhere indicating that it was supposed that Congress had the right to exercise in any event or at all the duties assigned to the Executive.

The President has power to grant reprieves and pardons, except in cases of impeachment, and this authority is exclusive, as stated in Klein's case. (13 Wall. U. S., 138.) He is also given jurisdiction, by and with the advice of the Senate, to make treaties, and he shall nominate and by and with the advice of the Senate shall appoint ambassadors, etc. The exclusiveness of the grant is as evident in the case of the executive as in the Congressional and judicial instances. Mr. Justice Story says:

> In the government of this commonwealth the legislative department shall never exercise the executive or judicial powers, or either of them, etc. (1 Story, Cons., section 520.)

James Wilson, who was an associate justice of the Supreme Court of the United States and professor of law in the College of Philadelphia, in the course of a lecture delivered by him on "Government" (to be found in volume 1, Wilson's Works, Andrews's edition, page 365) says:

> Though the foregoing great powers, legislative, executive, and judicial, are all necessary to a good government, yet it is of the last importance that each of them be preserved distinct and unmingled in the exercise of its separate powers with either or with both of the others. Here every degree of confusion of the plan will produce a corresponding degree of interference, opposition, combination, or perplexity in its execution. * * * Liberty and security in government depend not on the limits which the rulers may please to assign to the exercise of their own powers, but on the boundaries within which their powers are circumscribed by the constitution.

He further says (page 367)—and his language may be quoted with appropriateness here:

> Each of the great powers of government should be independent as well as distinct. * * * The independency of each power consists in this, that its proceedings, and the motives, views, and principles which produce those proceedings, should be free from the remotest influence, direct or indirect, of either of the other two powers.

In speaking of the power of the President to grant pardons, Mr. Rawle (Rawle on the Constitution, page 164) concludes that in the case of a vacancy in the office of President there is no power to grant pardons, and remarks (page 166) that in the exercise of the benign prerogative of pardoning it has been justly said that the President stands alone.

The authors of the Federalist understood that they were giving to the President considerable authority.

Mr. Madison's remarks, to be found in the thirty-eighth number of the Federalist, pages 291, 292, Hamilton's edition, clearly prove that he was not only cognizant of the fullness of executive power, but that he justified it.

In discussing the objections made to the Constitution with reference to the blending of powers, Mr. Madison declares (47 Federalist, 373):

> No political truth is certainly of greater intrinsic value or is stamped with the authority of more enlightened patrons of liberty than that on which the objection is founded. The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny. Were the Federal Constitution, therefore, really chargeable with this accumulation of power, or with a mixture of powers, having a dangerous tendency to such an accumulation, no further arguments would be necessary to inspire a universal reprobation of the system. I persuade myself, however, that it will be made apparent to every one that the charge can not be supported, and that the maxim on which it relies has been totally misconceived and misapplied.

I quote again from Mr. Madison:

> It is agreed on all sides that the powers properly belonging to one of the departments ought not to be directly and completely administered by either

of the other departments. It is equally evident that neither of them ought to possess, directly or indirectly, an overruling influence over the others in the administration of their respective powers. It will not be denied that power is of an encroaching nature, and that it ought to be effectually restrained from passing the limits assigned to it.

After discriminating, therefore, in theory, the several classes of power, as they may in their nature be legislative, executive, or judicial, the next, and most difficult task, is to provide some practical security for each against the invasion of the others. What this security ought to be is the great problem to be solved.

Will it be sufficient to mark, with precision, the boundaries of these departments, in the Constitution of the Government, and to trust to these parchment barriers against the encroaching spirit of power?

This is the security which appears to have been principally relied on by the compilers of most of the American constitutions. But experience assures us that the efficacy of the provision has been greatly overrated, and that some more adequate defense is indispensably necessary for the more feeble against the more powerful members of the Government. The legislative department is everywhere extending the sphere of its activity, and drawing all power into its impetuous vortex.

Said Mr. Justice Harlan, in Clough *vs.* Curtis (134 U. S., 371):

One branch of this Government, this court said in the Sinking Fund Cases (99 U. S., 700), can not encroach on the domain of another without danger. The safety of our Constitution depends in no slight degree on the strict observance of this salutary rule.

It is undoubtedly true, as said by Chief Justice Fuller in Ex parte Tyler (149 U. S., 164), that the maintenance of a system of checks and balances characteristic of republican institutions requires the coordinate departments of Government, whether Federal or State, to refrain from infringement on the independence of each other.

It might be added that the lodgment of concurrent authority in the executive and legislative departments could never have been intended. The confusion sure to ensue from such a plan is manifest. Nor is there any reason to suppose that any Presidential prerogative is made dependent upon the nonaction of Congress. If there is a word in the Constitution justifying the assertion that the President has the right to recognize independence until Congress sees fit to act, and that then his power ceases, it has not been pointed out. The Presidential power in this respect has been exercised during recess and when Congress was in session, and has never been successfully combated.

By affixing his signature to an act or a treaty containing such phrase, the President does not effect any change in the Constitution. He can not take constitutional power in virtue of any clause of an act of Congress; nor can he so surrender it. The constitutional power of each of the three great departments of the Government, respectively, belongs to the offices, not the officers, and can not, by any act or words of theirs, be withdrawn from the permanent and pervading authority of the Constitution. (7 Op. Atty. Gen. (Cushing), 276.)

Said Attorney-General Black (9 Op. Atty. Gen., 468–469):

As Commander-in-Chief of the Army it is your (the President's) own judgment what officer shall perform any particular duty, and as the supreme executive magistrate you have the power of appointment. Congress could not, if it would, take away from the President, or in any wise diminish, the authority conferred upon him by the Constitution. * * * If Congress had really intended to make him independent of you, that purpose could not be accomplished in this indirect manner any more than if it was attempted directly. Congress is vested with legislative power; the authority of the President is executive. Neither has a right to interfere with the functions of the other.

Whether the powers conferred upon Congress are more important than those devolving upon the President it is immaterial to inquire. It may be assumed for the sake of argument that the greater responsibility rests upon the former. It is, nevertheless, true that the failure on the part of the President to exercise those functions which pertain to his office and which are not permitted to Congress, can not result in an investiture of authority in the legislative department; nor is it correct to say that the framers of the Constitution intended to subordinate the Executive to the Congressional will in cases other than those where such intention is plainly announced.

In considering the President, Hamilton said (The Federalist, No. 73, page 546):

The propensity of the legislative department to intrude upon the rights and to absorb the powers of the other departments has been already more than once suggested; the insufficiency of a mere parchment delineation of the boundaries of each has also been remarked; and the necessity of furnishing each with constitutional arms for its own defense has been inferred and proved.

In further discussing the reasons for the conferring of authority upon the President, Mr. Hamilton continues (page 547):

The propriety of the thing does not turn upon the supposition of special wisdom or virtue in the Executive, but upon the supposition that the legislative will not be infallible; that the love of power may sometimes betray it into a disposition to encroach upon the rights of the other members of the Government; that the spirit of faction may sometimes prevent its deliberations; that impressions of the moment may sometimes hurry it into measures which its own mature reflection would condemn.

Examples of this kind are, as we all know, of frequent occurrence. These expressions were used with reference to the veto power, but demonstrate that the legislative department was not regarded as constituting an errorless tribunal.

The same view of the subject has been taken by constitutional writers since that time. Justice Miller, in his Lectures on Constitutional Law, page 94, mentions the fear which was entertained with reference to the powers of the executive, and in commenting thereon he says:

This belief, though natural enough at that time, was a very great mistake. The nearer we approach to individual responsibility in the executive, the nearer will it come to perfection. It is my deliberate opinion that of all the three branches which have been discussed, the executive has been in time, under the construction given to the Federal Constitution and its practical administration, most shorn of the powers granted to it thereby. * * * But the branch of the Government which has grown the most, and which a sagacious man might, perhaps, have foreseen would so expand, is the legislative.

Justice Miller also says (Lectures, page 157):

The experience of a century of the operations of the Government has shown that while the growth of the country in territory, in population, in wealth, and in power has added largely to the patronage of the Executive in the way of appointments to office and to the importance of those offices, and while the frequent accession of successful and popular military chiefs to the Presidency, some of whom were men of arbitrary disposition, and well inclined to the exercise of all the power which the Constitution gave them, and who have shown in every instance a disposition for a continuance in power by seeking or accepting a reelection, there has never been the slightest danger to the liberties of the country, or of an overthrow of the existing institutions, or of any material infraction of the general principles of constitutional government from this quarter. In fact, of all the three branches of the constitutional government of the United States, the executive has been the most crippled, confined, and limited in its practical use, during the period mentioned, of the power really conferred on it.

See also Story on the Constitution, section 1570.

These comments, it is submitted, are sufficient to justify the statement that the powers delegated to the Executive by the organic law are not, in the event of his neglect to exercise the same, vested in any other department of the Government. It is true that impeachment can scarcely be called a remedy, but it is likewise true that the power to impeach is a deterrent, and the responsibility of the President to the people and the authority vested in Congress to impeach him constitute ample security against maladministration. To assume that it is necessary or that it would be proper to otherwise limit the authority of the Chief Magistrate is to insinuate that the system under which we are operating is a failure, and that the people can not find within their midst a man to whom the discharge of the obligations of the Chief Magistracy can be safely confided. I will hereafter discuss the relative fitness of the Executive and Congress to deal with diplomatic questions.

During the convention Mr. Morris remarked, in response to a suggestion by Mr. Madison, who favored the trial of the President on impeachment proceedings by the Supreme Court, that he thought no other tribunal than the Senate could be trusted. The Supreme Court were too few in number, and might be warped or corrupted. He was against a dependence of the Executive on the Legislature, considering the legislative tyranny the great danger to be apprehended; but there could be no danger that the Senate would say untruly, on their oaths, that the President was guilty of crimes or facts, especially as in four years he can be turned out.

Those who are curious with reference to this interesting portion of the discussion can find it in 5 Elliott's Debates, page 528.

It is evident that these great men deduced from their impartial study of the question the conclusion that it was necessary to guard against legislative usurpation.

THE RIGHT TO RECOGNIZE THE INDEPENDENCE OR BELLIGERENCY OF A FOREIGN GOVERNMENT IS VESTED EXCLUSIVELY IN THE EXECUTIVE.

I understand that it is generally conceded that the President has the power to recognize belligerency and independence, but it is claimed that this power is not exclusive, and that it is subject to the paramount authority of Congress. However, suggestions have been made to the effect that the Executive does not possess the power at all; that it is purely legislative. I will therefore first consider the subject in that aspect, and if I can show that the power does exist in the Executive, its exclusive character must, I think, be admitted.

It appears to me that if the President has the authority at all, such authority must be exclusive. I can not conceive, as already intimated, that there can be a concurrent delegation of the power to recognize to both Congress and the Executive, and it seems to me clearly untenable to assert that while the President may, if Congress remains passive, recognize belligerency or independence, nevertheless his action can be neutralized or reversed by act of the legislative department. But I will examine this branch of the subject as the argument progresses.

Among Presidential duties is that which authorizes the reception of ambassadors and other public ministers.

Judge Story, perhaps the ablest commentator upon the Constitution, treats this section as follows:

SEC. 1565. The next power is to receive ambassadors and other public ministers. This has been already incidentally touched. A similar power existed under the confederation; but it was confined to receiving "ambassadors," which word, in a strict sense (as has been already stated), comprehends the highest grade only of ministers, and not those of an inferior character. The policy of the United States would ordinarily prefer the employment of the inferior grades; and therefore the description is properly enlarged, so as to include all classes of ministers. Why the receiving of consuls was not also expressly mentioned, as the appointment of them is in the preceding clause, is not easily to be accounted for, especially as the defect of the confederation on this head was fully understood. The power, however, may be fairly inferred from

other parts of the Constitution; and, indeed, seems a general incident to the executive authority. It has constantly been exercised without objection; and foreign consuls have never been allowed to discharge any functions of office until they have received the exequatur of the President. Consuls, indeed, are not diplomatic functionaries or political representatives of a foreign nation, but are treated in the character of mere commercial agents.

SEC. 1566. The power to receive ambassadors and ministers is always an important and sometimes a very delicate function, since it constitutes the only accredited medium through which negotiations and friendly relations are ordinarily carried on with foreign powers. A government may, in its discretion, lawfully refuse to receive an ambassador or other minister without its affording any just cause of war. But it would generally be deemed an unfriendly act, and might provoke hostilities unless accompanied by conciliatory explanations. A refusal is sometimes made on the ground of the bad character of the minister, or his former offensive conduct, or of the special subject of the embassy not being proper or convenient for discussion. This, however, is rarely done. But a much more delicate occasion is when a civil war breaks out in a nation, and two nations are formed, or two parties in the same nation, each claiming the sovereignty of the whole, and the contest remains as yet undecided, flagrante bello. In such a case a neutral nation may very properly withhold its recognition of the supremacy of either party or of the existence of two independent nations, and on that account refuse to receive an ambassador from either. It is obvious that in such cases the simple acknowledgment of the minister of either party or nation might be deemed taking part against the other, and thus as affording a strong countenance or opposition to rebellion and civil dismemberment. On this account, nations placed in such a predicament have not hesitated sometimes to declare war against neutrals as interposing in the war, and have made them the victims of their vengeance when they have been anxious to assume a neutral position. The exercise of this prerogative of acknowledging new nations or ministers is therefore, under such circumstances, an executive function of great delicacy, which requires the utmost caution and deliberation. If the Executive receives an ambassador or other minister as the representative of a new nation, or of a party in a civil war in an old nation, it is an acknowledgment of the sovereign authority de facto of such new nation or party. If such recognition is made, it is conclusive upon the nation, unless, indeed, it can be reversed by an act of Congress repudiating it. If, on the other hand, such recognition has been refused by the Executive, it is said that Congress may, notwithstanding, solemnly acknowledge the sovereignty of the nation or party. These, however, are propositions which have hitherto remained as abstract statements under the Constitution, and therefore can be propounded, not as absolutely true, but as still open to discussion if they should ever arise in the course of our foreign diplomacy. The Constitution has expressly invested the Executive with power to receive ambassadors and other ministers. It has not expressly invested Congress with the power either to repudiate or acknowledge them. At all events, in the case of a revolution or dismemberment of a nation, the judiciary can not take notice of any new government or sovereignty until it has been duly recognized by some other department of the Government to whom the power is constitutionally confided.

SEC. 1567. That a power so extensive in its reach over our foreign relations could not be properly conferred on any other than the executive department will admit of little doubt. That it should be exclusively confided to that department, without any participation of the Senate in the functions (that body being conjointly intrusted with the treaty-making power), is not so obvious. Probably the circumstance that in all foreign governments the power was exclusively confided to the executive department, and the utter impracticability of keeping the Senate constantly in session, and the suddenness of the emergencies which might require the action of the Government, conduced to the establishment of the authority in its present form.

Plainly indicating that it was the view of that distinguished jurist that the Constitution had vested this authority not temporarily, not during a recess of Congress, but permanently and exclusively in the executive department. He continues:

It is not, indeed, a power likely to be abused, though it is pregnant with consequences often involving the question of peace or war. And in our own short experience the revolutions in France and the revolutions in South America have already placed us in situations to feel its critical character and the necessity of having at the head of the Government an Executive of sober judgment, enlightened views, and firm and exalted patriotism.

SEC. 1568. As incidents to the power to receive ambassadors and foreign ministers, the President is understood to possess the power to refuse them, and to dismiss those who, having been received, become obnoxious to censure, or unfit to be allowed the privilege by their improper conduct, or by political events. While, however, they are permitted to remain as public functionaries, they are entitled to all the immunities and rights which the law of nations has provided at once for their dignity, their independence, and their inviolability.

In a note to Judge Story's work we find the following:

NOTE 1.—It is surprising that The Federalist should have treated the power of receiving ambassadors and other public ministers as an Executive function of little intrinsic importance. Its language is, "This, though it has been a rich theme of declamation, is more a matter of dignity than of authority. It is a circumstance which will be without consequence in the administration of the Government. And it was far more convenient that it should be arranged in this manner than that there should be a necessity of convening the Legislature, or one of its branches, upon every arrival of a foreign minister, though it were merely to take the place of a departed predecessor.—*The Federalist*, No. 69, page 421.

It is perhaps fair, let me observe, to assume that the attack made upon this provision did not arrest great attention. The avowed purpose of The Federalist was to discuss only objections made by the opponents of the proposed plan, which seemed to be serious. The failure to regard this provision as of vital import was not astonishing because of the absence of circumstances which eventuated in later years. That The Federalist was not always conclusive, appears by reference to No. 77, where it is expressly stated that the President possesses the power to remove officers only by or with the advice and consent of the Senate—a misconception long indulged in. (See 5 Op. Atty. Gen. (Crittenden), 290, 291.)

Judge Story, in that portion of the commentaries to which I have alluded, says:

If, on the other hand, such recognition has been refused by the Executive, it is said that Congress may, notwithstanding, solemnly acknowledge the sovereignty of a nation or party.

It will be noted that the learned commentator does not adopt this opinion, but the authority to which he refers is Rawle on the Constitution, chapter 20, pages 195, 196. Mr. Rawle published his commentaries in 1825. Although his work was exceedingly valuable, yet some of his conclusions were found to be untenable, and the book has practically passed out of print. It is not easy to discover where Mr. Rawle found the authority for his statement, and his contention is successfully combated by Judge Story, not only in the comments which I have read, but in a decision by that great jurist to which I will in a moment allude. Judge Story's work was published in 1833, and afterwards, and while he was an associate justice of the Supreme Court of the United States, he rendered the decision in Williams *vs.* The Suffolk Insurance Company (3 Sumner, 272 et seq.). He there said:

The Government of Buenos Ayres insists that the Falkland Islands constitute a part of the dominions within its sovereignty, and, consequently, that it has the sole jurisdiction to regulate and prohibit the seal fishery at those islands, and to punish any violation of its laws by a confiscation of the vessels and property engaged therein. On the other hand, the American Government insists that the Falkland Islands do not constitute any part of the dominions within the sovereignty of Buenos Ayres; and that the seal fishery at those islands is a trade free and lawful to the citizens of the United States, and beyond the competency of the Buenos Ayres Government to regulate, prohibit, or punish. The controversy is still undisposed of by the two Governments, each maintaining its own claims and pretensions, and neither admitting the claims or pretensions of the other. In this state of the diplomacy between the two countries, while the whole matter is in contestation between them, or, as we may say, flagrante lite, the question is whether it is competent for this court to reexamine and decide, in its judicial capacity, upon the claims and pretensions of the two Governments, and thus to interpose its positive umpirage to settle the matters in dispute, at least to the extent required for the proper adjudication of the cases now before it.

It will be noted the issue was clearly presented. The material, the vital, the relevant issue was whether the islands named belonged or did not belong within a certain jurisdiction, and therein was involved the other question as to whether a determination had been legally reached upon that subject. He continues:

My judgment is that this court possesses no such authority, and that it is bound up by the doctrines and claims insisted on by its own government, and that it must take them to be rightful until the contrary is established by some formal and authorized action of that government.

Now, let us see how the "government" alluded to manifested its decision.

I wish to direct the attention of the Senate particularly to this judicial announcement:

It is very clear, that it belongs exclusively to the executive department of our Government to recognize, from time to time, any new governments which "may arise in the political revolutions of the world; and until such new governments are so recognized, they can not be admitted by our courts of justice to have or to exercise the common rights and prerogatives of sovereignty."

Mr. President, here is a decision handed down in 1838, which clearly announces the doctrine for which the present Secretary of State, Mr. Olney, contends, and which has been lately condemned as revolutionary. Here it is announced from the bench by one of the ablest jurists who ever presided over a court, clearly and positively, that the power to recognize is not only vested in the Executive, but that such an investiture is exclusive.

The Supreme Court of the United States affirmed the judgment in Williams *vs.* The Suffolk Insurance Company (13 Peters, 420), using this language:

And can there be any doubt that when the executive branch of the Government, which is charged with our foreign relations, shall in its correspondence with a foreign nation assume a fact in regard to the sovereignty of any island or country, it is conclusive on the judicial department? And in this view it is not material to inquire, nor is it the province of the court to determine, whether the Executive be right or wrong. It is enough to know that in the exercise of his constitutional functions he has decided the question. Having done this under the responsibilities which belong to him, it is obligatory on the people and Government of the Union.

If this were not the rule, cases might often arise in which, on the most important questions of foreign jurisdiction, there would be an irreconcilable difference between the executive and judicial departments. By one of these departments a foreign island or country might be considered as at peace with the United States, whilst the other would consider it in a state of war. No well-regulated government has ever sanctioned a principle so unwise and so destructive of national character.

And yet, Mr. President, we have heard it asserted again and again that this doctrine of the Supreme Court of the United States—the declared judgment of the highest judicial tribunal known to our law, promulgated many years ago—is unprecedented. It has been even intimated that the Secretary of State who proclaimed it risked impeachment. Perhaps it may be a crime to declare the law. It is clear that the Supreme Court believed that the President in recognizing independence on his own responsibility did so "in the exercise of his constitutional functions."

I know that it was said by the distinguished Senator from Georgia [Mr. BACON] that those portions of these decisions which relate to Executive jurisdiction are obiter dicta. It may be that it was unnecessary to decide whether or not the Executive authority was exclusive; but it is plain that the jurisdiction of the Executive to effectively recognize independence was a material issue absolutely necessary to the decision of the case. These authorities are conclusive of the existence of Executive control if the Supreme Court has any jurisdiction to settle such questions. If the Executive, without Congress, can not recognize, then the basis of the court's decision drops out.

My object in citing this case is to disclose the views entertained

by Judge Story and his associates. That jurist had considered the subject in his commentaries, as I have shown, and hence his attention had been specially directed to the matter, and he had also in mind Mr. Rawle's view already referred to, and upon which he had commented, and, taking the expressions contained in the commentaries and those found in the decision in 3 Sumner above mentioned, it is obvious that it was the carefully thought-out opinion of Judge Story that the authority to recognize was exclusively in the Executive.

I have had occasion to consider this topic to some extent when resolutions advising a recognition of belligerency were before the Senate, and I then referred to several adjudications, and I shall take the liberty of again citing some of them in brief.

In 2 Black, 670, I find the following:

Whether the President, in fulfilling his duties as commander-in-chief in suppressing an insurrection, has met with such armed hostile resistance and a civil war of such alarming proportions as will compel him to accord to them the character of belligerents, is a question to be decided by him, and this court must be governed by the decisions and acts of the political department of the Government, to which this power was intrusted. He must determine what degree of force the crisis demands.

It is plain that it was the opinion of the Supreme Court that the President was authorized and was the proper party to find the facts as to belligerency. It is true that the conflict involved was domestic, but the citation is nevertheless relevant. It will be noted that "political department" is used as synonymous with "executive department." Judge Story evidently thought that the word "government" was used as equivalent to "executive department" in Gelston *vs.* Hoyt (3 Wheat., 324), because that case is referred to by him in Williams *vs.* Suffolk Insurance Company as upholding the jurisdiction in the President to proclaim belligerency.

In Kennett *vs.* Chambers (14 How., 50, 51), Chief Justice Taney said:

It is not necessary in the case before us to decide how far the judicial tribunals of the United States would enforce a contract like this, when two States, acknowledged to be independent, were at war and this country neutral. It is a sufficient answer to the argument to say that the question whether Texas had or had not at that time become an independent State was a question for that department of our Government exclusively which is charged with our foreign relations, and until the period when that department recognized it as an independent State, the judicial tribunals of the country were bound to consider the old order of things as having continued and to regard Texas as a part of the Mexican territory.

In alluding to the constitutional power, or rather to the power of the President derived from the Constitution with reference to our foreign relations, I beg leave to quote from Chancellor Kent. Said that very able man:

The President is the constitutional organ of communication with foreign powers.

It was evidently the view of that able jurist that the Presidential duty in this respect was not derived from any statute and did not depend upon the will of Congress.

Again he says:

The power of receiving foreign ministers includes in it the power to dismiss them, since he (the President) alone is the organ of communication with them, the representative of the people—

Not the representative of Congress, but "the representative of the people"—

in all diplomatic negotiations, and accountable to the community not only for the execution of the law, but for competent qualifications and conduct of foreign agents.

It is to be noted that according to this statement the President is the representative of the people in all diplomatic negotiations, and he is said to be accountable to the community. There is no intimation that he is accountable to Congress in this regard. He derives the authority from a higher source, from the people. He rests upon the consent of the governed, as evidenced by the Constitution.

During the recent Chilean difficulty it was held by the district court of the United States for the southern district of California as follows:

It is beyond question that the status of the people composing the Congressional party at the time of the commission of the alleged offense is to be regarded by the court as it was then regarded by the political or executive department of the United States. This doctrine is firmly established. (U. S. *vs.* Trumbull, 49 Fed., 99, 104.)

And in the Itata case (56 Fed., 510) Judge Hawley, speaking for the circuit court of appeals, said:

The law is well settled that it is the duty of the courts to regard the status of the Congressional party in the same light as they were regarded by the executive department of the United States at the time the alleged offenses were committed.

It thus appears that whenever our courts have been called on to solve an issue which depends upon the existence or nonexistence of a nation they have turned uniformly to the executive, and have accepted the determination of that department as conclusive and binding upon them. Can it be, Mr. President, that this jurisdiction thus affirmed by our judiciary and announced for years and years by all the departments of our Government rests pro hâc vice only in the Executive, and that his authority is of such flimsy tenure that it is subject to Congress; that he is possessed of the power to recognize only when Congress does not see fit to withdraw it from him? Is there any scheme in the organic law for an appeal from Executive action in this matter? Either the power to recognize is vested in the Executive or it is not. If the right is conceded, then, in the absence of any constitutional limitation, it must, I assert, be exclusive. That he does not derive it from any act of Congress is obvious, for no one has pointed to an act of Congress presuming or pretending to give him any such right.

I have said, Mr. President, in line, as I take it, with the authorities on which I have been commenting and to which I have attempted to attract the attention of the Senate, that if it be conceded that the Executive has the power to recognize independence, then, unless there can be pointed out in the Constitution some limitation of that power, some appellate jurisdiction in Congress, some restriction upon it, something justifying the conclusion that in the absence of Presidential exercise of that authority it may be assumed by Congress, the conclusion inevitably follows that the Presidential prerogative is attached to that office only, and that the President either derives his authority from the Constitution or he does not possess it at all. It further appears evident that if the Executive may recognize independence, the debate is at an end as to the point now considered, and the position of the Secretary of State is justified.

Mr. Wharton, whose abilities as a lawyer and as an author and whose researches into matters pertaining to international affairs earned for him high reputation throughout the civilized world, compiled a digest on the international law of the United States, pursuant to authority given by Congress and under the Congressional eye, and this work comes nearer constituting an accepted American text-book upon this subject than any other treatise. In discussing this subject, he heads the section with reference to belligerency as follows: "Such recognition (i. e.), belligerency determinable by Executive," and he cites with apparent approval a statement of Secretary Seward in his letter to Mr. Dayton, wherein it is said:

It is, however, another and distinct question whether the United States would think it necessary or proper to express themselves in the form adopted by the House of Representatives. This is a practically and purely executive question, and the decision of it constitutionally belongs not to the House of Representatives, nor even to Congress, but to the President of the United States.

He was discussing at that time a proceeding in the House of Representatives touching the recognition of the alleged newly formed Government of Mexico, pertaining to a protest made by the House of Representatives, wherein they affirmed their hostility to the encroachments of monarchic powers within the confines of a sister republic. Mr. Seward thus asserted jurisdiction—exclusive jurisdiction—in the Executive, and in so doing he followed the line of precedents heretofore mentioned, and from which the State Department has deduced a uniform rule of conduct, and has regarded the claim of exclusive right in the Executive as based upon the correct interpretation of the Constitution.

While the Executive has rarely, as in the case of President Jackson in the Texas matter, sought the advice of Congress as to such issues, this advice has never been asked as signifying a doubt of the executive claim, or an assertion that the jurisdiction rested elsewhere than in the Executive. The opinion of Congress has been solicited merely in an advisory way. Congress often seeks to advise without being requested so to do, and may, I presume, when solicited, contribute the notions of its members. The value of such advice is quite another thing. No legal force can be affirmed of it.

A question touching this topic was passed on by Chief Justice Marshall in United States *vs.* Hutchings (2 Wheeler Crim. Cases, 546). The opinion of that able jurist is thus given by the reporter:

The court decided that the commissions shall go to the jury merely as papers found on board the vessel; but on the main question the court was of opinion that a nation became independent from its declaration of independence only as respects its own government and the various departments thereof; that before it could be considered independent by the judiciary of foreign nations it was necessary that its independence should be recognized by the executive authority of those nations; that as our Executive had never recognized the independence of Buenos Ayres, it was not competent to the court to pronounce its independence.

It may be argued that here again the court's conclusion is obiter dictum, but it was material whether the country in question had been acknowledged to be independent, and the judgment of the Chief Justice that that acknowledgment should be by the Executive contains his opinion as to the character of recognition which must take place before the fact can be judicially assumed. The concurrence of opinion between Marshall, Story, and Taney, and other able jurists quoted, ought certainly be sufficient to relieve the Secretary of State from the charge of advancing a new and absurd claim—an accusation, it may be noted, which has been flippantly urged by some of the most widely circulated newspapers in the country and by persons in official position who ought to know better. It sometimes happens that an unfriendly feeling toward an individual or an officer begets ill-advised comment.

In The Ambrose Light (25 Fed., 443), Judge Brown says:

The additional facts proved show, however, such a subsequent implied recognition by our Government of the insurgent forces as a government de facto in a state of war with Colombia and entitled to belligerent rights as should prevent the condemnation of the vessel as prize. A communication from the Department of State to the Colombian minister, bearing date the day of the seizure, seems to me to constitute such a recognition by necessary implication.

Here, therefore, the court not only conceded the right of the President to recognize belligerency, but even held that such recognition was accomplished unintentionally by an executive communication. The action of the Executive, so taken and not designed to recognize belligerency, nevertheless fixed the legal status of this vessel, and justified a judgment against the Government and relieved the vessel from condemnation as prize.

The point determined was obviously material. I am aware that it has been said here, I believe without too much consideration, that we are not bound by the decisions of the courts. In one sense this may be true. As far as voting is concerned, we are scarcely bound by anything. When our names are called, we may vote as we please. But if we can not accept the construction placed upon the organic law for many, many years, for three or four generations, by our ablest judges, we are certainly inconsistent with the attitude which some of us assume in criticising the Supreme Court because it has lately changed its opinion as to certain propositions.

Mr. Blaine, May 9, 1881, in a letter to Minister Christiancy, said:

If the Calderon Government is supported by the character and intelligence of Peru, and is really endeavoring to restore constitutional government, with a view both to order within and negotiation with Chile for peace, you may recognize it as the existing provisional government and render what aid you can by advice and good offices to that end. Mr. Elmore has been received by me as the confidential agent of such provisional government.

As has already been remarked, it is well settled in diplomacy that the reception of a minister or agent vested with diplomatic functions is a recognition of the existence of the government which has sent the envoy here. Mr. Blaine did not consider it necessary to consult Congress upon this subject. He acted upon the theory that Congress had no authority in the premises.

President Arthur, in his third annual message (1883), in speaking of the difficulties between Chile and Peru, and especially with reference to the uncertain nature of the government of the last-named country, said:

Meanwhile the provisional government of General Iglesias has applied for recognition to the principal powers of America and Europe. If the will of the Peruvian people would be manifested, I shall not hesitate to recognize the government approved by them.

In the message thus sent by President Arthur to the Congress of the United States, and regarding which no unfavorable comment has ever been made here or elsewhere, he wrote, "I shall not hesitate to recognize," etc. President Arthur used the personal pronoun, and seemed to have no doubt of his right to completely recognize independence when, in his official judgment, the occasion might arise.

Can there be such a thing as incomplete recognition of the independence of a government resulting from the declaration of the President seeking to directly recognize it? If the President of the United States to-day receives a minister from the alleged Republic of Cuba, would there be any doubt that that formal reception of the minister would be conclusive of the fact that the new government had been recognized as an independent state?

When Dom Pedro relinquished his claim to the Brazilian throne, President Harrison acted promptly, and in his message to Congress (Foreign Relations 1890, page 4) he says:

Toward the end of the past year the only independent monarchical government on the Western Continent, that of Brazil, ceased to exist, and was succeeded by a republic. Diplomatic relations were at once established with the new government, but it was not completely recognized—

Mark the phrase—

until an opportunity had been afforded to ascertain that it had popular approval and support. When the course of events had yielded assurance of this fact, no time was lost in extending to the new government a full and cordial welcome into the family of American commonwealths.

Mark the phrases "completely recognized," "full * * * welcome into the family of American commonwealths." Is a "complete" or "full" recognition subject to Congressional reversal? Here, therefore, is another Presidential communication to Congress, directly stating that the Executive not only recognized the Brazilian Government, but that he has left nothing to be done to complete the acknowledgement. No one has challenged the efficacy of that recognition, and I again ask, Will anyone say that Congress might have risen in its constitutional might and, by the passage of a resolution, made void that which the President made complete?

On December 9, 1891, President Harrison, in a message to Congress, stated that which I shall read. These communications were not confidential; they were notoriously made. The country knew all about them. They were printed as Congressional documents, and placed upon the desks of Senators and Representatives, and constitute a portion of the history of this Union. President Harrison said:

The civil war in Chile, which began in January last, was continued, but fortunately with infrequent and not important armed collisions, until August 28, when the Congressional forces landed near Valparaiso and, after a bloody engagement, captured that city. President Balmaceda at once recognized that his cause was lost, and a provisional government was speedily established by the victorious party. Our minister was promptly directed to recognize and put himself in communication with this government so soon as it should have established its de facto character, which was done.

Hence the President, without consulting Congress, without asking for the approval of Congress, without seeking the ratification of his act, without submitting to any further scrutiny than every communication upon the state of the Union must have in this and the other body, sent instructions to Chile, to the American minister, directing him, in virtue of the Executive authority, to recognize the changed condition.

He also recognized the new Government of the Hawaiian Islands under circumstances which were, to say the least, novel. His ability to do this was never doubted, though the wisdom of its exercise was questioned.

The references which I have thus made evince the uniform and unchallenged assertion of Executive jurisdiction, and whatever may be the true construction of the Constitution, the power asserted was complete, absolute, and effective. No action of Congress was needed to ratify or approve. If there is any Congressional power to repudiate such recognition, it can be found nowhere in the Constitution, but is based upon the notion that Congress has powers not granted, and has the right to draw to itself all functions not accorded to or exercised by the other Departments, a contention absolutely in conflict with that organic provision which reserves to the people the powers not granted.

The exclusive right of the Executive has been maintained in almost every instance, the exceptions being where the Executive thought it well to consult Congress, as did President Jackson in the Texas case. But even there he did not relinquish or doubt his authority.

Mr. President, we are apt to confuse the true interpretation of our duty with the result toward which our inclinations point. When we seek to reach a desirable end, or when we find an independent officer exercising his authority in a manner differing from our ideas of propriety, we are too apt to seek to extend the limits of our domain and to interfere with subjects intrusted by law to other hands. Hence it is that legislators differing from the Executive endeavor to defend their criticisms by assuming unwarranted jurisdiction.

The exclusive right of the Executive has been maintained, as I have said, in almost every instance. President Jackson did not recognize the jurisdiction of Congress to do anything more than to advise. He was willing to act upon such advice, not because it was necessary for him to do so, but because in the discharge of his Executive power he thought it better to do so. Nor is there anything in the resolution which was passed by Congress at that time assuming any greater authority or power than the giving of advice. There are expressions to be found, notably in remarks by Mr. Clay, not altogether consistent, I may say, upon this subject, indicating to some extent that he believed Congress had authority in the premises. We have had such claims of power here, but we have no case where Congress has ousted Executive jurisdiction, or where the proclamation of the Executive upon this subject has ever been repudiated. It seems to me a most peculiar view to assert that there is jurisdiction here not only to upset that which has been done, but to perform acts which it is thought ought to have been performed, but which the Executive has declined to do, and which the Constitution provides, if done at all, shall be done by the President.

In the memorandum upon the power to recognize the independence of a new foreign state (Senate Document No. 56, Fifty-fourth Congress, second session) a large number of authorities are collated which it is unnecessary to review here. The references to the debates concerning the South American revolutions are quite interesting as demonstrating that at that very early date it was generally conceded that the jurisdiction was with the Executive.

Volume 4, page 71, Memoirs, John Quincy Adams, we find that that statesman has made the following entry with reference to a conversation with Mr. Monroe:

The President told me that last evening a member of the Senate came to him and asked him if at the Cabinet meetings before the commencement of the session of Congress the determination was taken not to acknowledge the Government of Buenos Ayres, professedly to the end that Congress might take the lead in this measure. And this was now inquired obviously with a view to justify the present conduct of Mr. Clay. The President answered that at that time the questions were proposed whether the Executive was competent to acknowledge the independence of Buenos Ayres, and, if so, whether it was expedient; that it had been concluded the Executive was competent; but that it was not expedient to take the step without the certainty of being supported in it by the public opinion, which, if decidedly favorable to the measure, would be manifested by measures of Congress. Mr. Monroe added if Mr. Clay had taken the ground that the Executive had gone as far as he could go with propriety toward the acknowledgment of the South Americans, that he was well disposed to go further, if such were the feeling

of the nation and of Congress, and had made his motion with that view, to ascertain the real sentiments of Congress, it might have been in perfect harmony with the Executive. But between that and the angry, acrimonious course pursued by Mr. Clay there was a wide difference.

This plainly shows that Mr. Monroe himself believed that the power to recognize is in the President, but he was not averse to consulting those whose right to nullify his acts he denied. But he made no intimation that there was any question as to the exclusiveness of Presidential jurisdiction.

He spoke also, as shown by these quoted remarks, of public opinion. He was naturally anxious to discover the sentiments of the people, though he did not design sacrificing his constitutional power or abdicating any of his constitutional privileges, whatever might be the opinion either of Congress or of the people. He recognized unquestionably that as the servant of the people it was his duty to maintain the laws which had been provided for his guidance, and which he must follow until the people in their sovereign capacity established a different system.

On page 204 of the same memoirs we find the following:

My draft of a dispatch to R. Rush was read. They were all startled at the paragraph announcing it as the President's intention at no remote period to recognize the Government of Buenos Ayres.

The whole conversation, everything that was said—and the remarks are set forth at some length in his memoirs—goes to show that the people, that the Congress, all interested, were anticipating the decision of the Executive upon the matter then pending. That Mr. Monroe asserted the jurisdiction in himself, and that he intended to see that it remained where the Constitution had placed it, no one can deny.

The following significant expressions appear in the same diary, on page 205:

Mr. Crawford now said that if the acknowledgment was to take place, he should prefer making it in another form, not by granting an "exequatur" to a consul, but by sending a minister there; because the Senate must then act upon the nomination, which would give their sanction to the measure. Mr. Wirt added that the House of Representatives must also concur by assenting to an act of appropriation. And the President, laughing, said that as those bodies had the power of impeachment over us, it would be quite convenient to have them thus pledged beforehand.

I said my impressions were altogether different. I would make the acknowledgment as simple and unostentatious as possible, with as little change in the actual state of things as could be. I thought it not consistent with our national dignity to be the first in sending a minister to a new power. It had not been done by any European power to ourselves. If an exchange of ministers was to take place, the first should come from them. As to impeachment, I was willing to take my share of risk of it for this measure whenever the Executive should deem it proper. And instead of admitting the Senate or House of Representatives to any share in the act of recognition, I would expressly avoid that form of doing it which would require the concurrence of those bodies. It was, I had no doubt, by our Constitution an act of the Executive authority. General Washington had exercised it in recognizing the French Republic by the reception of Mr. Genêt. Mr. Madison had exercised it by declining for several years to receive, and by finally receiving, Mr. Onis; and in this instance I thought the Executive ought carefully to preserve entire the authority given him by the Constitution, and not weaken it by setting the precedent of making either House of Congress a party to an act which it was his exclusive right and duty to perform.

Crawford said he did not think there was anything in the objection to sending a minister on the score of national dignity, and that there was a difference between the recognition of a change of government in a nation already acknowledged as sovereign and the recognition of a new nation itself. He did not however deny, but admitted, that the recognition was strictly within the powers of the Executive alone, and I did not press the discussion further.

Therefore not only did the Secretary of State in that discussion, and not only did other members of the Cabinet concede and hold the existence of this exclusive power in the President, but the President himself, while believing it to be wise to obtain the approval of Congress, so believed only because of the Congressional power to appropriate and for the reason that he wished that matters should proceed without friction. No intimation is contained at any place in this discussion or in the detailed report of what occurred at that time to warrant any doubt that Mr. Monroe himself held the same views now entertained by Mr. Cleveland and Mr. Olney.

Mr. HOAR. Will the Senator from California allow me?

Mr. WHITE. I yield to the Senator from Massachusetts.

Mr. HOAR. I should like to ask the Senator from California if he does not agree that a declaration of war against a foreign district or country is a recognition of it as a sovereign power?

Mr. WHITE. Such a declaration is undoubtedly an assumption of the existence of a power against which war could be declared. This is certainly true.

Mr. HOAR. Suppose, for instance, Cuba had practically maintained her independence of Spain, Spain being utterly unable to help herself, and Cuba had committed hostile acts upon our commerce, is not the power in Congress to declare war with Cuba, as the power is in Congress to regulate commerce with Cuba, under such circumstances, with all the incidents that follow?

Mr. WHITE. Congress may declare war against a nation or it can regulate commerce with a nation. An act of Congress declaring war does not by its terms create independence or declare that status. The declaration assumes the status, however.

Mr. HOAR. So we could not have a treaty of peace?

Mr. WHITE. Well, we could have a treaty; I concede that. A treaty is initiated by the Executive, and the Senate advises and consents.

Mr. HOAR. The Senator will pardon me a moment. I do not want to interfere with his argument. I put this question in support of the conclusion to which I had myself arrived, which is, I think, the one which was in the thought of President Jackson, and perhaps would reconcile every expression which is to be found in our history.

It is very clear that this is an incident, however great or important it is. The power in the Executive is clearly incident to the power not merely to send ambassadors, but to invite the sending of ambassadors from abroad, as the Senator has so well shown, and I agree with the Senator that it is a power which necessarily must continue all the year round, and may be exercised on an hour's notice sometimes, and it can not be exercised by Congress for that reason. But it seems to me, with great respect, that while it is incident to the treaty-making power of which the President is a part, as the Senator said, it is also an incident of certain constitutional powers of Congress. Yet these powers never will be brought into conflict, although they may reside to a limited extent in both. But the question we are dealing with is not whether Congress may have it as incident to the power to regulate commerce, not whether Congress may have it as incident to the power to declare war, not whether Congress may have it as incident to its power of legislation over the conduct of American citizens, not as an incident or consequence; our question now is, Does it rest in Congress primarily and originally before any of these other constitutional things are done?

Now, I agree with the Senator that the very necessity of the case makes it an executive power, and an executive power alone, where nothing is to be done but recognition. So this is a very grave matter that we should not concede unless the Constitution requires it, that the power of recognizing a foreign country may sometimes be a necessary incident to some constitutional legislative power of Congress; and I hope that nothing will occur in this discussion on either side which will amount to a limitation or abridgment of that power. The Senator will pardon me for the interruption.

Mr. WHITE. It is true that the question to which I am immediately addressing myself is the attempt absolutely and directly by a joint resolution to recognize the independence of another government.

Mr. HOAR. As incident to nothing?

Mr. WHITE. Yes, sir; predicated upon nothing incidentally. The resolution directly deals with the subject. It is confined to that specific topic alone. I am not here to enter into a discussion as to the effect of indirect legislation which Congress may perhaps at some time see fit to enact in conflict with Executive view. It is always dangerous to seek the discussion of irrelevant subjects, or to attempt the adoption of rules to govern cases not yet presented.

As far as a declaration of war or a treaty of commerce are concerned, both presuppose the existence of nationality upon which the declaration or legislation may be operative, but whether in the exercise of our constitutional power of passing a bill regulating commerce, concurred in by the Executive, a peculiar collateral consequence may result, I do not propose at this hour to elaborately consider. Such a course would be foreign to the purpose I have at hand. I am endeavoring to show that, as far as the attempt to directly recognize a revolutionary organization goes, it is not within our sphere. Whether indirect action of Congress might result in the assumption of another national existence, it is not certain that such assumption could absolutely create a nation. But this is speculative. I do not believe that any such conflict of authority or peculiar combination of circumstances will ever be manifested. I could add that we might readily hold commercial relations with communities not constituting a nation. This Government has continued moving in the present channel for many years without, I think, any substantial deviation in practice from the course to which I have alluded.

I do not feel prepared to change our procedure now. The citations which I made from Mr. Adams's account of Mr. Monroe's statement are interesting, and are certainly sufficient to acquit the Executive or the Secretary of State from the charge of asserting anything new. The specific proposition contended for by the present Administration is that in the case of Cuba Congress has not the power directly to declare independence, or even belligerency. I have stated that I believe that contention to be well founded, and I have sought to fortify my opinion by referring to precedent and to principle.

Mr. President, it is clear that the Constitution does not make it the duty of Congress, nor does it give to either House, the authority to receive ambassadors or ministers. This function is conferred upon the President only. It has been suggested that this delegation of authority amounts to nothing more than the enjoining of a duty to extend proper courtesies to diplomatic officers coming from abroad. With due respect, it appears to me

that this argument has nothing in reason to sustain it. Can we afford to urge that as important an instrument as the Constitution, upon which our governmental framework absolutely rests, is devoted to any extent or at all to a mere matter of etiquette? The duty which the President must perform under the organic law with relation to ambassadors and ministers is not merely to grasp their hands or to otherwise salute them in the most approved method of the day; nor is it exhausted or even exercised by giving invitations to receptions or dinners. It means more than this. As the Executive is granted the power to receive, so he is accorded the right to determine to whom such reception should be vouchsafed. He receives officially if he believes that the party presenting himself is not only individually the sort of a man who ought to be received, but he also is bound to determine whether he in fact represents a foreign power.

Necessarily this authority to determine is involved in the discharge of the duty to receive. When a person offering himself at the Executive Mansion claims that he is entitled to be received as a minister, the President, from the very nature of the case, is compelled to decide whether his pretensions are well founded, and in doing this he is bound to find on the issue as to whether the applicant represents a foreign power. Thus the alleged minister of the Cuban Republic seeks to meet the Executive; Mr. Cleveland refuses to receive him, because he declares that the minister does not represent a foreign power. Congress can not dictate to the President as to who he shall receive, for the simple reason that the duty to receive being constitutionally delegated to him, he must determine for himself whether a case has arisen calling for the exercise of that power. It is the duty of Congress to pass laws to govern the country, but it is within its sole discretion to enact or not to enact. If we refuse to appropriate a dollar for public purposes we might be and would be derelict, but no court could mandamus us, because Congress judges for itself as to whether a case has arisen calling for the exercise of its functions.

The President may act badly; indeed, his conduct may justify impeachment. So Congress may behave in an outrageous manner, and the people may be without any further remedy than that which is expressed at the polls. No scheme of government ever devised can insure ability and honesty upon the part of those intrusted with power, and there is no individual or officer to whom authority has been delegated who may not violate his obligations and work evil. But the accomplishment of such regrettable results is no argument against jurisdiction. It must be remembered that the existence of jurisdiction may well mean the power to do not only that which is right, but also that which is wrong.

Where is there a word in the organic law indicating preference for Congressional jurisdiction? The legislative limitations therein prescribed were suggested by ages of experience. Danger lurks in excited multitudes and appears in the consequences of uprisings and insurrections as well as in the remorseless mandates of kingly power. The fathers sought to guard against extremes. The delegation of authority to the Executive was designed to confer exclusive jurisdiction to the extent indicated. Concurrent jurisdiction in such a matter as this would be confusing and lead to perilous disputation. The power thus accorded is not and never will be subject to appeal. Congress must pass a bill over the Presidential veto, because the Constitution so declares; but Congress can not, by bill, modify or abrogate the Executive authority with reference to foreign relations, and especially with regard to receiving ambassadors and ministers. So also of the legislative and executive jurisdictions. Were it otherwise, the whole scheme would be a failure. If the legislative department is preferred, this means that the executive and judicial departments exist only in subordination to Congress, whose edicts are in fact supreme. This position is not only violative of the words of the Constitution, but in conflict with the often expressed intentions of the fathers. It has no support in our history. It is revolutionary, and destructive of that independence without which the Presidential office can never be properly exercised.

SOME OF THE DIFFICULTIES OF THE CONTRARY POSITION.

It is intimated that the President has the power to recognize, but it is said that this is only a conditional grant. It is limited in some mode. It exists now, and it may not exist to-morrow. This position I repudiate, for I find no direct grant to Congress justifying such a conclusion; nor does it appear to me that such authority is granted anywhere by implication, or is the necessary attendant of any authority specifically delegated. If the President recognizes the belligerency or independence of the Cuban Republic, can Congress repudiate such recognition? I take it that this is not possible. If the Presidential recognition of belligerency is valid in any case, in what case is it invalid? And if the President has authority to absolutely recognize independence in any case, is not that authority the result of discretion conferred upon him by the Constitution? And such discretion involves the ability to refuse as well as to grant, and if it is not competent for Congress to nullify Presidential recognition of belligerency or independence, can Congress render nugatory the decision of the President denying such recognition? I think that I have already shown that the framers of the Constitution were not engaged in the business of guarding Congress against the President, but that they felt the necessity of so organizing the Houses that they could not subordinate Presidential jurisdiction within allotted lines save in one mode, to wit, impeachment.

The plenary authority exercised by the President in foreign affairs is exemplified to some extent not only in receiving ministers, but even in providing for the exercise by foreign consuls of authority within the United States.

When the British consul at Charleston, at the beginning of the late civil war, acted in a manner contrary to the wishes of Mr. Lincoln and his Cabinet, the exequatur was revoked and Mr. Bunch's powers terminated. No consultation was had with Congress upon this subject. It is discretionary with the President to refuse an exequatur, although, as Mr. Blaine declared in his letter to Mr. Morgan, May 31, 1881 (1 Whar. Int. Law, page 765), the exercise of that undoubted right is an extreme one, rarely resorted to here.

Instances of the dismissal of ministers are numerous. We remember very clearly the action of Mr. Cleveland in demanding the recall of Minister West, owing to his correspondence with an alleged British subject called, for the time being, Murchison. No power was conferred by Congress upon the President, but he, having the right to control the matter, exercised his prerogative at his discretion.

In Schuyler's American Diplomacy, page 136, I find the following:

It may be mentioned here that our Government has never been slow to use its right in asking for the recall of, or of sending away, a foreign minister who becomes obnoxious. The recall of Mr. Genêt, the French minister, was asked in 1793; that of Mr. Jackson, the British minister, in 1809; that of Mr. Poussin, the French minister, in 1849; Mr. Crampton, the British minister, was given his passports in 1856; and intercourse ceased with Mr. Catacazy, the Russian minister, in 1871.

In all those cases the act was the act of the Executive; it was the result of Executive discretion; there was no participancy by the legislative department, and none claimed.

If Congress possesses the power to settle the question of belligerency or independence, it is clear that all sources of material information ought to be open to investigation and examination.

I beg leave to refer to remarks made by me on a former occasion touching this question:

There is another ground which appears to me very strong in support of the contention that the recognition power is lodged in the Executive. There is before the Senate a document which was read by the Senator from Alabama, and which I deem quite important. I refer to House Document 224 of the present session. I read a few lines for purposes of illustration:

"No. 2699.] CONSULATE-GENERAL OF THE UNITED STATES,
"*Habana, January 7, 1896.*

"SIR: With reference to the proclamation of the Captain-General of the 2d instant declaring a state of war to exist in the provinces of Habana and Pinar del Rio, copy and translation of which accompanied my dispatch No. 2695 of the 4th instant"—

At this point I find a note stating that the proclamation mentioned is not printed. From this I conclude that the omitted paper has not been revealed to Congress. No one appears to controvert this supposition. When the House adopted the resolution calling for this correspondence it did so in the following phraseology:

"*Resolved*, That the Secretary of State be directed to communicate to the House of Representatives, if not inconsistent with the public interests, copies of all correspondence relating to affairs in Cuba since February last."

The House passed the usual resolution in the regular form which custom authorizes. Manifestly information has been withheld—no doubt properly. Time out of mind, if I may use that expression with reference to this very modern Government, it has been the custom to withhold information, the disclosure of which the Executive deems incompatible with public interest. The document thus legitimately withheld may contain essential and controlling facts upon this subject. That it is important would seem to follow to some extent from the very circumstance that it is retained. Has the Executive the right to thus deny information? Our Chief Magistrates have always done so, pursuant to unchallenged custom and in compliance with recognized usage, evidenced by many hundred resolutions calling upon the Executive for diplomatic information. The President is not directed; he is merely requested, and always with the qualification which I have noted. The Executive right to withhold delicate diplomatic correspondence is incidental to the Presidential office. Can it be that the Constitution has placed upon Congress the burden of deciding and the duty to determine issues concerning belligerent or other relations to foreign powers and has not at the same time compelled the President to give us everything within his knowledge? Can it be that we are to pass upon a part of the case and not upon the whole? Can it be that under the law we are deprived of material evidence and yet are expected to render final and determinative judgment upon an imperfect record—a fraction of the aggregate proof? I say not. The President has before him all information. He reviews a complete history. Plainly, he is in a better condition to judge of the true state of affairs than are we. He has the means to secure all relevant information.

Having in charge the diplomatic relations of the Government, he is, or should be, better advised than the Senate or the House of Representatives, or both.

It was early settled that the Executive could not be compelled to surrender up to both Houses of Congress information which that officer deemed to be of such a character as to render it inadvisable to make a disclosure.

When President Washington sent in the proposed treaty with Great Britain, a question arose as to whether the President had any right to negotiate a treaty of commerce (2 Marshall's Washington, page 377). Mr. Livingstone offered a resolution in the

House requesting the President to furnish a copy of the instructions to the minister of the United States who negotiated the treaty with Great Britain. Mr. Madison proposed to amend so as to except such papers as, in the judgment of the President, it might be inconsistent with the interests of the United States at this time to disclose (id., page 378). This proposition was rejected, and the resolution offered by Mr. Livingstone was passed by a vote of 62 to 37. Afterwards the President communicated to the House his refusal, and in concluding it he said:

> As it is essential to the due administration of the Government that the boundaries fixed by the Constitution between the different departments should be preserved, a just regard to the Constitution and to the duty of my office under all the circumstances of this case forbid a compliance with your request. (Id., 381.)

I can not find that the power of the President to retain information the disclosure of which he deems incompatible with the public interest has ever been doubted, and the uniform practice of Congress admits this power. We do not direct the President nor do we seek to compel him to make disclosures against his own judgment. On the contrary, the Presidential discretion is in terms conceded in every resolution seeking information from the State Department which Congress sees fit to pass.

The question of the recognition of belligerency or independence should be determined upon a full view of the entire situation. Every fact bearing upon it ought to be before that department charged with the responsibility of acting. It is manifest that the most important documents, the most direct and convincing circumstances, may be contained in official communications containing matter which ought not to be made public. Indeed, it is safe to say that the most important information is doubtless encountered in such documents. The very gravity of the disclosures therein contained makes it inadvisable to surrender them. So that we who claim the right to pass upon this issue must concede that all avenues of information are not open to us—many are open to us, no doubt, but all are not open to us—and that the most material part of the case is withheld in harmony with the Constitution, which, it is claimed, gives us the power to overrule the Executive, notwithstanding his superior facilities for knowing the facts, and his power to withhold information officially received by him, and which appears to him (perhaps correctly) properly determinative of the entire matter. If it be true that the Constitution has made it our duty to pass upon the diplomatic questions involved and has given to the President means of obtaining information not granted to any other department, and has likewise left the disclosure of such knowledge wholly discretionary with him, the system is radically defective. It is not likely that the President requires more data than the Senate or the Congress, and to require us to act without all the evidence is to compel a judgment in the absence of the most material evidence.

I have already referred to the opinion of Mr. Monroe on this subject regarding Executive power. I wish to attract attention to the circumstance that Mr. Monroe deemed it advisable to send commissioners to the South American states for the purpose of enabling him to determine whether he should recognize the independence of the new governments. These commissioners he, as Chief Executive, sent to the South American republics that he might obtain information to justify him in reaching a conclusion as to whether he ought to accord a declaration of independence or not. In many instances subsequent Administrations found it desirable to send emissaries abroad for the purpose of determining similar issues without consulting Congress.

Agents or messengers have been sent not as diplomats or ministers, and therefore without consultation with the Senate, the branch of Congress solely authorized to confirm envoys and plenipotentiaries; but these appointments have been justified, not only in many of the cases cited but in many others, because of the fact that they were the mere agents of the Executive, his messengers sent abroad to bring him word as to affairs concerning which he needed information in order to duly execute a constitutional power, to wit, the recognition of a new government.

The case of Mr. Trist, who was sent as a confidential agent to Mexico (and the object and purpose of his mission appears, 2 Wharton on International Law, section 154), is an exemplification of the authority of the President in this regard. The appointment of Archbishop Hughes and Bishop McIllraine, Mr. Everett, Mr. Winthrop, and Mr. J. B. Kennedy as confidential agents with reference to matters connected with the recognition of belligerency during our domestic strife contributes an interesting chapter to the exercise of authority by the President without consulting the Senate and all within the recognized diplomatic limits.

The case often referred to here—so frequently that it is not necessary for me to discuss it—of Mr. Mann and the Hungarian controversy is in point. Mr. Webster's elaborate presentation of the subject and the treatment it received at the hands of Mr. Everett are all in the same line. I will not go over them, for they have been dwelt upon often and are familiar to the Senate and to the country.

When we speak of the advisability of reposing power in one department of the Government in preference to another, our argument is only of value in so far as it tends to illustrate the motives and objects and ends sought to be accomplished by the framers of the Constitution, and in an ambiguous case, if it is found that the lodgment of power in one particular department would be manifestly inadvisable, and if the language is obscure or the construction in doubt, perhaps we may be aided to some extent when we consider it on principle and in the light of the practical interpretation of experience.

THE NECESSITY OF SECRECY IN DIPLOMATIC AFFAIRS.

It is notorious that it is practically impossible to preserve secrecy as to matters occurring in the Senate. It frequently happens that debates taking place in supposed executive session are publicly reported; and while it is usually true that the reports made and the deductions drawn are not altogether correct, and there are many omissions of vital and essential features, yet it is also a well-known fact that whenever a sensational proposition or anything calculated to excite public curiosity or interest is announced in executive session it finds its way to the public. The delicacy of foreign negotiations, the ease with which controversies nearly settled may be impeded by ill-advised expressions or premature disclosure, is too plain to need comment.

Nor is this all. We know that the Senate is not now and never has been and never can be as reliable a place for the carrying on of those negotiations which are frequently necessary in the management of international disputes, and the same may be said with more emphasis with reference to Congress. Thus, within a year perhaps, we have heard remarks made with reference to foreign governments with which we were at peace. We have heard a friendly nation called "a toothless wolf," "a Gila monster," "a nation whose symbol of power is a monkey and an organ grinder," and kindred phrases in a body several of whose members now claim almost exclusive diplomatic authority. Our ability to excite a foreign government, our ability to involve the Government of the United States in difficulty, certainly will not be seriously challenged. We are not as successful in procuring the spreading of the wings of peace over the earth. Mr. Sanguily may well doubt the propriety of our interference with his case, which is now being energetically pressed by our State Department.

While intemperate remarks are delivered here, persons in whom we have an interest are being tried and sentenced for violations of municipal law, and our State Department is endeavoring to extricate, by diplomacy, many in whom we are concerned who have, by reason of their desire to liberate another people, placed themselves within the reach of the criminal processes of a friendly power. It is believed that utterances made upon this floor, which could not have any effect for good, have made it more difficult for the Executive to procure liberation of individuals in Cuba who have been in the greatest peril.

The Constitution conferred upon the Senate and the House jurisdiction as to treaties, and also in the matter of certain appointments, and that it was the part of wisdom so to do is, I believe, obvious. Whether we consider a treaty as a contract, in accordance with the views of Mr. Frelinghuysen and others, or whether we regard it as in the nature of legislation (and the Constitution declares a treaty to be the supreme law of the land), it is proper for the lawmaking power to be consulted as to subjects which not only affect foreign relations but often directly interfere with the acts of Congress and the exercise of municipal powers by the several States. In the making of a contract the ability and character of the Senate has always been of great assistance, and I doubt whether there has ever been a topic of international concern submitted in the form of a treaty where much light and many wise suggestions have not emanated from this body. Legislation can not be conducted by the Executive alone, and upon the same principle it may be said that no treaty ought to be made without the cooperation of the Senate, and the framers of the Constitution, in making it impossible to perfect such an instrument in the absence of two-thirds ratification here, undoubtedly considered that such a strong indorsement would atone for the absence of the other branch of Congress. Were the concurrence of the House necessary, there would be much friction, many misunderstandings, and numerous contentions with nations with whom we had been previously on terms of amity. But the justification of the policy to be met with in the matter of ratifying treaties is found in the fact that we there deal not only with foreign governments regarding purely international matters, but with propositions affecting legislation, and which must, as I have already remarked, have more or less effect upon the domestic concerns of the several States.

The difficulties unavoidable in treating diplomatic questions in the Senate must be evident to all. Not only are imprudent remarks indulged in because of impulses natural to momentary excitement, induced occasionally by ill-founded newspaper utterances, mistaken reports—the result of journalistic enterprise and competition—but Senators are in the habit of giving their opinions through resolutions of various kinds, often accompanied by speeches exceedingly demonstrative and very seldom involving

the actual opinion of a majority of the Chamber or even of a committee.

Such resolutions, after being discussed at the time of their presentation, are sent to committee and are perhaps never reported back, or if reported are in a modified form; and when the matter is investigated it is perhaps discovered that the circumstances are not such as to warrant the belligerent remarks which had been made at the time of introduction.

When Mr. Cleveland sent in his Venezuelan message there was considerable excitement. Senators for the first time during my brief incumbency here expressed their appreciation by applause upon the floor. A bill was speedily passed placing the necessary funds in the hands of the Executive to enable him to proceed with the work outlined in the message. Resolutions of varied form were introduced, and finally the Committee on Foreign Relations, through the distinguished Senator from Minnesota [Mr. DAVIS] who sits near me, presented a concurrent resolution of considerable length, purporting to define the Monroe doctrine and to extend its application much beyond the lines laid down by Mr. Cleveland.

Afterwards the same distinguished Senator delivered an address in support of his report. He took very advanced ground. The resolution is still upon our Calendar, and no vote will ever be had upon it. I intend to refer to several other reports of the Committee on Foreign Relations preceding the remarkable Sanguily resolution now before us, and shall endeavor to show that the Secretary of State has done his duty under the law ably and effectively. But I will now yield to the chairman of the Committee on Appropriations [Mr. ALLISON], and if the appropriation bills are again displaced I will continue my argument. At all events, I will not, under prevailing circumstances, proceed further at this late hour.

GEORGE WASHINGTON AGUIRRE.

Mr. MORGAN. I am very thankful to the Senator from California for his courtesy. He has the floor on the joint resolution which is before the Senate, and it can be disposed of if Senators will only contain themselves a little while in a legitimate and in a decent way. I rose under the privilege which was accorded to me by the Senator from California to ask unanimous consent for the adoption of a resolution which I will read:

Resolved, That the President is requested, if it is not, in his opinion, incompatible with the public interests, to communicate to the Senate such information as has been furnished to or obtained by the Executive or the Department of State relating to the arrest and imprisonment of and any proceedings against George Washington Aguirre, a youth of 19 years of age, and a citizen of the United States, who, to obtain the benefit of a general amnesty proclaimed by the Captain-General of Cuba, surrendered to the Spanish authorities in Cuba on the 4th day of July, 1896.

You will observe, Mr. President, that there is quite an association of dates there that have a great hold upon the affections of the American people. He seems to have surrendered on the 4th day of July, 1896, and his name his George Washington Aguirre. He is 19 years of age, and he surrendered under a proclamation of amnesty which invited him to come in and surrender. Doubtless he is one of our American boys, of Cuban origin, who has gone down there to take a hand in that scrimmage, as I am afraid a good many of them are inclined to do. For the benefit of the Senator from Massachusetts [Mr. HOAR], if he doubts the citizenship of this man (he seems to turn his head in this way as if he wanted to make a point of citizenship, as he made yesterday), I will call his attention to another name by reading the following letter:

NEW YORK CITY, *February 24, 1897.*

MY DEAR SIR: I desire to call your attention to the case of George Washington Aguirre, an American citizen, 19 years of age, and a prisoner in the Cubana fortress in Habana since the 4th day of July last. He surrendered under the amnesty proclamation of General Weyler promising freedom to those who gave themselves up. He was promptly ordered to be court-martialed, but by the interference of General Lee this was changed to an order for a civil trial. This civil trial has not come yet and likely never will, without the aid of our Government. The tortures of this boy threaten his life. I make this statement to you upon respectable authority, who have requested this letter. I have no personal knowledge of the facts. The authority of this nation should correct such wrongs, and speedily. His release should be demanded at once.

I am, very truly, yours.

ETHAN ALLEN.

Hon. JOHN T. MORGAN.

Now, there is another name connected historically with the United States, and I suppose I can venture to assume here in presenting this resolution that this boy, whose name is George Washington Aguirre, and who is only 19 years of age, is a citizen of the United States, because Ethan Allen has said so. That is as far as I can go upon it. Now, acting upon that predicate, I want to ask the unanimous consent of the Senate for the adoption of this resolution for information from the President.

Mr. HOAR. What was it the Senator called my attention to? I came into the Chamber as he finished the reading.

Mr. MORGAN. I called attention to the fact that this man was evidently of Cuban birth, born of a Cuban family, because his name is Aguirre. I supposed the Senator would be ready to raise the question of naturalization on him, and I wanted to say that I had no further testimony to offer on the subject than the testimony of Ethan Allen.

Mr. HOAR. The Ethan Allen of the Revolution?

Mr. MORGAN. His grandson.

Mr. PLATT. He is president of the Cuban junta of New York.

Mr. MORGAN. He is a grandson of Ethan Allen of the Revolution and is very apt to be president of a revolutionary junta, or whatever you may call it.

Mr. HOAR. I thought the Senator said something about the case that was up yesterday as I came in.

Mr. MORGAN. No; I was going to get to that after a little. I ask for the adoption of the resolution, Mr. President.

Mr. FRYE. It is only a resolution of inquiry.

Mr. WHITE. If there be no objection and no discussion, I will yield for that purpose only. I wish to make a very limited number of observations, which will not consume five minutes.

Mr. MORGAN. Of course one objection will carry it over.

The PRESIDING OFFICER. The resolution will be read at the desk for information.

The Secretary read the resolution, as follows:

Resolved, That the President is requested, if it is not in his opinion incompatible with the public interests, to communicate to the Senate such information as has been furnished to or obtained by the Executive or the Department of State relating to the arrest and imprisonment of and any proceedings against George Washington Aguirre, a youth of 19 years of age, and a citizen of the United States, who, to obtain the benefit of a general amnesty proclaimed by the Captain-General of Cuba, surrendered to the Spanish authorities in Cuba on the 4th day of July, 1896.

Mr. HOAR. It alleges certain facts.

Mr. GRAY. I rise to say a word and to ask a question.

The PRESIDING OFFICER. Does the Senator from California yield for the purpose?

Mr. WHITE. I can not yield for a debate.

Mr. GRAY. It is not debate. I want to ask a question.

Mr. WHITE. I will yield to the Senator from Delaware.

Mr. GRAY. I want to appeal to the Senator from Alabama that he allow the resolution to be so amended as not to make the Senate of the United States responsible for allegation of fact of which they can know nothing. It may be all true, but if he will put in the word "alleged" before "citizen" and "alleged" before "surrendered," I have no objection to the resolution. Otherwise I have.

Mr. MORGAN. I will do that with great cheerfulness, because the Senate of the United States has got so far that it is not willing to take any responsibility for——

Mr. LINDSAY and Mr. WHITE addressed the Chair.

The PRESIDING OFFICER. The resolution will be amended accordingly. Does the Senator from California yield to the Senator from Kentucky?

Mr. WHITE. For a question.

Mr. LINDSAY. I desire to know whether this able-bodied young man, who abandoned the Cuban cause and took advantage of the amnesty proclamation, ought not to change his name before he asks the Senate of the United States to intervene in his behalf. That was a very un-George Washington like act, and I do not think he comes here in a position to demand any extraordinary consideration at the hands of the Senate.

Mr. MORGAN. How could he change his name?

Mr. CALL. Will the Senator allow me to say a word?

Mr. LINDSAY. I refer to the George Washington part of his name.

The PRESIDING OFFICER. Does the Senator from California yield to the Senator from Florida?

Mr. WHITE. I do not want to discriminate, and therefore I yield to the Senator from Florida.

Mr. CALL. Mr. President, I happen to know this young man, George Washington Aguirre. He is a native American, born of Cuban parents, who became naturalized and lived in this country and abroad. He is a young man, animated by a noble, virtuous, honorable sentiment of devotion to the country of his forefathers. He went to Cuba for the purpose of rendering patriotic aid to the cause which he believed in common with all the Cuban people to be a true and honorable effort to obtain independence. He is quite a youth, not yet being 21 years of age. He was here in Washington just before his departure for Cuba. I have no doubt from these facts, which are within my knowledge, that the statements of the letter read by the Senator from Alabama are true.

Mr. LINDSAY. He did not desert the Cuban cause?

Mr. CALL. I suppose that, like many others, he might have been exhausted by the severe privations, to which he was unaccustomed. I know nothing about that; but a youth, comparatively of tender years, and not accustomed to great exposure, might quite naturally be unable to continue in the service.

Mr. WHITE. As I understand, the resolution in its present form is objected to, and therefore I presume it will go over.

Mr. FRYE. The Senator from Alabama accepted the amendment proposed.

Mr. WHITE. Then, if it may be voted upon without further discussion, I will yield for that purpose.

The PRESIDING OFFICER. The Senator from Alabama accepted the amendment of the Senator from Delaware. Is there objection to the present consideration of the resolution?

Mr. HOAR. Let us hear the amended resolution.

The PRESIDING OFFICER. The resolution will be read as amended.

The Secretary read the resolution as modified, as follows:

Resolved, That the President is requested, if not in his opinion incompatible with the public interests, to communicate to the Senate such information as has been furnished to or obtained by the Executive of the Department of State relating to the arrest and imprisonment of and any proceedings against George Washington Aguirre, a youth of 19 years of age, and an alleged citizen of the United States, who, to obtain the benefit of a general amnesty proclaimed by the Captain-General of Cuba, surrendered to the Spanish authorities in Cuba on the 4th day of July, 1896.

Mr. GRAY. Let it read "is alleged to have surrendered." We do not know anything about that.

The PRESIDING OFFICER. The resolution will be so modified.

Mr. ALLEN. I rise to a parliamentary inquiry. If this resolution is passed, does it displace the Sanguily resolution?

The PRESIDING OFFICER. It does not, the Chair will state.

Mr. BERRY and Mr. MILLS. Question.

The PRESIDING OFFICER. The Chair hears no objection to the present consideration of the resolution. Is the Senate ready for the question? The question is on agreeing to the resolution of the Senator from Alabama as modified.

The resolution as modified was agreed to.

Mr. WHITE. Mr. President, I trust that we will find George Washington Aguirre to be a duly qualified citizen of some country. I am not altogether convinced of his innocence, of his impeccability, or his statesmanship. I do not consider these propositions established merely because he bears the name of George Washington. I remember some time ago prosecuting a person, who was sent to the penitentiary of my State, whose name was Juan de Dios (John of God). He never by word or deed justified a claim of honesty.

I do not intend to discuss questions relating to Julio Sanguily at any length to-day for the reasons stated by the Senator from Maine [Mr. FRYE]. I understand that a resolution will be offered later by Mr. Sanguily's friends in this Chamber protesting against his pardon. They seem to be disturbed because he is at liberty.

Objections have already been registered to the action of Sanguily and his counsel in admitting guilt and seeking pardon. It is unfortunate that we have not been able to control Mr. Sanguily in this respect, and his absence from prison will deprive the world of a vast amount of very effective and charming eloquence, accompanied, no doubt, by applause of an intelligent and discriminating character. It is indeed too bad that Sanguily has been pardoned, even though our resolution has not passed and has not been transmitted to the Government of Spain. It is to be hoped, Mr. President, that when the Committee on Foreign Relations brings us a case for discussion hereafter it will be a live case, and it is to be hoped when a resolution is produced here demanding somebody's surrender that we may not discover in the midst of patriotic declamation that the gentleman whose liberty we are seeking to obtain has already successfully petitioned for a pardon and admitted his guilt without consulting us. We can hardly retrieve our position by substituting George Washington Aguirre for Don Julio Sanguily. [Laughter.]

I regret that the chairman of the Committee on Foreign Relations is not in this Chamber. Possibly he may have heard of the pardon of Don Julio Sanguily. Were the chairman of the committee here, I should ask him whether it is true that he had in his pocket, or that his committee had in its custody yesterday, when this question was being considered, a document showing that Mr. Sanguily had petitioned for pardon. Such an assertion has been made, but I should like to know whether it is true. I have no information upon the subject. If the report be true, the Committee on Foreign Relations should not have kept the information from the Senate. If it was not proper information to be given publicly, we might have placed ourselves "in comunicado," and should have closed the doors; in that way we might perhaps have constituted ourselves a body of "pacificos."

I do not wish to interfere with the appropriation bills which were set aside to-day in order that Don Julio Sanguily might be released. I will yield to the Senator from South Dakota to make the motion of which he has already given notice.

INDIAN APPROPRIATION BILL.

Mr. PETTIGREW and Mr. LODGE addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

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

Mr. MORGAN. I ask unanimous consent to make a statement in behalf of the Committee on Foreign Relations before that motion is put.

The PRESIDING OFFICER. The motion is not debatable, except by unanimous consent.

Mr. MORGAN. I have asked unanimous consent.

Mr. FRYE. The Senator can say what he pleases after the appropriation bill has been taken up. Nobody can prevent it.

Mr. PETTIGREW. I insist on my motion. The matter can be debated after the Indian appropriation bill is taken up.

Mr. CALL. Will the Senator allow me to say a word?

Mr. FRYE. The Senator can speak after the bill has been taken up.

Mr. PETTIGREW. After the bill is up, Senators may talk as much as they please.

The PRESIDING OFFICER. The question is on the motion of the Senator from South Dakota 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. 10002) making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June 30, 1898, and for other purposes.

Mr. BERRY. Mr. President, I propose to discuss the Indian appropriation bill, and not the Cuban question. In a very few words I desire to reply to the Senator from Tennessee [Mr. BATE].

In the first place, in regard to the point of order he has made as to this legislation, I do not wish to detain the Senate except to say that almost the entire legislation which has been had with reference to the Indian country has been legislation on appropriation bills. The Dawes Commission was created by an appropriation bill; the sale of the Cherokee strip lands was by an appropriation bill, and the Dawes Commission was continued at the last session of Congress on an appropriation bill.

These questions of order have invariably been decided by the Senate according as to what its judgment was on the merits of the question. There can be no objection to this legislation on an appropriation bill which would not apply on any other bill. All I ask of the Chair is that he follow the almost universal rule which has been followed by presiding officers in the past, and that this question be submitted to a vote of the Senate to determine whether or not it is in order, and let the Senate determine it.

In regard to the other point made by the Senator from Tennessee, I want to say that, upon the motion of the Senator from Missouri [Mr. VEST], the part of the bill to which the Senator from Tennessee so much objects, and to which a large part of his speech was confined, has already been stricken from the bill, and is not now before the Senate.

Mr. BATE. If the Senator will pardon me, I did not refer to that part of the bill at all.

Mr. BERRY. The Senator from Tennessee alluded at length to the allotment of lands, and to the railroad company, which, he said, was entitled to receive a large number of acres of land.

Mr. BATE. I hope the Senator will do me the justice to say that my speech was in reply to the Senator from Missouri, who discussed that point.

Mr. BERRY. That is not in the bill; it has been stricken from the bill.

I wish to say, furthermore, that there was nothing in that amendment which would have given the Missouri, Kansas and Texas Railroad, or any other railroad, one foot of land in that Territory under any condition. The amendment was specifically framed to prevent their getting anything under it. Therefore, if that had remained, the criticism of the Senator from Tennessee would still be wholly without foundation; but that is out of the bill.

In regard to the legislation as to the Dawes Commission, I want to state that I believe now that the authorities of those tribes in that Territory are disposed to make conditions and treat with the Dawes Commission. I want to say that until within the last year, however, some of those nations did not intend to treat, and showed no disposition to treat. That is not true of all of the tribes, but it is true as to some of them. But I want to be entirely fair and just to those people, and I will say now that I believe the men who represent them here have come to the conclusion and know that the condition which exists there can not be continued, and that the time has come when other arrangements must be made, and I believe they will be made.

That which is left in the bill is in regard to the condition of the courts in that country. I state now that the men in that Territory, the Indian citizens there, know and believe, and are as anxious as anyone else, that the present jurisdiction should be taken away from the Indian courts and conferred upon the courts of the United States. It has been notorious, it is not denied, that those Indian courts have been absolutely as corrupt and unreliable as it is possible for human beings to be. I do not say that every man connected with them is corrupt, but I claim that corruption prevails to an alarming extent in those courts; and it is not denied by the representatives of those tribes.

Every intelligent man who has gone there and who knows anything of the condition there has come to the conclusion that some change is absolutely necessary. Five or six years ago the Senator

from Connecticut [Mr. PLATT] and the then Senator from Massachusetts, Mr. Dawes, believed very much as the Senator from Tennessee now believes, but there is not one of them who went into that section from any part of this country, I care not whether he lived in New England or any other part of the North or in the South, who has made himself familiar with the conditions there, who does not know that there is an absolute obligation on this Government to see that matters shall not continue as they have in the past. There have been robberies outrageous, mostly by white men, I will say, who have taken refuge in that nation. They robbed a bank within my own town in broad daylight, living, as I do, upon the border. The robbery was committed by ten men who came out of the Territory and shot down one of our citizens on the street.

All the provision of the bill which is material is that the jurisdiction of those courts shall be taken from them, and that criminals shall be tried the same as the white men who are now in the Territory. The United States court has already jurisdiction of controversies where one of the parties is a white man and the other is an Indian. The proposition of this amendment is to extend that jurisdiction to all parties, and to place Indians upon precisely the same plane as the white men, giving them the same rights—giving them the right to sit upon a jury and to take their chances among the whites.

The Senator from Tennessee insinuates that there is something in the amendment which would violate the rights of those Indians. I think if a vote was taken in those Territories—and I know there are men now in this city connected with those Territories who so believe—it would result largely in favor of this legislation, so far as the courts are concerned.

With regard to the treaty with the Dawes Commission, that provision has been stricken out. As I said before, if this provision is retained in regard to the courts, I have no doubt but what within six months or a year treaties will be made in regard to allotments and all the rights of the Indians will be protected; but if this legislation be defeated, the Senator will find that there will be no agreements of any kind with the Dawes Commission. If the Senate desire a suitable settlement of this matter, to which both sides agree, it will keep this provision in the bill in regard to the abolition of the Indian courts.

Those courts, as everybody in that section and as every committee which has visited there knows, are incapable of rendering justice between their own citizens and are bringing scandal upon each of those nations. If this provision is retained, I believe the men who have heretofore resisted the Dawes Commission, who have refused to make any agreement, within less than twelve months will consent to a peaceable adjustment. I desire to say now that I believe they are in earnest, and the only thing which could put us back for five years and force us to go over this again is to defeat this provision. If we do so, they will go back to their people, and this fight will have to be made over again. They will say that there is no danger, and then the fight goes on, as it has gone on for the last four years. If we want to settle the matter peaceably, we may settle it in this way, which is favored by every man who comes from that section in both Houses of Congress, whether he be a Democrat or a Republican. Every Senator who has visited there, and every delegation from the House of Representatives that has been there, and everyone who lives in that locality knows that this is the best way to do it. It is best for the Indians and best for the 300,000 white men there. It is only Senators and others who do not live there and who are not familiar with the facts who make this fight and these objections to the settlement of this question.

Mr. LODGE. Mr. President, I had no intention of saying a word on this resolution, which I think was properly laid aside and the appropriation bill taken up. But, in the absence of the chairman of the Committee on Foreign Relations [Mr. SHERMAN], the Senator from California [Mr. WHITE] saw fit to attack that committee and revive the debate, and say one or two things which I do not propose to leave unanswered, as the chairman of the committee is not present to say anything in regard to it.

I am very sorry that the Senator from California should be so disturbed about the flow of eloquence in the Senate on the Sanguily resolution, and about the applause in the galleries. I think he was unreasonably disturbed. He spoke for four hours himself, and no galleries interrupted him. [Laughter.] Also, Mr. President, I want to say that this matter is not to be settled by sneers, nor is an answer made in this case by mispronouncing the name "Julio," nor is this case answered by making fun of some man whose name happens to be that of the great general and statesman whose birthday we celebrated here a few days ago. This matter can not be disposed of by sneers.

The case in which a pardon has just been granted is but one case. There is information which has been withheld from the Senate and from the American people in a great many other cases not in relation to Cubans, but in relation to American citizens. Those will all come to the surface. We shall all see it some day; the Senate will have the opportunity of seeing it; the American people will have the opportunity of seeing it.

As to this specific case and the charge made against the Foreign Relations Committee, I desire simply to say a single word. That committee had received no information that this man had been pardoned. The Committee on Foreign Relations began to consider this case about one month ago. The report they made is dated the 1st day of February. We put the matter over from week to week at the request of the State Department, because we were told that the diplomatic negotiations which had been going on for about twenty-three months were about approaching a close, and the Department hoped in a few days to have this man pardoned. We put it over; and finally we reported the resolution, and we got the man's pardon the next morning. In other words, twenty-three months were consumed in diplomatic negotiations; but after the matter was taken up and it was discussed by the committee and presented at the bar of American public opinion, the news of the man's pardon came by cable this morning, and we are sneered at because we are told he was going to be pardoned any way.

Mr. GRAY. May I ask the Senator a question as to a matter of fact?

Mr. LODGE. Certainly.

Mr. GRAY. The Senator from Massachusetts says that twenty-three months have been consumed by the State Department in negotiations in regard to the case of Sanguily.

Mr. LODGE. I think I have stated the fact correctly.

Mr. GRAY. Is it not a fact that the larger part of those negotiations, and the greater part of the time occupied in pursuing them, was consumed in discussing the treaty between the United States and Spain in regard to citizens of the United States who were arrested for participating in rebellion, without arms in their hands, and demanding for them a trial by a civil court under the treaty; and whether, at last, those negotiations were not successful in procuring that trial, and that the necessary delay was by reason of the procedure of the courts, which, of course, takes time?

Mr. LODGE. I did not enter into what the diplomatic negotiations were about.

Mr. GRAY. The Senator from Massachusetts gave that impression; at least, I so understood him.

Mr. LODGE. I stated that diplomatic negotiations had been going on in regard to this man's case for twenty-three months, and that is absolutely true.

Mr. GRAY. But the Senator gave the impression that futile negotiations were going on for twenty-three months, whereas at different stages the demands made by the State Department were acceded to by the Government of Spain, and the trial demanded before a civil court for Sanguily was granted after necessary delay owing to their form of procedure.

Mr. LODGE. I did not say the negotiations were futile. That word was not used by me, but used by the Senator from Delaware.

Mr. GRAY. I say that is the impression I got from what the Senator stated.

Mr. LODGE. I did not so state, but I shall not quarrel with the Senator about that. All I said was that for twenty-three months diplomatic negotiations had been going on in regard to this man; that the question has been considered in the committee for one month; that the resolution was reported to the Senate yesterday, and this morning we have cable news that Sanguily is pardoned. Those are the simple facts, and I am perfectly willing to leave them.

Mr. GRAY. Those are not the simple facts.

Mr. LODGE. I beg the Senator's pardon. Had not diplomatic negotiations been going on for twenty-three months?

Mr. GRAY. There it is again, Mr. President. The simple statement is made that negotiations of a diplomatic character have been going on for twenty-three months, and the impression is made—I do not know whether it is sought to be made by the Senator from Massachusetts or not—that negotiations, which were futile in their character, have been going on all that time in regard to the release of Sanguily, whereas a greater part of the time was occupied in demanding the rights of Sanguily under the treaty with Spain.

Mr. CHANDLER. Where was Sanguily all the time?

Mr. LODGE. I did not say that the negotiations were futile. The Senator from Delaware keeps saying that.

Mr. GRAY. I intended that the Senator should state or that I should state for him what the real facts were.

Mr. LODGE. I omitted no facts. I say diplomatic negotiations were going on for twenty-three months, and during that time this man was in prison. There is no question about it. I do not say the negotiations have not been successful. We know they have been successful, because he was released this morning or yesterday.

I say it was twenty-three months that the State Department was engaged in negotiations before the Senate did anything, so that they did not seem unreasonably impatient about it.

Mr. TELLER. Will the Senator allow me to state that this

man was tried and condemned on December 3, 1895, and sentenced on December 3, 1895, more than a year ago.

Mr. LODGE. He was sentenced more than a year ago, Mr. President.

Mr. GRAY. The trial from which the appeal was made was had on the 3d of December, 1896. That was the trial against which the State Department protested.

Mr. LODGE. He has been tried, and an appeal has been taken, and all that. But, Mr. President, I do not care to go into the details of it. The facts are perfectly well known.

I only desire to say, in reply to what the Senator from California [Mr. WHITE] has said, that the Committee on Foreign Relations had put this matter over two or three times at the request of the Secretary of State, because Sanguily was about to be released and action was about to be taken as the result of diplomatic negotiations. We had no information yesterday that he was pardoned, so far as I am aware.

Mr. MORGAN. We have none now.

Mr. LODGE. We had no information that he had been pardoned.

Mr. WHITE. Nobody said you had.

Mr. LODGE. I understood the Senator from California—if I misunderstood him, I am very sorry—to say that the committee yesterday had information that Sanguily had been pardoned.

Mr. WHITE. I stated that the committee, as I understood it, had the information in their pockets, or the chairman had in his pocket a petition filed by this gentleman's counsel and himself, asking for pardon, and that they knew of the processes which had been had in connection with the affair.

Mr. LODGE. What counsel does the Senator refer to?

Mr. WHITE. The counsel, if I may be permitted to pronounce his name—although I have heretofore supposed that I had a little knowledge of the Spanish language—I may be permitted to say Julio Sanguily, notwithstanding a correction by the infallible authority at present upon the floor. [Laughter.]

Mr. LODGE. The Senator is welcome to pronounce that name any way he likes. I thought from his knowledge of Spanish that he was mispronouncing the name humorously, as that is the common form that is employed against Cubans.

All I want to know is who the counsel is who has made this statement. I received no information and the committee received none.

Mr. WHITE. I had no reference to the Senator, and was not thinking of him in connection with the matter.

Mr. LODGE. I can only answer for the committee. The committee received no statement. There was a dispatch read here by the Senator from Maine [Mr. HALE] from Mr. Dominiguez, I think, who said an appeal had been taken. That was read here in open Senate by the Senator from Maine. But there was nothing sent to the committee except a single communication from the State Department, and not from the counsel. That did not say that the pardon had been granted. It said what had been said before, that efforts were being made to obtain a pardon.

Mr. GRAY. Let me ask the Senator whether the information he got in committee—as long as he has spoken of what occurred in the committee—was not to the effect that a pardon had been determined upon just as soon as the condition precedent, which is requisite under Spanish law, had been complied with?

Mr. LODGE. I understood that they were trying to get a pardon.

Mr. GRAY. I tried to get out the information that it had been determined upon by the Spanish executive.

Mr. LODGE. Then the Senator said that a pardon had been granted.

Mr. GRAY. That it had been determined to be granted as soon as the condition precedent, necessary under under Spanish law, had been complied with.

Mr. LODGE. That is exactly what I said. I said that we received information that a pardon was shortly expected.

Mr. GRAY. Yes.

Mr. LODGE. And that it had not been granted.

Mr. GRAY. Your previous statement was, unless I misunderstood you—of course I have no altercation, and will have no altercation, with the Senator—that the information was merely that efforts were being made to obtain a pardon.

Mr. LODGE. No; I mean that the process was going on for twenty-three months, or any period you please.

Mr. GRAY. You said it was approaching a conclusion.

Mr. LODGE. That was what we were told at the beginning of February, when we took the matter up—that it was approaching a conclusion. As the Senator well knows, we postponed the matter from week to week on that account.

I did not mean to be drawn into this discussion. What I desired to say was that the committee did not have the information which the Senator from California attributed to it. I know nothing about the counsel except from the dispatch read by the Senator from Maine. I did not then know that the Mr. Dominguez who is named in the dispatch was the counsel for Sanguily.

Mr. CALL. Mr. President, I think the Senators of the Committee on Foreign Relations and the Senator from California [Mr. WHITE] might let some other Senators have an opportunity of saying something upon questions of importance which come before this body.

On yesterday the Senator from California, professing great interest in the passage of the appropriation bills, spent the whole day in discussing a question which had no practical connection with the business of this Senate—a mere question of his opinion that this Government was an absolute Government, that the executive power was paramount and supreme over the legislative department of this Government—a contention, Mr. President, which is answered in every word and in every line of the Constitution of this country, a government of the people, with the legislative power supreme.

But I have been solicitous, having introduced the resolution, to have an opportunity of saying something upon it and have not until this moment had an opportunity, when, upon the pending appropriation bill, having been the author of this resolution and the author of the resolution for the recognition of the independence of Cuba, I am compelled to say a word in vindication of these resolutions.

Mr. President, the resolution for demanding on the part of this Government the release of Sanguily was not in the interest of Mr. Sanguily, it was not in the interest of any private individual, it was for the honor and the dignity of this American country; and it would seem to me that it would have touched and inspired the bosom of every man who had any instinct of patriotism, and pride in the honor and in the glory of our flag and our institutions—the degrading comparison between our country and England, that a man who had thrown around him the prestige of American citizenship, be it right or be it wrong, by the authority of our Government, in chains and perpetual imprisonment, tried by a mockery of justice, not upon evidence that was ever communicated, but upon alleged facts held in the bosom of the Captain-General, and which upon the trial was decided that inasmuch as he was an officer of high dignity and importance, his opinion of this confidential information should be held binding upon the court and its judges; under a pretense of that kind this American citzen was sentenced to perpetual imprisonment in chains. And yet we find advocates upon this floor defending, and seeking to continue this indignity to the Government and the people of the United States, and interposing objections and arguments upon subjects that have no relation to it.

Mr. President, what has the Senate before it that it should permit this delay, not in the examination of Sanguily's right, but on the question of whether or not treaties of the United States with Spain, demanding on the part of that Government certain rights to American citizens, should be respected and regarded?

Here we have the report in the case of Lopez from the State Department, murdered, as stated by our own authorities. Here we have the case of Govin, butchered, miserably butchered, reported by our own authorities. We have the case of the citizens of the United States taken on board the *Competitor*—sailors, humble men, having no part in the contracts or charters by which that vessel was bound to go to certain ports—held to-day in confinement and under sentence of trial by court-martial. Protest after protest on the part of the consular authorities and the representatives of this Government has been filed. What do we have now as a sequel of the action of the Senator from California and others here who have prevented the assertion on the part of the United States of its intention to protect American citizens?

Mr. President, I read from the New York Journal one of the latest reports, a report which we understand is sanctioned by the consul-general of the United States, who has sent in his resignation because he is unable to protect American citizens of the United States by the authority of this Government. Let us read:

DR. RUIZ'S DYING MESSAGE TO HIS WIFE AND CHILDREN.

To Mercedes, Evangeline, Ricardito, Rene, and Gloria:

Farewell, children of my life. Be obedient to your mother. I bless you all. I shall be killed.

To Rita, my wife, my soul, adios. If I am removed, tell all.

RICARDO.

This is an article by George Eugene Bryson. I know George Eugene Bryson. He is a young man who grew up in my State. I have known him all his life. He is of respectable family, and he is a man of character. He has been the correspondent of one of the great New York journals in the South American countries, and recently for the last few years in the Island of Cuba. What does he say:

Dr. Ruiz, tortured, dying in his cell—

Ah! that does not move these advocates of the Government of Spain's continued persecution of our people.

Dr. Ruiz—

An American citizen—

Dr. Ruiz, tortured, dying in his cell under the brutality of his Spanish jailers, found a means to leave a record that proves his murder and makes the story of his suicide a plain lie.

As soon as the facts of his arrest became known, his wife tried to send him in some things to make his prison life endurable. He was "incommunicado." She could not see him or exchange a word with him.

KEPT THE WIFE OUT.

They would not even allow her to send him his meals, and she had to take back the cot she brought to the prison door.

Of course, Spain gives her prisoners neither bed nor bench to lie on. Not even a mattress or a bundle of rags tempers the hardness of the foul floor on which a prisoner must sleep.

Knowing all this, the wife of the unfortunate dentist was importunate in her plea to be allowed to send her husband something. At last she wore the jailers out, and they permitted her to send to her husband an old steamer chair.

MESSAGE ON A CHAIR.

And it is this chair that after his death proves the case against his murderers, and will, if there is left the least spark of patriotism in the breasts of the men at the head of the Government at Washington, avenge Dr. Ruiz's death.

The widow yesterday brought this chair to the American consulate. It had been returned to her by the governor of the jail at Guanabacoa.

On the bottom of the chair, painfully scratched by the prisoner's finger nails, was this message:

DOOMED MAN'S BLESSING.

"*To Mercedes, Evangeline, Ricardito, Rene, and Gloria:*

"Farewell, children of my life. Be obedient to your mother. I bless you all. I shall be killed.

"To Rita, my wife, my soul, adios. If I am removed, tell all.

"RICARDO."

The message was scratched so deeply in the paint and varnish that even though the bottom of the chair is splashed with blood, the words are clearly legible.

It is typical of the stupidity of the Spanish jailers that they allowed the chair to go out uninspected.

Consul-General Lee will probably forward the chair to Washington with the documents in the case.

MORE INCRIMINATING EVIDENCE.

There is more evidence, though it comes indirectly through a horrified priest, who visited a prisoner in a cell adjoining that of Ruiz. This prisoner was afterwards executed.

The priest's story accounts for the puzzling marks found on the dead dentist's wrists by Dr. Burgess—

The American employee of the Marine-Hospital Service in Habana—

at the autopsy. They were the marks left by the torture. They bound cords about his wrists and twisted them.

This is what caused the shrieks that came from poor Ruiz's cell.

From this and other evidence it is easy to piece out the whole awful story.

I will insert in the RECORD the remainder of this statement of fiendish cruelty that the people of the United States may understand how it is that here in this representative body no ear is found for the demand that the power of this Government shall be exerted for the protection of American citizens, and that these pretenses made here are unworthy of consideration.

FONDESVIELA'S FIENDISH WORK.

Arrested on the flimsiest evidence, Fondesviela tried in the usual way to torture out a confession. If the prisoner had yielded under the torment, he would have been shot to death for rebellion.

He would not yield, and they dared not free an American to tell of the tortures. From the moment they began to rack him his death was a certainty.

Ruiz realized this, and in the intervals between the rackings—these devils are ingenious enough to give a man a respite in which to think over what suffering he has still to go through—the prisoner scratched the message in the old chair on the chance that it would get back to his family and tell them of his fate.

RUIZ'S CASE NOT ISOLATED.

Ruiz is not the only man who has passed through torture to death in Cuba. To-day there are hundreds hoping that the death will not be long delayed.

Acting Captain-General Ahumada, in response to Consul-General Lee's energetic protest in the Ruiz case, promised to investigate the question, to probe it to the bottom and punish the guilty, but diplomatic promises will be the end of it unless Lee's demands be supported from Washington and backed up by the presence of American warships in Cuban waters.

RUIZ'S WIDOW THREATENED.

In fact, Fondesviela, the responsible, if not the actual assassin, remains in his post, has been recommended for new promotion, and only yesterday visited the Ruiz residence and by menaces and threats attempted to induce the widow to sign some papers with reference to her husband. The real purport of these papers was not fully explained.

Mrs. Ruiz came to this city afterwards to inform the consul-general, who, I understand, advised her to sign nothing, and afterwards sent a note to the palace, protesting against such molestations and insisting that she be protected from future impositions of a like nature.

Other Americans residing in Guanabacoa and Regla have come to the consul demanding protection, saying that open and repeated threats from Fondesviela's adjutants convince them their lives are in jeopardy.

Sanguily, held in prison for twenty-three months, upon evidence which is unworthy of being introduced or considered in any court, racked with wounds and disease, abandoned by the Government which had promised him protection, was compelled to confess. All systems of law discredit a confession taken from a prisoner under circumstances of cruelty. It is said here that he has confessed his guilt; but the record proves that he was not guilty and could not be guilty, and that his confession was extorted from him. But suppose he was guilty; what has that to do with the duty of the Government to protect from outrage and cruelty the citizens of the United States or those whom it has permitted to claim citizenship?

Mr. President, I introduced a year ago a joint resolution for the independence of the Island of Cuba. I introduced it again at the commencement of the present session. I have introduced resolution after resolution demanding that the Government of the United States shall protect its citizens and that it shall demand of Spain that this arbitrary imprisonment in violation of treaties shall cease; and here we have the conclusion of it; here we have a book of names of American citizens arrested in direct violation of the terms of the treaty between the United States and Spain, not one, but a hundred of them, and we are told by the Senator from Massachusetts [Mr. LODGE], who as a member of the Committee on Foreign Relations has evidence which is not accessible to the rest of us, that there are records still more startling which are held in the Department of State. It is time that the American people should know whether the statement in this paper that the citizens of the United States are petitioning the Queen and the Government of Great Britain for protection because they can not receive it from their own Government is true. It is time we should know whether or not the name "American citizen" has become a reproach in foreign lands, and whether in the Island of Cuba this terrible scene of fiendish butchery of women, of children, of young girls, whose bodies are found in a pit mutilated, shall continue; whether or not this Government has the power and has the duty impressed upon it sufficiently by this body to perform its plain duty of extending protection to American citizens unlawfully arrested and confined.

I ask unanimous consent to submit a resolution now and have it passed.

The PRESIDING OFFICER. The resolution will be read.

The resolution was read, as follows:

Resolved, That the President of the United States be, and he is hereby, requested, if not incompatible with the public interest, that all correspondence in the State Department relating to the alleged murder of Dr. Rentz, claimed to be an American citizen, at Guanabacoa, Cuba, by the authorities of Spain, be communicated to the Senate; and also that he inform the Senate of what efforts have been made, if any, to obtain information on the subject.

The PRESIDING OFFICER. The Senator from Florida asks unanimous consent that the resolution which has just been read may be now considered. Is there objection?

Mr. WHITE. I object.

The PRESIDING OFFICER. The Senator from California objects, and the resolution will go over.

Mr. WHITE. Mr. President, I do not wish to incommode the Senators who have charge of the appropriation bills, and I do not intend to do so, and I will say but a very few words.

The Senator from Massachusetts [Mr. LODGE] seems to think there has been a personal onslaught of some kind upon himself, and he was led to call my attention to the lack of enthusiasm created by my remarks made to the Senate yesterday. I presume his object in thus informing us was designed to excite my envy when contrasting my position with the enthusiastic demonstrations which ever attend his eloquent and relevant statements.

However, I have lived long enough to know that there are many great men in this world and that I have no claim to greatness, and it is enough for me even temporarily to rest in the shadow of the mighty intellectual power whose instruction has been so generously given. I, perhaps, might survive some of the comments of the Senator, but I do not know how I can exist in view of his criticism upon my pronunciation of the name of the party mentioned in the joint resolution. I ventured to call him Julio Sanguily, and the Senate has been informed that I mispronounced his name, and this I did in a disrespectful manner. If it were not for my faith in the abilities of the Senator from Massachusetts and my consequent belief that all of the Spanish scholars I have ever met have been mistaken as to the pronunciation of such names, I would, perhaps, hesitatingly venture to adhere to my own view. I will, however, study the lesson proffered by the Senator from Massachusetts and shall endeavor to absorb some of that learning which must be useful to the Senate, pertinent to this debate, and natural to the Senator from Massachusetts.

I regret that my friend the Senator from Florida [Mr. CALL] also accuses me of having taken up too much time. It is seldom that I take the floor save for an inquiry, whereas the Senator from Florida is a chronic speaker upon the subject of Cuba. He is not in a position to rebuke me for my single infraction. Now, that Julio Sanguily (I hope I may be permitted to continue to so pronounce his name) is free, we are treated to the case of Ruiz, and are told upon the authority of a newspaper, infallible, of course, before all tribunals, that Ruiz was badly treated, murdered in a dungeon. Comments on this topic are directed at me, and, as far as I am able to appreciate the Senator's meaning, the insinuation is conveyed that

I and other Senators who do not favor declaring war without ascertaining what we are to fight about are guilty of the murder of Ruiz, and this because Sanguily has been pardoned. This conclusion might be considered slightly illogical by some, but not by the Senator from Florida.

Mr. HALE. Let me ask the Senator whether any motion has been made to substitute any other island for Cuba?

Mr. WHITE. I will say to the Senator from Maine that no motion has been made, but there are insinuations that something of the kind is coming; that if it be true that Sanguily has confessed his guilt, nevertheless there is suffering elsewhere, and it will be urged that while we were mistaken in the case of Sanguily, a valid cause of complaint must exist as to some one. There must be an oppressed innocent somewhere, and we will be fully informed regarding the outrage by illustrations in the newspapers and magnificent orations in the Senate.

Mr. HALE. But no motion has been made to substitute any other island for Cuba?

Mr. WHITE. Not yet.

Mr. GALLINGER. We are going to put in the State of Maine next instead of Cuba.

Mr. WHITE. The Senator from Florida, after commenting upon the immense amount of time that I took in discussing the Cuban question yesterday, in order to be truly consistent, proceeded to make a speech upon the subject himself.

I yielded to the appropriation bills, and I will do so again in the hope that these important measures may be passed, and that we may establish a field day for the discussion of Cuba, and give notice to all alleged suffering patriots, wherever found, that their cases will be taken up as soon as the Calendar will permit, and our Navy increased correspondingly to the necessities of our belligerency.

Mr. HALE. Will the Senator from California yield to me?

The PRESIDING OFFICER. Does the Senator from California yield to the Senator from Maine?

Mr. WHITE. Certainly.

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

Mr. MORGAN. That bill is already before the Senate.

The PRESIDING OFFICER. The Chair will state that the Indian appropriation bill is now pending before the Senate.

Mr. WHITE. It might seem peculiar that the remarks which I am endeavoring to answer were addressed to the Indian appropriation bill.

Mr. HALE. I understand that it is before the Senate.

Mr. CALL. Mr. President——

Mr. MORGAN. Have I the recognition of the Chair?

Mr. HALE. The Senator from California yielded to me.

Mr. MORGAN. I should like to know whether I am recognized as entitled to the floor?

The PRESIDING OFFICER. The Senator from Maine has been recognized in the time of the Senator from California.

Mr. MORGAN. I thought I was recognized. I am mistaken.

Mr. HALE. The Chair recognized me.

The PRESIDING OFFICER. The Chair was about to recognize the Senator from Alabama, but found that the Senator from California still retained the floor.

Mr. MORGAN. I am mistaken, and I yield.

Mr. HALE. I simply desire to hold the Senate, so far as it can be done, to the consideration of the real business of the session. Everybody understands that if the appropriation bills are not considered and acted upon and passed—and there are only six days more in which to consider them—more or less of them will go over until the next session, and that the next session will be complicated with all subjects of legislation.

Mr. JONES of Arkansas. I suggest to the Senator that there are but four days after to-day.

Mr. HALE. I was reckoning everything, including Sunday, because I have no doubt the Senate will be obliged to sit on Sunday.

Mr. JONES of Arkansas. That will make five.

Mr. HALE. There are in all only six days, including to-day and Sunday, and all I desire is that the Senate will confine itself to the consideration of the real business.

Mr. President, the moot court is over. The amazing display which was made here by the Committee on Foreign Relations in hurrying in an inflammatory joint resolution, couched in the most offensive form, in order to take up the time of the Senate, has passed. Nobody expects anything to come of it, and if the Senate will actually proceed with the consideration of the appropriation bills, which must be passed in order to prevent complications which will result next session, then there need be no question of doubt that the bills will receive consideration and actually be passed. But if the time is to be taken up by debating questions which are dead matter and which are ended, then Senators ought to understand and ought to realize that it will be impossible to pass the appropriation bills.

I do not propose to take any time upon this point. My motion was made not because it was needed formally, but in order to bring the body to the consideration of the actual business before it. All other matters ought to be left aside and out of consideration, as every hour will be needed from now until 12 o'clock on the 4th of March to pass the annual appropriation bills.

Mr. MORGAN. The Senator from Maine ought to start out on a regular tour of lecturing, if he can find a lot of school children for his audience. On yesterday it was obvious and notorious that the Senator from Maine, being a member of the Committee on Appropriations, served notice upon the Senate that because the Senate chose to take up the Sanguily joint resolution, the joint resolution would not be permitted to pass. The RECORD shows it.

Mr. HALE. I said that it would not be permitted to pass without full debate.

Mr. MORGAN. Oh, that is what it meant. We know what that meant. It meant a filibuster.

Mr. HALE. Will the Senator allow me?

Mr. MORGAN. I will.

Mr. HALE. After the Senator himself has consumed days and days upon the subject of Cuba, and Senators in sympathy with him have consumed days and days, until over 150 columns of the CONGRESSIONAL RECORD have been taken up on that side and nothing has been said on the other side, it certainly is very extreme ground for him to take that if anybody wants to discuss the joint resolution it is filibustering. I deny it.

Mr. MORGAN. I yielded that far, and it is as far as I am going to yield. I do not expect to be interrupted any further.

The Senator from Maine, being a member of the Committee on Appropriations, charged with the duty of carrying the bills through, because the Senate of the United States, by a vote of 40 to 27, concluded to take up the joint resolution for discussion—I was prepared to vote upon it without offering a word of debate—notified the Senate that a filibuster would be organized which would carry the appropriation bills over beyond this session.

The Senator from California [Mr. WHITE] rose in his place and spoke three or four hours, during which time he did not touch the appropriation bills nor did he touch the Sanguily joint resolution. He spoke evidently for the purpose of giving utterance to some remarks which he had prepared upon constitutional law as affecting the power of the President of the United States and the power of Congress upon the recognition of foreign governments, and such as that. His speech was able enough, but entirely inappropriate to the occasion. So the Senator was merely occupying time, and doing it for the purpose of staving off any result upon the Sanguily case until something else could happen.

Now, we are informed that something else has happened. Who informs us? How do we get the information? Does the President of the United States inform this body that any change has taken place in the Julio Sanguily case? I have heard of no message from him. I have heard of no statement from the Secretary of State. We are informed now, as we were about the Ruiz case, through the newspapers as to the situation of this grave affair between the two powers—Spain and the United States of America. We are left here entirely in the dark, as far as the Executive is concerned, in respect to the attitude of this question.

I lament that the relations between the President of the United States and the Congress of the United States and the American people upon a question like this are so strained and are so dislocated that the Congress of the United States, in neither branch, can get information from him until it is pulled out of him by a sort of corkscrewing-resolution process in respect of any matter that concerns Cuban affairs.

I do not wonder that he wants to cover it up. I am not surprised that he prefers darkness rather than light in respect to these matters. I am not surprised that he shrinks from the examination of the American people whose hearts are aflame with a desire to see justice done to their citizens in Cuba. But so it is. We are confronted with that situation, and we are compelled to act without his guidance, his advice, his admonition, or his information.

Sir, the appropriation bill that is now before the Senate involves an inquiry into the condition of the Indian tribes in this land, the people who are dependent upon us by an enforced citizenship which they never desired and very few of them have ever consented to accept, although we have tendered them land in payment for their acceptance. We are taking care of that class of our citizens. If one of those poor Indian citizens had happened to be in Cuba and had been treated as Sanguily has, I suppose there would be some appropriation put in this bill to provide for his family, to provide for his return to the United States, to provide for the protection of a man with an enforced allegiance; or if a negro were to go to Cuba, as some have gone from my own State, for the purpose of participating in this struggle on the side of

Cuba, and one of those men should be treated as Sanguily has been treated, the Senate would be aflame with anxiety and determination to rescue that man from the jaws of Cuban cruelty and destruction; and I would be amongst the first of the men to vote for any sort of necessary provision for the purpose of extricating the man from that situation.

But here we are providing for the Indians. We have always provided for the negroes when we could. We have adopted citizens, who have come to us flying from persecutions and wrong and injustice. We have adopted citizens in this country, and all of that class are now informed by the honorable Senator from Massachusetts [Mr. HOAR] and by the Senator from Maine [Mr. HALE] that hereafter when they are found in foreign parts they are to take with them a certificate of their naturalization which must show regularity on its face in every particular; otherwise the Government of the United States will be exonerated from its obligation to take care of them. I call the attention of this naturalized class in the United States to the attitude of the Senator from Massachusetts upon that question.

Mr. HOAR. Mr. President——

Mr. MORGAN. I decline to yield.

Mr. HOAR. I wish to state that that is absolutely a misstatement of my position.

Mr. MORGAN. I decline to yield. The record shows what your position was, and I am speaking from the record.

Mr. HOAR. I know; but it is different from what the Senator states.

Mr. MORGAN. I am not asking the Senator for any information about his position, because here is the record that shows what it was.

The point was made here yesterday that after the State of New York, through its judicial tribunals, had accepted the citizenship and allegiance, under oath, of Julio Sanguily, that record was liable to collateral attack in favor of Spain against the United States. That is the attitude. Senators get upon the floor, and for the purpose of justifying the imprisonment of Sanguily they take the ground here that he was justly condemned to a life in chains because they could imagine, out of the testimony in this case as they conceive it, that there had been some fraud in the naturalization of Sanguily.

If Sanguily had never been naturalized in this country, there is, Mr. President, an impulse of humanity that seems to be a welcome impulse, and very much at home in the Christian heart, which prompts, encourages, and sustains an honest Christian man in his demand that persecution under the name of the law and under the form of the law shall not be employed by any nation, at least one near to us, for the purpose of crushing out the life of a poor, old wounded, soldier, whose festering wounds, acquired twenty years ago, still disable him from hard labor and from the service of his family except in a precarious way.

Mr. HALE. What, Mr. President——

Mr. MORGAN. No; I beg pardon.

The PRESIDING OFFICER. The Senator from Alabama declines to yield.

Mr. MORGAN. I decline.

Mr. HALE. The Senate understands that this committee is the only committee that refuses to answer a question.

Mr. MORGAN. The Senator from Maine can reply in his own time and in his own way. If he wants to argue the Cuban question on the appropriation bill, let him reply to me. That is all right.

Mr. HALE. Well——

Mr. MORGAN. But he can not take my time and interject his speech into mine. I decline, sir, to be interrupted by the gentlemen who are so anxious to discuss in my time upon the appropriation bill the Cuban question. Let them discuss it in their own time.

Mr. HALE. It is the only committee in the Senate——

Mr. MORGAN. I object to any interruption.

Mr. HALE. Which refuses to answer——

Mr. MORGAN. I call the Senator to order. I call him to order.

Mr. HALE. I say it is the only committee in the Senate that allows no questions to be asked.

Mr. MORGAN. I call the Senator to order.

The PRESIDING OFFICER. The Senator from Alabama declines to yield.

Mr. MORGAN. I call him to order. He must not interrupt me, and I do not intend to submit to it. I notify the Senator from Maine.

The PRESIDING OFFICER. The Senator from Alabama will proceed.

Mr. MORGAN. Here is a citizen of the United States, so stated in the last dispatch from General Lee. I will read that dispatch from General Lee, because he has that sort of humanity in his bosom that comes from a man who has courage and who has proved it in a life-long devotion to principle, even against the frowning, scoffing, persecuting spirit of the whole world. His name is a guaranty of honor, of courage, good sense, manhood, and American patriotism. See how he speaks about Julio Sanguily, whom the Senator from California [Mr. WHITE] found it opportune to ridicule to-day, with his wounds, his bruises, his persecutions, his distresses, his compulsion under duress to permit his counsel to ask for a pardon. If the Senator from California, who has had full opportunity in his life to do so in a patriotic cause, had worn the scars that Sanguily wears, he might be pardoned, possibly, for scoffing at him now in his distress and his misfortune. Here is what Lee says about Sanguily, writing to Mr. Rockhill:

> Yesterday noon I visited the Cabañas fort and had a talk with Mr. Julio Sanguily, an American citizen, and formerly a general in the insurgent army.

Lee had not found out that he was not an American citizen. He was proud to visit him in that character. He honored him because he found that his native land was so prone to that chronic cruelty which belongs as much to the Spanish character as it does to the Comanche Indian, and he found that Sanguily had the inspirations of an honest, patriotic heart beating in his bosom, and that after the failure of the revolution of 1868 to 1878 he had come to this free land and accepted our invitation to become a citizen of the United States, although he had been compelled by his poverty to return to his native land in order to rake together, with his wife and children, the little fragments of a confiscated estate, that he might live upon it, not being able because of his wounds to work at anything else. That glorious, grand man, Fitzhugh Lee, was proud to take him by the hand in a prison and call him an American citizen, while the Senator from Massachusetts repudiates him as such because he thinks there is a possibility that there was some fraud in his naturalization.

Mr. HOAR. The Senator from Alabama repudiates as such——

Mr. MORGAN. I object to an interruption.

The PRESIDING OFFICER. The Senator from Alabama declines to yield.

Mr. HOAR. And doubts the name of——

Mr. MORGAN. Reply in your own time. I call the Senator to order; and that will not be a joke, either, if it is repeated. The Senator can amuse himself as much as he pleases by an interference with a gentleman on the floor in violation of the rules of the Senate, and shelter himself under the supposed dignity of his prestige and position here, but he can not do that with me.

Says Lee:

> As you know, he was arrested in his house while taking a bath on the 24th day of February, 1895.

This letter was written January 6, 1897, and day before yesterday was the 24th of February, 1897, completing the full two years that that poor man had been confined in a Spanish dungeon for the mere purpose of exhibiting him to the world, and particularly to the Cuban people, as a desperate example of the rashness and inconsiderateness of a man daring to be suspected—not guilty, but suspected of harboring in his bosom some of the pulsations of honest liberty. Two years! That is not enough for these Senators. No; it is not enough! In the times of the Inquisition it would have been enough for Spanish cruelty, and even now I fancy that I can see the Vatican from its eastern porch raising its hand above the head of the honorable Senator from California, one of his disciples, and saying, "Well done, my servant; you are pursuing exactly the course that was observed in the Spanish Inquisition; you are true to Spanish instincts; you are true to the spirit of persecution, and you can laugh while Sanguily bleeds, sighs, and perishes." Says Lee:

> Sanguily had proved himself a very brave and efficient officer in the Cuban war from 1868 to 1878, and had been wounded seven times.

A glorious record for this lover of liberty; a glorious example to set our children; yes, to us, who have forgotten how our liberties were bought and the wounds that were kept bleeding and festering for them for more, perhaps, than twenty years after our Revolutionary struggle. Sanguily sets us an example, Mr. President, that I would that the younger men of this country could feel. Yet I know that amongst the eldest who have got to be either of the class or the advocates and defenders of the class called the business interests have forgot the last instincts of patriotism, and are now just as corroded as were the British persecutors of the Americans in the times of the Tories and the Whigs of the Revolution.

> It was therefore naturally supposed that sooner or later he would have joined the insurgent side of the war now in progress in this island.

That was a natural supposition. That was all there was to the case, for Sanguily, feeling incompetent to take further part in open rebellion, abstained like an honorable man from secret council with the enemies of Spain. Why? Because he felt the obligations of his oath of allegiance to the United States and felt that

he had no right as an honorable man to violate it. Hence, when a message was sent to him inviting him to become a member of the insurrection he positively refused and cut himself aloof from all associations of the kind. Because a man is honorable enough to obey his allegiance to the United States Government he is not only arrested in Cuba and tried upon that suspicion which naturally, says Lee, grew out of his situation, but he is here persecuted as a convicted man, and some Senators on this floor rejoice that that poor man, in the midst of his persecutions, has been subjected to a condition from which he could not escape with his life otherwise than by confessing guilt when he was not guilty and accepting pardon when he was not entitled to pardon, because no guilty thought had entered his mind or had ever found expression in his action.

That is the situation of Julio Sanguily, a man who, in point of honor and in point of that respect which the world owes to a high character, will compare favorably with the character of the best man on this floor. Now, says Lee:

On the 28th of November, 1895, or, say, nine months and four days after he was arrested and thrown into a cell at the Cabañas fort, he was tried and sentenced to be imprisoned for life.

He omits to mention the chains.

An appeal was taken to the supreme court of justice at Madrid, which decreed, upon some technical ground, that Sanguily should be retried.
On the 21st of December, 1896, his second trial commenced, and ended by his being again sentenced to perpetual imprisonment.
From this second sentence an appeal has been taken, which, whether successful or not, will greatly lengthen the time he has already passed in his cell.
The lawyer who defended this prisoner in his first trial now looks from the bar of a cell adjoining his in the Cabañas fort, and I am informed that the lawyer who managed his appeal before the Madrid court has suffered in consequence thereof, so that it may be difficult to procure in Madrid another person versed in the law who will consent to manage for Sanguily the appeal proceedings.

Lee foresaw what the result of that appeal would be in Madrid. The lawyer who defended him before had been disbarred and robbed of his office, and he was left there without money, without friends, without an advocate, without even the friendship of the American minister, to run the risk of an appeal that would condemn him to an African fortress in chains for life.

Well, sir, I do not wonder that Sanguily might be frightened and forced under this duress even to permit his counsel to ask for this pardon. I do not know hearts that are quite strong enough to stand the Spanish Inquisition repeated in Cuba. We have read enough of the martyrdom of that Inquisition to understand that it requires nerves more steel-like than we have got and perhaps consciences purer to be able to withstand even for the sake of God and His Church the persecutions of the Inquisition of Spain. These men have no power to touch a suspected prisoner otherwise than with cruelty, and the punishment of a man in Cuba who is suspected of running counter to the will and policy of the Spanish Government begins the very minute that he is landed in a prison. They begin to punish him before he is convicted, and if they find that the evidence is not going to be sufficient to convict him, they punish him until they wear him out before giving him a trial. That is what was done in Sanguily's case. Yes; you American Senators see it and know it as I do. You stand here and look it in the face and do not blush.

He says:

Only a few days after the arrest of Sanguily a proclamation was issued—

Mark this—

Only a few days after the arrest of Sanguily a proclamation was issued offering amnesty to all persons in arms who would give themselves up.

That proclamation, we are informed, was issued.

It seems that this ought to apply to persons who had been arrested without arms in hand. Two other Cuban officers of distinction—Ramon Perez Trujillo and José María Timoteo Aguirre—were arrested, I am told, at the same time as Sanguily and for the same reason, namely, because it was thought that they would engage in the war. After a short incarceration they were liberated.

They were not American citizens, Mr. President. There the discrimination commences, and presently I shall have something to say on authority about discrimination. Every American who holds naturalization papers who has been placed under arrest—and few have escaped in Cuba—has been discriminated against deliberately and with cold blood because simply he held those naturalization papers. Now, it is a well-known fact that an American citizen of Spanish origin or of a Spanish name who has got a passport or certificate of naturalization from the United States does not dare to show it when he is arrested for fear he would be killed on the spot. That is the sort of character we have got in Spain. We deserve it. But, Mr. President, I do not enjoy it. It is not pleasing to me; it may be to others.

And when it was day, the magistrates sent the serjeants, saying, Let those men go.
And the keeper of the prison told this saying to Paul, The magistrates have sent to let you go: now therefore depart, and go in peace.
But Paul said unto them, They have beaten us openly uncondemned, being Romans, and have cast *us* into prison; and now do they thrust us out privily? nay verily; but let them come themselves and fetch us out.
And the serjeants told these words unto the magistrates: and they feared, when they heard that they were Romans.
And they came and besought them, and brought *them* out, and desired *them* to depart out of the city.

Ah, Mr. President, it was Paul's valor and vigor alone, and he possessed it, too, in a degree equal to that of any man, I suppose, who ever lived, fortified as he was also by Divine inspiration. But it was the glorious title of Roman citizen that sheltered him on that occasion, and it was that that he appealed to.

He could not be taken with that character upon him and be degraded by being thrust out privily; he could not be stolen out of that prison or seduced out of it.

Mr. DAVIS. He declined a pardon.

Mr. MORGAN. Yes. He would yield to nothing but the Roman right. He stood upon it, and it stood him in hand, and these persecuting magistrates, after they had sent their sergeant to induce him to accept this pardon and this secret dismissal from prosecution, came to him and begged him that he would accept an open door and depart from the city.

Mr. President, that was nearly two thousand years ago, and that example has stood here upon Sacred Writ for the encouragement and protection of men who enjoy the citizenship of great countries which are willing to protect their citizens wherever they may be found; and we find, while that sacred principle is connected with the highest development that is possible of human character, perhaps the most distinguished and the noblest Christian that lived in the world was made the subject of this sort of persecution, he claimed not the power of angels to release him, as he could have done, but he appealed to his Roman citizenship, and the very judges and persecutors who had cast him into prison came and opened the door and begged him to depart.

Sir, we had an example of that kind secured to us in the Constitution of the United States and in the glorious and priceless name of American liberty; but Senators on this floor turn their backs upon it and spurn it, and ridicule the man who claims the title of American citizen, and call him a fraud, because they suspect in their evil imagination that there is possibly some lapse in the proceeding by which he was naturalized. They stand here to claim that he is not an American citizen. Why and for what? In order that he may justly suffer imprisonment for life in chains. Leave it to them upon the law and the facts, and Sanguily would have gone to Ceuta without the possibility of restoration, and passed his life in chains.

The point was astutely made here. If it had been made in that Spanish court—and it is only because the Senator from Massachusetts was not a Spaniard that it was not made—if this point had been made in a Spanish court, it would have prevailed there doubtless, and probably would have prevailed in the Senate of the United States and in the mind of our heroic President, and Sanguily would have been condemned to life in chains. That is the judgment you have pronounced upon that poor man. The American Government says he is a citizen; you say he is not. This is a question between two governments, not a question between poor Sanguily and even the Senator from Massachusetts. The American Government has said in the very initial proceeding, started and reported in the dispatch from our consul-general, Ramon O. Williams, on the 25th day of February, 1895, that this man is an American citizen, and gives the date of his naturalization, the number of his passport, and the fact that he had a passport given him by this Government. Then he proceeds to say that he took that passport and returned to Cuba; that he had it registered there in the American consulate and also in the office of the Captain-General. So that this noble character, which he supposed, like the character of the Roman citizen, would even open dungeon doors to his release when he was innocent, would be kept in constant view of the Captain-General of Cuba. There he lived, and no man can say one word to the contrary, an obedient man to that glorious character of an American citizen. He valued it, appreciated it, and acted upon it, and now he suffers for it, and it is all he does suffer for.

Mr. President, I wish to read one little extract from the judgment of the court which pronounced the sentence of death upon Sanguily:

11. Whereas according to article 8 of the civil code and article 41 of the law concerning foreigners, the penal laws are binding upon all persons living in Spanish territory, and as, consequently, the provisions of the penal code are applicable to Don Julio Sanguily y Garit, since his American citizenship gives him only the rights granted by the protocol of January 12, 1877, which rights have been recognized.

There, in the sentence of death upon that man, that Spanish court does him the honor to declare his American citizenship, yet the Senator from Massachusetts snatches from him that tribute to his character, which entered into a document, no doubt the chief

factor in his condemnation. All the way back through these papers, every time Sanguily is alluded to, he is mentioned as an American citizen.

Sanguily was educated in the Northeast, in New York City, I believe, elegantly educated in our colleges, for he belonged to a family which was able to bestow upon him those accomplishments. When his native country became involved in the war of 1868 to 1878, the young man went there, and very soon was rewarded with the commission of a general, and he earned it upon the field in the noble wounds that he bears upon his body, in the gallant conduct which he performed there and which has become a part of the history of Cuba. This man, while incarcerated, prepared two papers in his own defense, one of which he addressed to the Government of the United States and the other was evidently prepared for his counsel. I will insert those papers in my remarks without now stopping to read them, with only the observation that I think it would put the best lawyer in this Senate to a pretty severe task to prepare a better paper than either of them.

The papers referred to are as follows:

[Inclosure 2 in No. 2812.]

Mr. Sanguily to Mr. Williams.

SIR: I, Julio Sanguily, imprisoned in the Cabaña Fortress for the supposed offenses of rebellion and kidnaping, appear before you to protest of the unjust imprisonment suffered and the concluded violation, victim in both charges.

In the first I have been sentenced by only five judges. Have been indicted and put in prison by virtue of a warrant founded in the circumstantial evidence of the process originated before the military jurisdiction.

Besides, I have been subjected to a new trial by the civil authority, which is not in accordance of the protocol of 1877.

According to that protocol the law of procedure that has to be applied to the citizens of the United States is the one of April 17, 1821.

That law directs from articles 19 to 23 an especial procedure, by virtue of which every act of the process must be with the consent of the defendant's counsel. Article 23 says that the witnesses must testify in the presence of the defendant and his counsel.

Article 24 says the presiding judge must pronounce sentence.

Article 25 says that after sentence has been pronounced the case must be carried to the (audiencia) and the parties to be heard there again (article 28) pronouncing definite sentence within the third day by six judges.

Laying aside the warrant of process and imprisonment founded in the facts of the case originated before the military jurisdiction, the undersigned could never have been tried by oral process, because the protocol of 1877 objects to it, and says that the citizens of the United States can not be tried only by the law of April 17, 1821, with entire publicity regarding the witnesses, who have to testify in the presence of the defendant's counsel, who can make any remarks he may deem necessary, first pronouncing sentence by the judge, and then with new proof by the audiencia, and that composed of six judges (article 27).

The exponent has had only one sentence, by virtue of a law that is not applied, and that sentence has been pronounced by the audiencia, composed of five judges, sentencing to perpetual chain.

Article 2 of the protocol has reference to the law of April 17, 1821, and also articles 4 and 5, all in reference to the citizens of the United States.

Such is the law in force regarding citizens of the United States. And the general consulate objected against military jurisdiction, the one subjected by the exponent. The Captain-General acceded to the demand of the general consulate by merits directed in article 1 of said protocol.

Though another Spanish law may have been promulgated following that of 1821, it is not possible to lay aside without the accord and consent of the United States of the one particularly determined in the protocol, i. e., the citizens of the United States must be tried by the law of April 17, 1821, more advantageous than by secret process, by which the Spanish subjects are subjected to.

The law of 1821 also demands proofs in order to convict, and the Spanish law in force, or say that one of the oral process, authorizes the laying aside of the proofs and the conviction or discharge, only in conscience of the judges. And the conscience of the judges of the Spanish tribunal toward the undersigned is not a guaranty sufficiently impartial, taking into consideration the political offense and the important part taken by the undersigned in the last war.

In the case of kidnaping, as in the previous one, the protocol and law of April 17, 1821, is not applied and is substituted by the oral process.

The exponent has not consented to the law that has been applied—

In the first place, because the treaty has a public character and can not be renounced individually; in the second place, because it designates an obligation of the Spanish Government which has to be fulfilled; in the third place, because, as it appears in this case, did not know the existence of a law that favored me so much, an ignorance that can not be imputable to the Spanish authorities, necessarily cognizant of the treaty, which did not wish to apply in prejudice to a citizen of the United States; in the fourth place, because the Spanish criminal law, in article 8, declares that the criminal jurisdiction can never be prorogued.

Then it can not be said that the undersigned has been submitted to a criminal jurisdiction, which does not belong to him, proroguing to that jurisdiction his own.

The undersigned does solemnly swear, in the name of the Almighty God, that, until now, did not know the existence of the law of 1821, and being imprisoned since February 24, 1895, and sentenced in one of the cases, by virtue of a law to which is not submitted, but excluded by the protocol of 1877, appears before his consul with the present protest, against the arbitrary and violation of the law of which is a victim, that through the representative of his nation may be elevated to the United States Government, so that it may obtain the immediate liberty of one who is suffering imprisonment illegally and has already been sentenced unjustly, and besides that I demand from the Spanish Government an indemnity in the sum of $500,000, damages caused by the said Government in depriving me of my liberty arbitrarily decreeted and against the solemn law of treaties.

At the date of this protest and claims of damages the undersigned has already suffered one year and eleven days of illegal imprisonment in a fortress.

So the United States Government can not consent that, contrary to the expressed laws, a citizen of his nation be deprived in such a manner of his own liberty by a foreign Government.

JULIO SANGUILY.

CABAÑAS FORTRESS, *March 6, 1896.*

Memoir presented to the United States Government by Julio Sanguily, a citizen of same, demanding his liberty and indemnity of the Spanish Government for reason of the unjust imprisonment of which he is the victim.

The treaties and protocols in force between the United States of America and Spain relating to its citizens and subjects are laws.

The first treaty in the chronological order is that of 1795. That treaty was ratified in 1819 for another one, with exception of articles 2, 3, 4, and 21 and the second clause of the twenty-second.

The seventh clause of the treaty of 1795 remained, therefore, in force. Said clause says: "That the citizens of the United States shall be granted free access to all judicial procedures and to be present at all hearings and examinations relating to same."

As that clause was not sufficiently clear, several conferences were had between the minister plenipotentiary of the United States at Madrid and the minister of state of His Majesty the King of Spain, agreeing definitely in 1877 to sign on the 12th of January of said year the protocol, which, according to its preamble, has for its object the following: "To terminate amicably all controversy as to the effect of existing treaties in certain matters of judicial procedure and to make declaration on both sides as to the understanding of the two Governments in the premises and respecting the true application of said treaties."

That protocol has been signed by the Hon. Caleb Cushing, for the United States, and by His Excellency Señor Dn. Fernando Calderon y Collantes, minister of state of the Spanish Government, the president of the cabinet, His Excellency Señor Dn. Antonio Canovas del Castillo, confirming same and communicating it to the governor and Captain-General of Cuba through a royal order.

Said protocol ends with the following words: "In order to give the Government of the United States the completed security and good faith of His Majesty's Government in the premises, command will be given by royal order for the strict observance of the terms of the present protocol in all the dominions of Spain, and specially in the Island of Cuba."

The exponent was indicted by military jurisdiction in two cases—one for the rebellion, and the other for kidnaping. The consul-general of the United States demanded immediately of the Spanish authorities, and referring to article 1 of the protocol of January 12, 1877. The Spanish authorities, recognizing the justice of that demand, consented that the case would pass to the civil jurisdiction.

This action of the Spanish Government in the Island of Cuba proves that they recognize the protocol, because the first of its clauses was fulfilled. But the Spanish Government has not recognized all the other clauses of the protocol, having violated them, and the exponent goes to prove it.

All the protocol is united to the law of April 17, 1821. That law has never been applied to Spanish subjects in the Island of Cuba. It is an especial law of Spain, and if it was published in Cuba in El Diario del Gobierno Constitucional de la Habana, dated July 10, 1821, was a new reference; and so it is that article 37 of same declares that the dispositions of that law as understood are limited to provinces of Spain and adjacent islands.

The mentioned law of April 17, 1821, was never a law in Cuba for the Spanish subjects. But the Spanish minister by common consent with that of the United States having selected it exceptionally, to proceed and resolve only when concerning to citizens of the United States.

In accordance with the treaties, the citizens of the United States condemned by the Spanish authorities in criminal cases must be subjected to the especial law exclusive of any other law.

Examining now the protocol of 1877, said protocol having been fulfilled by the Spanish Government only in the first clause, article 2 refers to those who may be arrested or imprisoned by order of the civil authority for the effects of the law of April 17, 1821.

Article 3 refers to those who may be taken with arms in hand, mentions as law for the citizens of the United States, adding: "In conformity with the provisions of articles 20 to 31 of the same law."

Those articles from 20 to 31 direct that the trial must be public, the witnesses testify in public in the presence of the accused or counsel; that the counsel or the accused can make observations or examine the witnesses; that after the evidence the counsel may expose to the judge all he may deem convenient to his client, and after the counsel has been heard the judge may pronounce sentence.

The sentence pronounced by the ordinary judge shall be referred to the audiencia of the judicial district, in accordance to article 5 of the protocol, referring again to the law of April 17, 1821, and before the audiencia, according to this law, the citizens of the United States can present new evidence, and his counsel speaking afterwards, the audiencia, composed of six judges, among them necessarily the president, shall pronounce sentence lastly.

The law of April 17, 1821, which the protocol guarantees, has not been conceded to the exponent, and has been condemned by another law in which the process has been secret. The witnesses have not testified in the presence of the accused or his counsel, and has been subjected to oral process where there is only one, sentence having been pronounced by five judges and not by six, as the law of April 17, 1821, requires.

Has already been condemned in one of the cases, and the other is being finished in the same manner.

Besides, in the oral process, conviction can be agreed without process at the conscience of the judges, and the law of April 17, 1821, says "that the crime charged in the indictment must be fully proved."

The exponent is suffering imprisonment in a military fortress nearly twelve months for reason of a law not included in his case, therefore violating the agreement of the treaty or protocol.

Moreover, the imprisonment is founded in the facts and antecedents instituted in the case by the military jurisdiction where the cases were initiated.

In the protest accompanied with this exposition swore in the name of Almighty God not to know the law of April 17, 1821, a law that protected him so much, and now repeats the same solemn oath. Therefore invokes in the name of justice that the liberty taken from him so arbitrarily be restored immediately.

Besides the damages caused by the privation of his liberty, add the injury caused his honor, charging him with the infamous crime of kidnaping, a charge of which he is entirely innocent; and said charge had been published in the newspapers on several occasions.

The two newspapers inclosed, La Lucha and Diario de la Marina, having the largest circulation in Cuba, published to the injury of the exponent his complicity in the case of kidnaping, instituted against him by the mystery of a secret process.

The imprisonment and the case of kidnaping have been realized, applying to him a law of which he was excepted by virtue of a treaty between the United States and Spain.

How much is the damages value?

The nation that breaks a treaty to imprison conveniently a foreign subject exempted by a law of said treaty and subjects him to an inquisitorial proceeding by which he is dishonored through the infamous and repugnant nature of the crime charged him, such nation is obliged to pay the damages occasioned so arbitrarily.

The exponent estimates the damages caused by privation of his liberty and his honor, the two most valued treasures of the human being, in the sum of $500,000.

It must be taken also into consideration that the exponent, besides suffering imprisonment since February 24 of last year, has been incommunicated during twelve days, thus separated from his family and the world; that cruel and arbitrary incommunication was not even ordered by the civil authority, but by the military jurisdiction, an authority twice unqualified—first, because it was a military authority prohibited by the treaty, and, second, because the incommunication was effected contrary to the law of 1821.

The inclosed copy of protest of the consul-general of the United States, dated April 5, 1895, confirms the above fact.

From the prison he claims justice from the Government of his nation and invokes in the name of said justice and the law of treaties to demand of the Spanish Government his immediate liberty and also the immediate payment of the indemnity lawfully claimed.

In order that the Government of the United States may have full knowledge of the case, inclosed is copy in Spanish of the law of April 17, 1821, also copy in English of the Cushing-Collantes protocol, which refers to the former law.

Confirming the facts mentioned in the protest and memoir, the Spanish tribunal that passed the sentence for rebellion did not consent to send to the United States Government authenticated copy of the process and imprisonment, refusing previously that the consul-general of the United States should examine the case; and that opposition of the Spanish authorities was because they did not wish that the United States Government should be aware of how the treaty of 1877 had been violated, not having observed the procedure of the law of April, 1821, notwithstanding the cases against the accused had been transferred to the ordinary tribunal, that in the procedure the rules of the treaty should be observed.

And it can not be any other reason founded by the refusal of the judicial authorities that the United States Government should see the cases mentioned.

There can not be any ignorance alleged on the part of the Spanish tribunal.

No tribunal ignores the laws of its country; therefore everything has been the work of bad faith.

JULIO SANGUILY.

HABANA, *March 6, 1896.*

Sanguily is a man of elegant accomplishments, a man of noble aspirations, a man of honorable deeds, who to-day would greatly prefer death to dishonor, and he is buffeted and kicked about in the Senate of the United States, derided and mocked at, simply because, not that he has appealed to us for justice, but because on the 1st day of February, 1897, the President of the United States, in obedience to a resolution offered by the Senator from Florida [Mr. CALL], sent in the record contained in the State Department of the treatment of that man. The Senate waited upon it, notwithstanding the honorable Senator from Florida next pursued this subject by a resolution, which he insisted that we should consider, and he pressed it, sir, with that vehemence and strength which is due to an honorable Senator inspired with thoughts of justice toward suffering manhood. Finally we took it up, because we felt that there was no hope for Sanguily but pressure to be brought at least by the Senate of the United States.

In the very first communication which was made by Ramon O. Williams this amnesty is called to the attention of our Government, which applies to all men who had even taken part in the insurrection by agreement or by overt act, whether they were found with arms or without arms, that they should be pardoned, should be amnestied, whenever they came in and submitted to the authorities. That amnesty was issued while Sanguily was locked up in prison. He was arrested on suspicion the day before the revolution broke out. While he was locked up in prison, this amnesty was issued. Of course we supposed, and everyone else supposed, that that would naturally dismiss the Spanish prosecutions against him. His offense, if committed at all, must have been committed antedating that amnesty and before he was locked in that prison, for a conspiracy was all that they have ever charged. Here stood the offense perfect and complete, if it had ever been committed, at the date of the pronouncement of that amnesty.

Why, then, was he not entitled to the benefit of it? Ah, sir, the reason stands out prominently that, while everybody else got the benefit of it, Sanguily was an American citizen and was discriminated against. That is the only reason. No man can argue out of this situation. You may shut your eyes to it and run away from it, but when you allow common sense and reason to operate in respect to these facts, that is the situation, and that is the result.

There stood that amnesty. When Sanguily was put upon trial he pleaded it. His counsel got up in court and called attention to it, stating that the proclamation of amnesty was made when Sanguily was locked in jail, and that he was not taken—and the evidence showed that he was not taken—with arms in his hands. He pleaded discharge from prosecution. The court overruled the plea, and held him. Who can account for that upon motives or sentiments or ideas of justice or right or honesty or uprightness? He was held contrary to that plea, because, and only because, he was an American citizen. When the counsel for the State came to argue that case against Sanguily upon this manufactured evidence, which would not have convicted a negro of bad reputation of chicken stealing in the South, he goes on to descant upon that very fact.

I can not for the moment lay my eye upon that paper, but it is in one of the papers which is published in this report, in which the prosecuting attorney dwells with great emphasis and decidedly bad feeling upon the idea that Sanguily should have left his native land and come to the United States, where nothing but hostile sentiment pervaded the people of this country, and have accepted naturalization at the hands of this Government. A decent man in his common senses, in his rational mind, who could not find a reason for preferring the Government of the United States to the Government of Spain under any circumstances, must have some very strong attractions or attachments in Spain or Cuba to draw him away from this hospitable and splendid land, where this young fellow was educated in our colleges.

He had acquired a love for the people of the United States; and that is one of the bitterest things that Spain has to encounter, that her young men and her young women of good family and good sense and good breeding and good fortune, or good talents and abilities of any kind, witnessing the splendid developments and the glories of this great Republic just across the narrow divide of waters between Florida and Cuba, stand there and look from their home trees out upon the north, and desire above all things that God would bless them with American citizenship. I hope that the flame that burns in Cuban hearts to-day in behalf of this splendid Republic, its institutions, its people, and its history, will continue to burn until the altar shall be built in Cuba upon which that flame shall fasten itself like the fire which descended from heaven upon the altar in the temple of David, and stand there and burn forever.

I will turn to the last trial and see what the counsel who prosecuted had to say about the case. In the first part of the trial the diatribe was much more prolonged and specific and cutting; it was even almost equal to the irony of the Senator from California [Mr. WHITE], which seemed to be quite red-hot, if not white hot, against Sanguily and all the people who had any respect for his wounds, his character, and his devotion to human principles.

The fiscal—

That is, the prosecuting attorney—

laid special stress upon the testimony of the accused, who had stated, when interrogated by the court, that he had not accepted the convention of Zanjon, of 1878, but had gone abroad to the United States, whence he did not return until 1879, and then as a citizen of the United States, and bitterly censured him for his acts of renouncing his nationality, of accepting the citizenship of another country, even of such a country as the United States.

Mr. CAFFERY. Will the Senator kindly inform me from what page he is reading?

Mr. MORGAN. Pages 93 and 94 of the report of the committee—

here the fiscal took occasion to pronounce a decided eulogium of the United States—of that friendly and powerful nation that feels bound in dignity to protect its adopted citizens who had privileges here that even those who had not ceased to be Spaniards did not enjoy, and of again returning to the land of his birthplace, of his forefathers, and of his wife and son, to resume his residence, and forgetful of the duties imposed on him as a foreign citizen to remain neutral, to conspire to head a revolutionary movement, issuing commissions, and executing preparatory acts of rebellion such as recruiting men and acquiring arms and ammunition.

And while he says the proof is positive upon those propositions, there is not one particle of proof. That man lied in his throat in the presence of the court when he said so upon the record.

Now, why are we censuring Mr. Sanguily for putting in this plea of amnesty? He did not get it. He was pressing his plea of amnesty for two years. That did not require of him to make any false confessions; that did not require of him that he should come and plead guilty to an accusation of rebellion and treason, and that he should acknowledge that he deserved the punishment of a life in prison and in chains. I should think that anyone would prefer to receive the benefits of an amnesty, which requires nothing of him in the existing state of facts, to being compelled to put in a plea for pardon for an offense of which he knew he was not guilty.

And, Mr. President, they seem to have had a great deal of trouble in getting this plea of pardon properly hurried up. The President of the United States has not yet got any information of it; he can not have; otherwise he would have self-respect enough, if he did not have enough for the Senate, to send in a message here informing us of the consummation of this pardon, in order that we might cease work upon this resolution. He can not have it in honor and justice to his own reputation as a man and President; otherwise it would have been here. The Senate of the United States in solemn deliberation acting upon a matter of this kind, entitled to receive evidence of this kind or information of this kind sent from the President of the United States, is denied any recognition in the premises; the evidence is withheld, if it exists, and we are expected to decide this case according to our own feeble judgment—a lot of intelligent gentlemen whose opinion, alas, amounts to nothing! That is what the Secretary of State said about us, and he said it in the ear of the Spanish minister here, in order that Spain might have a sufficient degree of contempt for this body and the other House of Congress. "The opinions of a

set of gentlemen which, when expressed, amount to nothing." "I am the great I am of this Government; I am the Government, and what these other men may do dangling about and around the fringe of things, what opinions they may express, may do very well for comment in the social circle or possibly for a question of debate in a debating society, but when you come down to facts, I am the Government; what I do is done, and what I do not do you have no right to touch." That is the situation.

Here came that resolution from the committee. The committee asked to set a day for the consideration of it, although it was another day of chains and imprisonment for Sanguily. If any Senator on this floor had to suffer one such day as that, though he should live for a hundred years, he would never forget that day. The humiliation it would work upon his heart would be so depressing, and the scars that were left there would be so deep and so annoying, that he would forget the most of life when he had to turn to that dismal day spent in a Spanish prison, an innocent man under unjust accusations and deserted by his Government. Sanguily had another day of it, and days have been added since the 1st day of February up to to-day, and for every day added to it somebody is responsible. God and man will both hold somebody responsible for every added day of Sanguily's sufferings in that prison.

Mr. President, when this committee came into the Senate with this report and gave a day upon it, I say there was still another day added to Sanguily's torment, although we could not help ourselves. We knew what was coming here. We knew that Spain had her advocates upon this floor for anything she has attempted to do—not men merely to excuse her, to palliate the situation, but absolute advocates for all the tyranny she has shown in Cuba. We knew that, and we knew we would have to confront it; but we supposed that our duty was none the less incumbent and peremptory on that account, for the man who has a great and solemn duty to perform can not stop and look at the obstacles that may confront him. If he is honest, he will look to the result and will try to reach it, though he may be foiled, as we have probably been here; but the introduction of the resolution put the cable wires into motion, kindled up the fires beneath the sea, and here we find information of a cable arrangement printed in the newspapers here this morning, said to have come across the cable, that Sanguily's counsel, Mr. Dominguez, had entered an abandonment of his appeal from his last condemnation to the supreme court of Spain, and thereupon the Queen of Spain had made it a special case and sat down and granted him a pardon—a pardon by cable! Why? What was the hurry about it? Because the Queen of Spain knew that she could not stand the arraignment that was being made in this Senate.

If that royal head, for which I have great respect, had conceived for one moment that the conduct of her Spanish subjects in Cuba could be justified upon any law, international law, treaty law, law of humanity, she would have said, "My royal word is at stake for the preservation of these laws, and I will not yield by cable a pardon to this man Sanguily. I will have his case set before me on the trial record, and I will examine it," like the President of the United States would examine a pardon petition here upon the record, and determine in his own cool and quiet judgment, according to conscience and right and law, whether or not the man was entitled to a pardon. But here the agreement is cabled to Spain, and as soon as the wires can bring it from the royal hand—the papers state that she signed the pardon with her own hand—without ever looking into Sanguily's case, startled and alarmed by the Nemesis of justice that was about to overtake her, she shrank from the collision and granted this pardon.

The duress, Mr. President, was as great upon Spain even as it had been upon Sanguily. What was the duress upon Spain? Nothing but being confronted with the truth. That was all. This message sent in here and the report based upon it and the resolution reported to this honorable body convinced her that the cheapest way out of this affair was, first of all, to get Sanguily to put himself in a condition of self-abasement and self-condemnation, then to grant him a pardon, and then to escape the fine that she saw she would be obliged to pay for this man's sufferings. "Money makes the mare go," and it seems to have had that effect in this case. "I have got poor Sanguily," says the Queen of Spain, "locked in a dungeon. I have got the waiting wife and little boy outside, who have been for two years living upon the charity of friends; I have got his character in my grasp; I have got him condemned contrary to the treaties with the United States and the law of Spain itself; he is my prisoner, and as much in my power as the timid mouse is in the power of the cat when he is playing with him before he eats him up." That is the way Spain had Sanguily; and then they begged Sanguily to dismiss his appeal in order that they might get a chance to pardon him!

Oh, what welcome news was that to this President in our White House, who has been down upon his hunkers now for two years praying with Spain to release him! How glad his honest and noble American heart must be, and in what wild transports of joy must be his magnificent person when he hears that after all, by the combination between the Crown of Spain and the President of the United States, they have now taken a poor creature and have at last dragged out of him a condition where they can escape paying damage and possibly have the liberty, like the sluggard, of sleeping and snoring while Americans suffer!

That is a lovely thing. There has that much good come out of it, Mr. President. There is one happy heart in this country, and that is the heart which for two years has been evading its duty of relieving Sanguily, when it was charged in the very first, the initial correspondence on this subject, that the treaty was being violated, as has often been charged since. That heart, which was engaged with all this knowledge of the breach of the treaty before his eyes, driven in upon his consideration, now finds that after two years of consideration, weighty consideration, he is able to escape through the sufferings of poor Sanguily.

Mr. President, he escapes two duties, one to his country and the other to his manhood. I am willing that he should escape both. I am willing, if it is to be the fate of Sanguily, that he should thus be immolated, thus destroyed; but I wash my hands of it here in the presence of the Senate of the United States. I am not guilty of having destroyed this poor man. I am not guilty of that act of cowardice which has exposed him to extreme penalties and compelled him to listen to extreme demands of injustice, demands which violate the integrity of the Government of the United States in its relations to him. I am not guilty of that, thank God! I commend those who can find any comfort in Sanguily's fate and condition to a diligent search for that comfort, for I must think when in their most thoughtless moments the name of Sanguily shall hereafter occur to them there will be a startling jar in the bosom that will satisfy them that some great wrong has been done which can properly be laid at their doors.

Now, once more about the question whether the matter was presented in regard to these treaties; whether it was pressed upon the consideration of the Government of Spain by the Government of the United States. Joseph A. Springer, our consul at Habana, in the absence of Mr. Lee, I suppose, or in the absence of Mr. Williams, May 4, 1895, made a communication to Mr. Uhl, who was then First Assistant Secretary of State. I will not read the whole of it, as some parts do not bear particularly upon this matter:

I have now the honor to accompany copy and translation of a communication received to-day from the Acting Captain-General to the effect that orders had been given to have copies made by the special judge of instruction of those parts of the cause instituted against Julio Sanguily and others, for conspiracy, for rebellion, which affect the American citizens, Messrs. Julio Sanguily and José Maria [Timoteo] Aguirre Valdes, which copies would be shortly sent to the civil jurisdiction of this city, his excellency having waived the military jurisdiction in favor of the civil jurisdiction as respects the said parties.

I understand that to-day is the tenth day that Mr. Sanguily has been "incommunicado" (in solitary confinement) by order of the military authority, not allowed the visits of his family, or even to see his advocate appointed by him for his defense.

That was pretty close confinement.

On the 26th day of April Mr. Williams had sent a dispatch to Mr. Uhl, which I will read:

I have the honor to inform you that in compliance with the telegram of the honorable Secretary of State of the 16th instant, I addressed a communication yesterday to his excellency the general in charge of the Captaincy-General, asking for the transfer of Mr. Julio Sanguily on the second charge from the military to the civil jurisdiction for trial, in accordance with the requirements of the agreement of the 12th of January, 1877, and entering at the same time the formal protest of the Government of the United States before the government of this island against any further delay in his transfer to the civil jurisdiction; protesting alike against all the proceedings hitherto practiced or that may hereafter be practiced by the court-martial now trying him, because they are in clear contradiction of the said agreement between the two nations.

Mr. President, I have read this more for the sake of reaching the ears of some of the members of the committee who seem to overlook the proposition than for any other purpose. I desire to show that in the very beginning of this proceeding, under the instructions of the Department here, our consul was directed to protest that no part of the military proceeding held against Sanguily in either of these cases should form a part of the judicial or civil proceedings afterwards had, but they had to start de novo; they had to abandon the inquisition of the military tribunal; they had to abandon the record which they made ex parte and without conferring with him at all. They could not, under the act of 1821 and the protocol of 1877, use that evidence against Sanguily, for that law, which is made a part of the treaty, expressly forbids it.

So our Government protested and kept on protesting. Now, here again, as late as December 24, 1895, Mr. Williams again writes on this subject:

With reference to previous correspondence relating to the arrest and trial of the American citizen Mr. Julio Sanguily, for rebellion against the sovereignty of Spain in this island, I have now the honor to inclose a copy and translation of a communication received under date of the 8th ultimo from

the chief justice of the royal audiencia of the province of Habana, asking for a literal copy of the formal protest I addressed the governor-general by order of the Department on the 25th of last April—

That is, from April to December—

against all the proceedings that had been practiced then or that might be practiced in the future by the military jurisdiction in the trial of Sanguily, because contrary to the provisions of the Collantes-Cushing protocol of the 12th of June, 1877, which requires that the above should be tried exclusively by the ordinary or civil jurisdiction.

I also inclose copy and translation of my answer to the chief justice, with which I accompany copy of my said protest. I sent a copy of this protest to the Department with my dispatch, No. 2491, of the 25th of April last.

There we began to make that point in April. As soon as this man had got out of the first case of secret imprisonment so that the consul could have a chance to see him and know what was in his case, right then and there our Government protested and continually it has protested up to this very hour that no part of the military proceedings against Sanguily could be used against him under any circumstances or in any phase of the case.

But they have gone on, and up to the very last trial, Lee himself protesting again about it, they still resorted to their military proceeding. They still took what they call their ex parte confession of the witness, made at the hour of 11 the night he had been arrested, doubtless alarmed, with no one to protect him, no one to know whether the officer took a correct record of his case or not. That is called here an open trial in a place of justice. Ah, Mr. President, how are the mighty fallen!

Now, I look back to earlier days, during the former Administration of Mr. Cleveland, and I recall to the attention of the Senate the case of A. K. Cutting, over in Mexico. Do you remember it? Thomas F. Bayard was then Secretary of State, and I trust that in his honorable association with the great and brave people of Great Britain he has not forgotten enough of his Americanism and enough of British sentiment also to have humiliated himself to the position of the present Secretary of State upon these questions. I hope not, and I believe not.

Now, what is it? Here is Bayard's dispatch to Mr. Jackson, of Georgia, who was then our minister to Mexico:

You are instructed to demand of the Mexican Government the instant release of A. K. Cutting, a citizen of the United States, now unlawfully imprisoned at Paso del Norte.

Ah, heroic language, and it worked its results right along.

By the documents before me, the following facts appear:

On June 18 last A. K. Cutting, a citizen of the United States, who for the preceding eighteen months had been a resident "off and on" of Paso del Norte, Mexico, and as to whose character for respectability strong evidence has been adduced, published in a newspaper of El Paso, Tex., a card commenting on certain proceedings of Emigdio Medina, a citizen of Mexico, with whom Mr. Cutting has been in controversy. For this publication Mr. Cutting was imprisoned on the 22d of June last at El Paso del Norte, in Mexico. * * * But the paper was not published in Mexico, and the proposition that Mexico can take jurisdiction of its author on account of its publication in Texas is wholly inadmissible and is peremptorily denied by this Government.

He did not wait to find out what the supreme court of Mexico would say about it—"peremptorily denied."

It is equivalent to asserting that Mexico can take jurisdiction over the authors of the various criticisms of Mexican business operations which appear in the newspapers of the United States. If Mr. Cutting can be tried and imprisoned in Mexico for publishing in the United States a criticism on a Mexican business transaction in which he was concerned, there is not an editor or publisher of a newspaper in the United States who could not, were he found in Mexico, be subjected to like indignities and injuries on the same ground. To an assumption of such jurisdiction by Mexico neither the Government of the United States nor the governments of our several States will submit. They will each mete out due justice to all offenses committed in their respective jurisdictions. They will not permit that this prerogative shall in any degree be usurped by Mexico, nor, aside from the fact of the exclusiveness of their jurisdiction over acts done within their own boundaries, will they permit a citizen of the United States to be called to account by Mexico for acts done by him within the boundaries of the United States. On this ground, therefore, you will demand Mr. Cutting's release.

But there is another ground on which this demand may with equal positiveness be based. By the law of nations—

Mark the expression—

By the law of nations no punishment can be inflicted by a sovereign on citizens of other countries unless in conformity with those sanctions of justice which all civilized nations hold in common.

Ah! what a splendid statement that is of that glorious code, the law of nations. Let me repeat it:

By the law of nations no punishment can be inflicted by a sovereign on citizens of other countries unless in conformity with those sanctions of justice which all civilized nations hold in common.

Where is there a nation, Turkey not excepted, that will hold in common with Spain the incarceration of this bleeding and beseeching American citizen for his treaty rights for two years under suffering such as human pen or tongue can never describe, and what government, but the Government of the United States, under the Administration of Grover Cleveland, could stand by quietly and silently and see such things inflicted without so much as raising its hand except to provide a way to slip out of the case? How are the mighty fallen, I repeat! When this grand Bayard made this utterance of international law, our Government and the Senate had not recoiled from their dignity and their power and their duty. We had not then become the apologists of tyranny, cruelty, murder, rape, arson, and universal destruction. We are now. He proceeds:

Among these sanctions are the right of having the facts on which—

Let me call Senators' attention to this—

Among these sanctions are the right of having the facts on which the charge of guilt was made examined by an impartial court, the explanation to the accused of these facts, the opportunity granted to him of counsel, such delay as is necessary to prepare his case, permission in all cases not capital to go at large on bail till trial, the due production under oath of all evidence prejudicing the accused, giving him the right to cross-examination, the right to produce his own evidence in exculpation, release even from temporary imprisonment in all cases where the charge is simply one of threatened breach of the peace, and where due security to keep the peace is tendered. All these sanctions were violated in the present case.

That is in the case of the publication of the alleged libel. They were all violated here in the face of the official authority—violated against protest made by the counsel of Sanguily in both of these trials. He was convicted upon testimony that was not sworn to, upon reports of police officers who did not even give the names of their informants. What would Bayard have said to that? What has he said about it—for the cases are exactly parallel?

Mr. Cutting was summarily imprisoned by a tribunal whose partiality and incompetency alike were shown by its proceedings.

Take the proceedings here, Senators, and see whether they do not show incompetency or else mischievous partiality and malice.

He was refused counsel.

This man was not only refused counsel, but the counsel who defended him for no offense that Mr. Lee mentions, to say the least of it, except defending him, at the time of the latest dispatch to our Government, was occupying a cell whose prison bars confronted those of Sanguily. The witness who testified before and had exculpated him in respect of the message that he bore to Betancourt, showing that he did not know Sanguily, never met him, never spoke to him, had been shot to death in his Spanish prison. The counsel who took up the case on appeal to Madrid, and argued it there and gained it, was deprived of his office, disbarred, and is now suffering the penalties of that privation.

Mr. Cutting was summarily imprisoned by a tribunal whose partiality and incompetency were alike shown by its proceedings. He was refused counsel—

So was Sanguily—

he was refused an interpreter—

So was Sanguily—

to explain to him the nature of the charges brought against him.

Here is the testimony in the case of the *Competitor*. A poor little man—I do not call him a poor little man except in the sense that he is a young man; he belongs to a family that is greatly respected, as the Senator from Arkansas [Mr. JONES] on my left knows the family—(to Mr. JONES) do you not know him?

Mr. JONES of Arkansas. I know the family.

Mr. MORGAN. It is a respectable family in Arkansas. The young man went out to make his first reputation in life as correspondent for a Florida paper. He got on a little sloop of perhaps three or four hundred tons burden, merely going to the Island of Cuba, without arms or preparation for war or enlistment or anything of the kind. He was seized there. He stayed on board the ship. He did not go with the balance. He did not feel like escaping, because he felt no guilt. He was seized, put into prison; he was made incomunicado; he was tried under military authority. They started to try him under that, and transferred the trial into the civil court. Here are two gentlemen who were sworn before the Committee on Foreign Relations. Dr. Diaz was one of them, and the other was the correspondent of the New York World. Here is their testimony in respect of the trial in the *Competitor* case. One of the defendants, I think it was young Melton, after the court had been engaged in the prosecution of him for an hour or so, was asked to stand up. I believe I am putting it correctly. Here is my colleague in the examination, the Senator from Minnesota [Mr. DAVIS], and he will correct me if I am wrong. When he stood up, he was asked what he had to say against the accusation.

He said: "I do not know what it is. I do not read Spanish. I have heard something read here, but I do not know what it is. I can not answer to something that I do not understand." Instantly judgment of death was pronounced upon him, and that man is in Cabanas prison to-day. That was eighteen months ago, was it not? It must have been eighteen months ago. Dr. Diaz was there and saw it. He testified in the same way with the correspondent of the New York World. They both came here and swore to it. A perfect mockery! I have applied twice in the last eighteen months to get from the Government of the United States information about the *Competitor* case, and the first time the President returned the resolution and said it was not compatible with the public welfare to give us the information.

Now, there was a pretense, beyond question, utterly unjustified, for section 2001 of the Revised Statutes expressly requires him as President to make a return to the Congress of the United States

of the facts attending all such cases. Instead of obeying the statute, he would not even respond to a resolution of the Senate, but took shelter under the privilege we gave him of hiding the facts if he did not think it was compatible with the public welfare to furnish them. Then, finally, here seven or eight days ago we got, in conjunction with the other case, the case of Melton and several other *Competitor* prisoners, a statement; but that statement is entirely imperfect. It contains no record of the trial. It contains nothing of the evidence adduced. It does not contain the accusation. It is the most meager thing that ever was seen. And our Government has slept upon the rights of this young man from Arkansas, and he is there, a native-born American citizen, if an Arkansas man can be a native-born American citizen, and I suppose he can. He is there; he is that sort of a man; he has been suffering from that time to this for no offense in the world except that he accepted employment from a little newspaper in Florida and went down there to try to get information upon which he could get a little start in life.

There is this young American citizen. Another case is here, but there is no use of going over the cases. They are numerous. Here is the record. I have not the time to stop to read them. I will conclude what I was reading from Mr. Bayard, and then I will close. I know the Senator from New York has an engagement with the Senate at this time to-day, and I ought not to have trespassed upon the time as much as I have:

He was refused counsel; he was refused an interpreter to explain to him the nature of the charges brought against him; if there was evidence against him it was not produced under oath, with an opportunity given him for cross-examination; bail was refused to him; and after a trial, if it can be called such, violating, in its way, the fundamental sanctions of civilized justice, he was cast into a "loathsome and filthy" cell, where, according to one of the affidavits attached to Mr. Brigham's report, "there are from six to eight other prisoners, and when the door is locked there are no other means of ventilation"—an adobe house, almost air-tight, with a "dirt floor."

That would be a palace beside the place Sanguily has been in.

He was allowed about 8½ cents, American money, for his subsistence. He was not furnished with any bedding, not even a blanket. In this wretched cell, subjected to pains and deprivations which no civilized government should permit to be inflicted on those detained in its prisons, he still languishes, and this for an act committed in the United States, and in itself not subject to prosecution in any humane system of jurisprudence, and after a trial violating the chief sanctions of criminal procedure.

These circumstances you will state as giving an additional basis, a basis which, if it be established, this Government will not permit to be questioned for the demand for Mr. Cutting's immediate release.

Mr. GRAY. Will the Senator from Alabama allow me?

Mr. MORGAN. Certainly.

Mr. GRAY. I should like to call the attention of the Senator from Alabama to the difference between the Cutting case and the Sanguily case, and in doing so I want to premise that I sympathize thoroughly with this Cuban patriot. I denounce and have denounced the hardships and cruelties to which he has been subjected. I think they are contrary to civilized procedure of any kind. But, in simple justice to the present State Department, I desire to point out that the Cutting case referred to what is known as extraterritorial crime, and was discussed by Mr. Bayard as a question of international law upon which this Government took a very pronounced position, in consonance with that of all the other civilized governments, that a crime committed in the United States could not be punished in the Republic of Mexico or within the territory of any other civilized government than the United States. He properly stood upon that proposition, and made a peremptory demand for the delivery of the prisoner, who had been arrested under those circumstances.

In the case of Sanguily we have an arrest made for an alleged crime that is recognized by a treaty between the United States and Spain. If I remember rightly, he was arrested for participating in or being cognizant of——

Mr. MORGAN. He was arrested for conspiracy.

Mr. GRAY. Or for a conspiracy looking to a rebellion against the authority of Spain. That was a municipal offense. Sanguily was within the territory of the country against whose laws he was charged with having conspired.

Mr. MORGAN. So was Cutting.

Mr. GRAY. And the offense alleged to have been committed was committed in that territory, and that offense was recognized, as I said before, by solemn agreement between the United States and Spain, in which it is said that:

1. No citizen of the United States residing in Spain, her adjacent islands, or her ultramarine possessions, charged with acts of sedition, treason, or conspiracy against the institutions, the public security, the integrity of the territory or against the Supreme Government, or any other crime whatsoever, shall be subject to trial by any exceptional tribunal, but exclusively by the ordinary jurisdiction, except in the case of being captured with arms in hand.

The diplomatic activity of the State Department was exercised from the time of his arrest down to the successful issue of that activity in having him tried before a civil tribunal in conformity to the obligations of this treaty. The correspondence which has been sent to the Senate shows that activity was unremitting, that demands never ceased on the part of the Department of State until the trial before a civil tribunal, as secured by that treaty, was obtained for Sanguily. That is the difference between this case and the case of Cutting.

Mr. MORGAN. The last point of difference is a very valuable fact. On the part of Mr. Bayard demands did cease. The demand was made for his instant release—it was enforced. On the part of Mr. Olney, demand after demand was made, refused by every tribunal that got hold of it in Cuba, defiantly and insultingly, and still not enforced. The demands were both entirely distinct. Bayard succeeded because he stood up to what he said; Olney failed because he did not.

Mr. GRAY. Mr. Olney, if the Senator will allow me again, succeeded in getting all that he had a right to demand under the treaty, and that was a civil trial, the trial of Sanguily before a civil tribunal instead of a military tribunal.

Mr. MORGAN. The Department in three or four dispatches said, you can not have jurisdiction to unite proceedings of a military court with a civil court. Your military proceedings have not anything to do with it; and yet they tried him upon that united record against which our Government protested every time. There was the main ground, the want of jurisdiction in the court; that and the fact that there were only five judges, when there ought to have been six.

It is true that in a large sense the cases are not parallel in respect to the locality at which the offense was alleged to have been committed, and yet the Government of Mexico did contend, and very rationally, it appears, too, that the publication of a libel is of the essence of the offense, and that the publication was notoriously made by Cutting in Paso del Norte, because he sent the papers there addressed to different individuals, through the Mexican post-office, and communicated his libel against this man there in Paso del Norte through as many readers as he could get it into the hands of; he made his publication, in fact, there. But Bayard does not stand there. The Senator from Delaware omits the second point. Here is where I stand with Bayard. I will repeat it:

But there is another ground on which this demand may, made with equal positiveness, be based.

After getting rid of this territorial or extraterritorial question.

By the law of nations no punishment can be inflicted by a sovereign on citizens of other countries unless in conformity with those sanctions of justice which all civilized nations hold in common.

That is a broad enough text for me. No man can say that that great principle has not been violated flagrantly and defiantly in the facts of this case.

Mr. President, I beg pardon of the Senator from New York for having intruded upon him to the extent I have done. Before taking my seat I wish to say in behalf and in the defense of the Committee on Foreign Relations that, while we have from time to time received intimations that efforts were in progress to obtain a pardon for Julio Sanguily, some of those intimations doubtless came through the State Department or from the State Department, but they came to the chairman of the committee as sacred personal secrets and I for one refused to listen to them. I will not permit myself to sit in a committee and listen to personal confidences between the chairman of that committee and the Secretary of State which I am forbidden, when I hear the facts, to come into the Senate and descant upon to my brother Senators. You do not send me to that committee room for any purpose of secretion. But this way of getting along, which I despise, is what we have been subjected to in this business; and every once in a while would outcrop an intimation that if we did not go to the bottom of this thing, if we did not make a report but gave delay, Sanguily would be pardoned. I never saw the day when, if Sanguily were my brother, I would have asked pardon under the circumstances unless I found that I belonged to some government that did not have sufficient self-respect and regard for the rights of American citizenship to d mand my right.

Mr. STEWART. Will the Senator allow me a suggestion?

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Nevada?

Mr. MORGAN. Yes, sir.

Mr. STEWART. Does the Senator doubt that he was one of the instrumentalities through which this pardon, if it be a pardon, was obtained? Does he not see the connection between the report of the Foreign Relations Committee of the joint resolution and the action taken in Madrid? The papers all stated that it was over there reported, and that they were considering the matter, and in consequence of it were very much agitated. Does he suppose there would have been any action taken of any kind if he had kept quiet; even an attempt to evade it or get out of it?

Mr. MORGAN. The Committee on Foreign Relations have not taken up one fact, hint, or suggestion outside of the message of the President of the United States. They have presented this case exclusively and solely upon the facts stated in that message.

Mr. STEWART. I do not question that.

Mr. MORGAN. While there might have been many grounds of suspicion and belief, we have not considered them. We have confined ourselves to the record of facts.

Mr. STEWART. The Senator does not comprehend what I mean. I mean to say there would have been no movement whatever anywhere if it had not been instigated right here in the Senate Chamber.

Mr. MORGAN. It had not been for two years, and I supposed a year's trial was long enough to find out what they would do. They allowed Sanguily to swelter in that horrible den, that prison, secluded not from the joys of life, but from life itself, health, and everything of the sort for two years; and it was not until there was activity in the Senate and in the Committee on Foreign Relations that there came this loading of the cables with cablegrams which resulted in his pardon.

Well, I repeat, if Sanguily was my brother, and was circumstanced as he is, I would say to him, "Accept no pardon for an offense unless you are guilty of it." There is time enough for a guilty man to ask a pardon, but an innocent one ought never to be compelled to do it. It is an injustice to him and a dishonor to the man who compels him to do it. This man was innocent upon the face of the testimony. He was innocent under the moral law, the international law, the municipal law of Cuba, under the treaty law. The court that tried him had no jurisdiction, and if ever a case can arise in the United States that more clearly demands the interference of the Government, as it was made by Bayard in that case from which I have just been reading, I hope I shall not live to see it.

What would have been done if the testimonial of Martin Koszta had been examined into before the liner could have been pulled upon the gun that was loaded to sink that Austrian ship in the event he was not surrendered into the hands of the American admiral? Ah! we had admirals then; we had Daniel Websters then; we had men of power, of good, pure consciences, unshaken by the desires of official position or by the tenderness of former political associations.

I regret, Mr. President, that I have been compelled to take the floor in the Senate of the United States, especially upon a bill that is not appropriate to my discussion, and to make this presentation of the facts; but after inviting the Senate of the United States as a member of this committee, along with the unanimous expression of that body, to pass such a resolution as we have reported, I could not consent to say to the world I was satisfied to stop this case upon the rumor of a cablegram announcing a pardon for Julio Sanguily.

Mr. CALL. Mr. President, I shall not occupy the attention of the Senate for any length of time. The Senator from California [Mr. WHITE] and the Senator from Maine [Mr. HALE] treat this discussion very lightly.

The Senator from California says that I have been a chronic speaker on the side of Cuba. If that be true, the Senator from California has been a chronic speaker on the side of Spain. I introduced a resolution here to inquire into the facts relating to the death of another American citizen charged to be murdered under circumstances of extreme cruelty by the Spanish authorities in a prison at Guanabacoa, Cuba. I desire to present for the consideration of the Senate—and I shall ask that that resolution be taken up to-morrow—the following dispatch contained in the Herald, and alleged to be authentic:

General Lee calls upon Mr. Olney for a "war ship immediately," and declares, "I can not and will not stand another Ruiz murder."

The dispatch is given, as follows:

OLNEY, *Washington:*

Have demanded release of Scott, American citizen, who has been kept in prison and incomunicado, without due process law, eleven days.

Trust you appreciate gravity situation and are prepared to sustain me.

Must have war ship immediately. How many ships have you at Tampa, Key West, and southern waters, and are you prepared to send them here, should it become necessary?

I can not and will not stand another Ruiz murder.

LEE, *Habana.*

I do not know whether this dispatch is authentic or not. Coming, as the former communication did, from Mr. George Eugene Bryson, whom I know, and confirmed by the correspondent of the Herald, I take it that it is authentic; and certainly there should be no objection to a resolution demanding that the Department should make an inquiry in regard to the truth of this statement in a newspaper of the character of the Herald.

Mr. MORGAN. Does the Senator from Florida know whether the press dispatch in regard to the pardon of Sanguily is authentic?

Mr. CALL. I do not.

Mr. MORGAN. The Senator knows as much about one as the other.

Mr. CALL. I know as much about one as the other.

Mr. GRAY. Mr. President, the question just asked by the Senator from Alabama induces me to say a single word in regard to what I think has been abundantly displayed by the extracts read from this correspondence during the Senator's speech. They have shown, and he has stated, the activities of the State Department from the moment almost of the arrest of Sanguily down to this time, exerted in his behalf.

As I said a moment ago, under the treaty obligation imposed upon us equally with Spain, we were compelled to recognize the right of Spain to arrest and hold for trial any person, whether a citizen of the United States or not, who is charged, sufficiently charged, with the offense of sedition, treason, or conspiracy against the institutions, public security, integrity of territory, etc., of Spain. Sanguily having been so arrested and tried before a military court, protest was at once made by the Department of State of the United States and a peremptory demand was made that treaty obligations should be respected, and he was turned over to the civil court to be tried according to the stipulations of that treaty. That trial was had according to the procedure, I presume, obtaining in Spain in courts of that kind, very different, I imagine, from that to which we are accustomed in this country where the common law prevails. It would seem that in Latin countries the harsh rule obtains that a prisoner is presumed to be guilty until he is proved innocent. I understand that depositions can be read against him without that security which attaches to every person charged in an American or English tribunal of being brought face to face with his accusing witnesses.

But however that may be, we bound ourselves, as we bind ourselves always with countries having that code of laws, to respect their action under their municipal law, and everything was obtained to which we were entitled by the treaty, when we at last did obtain from Spain under this demand, the peremptory demand of the Department of State, that Sanguily should be tried before a civil tribunal.

There were objections to that first trial, which was had, I think, as far back as November, 1895, and an appeal was taken to the higher court at Madrid, a supreme court, an appellate court at all events, and the verdict and judgment in the civil court which had condemned Sanguily was set aside and a new trial was had as late as December 23, 1896.

Now, what could the State Department have done in that interval? We were bound by our treaty, and however sad and deplorable the state of Sanguily was—and I have no doubt it was deplorable and sad in an extreme degree—we were as much bound to respect the obligation that we had undertaken by entering into that treaty as Spain was. So when he was retired after the first trial had been set aside by the appellate court, only as long ago as the last week in December, 1896, and then condemned, upon the application of Sanguily and his counsel the State Department intervened again to have him relieved from the penalty that was imposed upon him by Spanish law and in a Spanish court. And from that time to this, so far as this correspondence goes, and so far as all the information I have been able to obtain goes, the State Department has been active in season and out of season in pressing upon Spain the propriety and necessity of relieving Sanguily from the penalties of the law under which he had been condemned. At last, after the not very long interval since December 23, 1896, those intercessions and that interference on his behalf have resulted in his pardon and release, and we have in the newspapers to-day telegraphic statements—doubted by some members on this floor whether it be authentic or not—that he has actually been released. But I have the pleasure of holding in my hand an Associated Press dispatch, just received, which I am sure that every member of the Senate and every person within sound of my voice will be glad to hear. It is to this effect:

WASHINGTON, *February 26, 1897.*

Secretary Olney has received a cable from Consul-General Lee as follows: "Sanguily released to-day."

However he was released, that was the end that we had in view. These other matters may come up afterwards; but here was this American citizen languishing in a Spanish dungeon and our interference was sought that he might be delivered from that bondage. He has been delivered, thank God, and is to-day a free man. So much has been accomplished by an American Secretary of State, who throughout all this sad business has never failed to assert the rights and dignity of this country in behalf of this Spanish-American citizen.

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

Mr. GRAY. Certainly.

Mr. DANIEL. Does the Senator claim that the conduct of the Spanish authorities toward Sanguily was legal under our treaty?

Mr. GRAY. I claim that we were in no situation to determine that question while this man was languishing in the dreary hours of our investigation in a Spanish dungeon; that the first thing to do was to open the prison doors and allow this Spanish-American to go free into the glad sunlight that shines upon the Senator from Virginia to-day, and to share with him the privileges of breathing the free air of heaven. That is what I wanted accomplished, and that is what the Senate has accomplished.

Mr. DANIEL. I am very glad it has come at last, and we can say, at least, that the resolution of the Senate brought in day before yesterday has not delayed it. I would ask the Senator, however, if he takes the ground now that the treatment of Sanguily was legal, why was it that Mr. Uhl on the 21st of May, 1895, took

the ground that it was illegal? I should like to know why it was that the State Department of the United States, now nearly two years ago, declared that the military arm had no judicial cognizance over our citizens at any stage, and why it was that these protests were made against the conduct of Spain if it was legal, and, if it was not legal, why we have waited a year and a half to let Mr. Sanguily get the benefit of our action?

Mr. GRAY. That is a pretty long question, Mr. President; but if the Senator wants an answer I will say it is because the American Secretary of State and his assistant, Mr. Uhl, were, in season and out of season, pressing the extreme contention of the Government of the United States against Spain in behalf of this unfortunate prisoner, because they left no point unurged, because they left no energy unemployed, that might produce the result which has been brought about at last to-day.

I am not concerned just now, when Mr. Sanguily is breathing for the first time in these long dreary months the air of freedom, to go back and discuss as on a certiorari the legality of this judgment. It may have been illegal. Certainly, according to our Anglo-American ideas of the administration of justice, it violated many of the fundamental rules that ought to govern where the liberty or life of a citizen is involved. But, Mr. President, I do not know but that those rules of administration are common to all Latin countries. I know there is a vast difference between the administration of criminal law in the countries where the civil code obtains and in our own, and that the difference between their codes and ours is very much in our favor. I rejoice that we live under a system of laws that secures the rights of the citizen and of the humblest person who is brought before the bar of a court charged with a serious crime, and that he is presumed to be innocent until he is proved to be guilty. But what has that to do with the charges that have been made here, I submit, without wishing to use the word offensively, recklessly, to-day against the conduct of the State Department, when every bit of this correspondence, every bit of the evidence, proves its untiring activity in regard to the case of this Spanish-American citizen, who has been in Cuba all these years with the protection of his naturalization papers in his pocket?

Mr. FRYE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Delaware yield to the Senator from Maine?

Mr. DANIEL. I should like to ask the Senator from Delaware one more question. Why was it that our consul, in pursuance of instructions from the State Department of May 16, 1895, uttered the protest to the Spanish Government in the name of this country that "All proceedings hitherto practiced in this case, or that may hereafter be practiced in this case by the court-martial now trying this American citizen, because they are in clear contradiction of the said agreement between the two nations?" I ask the Senator if he considers that the State Department has done its duty, in permitting an American citizen to lie incarcerated for two years after laying before the government that holds him a formal protest and charge that it is lacking and illegal, and if he means to defend upon the floor of this Senate such ation as this?

Mr. GRAY. Mr. President, I am not here by any means to defend all the proceedings, or any of them, that have taken place in the courts that tried Sanguily. I think that that case and some others are a disgrace to the civilization of our age. I think that cruelties have been practiced upon the Island of Cuba upon men who were entitled to the treatment which human beings are entitled to everywhere, cruelties that put that country almost out of the pale of the protection of the family of civilized nations. But we are dealing, and the State Department is compelled to deal, with Spain as one of that family of nations with whom we have treaty obligations; and I have read already in the hearing of the Senate what some of those treaty obligations are. They unquestionably recognize the right of Spain to arrest and try before civil tribunals persons charged with the crime of treason or sedition or conspiracy against the institutions, laws, or security of the King of Spain.

This man having been so arrested and tried before a military tribunal illegally and contrary to the obligation of that treaty, protest was made by the State Department immediately, in the very dispatch to which the honorable Senator from Virginia refers me, April 25, 1895, less than two months after he was arrested, stating peremptorily, and in language as emphatic as could be employed, that the Government of the United States would not tolerate for one moment the trial, condemnation, and punishment of this man by a drumhead military court. Thereupon, and as a result of that interposition, he was turned over to a civil court, and that civil court having tried him and condemned him, an appeal was taken to the appellate tribunal in Madrid, the supreme court of judicature there, and the judgment and condemnation obtained in that civil trial was set aside and reversed, and then another civil retrial was had only last December, the 23d and 24th of the month.

What could we have done in the meantime? Spain could have said, "We are resorting to our accepted code of laws," doing just as the United States would have done if, during the rebellion, a person had been charged with communicating with the enemy and tried in a district court of the United States and England had protested that the prisoner was an English subject and that he must not be tried at all. We would have appealed to our statute book and said, "We have nothing to do with the justice of the findings of the jury or the judgment of the court; our municipal laws govern, and we must obey and stand by our municipal law."

Mr. HOAR. If the Senator will allow me, it was like the case of McLeod.

Mr. GRAY. Yes, sir.

Mr. DANIEL. I beg leave to remind the Senator that this man was not found in rebellion, and it was especially provided that as to those without arms in their hands they should be differently treated.

Mr. GRAY. So we demanded; so the Secretary of State demanded, for it was because he was not found with arms in his hands that this treaty gave the right to the United States to demand his trial by a civil tribunal.

Mr. DANIEL. It was done again after the demand.

Mr. GRAY. What was done?

Mr. DANIEL. He was again "incomunicado," put in prison again upon another charge.

Mr. GRAY. I can not talk Spanish.

Mr. DANIEL. I thought you talked Spanish.

Mr. GRAY. You attribute too many accomplishments to me.

Mr. DANIEL. You are talking pretty good Spanish now, if you will excuse me.

Mr. GRAY. I am trying to talk pretty good English, or pretty good American, just as the Senator chooses.

Mr. DANIEL. I merely wanted to call the attention of the Senator to the fact that Mr. Uhl calls the attention of our consul to the fact. He says:

> By no fiction can proceedings of military judge instructor be deemed the act of an ordinary court of first instance. Assumption of such cognizance in Aguirre case and rearrest of Sanguily, after submission to civil court, apparently for mere purpose of asserting military jurisdiction in summary proceedings, were an exercise of functions against which you will enter protest, reserving all rights of this Government and its citizens in the premises.

Now, I will ask the Senator if he does not think that, after making so many protests in one case after another, the presence of military power on the scene of action would have improved the situation?

Mr. GRAY. Mr. President, the Senator from Virginia is rather trying to lead me off into a discussion of some minute details of this correspondence. All I started out to assert, and what seems to provoke his questions, has been that so far as this correspondence goes, so far as any evidence that we have before us in this Senate or elsewhere that I know of goes, the State Department has done its duty in actively pressing the rights of Sanguily as an American citizen, and claiming and obtaining for him a trial in accordance with the stipulation of that treaty.

Now, the Senator says, "Oh, but there was no evidence before that court to convict him." I do not know but the Senator is right. I do not know but that in Spain or in Cuba in times of great excitement courts may be organized to convict. God knows it has been charged that courts in this country of ours have been organized to convict in times of great excitement, and have convicted American citizens. No one who recollects the military tribunals of war times will deny this.

But, however that may be, the State Department could not go down and stand before the tribunal and urge before it an argument as counsel for the defense could urge on the law or the facts tending to the acquittal of Mr. Sanguily. The King of Spain is as much bound to stand by the judgment of his courts as the President of the United States is to respect the judgment of a State court or of a United States court.

The Senator from Massachusetts reminded me a moment ago of the celebrated case of McLeod in 1838, was it not?

Mr. HOAR. I think in 1842 or 1843.

Mr. GRAY. In 1842 or 1843, during an émeute across the American border, McLeod had committed a murder. He was tried in an American court and acquitted. The British Government demanded possession of him on the ground that he was a member of a military expedition, if that be the fact—the Senator from Massachusetts will correct me if I am wrong—and he was tried and acquitted in a court of the State of New York.

Mr. HOAR. If the Senator will pardon me, Alexander McLeod was a Canadian, a British subject. He was arrested in this country on the charge of having been a member of an expedition on the steamer *Caroline*. At any rate, an American citizen was killed in that expedition. Thereupon the British Government claimed that he was in one of the British military forces, and demanded the discharge of McLeod, he not being responsible for an act avowed by his Government. Our Government insisted that that question must be tried in a New York court and that the question of the validity of that defense must be set up there. Contrary to the demand of the British Government, the trial was proceeded with.

Mr. GRAY. That was in a State court of New York?

Mr. HOAR. Yes; a State court of New York, and the man was acquitted.

Mr. DANIEL. By the courtesy of my friend, I will ask one more question, if it will not interrupt him. The Senator agreed in reporting the joint resolution demanding the release of Sanguily, and is in favor of it, is he not?

Mr. GRAY. Mr. President, I do not know by what authority the Senator speaks of what happened in committee.

Mr. DANIEL. I beg pardon of my friend. He is in favor of the resolution, is he not?

Mr. GRAY. I am not in favor of the resolution now, that Sanguily is released. I do not want to have him arrested again.

Mr. DANIEL. But you were in favor of it?

Mr. GRAY. I am more in favor of Sanguily's liberty than I am of succeeding here in the trial of a certiorari case with the Senator from Virginia.

Mr. DANIEL. That is all.

Mr. GRAY. And Sanguily will have no thanks to give to the eloquence of the Senator from Virginia, in which we all so much delight——

Mr. DANIEL. I am not seeking for thanks.

Mr. GRAY. If it should result in some irritation of that somewhat harsh and despotic Government and should place him in bonds again. Let us get him home first, if his home is on this soil, and put our arms around him, and say, "You are free, and we intend that you shall stay so." That is all I want done with Sanguily. And then we will treat this matter with Spain afterwards.

Mr. DANIEL. I wish to ask the Senator if he has official information of Sanguily's release?

Mr. GRAY. I have here a dispatch purporting to be from the State Department, a telegram from Consul-General Lee, dated to-day, which reads:

Sanguily released to-day.

That that is a fitting end to all our aspirations here, we all agree.

Mr. DANIEL. By whom is that dispatch signed?

Mr. GRAY. It is an Associated Press dispatch, stating that Mr. Olney states to its correspondent——

Mr. DANIEL. A press dispatch not signed?

Mr. GRAY. An Associated Press dispatch obtained from the reporters' gallery up there [indicating], stating that Secretary Olney had shown to its representative a cable dispatch from Consul-General Lee, reading:

Sanguily released to-day.

I take it that that is correct.

Mr. DANIEL. Is there any condition imposed upon it?

Mr. GRAY. That is all I know about it.

Mr. HILL. Without intending to offer any opposition to the Indian appropriation bill, which I do not desire to do, I will say that there are matters to be considered in executive session which require attention, some important matters which we should act upon. It is for that purpose alone that I now move that the Senate proceed to the consideration of executive business.

Mr. ALLISON. May I ask the Senator to yield one moment?

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Iowa?

Mr. HILL. Yes, sir.

Mr. ALLISON. I am satisfied that the Indian appropriation bill, if we can go on with it, will be disposed of within an hour. I think most of the matters of dispute have been so arranged as that very little time will be taken in the consideration of the bill; and I wish the Senator from New York would waive for the moment his motion to go into executiv session until this bill is disposed of. I assure the Senator that the Indian appropriation bill will take but a very short time, in my belief, and certainly the Committee on Appropriations would feel compelled to go on with the bill unless the Senate feels that it should decide to take up executive business.

Mr. HILL. I see the force of the suggestion of the Senator from Iowa. I therefore ask unanimous consent that in one hour from now we proceed to the consideration of executive business.

The PRESIDING OFFICER. Is there objection?

Mr. ALLISON. Say at the conclusion of the Indian appropriation bill. I hope that will be done.

Mr. CULLOM. There will be no objection if that be done.

Mr. BROWN. I think I shall have to object to an executive session.

The PRESIDING OFFICER. Does the Senator from New York accept the modification suggested by the Senator from Iowa?

Mr. HILL. What is the modification?

The PRESIDING OFFICER. To go into executive session immediately after the disposal of the Indian appropriation bill.

Mr. HILL. That is all right.

The PRESIDING OFFICER. The Senator from New York asks unanimous consent that, as soon as the Indian appropriation bill is disposed of, the Senate shall proceed to the consideration of executive business.

Mr. GORMAN. I object, Mr. President.

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

The PRESIDING OFFICER. The question is on the motion of the Senator from New York that the Senate proceed to the consideration of executive business.

Mr. HILL. On that I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 20, nays 48; as follows:

YEAS—20.

Allen,	Chandler,	Martin,	Turpie,
Blanchard,	Chilton,	Mills,	Vest,
Caffery,	Gray,	Murphy,	Vilas,
Call,	Hill,	Roach,	Voorhees,
Cannon,	Lindsay,	Smith,	White.

NAYS—48.

Aldrich,	Dubois,	McBride,	Pugh,
Allison,	Elkins,	McMillan,	Quay,
Bacon,	Faulkner,	Mantle,	Sherman,
Baker,	Frye,	Mitchell, Wis.	Shoup,
Bate,	Gallinger,	Morgan,	Squire,
Berry,	Gorman,	Nelson,	Stewart,
Brown,	Hale,	Pasco,	Teller,
Burrows,	Hansbrough,	Peffer,	Thurston,
Carter,	Hawley,	Perkins,	Tillman,
Cockrell,	Hoar,	Pettigrew,	Walthall,
Cullom,	Jones, Ark.	Platt,	Wetmore,
Davis,	Lodge,	Pritchard,	Wilson.

NOT VOTING—22.

Blackburn,	Gear,	Jones, Nev.	Proctor,
Brice,	George,	Kenney,	Sewell,
Butler,	Gibson,	Kyle,	Warren,
Cameron,	Gordon,	Mitchell, Oreg.	Wolcott.
Clark,	Harris,	Morrill,	
Daniel,	Irby,	Palmer,	

So the motion was not agreed to.

Mr. PETTIGREW obtained the floor.

Mr. WALTHALL. Mr. President——

Mr. PETTIGREW. I yield to the Senator from Mississippi.

Mr. WALTHALL. I offer an amendment to come in after the word "services" on page 57, line 2, of the bill.

The PRESIDING OFFICER. A point of order is now pending. As soon as the point of order is disposed of, the amendment proposed by the Senator from Mississippi will be considered. The amendment can be now considered by unanimous consent.

Mr. WALTHALL. I ask unanimous consent of the Senate to consider the amendment which I propose at this time, as I am obliged to leave the Chamber within the next thirty or forty minutes.

The PRESIDING OFFICER. The Senator from Mississippi asks unanimous consent that an amendment which he proposes may be now considered. Is there objection? The Chair hears none. The amendment will be stated.

The SECRETARY. In line 2, page 57, after the word "services," it is proposed to insert:

That the said commission shall without delay enroll the Choctaws now resident in the State of Mississippi as citizens of the Choctaw Nation, and such Choctaws who possess at least one-eighth of Choctaw blood shall be enrolled on a special roll, and are entitled to all the rights of Choctaw citizenship, except in the annuity under the treaty of 1830, as therein provided.

Mr. PETTIGREW. Mr. President, the amendment offered by the Senator from Mississippi peremptorily requires that these Indians in Mississippi shall be placed upon the rolls. I have not had an opportunity to examine this question, so as to know whether they are entitled to be placed on the rolls or not, and entitled to a share of the property of those tribes; but I am willing to trust the commission, which have power and authority to investigate the question as to whether they are Choctaws or not and entitled to a share of this property. I therefore offer an amendment which I send to the desk as a substitute for the one offered by the Senator from Mississippi.

The PRESIDING OFFICER. The amendment will be stated.

The Secretary read as follows:

That the commission appointed to negotiate with the Five Civilized Tribes in the Indian Territory shall examine and report to Congress whether the Mississippi Choctaws, under their treaty, are not entitled to all the rights of Choctaw citizenship except an interest in the Choctaw annuities.

Mr. PETTIGREW. I appeal to the Senator from Mississippi to accept that as a substitute for his amendment.

Mr. WALTHALL. I should prefer very much to have the amendment in the form in which I submitted it, but I shall not detain the Senate at this late hour in discussing the matter. I will accept the substitute proposed by the Senator from South Dakota.

The PRESIDING OFFICER. The question is on the amendment submitted by the Senator from South Dakota.

The amendment was agreed to.

Mr. WALTHALL. I will ask to have inserted the fourteenth

article of a treaty between the United States and the Mingoes, chiefs, captains, and warriors of the Choctaw Nation, made at Dancing Rabbit Creek, on the 15th of September, 1830, and also a communication from the Secretary of the Interior, transmitting certain information bearing upon this subject, which he sent us the other day in response to a resolution of the Senate, in order that this amendment may be understood by all concerned.

The PRESIDING OFFICER. The matter referred to by the Senator from Mississippi will be inserted in the RECORD in the absence of objection. The Chair hears none.

The papers referred to are as follows:

ART. XIV. Each Choctaw head of a family being desirous to remain and become a citizen of the States shall be permitted to do so by signifying his intention to the agent within six months from the ratification of this treaty, and he or she shall thereupon be entitled to a reservation of 1 section of 640 acres of land, to be bounded by sectional lines of survey; in like manner shall be entitled to one-half that quantity for each unmarried child which is living with him over 10 years of age, and a quarter section to such child as may be under 10 years of age, to adjoin the location of the parent. If they reside upon said lands, intending to become citizens of the States, for five years after the ratification of this treaty, in that case a grant in fee simple shall issue; said reservation shall include the present improvement of the head of the family, or a portion of it. Persons who claim under this article shall not lose the privilege of a Choctaw citizen, but if they ever remove are not to be entitled to any portion of the Choctaw annuity,

DEPARTMENT OF THE INTERIOR,
Washington, February 15, 1897.

SIR: I have the honor to acknowledge the receipt of the following resolution of the Senate, dated 11th instant, viz:

"*Resolved*, That the Secretary of the Interior be, and he is hereby, directed to transmit to the Senate the following information:

"First. A copy of the memorial of the Choctaw Nation of December 24, 1889, relative to the Mississippi Choctaws.

"Second. Deposition of Greenwood Leflore, ex-chief of the Choctaw Nation, of February 24, 1843, before United States Commissioners Clayborne and Graves, relative to importance of the fourteenth article of the treaty of 1830.

"Third. Whether or not the Choctaws entitled to remain in Mississippi by the fourteenth article were reported by United States Commissioners Murray and Vroom to the President of the United States on July 31, 1838, as having been in a great number of cases forced to remove from the reservations granted them by the fourteenth article.

"Fourth. Whether or not the Mississippi Choctaws were parties to any subsequent Choctaw treaty, or have ever executed a relinquishment of their rights of Choctaw citizenship."

In response thereto I transmit herewith copy of a communication of 15th instant from the Commissioner of Indian Affairs and accompanying papers.

As to the question of whether or not the Mississippi Choctaws were parties to any subsequent treaty to that of 1830, or have ever executed a relinquishment of their rights of Choctaw citizenship, the Commissioner says that four treaties in which the Choctaw Nation has been interested have been entered into since that of 1830, but that he can not find in any of them anything to indicate whether the Choctaws in Mississippi were a party to any of them as a distinct faction or otherwise; neither does he find any provision by which the Choctaw Indians in Mississippi relinquish any rights of Choctaw citizenship they may have acquired under the fourteenth article of 1830, or otherwise.

Very respectfully,
D. R. FRANCIS,
Secretary.

The PRESIDENT OF THE SENATE.

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DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, February 15, 1897.

SIR: I am in receipt, by Department reference for immediate report, of a resolution of the Senate calling for certain information relative to the Choctaws in Mississippi, as follows:

"*Resolved*, That the Secretary of the Interior be, and he is hereby, directed to transmit to the Senate the following information:

"First. A copy of the memorial of the Choctaw Nation of December 24, 1889, relative to the Mississippi Choctaws.

"Second. Deposition of Greenwood Leflore, ex-chief of the Choctaw Nation, of February 24, 1843, before United States Commissioners Clayborne and Graves, relative to importance of the fourteenth article of the treaty of 1830.

"Third. Whether or not the Choctaws entitled to remain in Mississippi by the fourteenth article were reported by United States Commissioners Murray and Vroom to the President of the United States on July 31, 1838, as having been in a great number of cases forced to remove from the reservations granted them by the fourteenth article.

"Fourth. Whether or not the Mississippi Choctaws were parties to any subsequent Choctaw treaty or have ever executed a relinquishment of their rights of Choctaw citizenship."

In reply I have the honor to inclose a copy of the memorial of the Choctaw Nation adopted by the legislature of that nation and approved by its principal chief on December 24, 1889, said memorial relating to the Mississippi Choctaws.

I also inclose a copy of the deposition of Greenwood Leflore, ex-chief of the Choctaw Nation, taken on February 24, 1843, before United States Commissioners John F. H. Clayborne and Ralph Graves, relative to the importance of the fourteenth article of the Choctaw treaty of 1830 (7 Stat. L., 333).

I also inclose an excerpt from a report made by United States Commissioners J. Murray and P. D. Vroom to the President of the United States on July 31, 1838, in which they state that in a great number of cases Choctaws in Mississippi were forced to remove from reservations granted them under the fourteenth article of the treaty above mentioned. These last two named copies are made from the printed record of the Court of Claims in case No. 12742, "The Choctaw Nation of Indians *vs.* The United States."

On account of the limited time within which I have to make this report, I have not been able to search the files of this office for the original of the report of the Commissioners from which these copies are taken.

As to the question of whether or not the Mississippi Choctaws were parties to any subsequent treaty to that of 1830, or have ever executed a relinquishment of their rights of Choctaw citizenship, I have to state that four treaties in which the Choctaw Nation has been interested have been entered into since that of 1830, as follows:

Treaty of 1837 (11 Stat. L., 573), by which the Chickasaws were permitted to form a district in the Choctaw country in the Indian Territory, and certain adjustments of rights between the two nations in the lands ceded to the Choctaws prior thereto were accomplished.

The treaty of November 4, 1854 (10 Stat. L., 1116), by which the boundary line between the Choctaw and Chickasaw districts in the Choctaw Nation was provided to be run.

The treaty of 1855 (11 Stat. L., 611), entered into for the purpose of readjusting the relations between the Choctaw and Chickasaw nations, and the treaty of 1866 (14 Stat. L., 769), readjusting the relations of the Choctaw and Chickasaw nations with the United States after the civil law.

There is nothing that I can find in any of these treaties to indicate whether the Choctaws in Mississippi were a party to any of them as a distinct faction or otherwise. These treaties were negotiated with the Choctaw and Chickasaw nations as bodies politic and there is no recognition of any separate factions of either of said nations.

Neither do I find any provision in any of said treaties by which the Choctaw Indians in Mississippi relinquish any rights of Choctaw citizenship they may have acquired under the fourteenth article of 1830 or otherwise.

Very respectfully, your obedient servant,
THOS. P. SMITH,
Acting Commissioner.

The SECRETARY OF THE INTERIOR.

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A MEMORIAL TO THE CONGRESS OF THE UNITED STATES.

Whereas there are large numbers of Choctaws yet in the States of Mississippi and Louisiana who are entitled to all the rights and privileges of citizenship in the Choctaw Nation; and

Whereas they are denied all rights of citizenship in said States; and

Whereas they are too poor to immigrate themselves into the Choctaw Nation: Therefore,

Be it resolved by the general council of the Choctaw Nation assembled, That the United States Government is hereby requested to make provision for the emigration of said Choctaws from said States to the Choctaw Nation.

The national secretary is hereby instructed to furnish a certified copy of this memorial each to the Speaker of the House of Representatives of the United States, the President of the Senate of the United States, and the Commissioner of Indian Affairs, with the request that they do all they can to secure the accomplishment of the object of this memorial, and this resolution shall take effect and be in force from and after its passage.

Approved December 24, 1889.

B. F. SMALLWOOD, *P. C. C. N.*

This is to certify that the foregoing is a true and correct copy of the resolution of the general council of the Choctaw Nation passed and approved in extra session in December, 1889.

Witness my hand and the great seal of the Choctaw Nation this 30th day of December, A. D. 1889.

[SEAL.]
J. B. JACKSON,
National Secretary Choctaw Nation.

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BOARD OF CHOCTAW COMMISSIONERS,
Hopahka, February 24, 1843.

Direct interrogatories to be propounded to Greenwood Leflore, a witness on the part of the United States, summoned at the instance of Messrs. Poindexter and Kirksey, on their suggestion that many of the claims presented by Choctaws for the consideration of this board are fraudulent and void, to be used as evidence in the investigation of said claims.

First interrogatory. Have you any interest whatever, either as claimant, agent of claimants, or otherwise, in any claims under the fourteenth and nineteenth articles of the treaty of Dancing Rabbit Creek, which were presented before the former board of commissioners, or which have been presented or are to be presented for the consideration of this board?

Second interrogatory. Do you know of any frauds committed or attempted to be committed upon the Government of the United States by any Indian or class of Indians or their agents in cases of such claims?

Third interrogatory. Do you know or have you heard of any Indian who has ever removed to the Choctaw country west of Mississippi and has since returned to the country ceded by the treaty of 1830 and is now residing here? If you do, give us his name, and describe him so particularly, if you can, that this board may be able to recognize him should he come before them in person; and if any such person be dead give us his name and the names of his family and relations, so that a claim in behalf of his heirs may be detected.

Fourth interrogatory. Do you know how many Indians or heads of families there were who applied or offered to apply for the benefit of the fourteenth article of the treaty?

Fifth interrogatory. Were you not one of the chiefs who negotiated this treaty on the part of the Choctaws, and did you not make yourself acquainted with the extent of the benefits realized by your people from most of its provisions?

JOHN F. H. CLAIBORNE,
RALPH GRAVES,
Commissioners.

The answers of Greenwood Leflore to the interrogations propounded on his direct examination before the board of commissioners sitting at Hopahker, as a witness on the part of the United States, summoned at the instance of Messrs. Poindexter and Kirksey, on a suggestion that many of the claims presented by Choctaws for the consideration of this board are fraudulent and void, to be used as evidence in the investigation of said claims.

To the first interrogatory I answer that I have no interest whatever in any claims under the fourteenth and nineteenth articles of the treaty of Dancing Rabbit Creek, which were presented before the former board of commissioners, or which have been presented or are to be presented for the consideration of this board. I was provided for by the supplement of the treaty, and have received from Government a patent for my land. I was also the purchaser of two or three small reservations under the nineteenth article, about which there never has been any difficulty. I have never had anything to do with any claims under the fourteenth article, nor with any under the nineteenth article, which would come before this board.

To the second interrogatory I answer that I do not know of any frauds committed or attempted to be committed upon the Government of the United States by any Indian or class of Indians or their agents in cases of such claims.

To the third interrogatory I answer that I do not know, nor have I ever heard, so far as I can now recollect, of any persons who ever removed to the Choctaw country west of Mississippi and have since returned to the country ceded by the treaty of 1830, and are now residing here, except John F. Price, William Leflore, and Anthony Turnbull. The first is a white man who had a Choctaw family; the second is my brother, and the third is a mixed-blood Choctaw. The first never made a claim for land, not being entitled to a reservation under any provision of the treaty, and the other two were provided for, one by the supplement, and the other, by the nineteenth article, had their lands reserved, and sold them before their emigration west. I can recollect no others, and do not believe I ever heard of any others, and none of them can be claimants before the present board.

To the fourth interrogatory I answer that I do not know how many Indians

or heads of families there were who applied or offered to apply for the benefit of the fourteenth article of the treaty.

To the fifth interrogatory I answer that I was one of the chiefs who negotiated this treaty on the part of the Choctaws, and am sorry to say that the benefits realized from it by my people were by no means equal to what I had a right to expect nor to what they were justly entitled by the stipulations of the treaty on the part of the Government. The treaty was made at the urgent solicitations of the commissioners of the Government, and upon their abundant assurances that its stipulations would be faithfully carried out.

Confiding in these assurances and in the honor of Government to comply with the treaty, if it should be ratified at Washington, and conceiving it, under the circumstances, a measure of policy, if not of necessity, so far as the Choctaws were concerned, I urged it upon my people in the face of a strong opposition, which I finally determined, if possible, to remove by suggesting the insertion of the fourteenth article. This article was accordingly inserted, and, believing it removed the principal objection to the treaty, I signed it myself and procured for it the support of many who were previously hesitating and undetermined. After the treaty was ratified I was active in urging forward the emigration of the people, and induced most of those in the part of my district where I resided to remove west. I think there were very few in the vicinity of my residence who applied for the benefit of the fourteenth article, and the most of them, I think, were duly registered and got their lands reserved.

This article was inserted to satisfy those in the southern part of my district and other parts of the Choctaw country who were opposed to the treaty and were inimical to me from an impression which prevailed among them that I wished to sell their country and force them to go west. After the treaty I did not consider myself any longer chief, and as I was engaged in preparing the people for the first emigration, and actually accompanied it, my intercourse with the Indians was confined to those in my part of the country who sustained me in my course and were preparing to remove west, and I never troubled myself about the course pursued by those who had been opposed to my measures, had rejected my advice, and were determined to remain in the ceded country. I do not, of course, know how many of them applied for the benefit of the fourteenth article.

Before closing my answer to this interrogatory I think it proper to state that about three years after the treaty I was present at Columbus during the excitement which arose there at the time of the land sales about the contingent locations of the fourteenth-article claimants, and hearing a remark made by one of the agents of these claimants in a public speech to a large assembly of people, charging the chiefs who had made this treaty with bribery and corruption, I arose after he sat down and retorted the charge of fraud in as severe language as I could command. I was excited, and might have said more than was proper; but I felt, in the absence of any positive knowledge on the subject, that I had a right to impute any motives to one who could make such a serious and unfounded charge affecting my character as one of the chiefs who had been mainly instrumental in making the treaty. I knew that the locating agent, who lived in my section of country, had been furnished with a list containing but few names of persons registered under the fourteenth article of the treaty, but did not at that time know that many had applied to the registering agent for the benefit of this article whose applications had been rejected.

I have never since then taken any pains to inform myself particularly about their claims, and I do not know how many received the benefit of this article, or, being entitled to the benefit of it, failed to realize it. I would also add that the commissioners on the part of the United States went to the ground, at Dancing Rabbit Creek, much prejudiced against me, and would have no intercourse with me. They believed they could make a treaty with the other chiefs without my aid, and attempted to do so. After ten or twelve days of fruitless negotiations with them they failed entirely to make any treaty. The commissioners then came to me and made many apologies for their neglect of me, saying they had been deceived and misled in regard to me by many misrepresentations, and then solicited me to enter into negotiations with them. I then told them if they would embrace in the treaty such provisions and articles which I suggested, the fourteenth article being one of them, I would undertake to make a treaty in two days. They agreed to the articles I suggested, and in twenty-four hours I had the treaty made.

GREENWOOD LEFLORE.

Sworn to and subscribed before us, at Hopahka, this 24th February, 1843.

JOHN F. H. CLAIBORNE.
RALPH GRAVES.

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To the President of the United States:

SIR: * * * In all cases where the claimant has been actually expelled from his possession within the five years, or in which the land he occupied had been sold by the Government and surrendered to the purchaser, or where the claimant died in possession, the board have considered the cases as standing on the same ground as cases of continued residence, and have allowed them.

It is proper also to state that since the board received a copy of the supplemental law they are not aware that any case has been presented to them in which the claimant has removed west of the Mississippi. A few such cases had been heard before, and, as they were upon the records, the board have thought it proper to report them with the rest.

There are many cases also in which claimants have removed from the lands occupied by them at the time of the treaty in consequence of the settlement of the whites in their neighborhood. This and the consequences naturally resulting from it, and the proofs offered of its effects upon their minds, have induced the board to recommend such cases to Congress for allowance.

The Choctaw Indians are shy and reserved in their intercourse with the whites, and do not readily mix with them; it is proved in a great number of cases that they have been most wantonly abused and ill-treated by them, and that they could not live in peace in the same neighborhood. The large stocks of cattle and hogs introduced by the white settlers destroyed their crops, and their houses and cabins were torn down, burned, or taken possession of by them when they left home on their necessary hunting expeditions or to seek employment in picking cotton, etc. Under these circumstances they were compelled in a great number of cases to remove.

It is in proof also that many removed in consequence of reports circulated among them that the lands occupied by them had been sold by the Government, and when it was impossible for them to ascertain the truth or falsehood of such reports. They well knew, however, from bitter experience, that whether true or false, they were at the mercy of their white neighbors. The instances are not rare, as the evidence abundantly shows, in which families have been wantonly driven from their homes, and have for several years been wanderers, living about in all seasons in open camps, and seeking a precarious subsistence, which scarcely sufficed to keep them alive.

* * * * * * *

All of which is respectfully submitted.

J. MURRAY,
P. D. VROOM.

WASHINGTON CITY, *July 31, 1838.*

Mr. PETTIGREW. I understand the pending question is the point of order raised by the Senator from Tennessee [Mr. BATE].

The PRESIDING OFFICER. That is the matter pending at the present time.

Mr. PETTIGREW. I am ready to vote on the question if the Senate is. I do not care to make any remarks. I ask, however, to have it submitted to the Senate.

Mr. VILAS. Will not the Chair rule upon it? The point of order is addressed to the Chair.

The PRESIDING OFFICER. The Chair will state that the point of order is against the amendment beginning in line 19 on page 57, and going down to line 7 on page 59. The point of order, the Chair understands, is that it is general legislation.

Mr. PLATT. I understood when the point of order was raised that it referred only to the clause of the amendment which is found on page 59, relating to the acts, ordinances, and resolutions of the council. I wish that the Senator from Tennessee would confine the point of order to that portion of the amendment.

Mr. BATE. The point of order is against the clause beginning at line 19, where it establishes the court. The point of order first was to apply against the clause beginning on page 57, line 2, "*Provided further*," but that was stricken out.

The PRESIDING OFFICER. The Senator from Tennessee will please state how far his point of order extends.

Mr. BATE. From the matter in line 19 down to——

Mr. VILAS. Down to line 6 on page 59.

Mr. BATE. Down to line 6 on page 59.

The PRESIDING OFFICER. That was the statement made by the Chair.

Mr. PLATT. I wish to make an appeal to the Senator from Tennessee to withdraw his point of order as to so much of the amendmeat as relates to the courts. It is of such great importance that I trust that he will not make his point of order as to that portion of the amendment.

Mr. BATE. I should be glad to withdraw it if I could consistently.

The clause against which I interpose the point of order is the most vital part in the whole amendment, in my opinion, because it gives jurisdiction to the court. I do not want to lop off the limbs and leaves of the tree and let the trunk stand. It takes away from the Indians every single power they have in the way of settling their own matters by their own courts, which power was granted to them by the Government, and the amendment says exclusive jurisdiction shall belong to the court which you propose to establish. If we are going to wipe out all that, then of course I would yield to the appeal; otherwise I can not. I ask for the ruling of the Chair.

Mr. VEST. I offered the amendment which eliminates the provisions in regard to allotting the lands in severalty and in regard to the leases, and in regard to the veto power over acts of the Indian council, in a spirit of compromise and in order that the least possible friction should occur as between the Indians and the Government of the United States. I endeavored to explain, to the best of my ability, how impossible it is to administer any law when there are two systems vitally antagonistic and inconsistent existing in the same territory.

Now, the Senator from Tennessee, not satisfied with eliminating the most objectionable features, certainly, insists upon his point of order as to what it is evident is absolutely necessary in the interest of peace and good government not only in the Territory but in the adjoining States. What is the point of order? That the amendment proposes general legislation. We establish a commission by two acts, both of them appropriation laws. We defined in connection with the appropriation of money, as we had a right to do, in my judgment, the functions and duties of the commissioners. The Senate deliberately declared that we had a right to do this, and those statutes are in operation and the commission is in the Territory, and has been there for three years, and it will remain there. It has been successful in its work.

What do we propose now? Simply to enlarge the functions and the duties of the commission. This is a question res adjudicata as far as this tribunal is concerned. The other legislation commenced this work, and we simply enlarge upon it. I shall make no appeal to the Senator from Tennessee, for he will do his duty as I am endeavoring to do mine, but I do appeal to the Senate. Here is a great emergency in regard to an important portion of this country. As the Senator from Arkansas said to-day, most pertinently and truly, if we take a backward step now, if we defeat the amendment on any ground, we give new life to those in that Territory who will insist upon the present condition of things, and that condition is not only dangerous but disgraceful and outrageous beyond any description of mine.

I appeal to the Senate that if ever there has been a case where no technicality should be allowed to come between us and a great duty it is now.

Mr. STEWART. I wish to suggest that a different rule by custom prevails with the Indian appropriation bill than with any

ordinary appropriation bill. In every Indian appropriation bill, in order to administer the affairs of the Indian Bureau and to carry out the policy adopted by Congress, it is necessary to incorporate a great deal of legislation, and if this bill is subjected to the rigid rules that apply to other appropriation bills, then there must be a new system altogether.

Both Houses have acted upon the theory that they will put in the Indian appropriation bill all the germane legislation necessary to carry out that policy. Nearly all the legislation in regard to Indians was incorporated in the general Indian appropriation bill, and it must of necessity be so, unless there is a radical change in the entire policy. The technical objection to following the policy which has been followed by both Houses from time immemorial in compliance with a rule that can not be applied to the rest of the appropriation bills is a violation of precedent, because the precedents and practice grow up under the rules and become a part of them. They have the force of rules. The general legislation that is incorporated in the Indian appropriation bill to carry out the policy in dealing with the Indians is absolutely necessary. It has been adopted at every session of Congress when I have been here. It must be now.

Mr. VILAS. I wish to make only one observation. The appeals which have been made here illustrate perfectly well the flagrant violation of the rules of the Senate which Senators wish to accomplish, if possible, in order to carry out their ends. The Senate has made itself a spectacle in the country, not so much for the want of rules as for the want of its own obedience to the rules which are prescribed. It is incumbent upon the presiding officer of the Senate to read the rules and administer them fearlessly and firmly and according to their spirit and meaning. I hope that the rule of the Senate will be observed in this instance and that we shall not set another example to add to those which have drawn upon the Senate deserved comment.

The PRESIDING OFFICER. The former occupant of the chair has been in the habit of submitting questions similar to this one to the Senate, in order that the voice of the majority of the body might prevail. The temporary occupant of the chair does not feel justified, under those circumstances, in substituting his individual opinion for that of the majority of the Senate. Therefore the question is submitted to the Senate.

Mr. BATE. On this very question the Vice-President himself ruled without submitting it to the Senate.

The PRESIDING OFFICER. The Chair has examined the ruling upon the item in the bill a few years ago, and finds it entirely different from the present question.

Mr. VILAS. I wish to add one word, since the point of order is to be submitted to the Senate. In the last Congress we passed a law, independently of the appropriation bill, creating courts in the Indian Territory and giving them their jurisdiction. That was general legislation. In former days the President of the United States negotiated with the Five Civilized Tribes treaties in which were inscribed the solemn engagements of the United States to those tribes, and they were ratified by the Senate. That was general legislation.

Now it is proposed, upon an appropriation bill brought in here, not by the committee to whom we have specially referred and delegated jurisdiction to consider matters relating to the Five Civilized Tribes, for we have just such a committee, but brought in here by the Appropriations Committee, and in defiance of the rules of the Senate, to strike down utterly all the solemn engagements of the Government of the United States with those tribes of Indians, upon which they have relied with a trusting faith in the honor of the United States. We propose to change the very law which we passed only in the last Congress creating the courts in that territory, and the Senate is asked to say that that is not general legislation.

Mr. BATE. Mr. President, I do not desire to detain the Senate on this question, but it seems to me it is so vital to these civilized tribes of Indians that the Senate ought to consider it. If we are to override the rules of the Senate, let us withdraw the rule; let us set it aside; but if we have it here, let us respect it. In my opinion there can be no question on earth in regard to this being an increase of the judical power, to say the least of it, and if it is, it is obnoxious to the rule. I beg to say further that this right is conceded to the Indians by the most sacred obligation that a government can enter into. You find here every treaty from 1830 down to 1866 and the agreement finally made in 1875, recognizing these rights which we now propose to strike down from the Indians.

I call the attention of the Senate to that fact, because we want to do what is legally right and what is morally right. It is a proposition to put the Dawes law, which is now in existence, into execution there. It has been successful to some extent, and these Indian tribes come along and say, "We are willing to do that; give us a chance; we want time." Now, instead of giving them time, while you hold out that negotiation to them, you brain them with this bludgeon and say, "We will pass this law depriving you of all your rights." That is the situation. We want to strike down these people, while at the same time holding in the other hand the proposition of negotiation. That is presented to the Senate as a moral, an upright, a proper thing to do. I say, it looks to me like it is unmanly, immoral, and vicious legislation.

I know the fate of the Indians is trembling in the balance. It is the sword of Dionysius hanging suspended by a hair as it trembles over the neck of Damocles. A single twitch of the hair may take his life. So it is with the Indians. They are standing upon a pivot, upon the brink of ruin, and the Senate is called upon to knock from under them the last prop that is sustaining them. I hope the Senate will not do so and that we will take action as I have indicated.

The PRESIDING OFFICER. The question is, Is the the pending amendment in order?

Mr. VILAS. On that I ask for the yeas and nays.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. CULLOM (when his name was called). I am paired with the senior Senator from Delaware [Mr. GRAY].

Mr. GEAR (when his name was called). I am paired with the senior Senator from Georgia [Mr. GORDON].

Mr. HANSBROUGH (when his name was called). I am paired with the junior Senator from Illinois [Mr. PALMER].

Mr. MARTIN (when his name was called). I am paired with the Senator from Montana [Mr. MANTLE].

Mr. PRITCHARD (when his name was called). I am paired with the Senator from Louisiana [Mr. BLANCHARD], and therefore withhold my vote.

Mr. WALTHALL (when his name was called). I am paired with the senior Senator from Pennsylvania [Mr. CAMERON].

The roll call was concluded.

Mr. GEAR. I transfer my pair with the Senator from Georgia [Mr. GORDON] to the Senator from Wyoming [Mr. WARREN] and vote "yea."

The PRESIDING OFFICER (Mr. PASCO, after having voted in the negative). The present occupant of the chair announces his pair with the Senator from Washington [Mr. WILSON], and withdraws his vote.

The result was announced—yeas 36, nays 24; as follows:

YEAS—36.

Bacon,	Cockrell,	Lindsay,	Platt,
Baker,	Davis,	McBride,	Proctor,
Berry,	Dubois,	McMillan,	Quay,
Blackburn,	Elkins,	Mitchell, Wis.	Roach,
Brice,	Frye,	Morgan,	Shoup,
Butler,	Gallinger,	Nelson,	Stewart,
Call,	Gear,	Peffer,	Teller,
Cannon,	Jones, Ark.	Perkins,	Vest,
Carter,	Kenney,	Pettigrew,	Wetmore.

NAYS—24.

Aldrich,	Caffery,	Hoar,	Smith,
Allen,	Chandler,	Lodge,	Tillman,
Allison,	Chilton,	Mills,	Turpie,
Bate,	Daniel,	Murphy,	Vilas,
Brown,	Faulkner,	Pugh,	Voorhees,
Burrows,	Hill,	Sherman,	White.

NOT VOTING—30.

Blanchard,	Gray,	Mantle,	Squire,
Cameron,	Hale,	Martin,	Thurston,
Clark,	Hansbrough,	Mitchell, Oreg.	Walthall.
Cullom,	Harris,	Morrill,	Warren,
George,	Hawley,	Palmer,	Wilson,
Gibson,	Irby,	Pasco,	Wolcott.
Gordon,	Jones, Nev.	Pritchard.	
Gorman,	Kyle,	Sewell,	

The PRESIDING OFFICER. The Senate decides that the amendment is in order.

Mr. ALLISON. I move that the Senate take a recess from 6 o'clock until 8 o'clock this evening.

The motion was agreed to.

Mr. VILAS. I move to strike out the words "full and exclusive" before the word "jurisdiction" in the twentieth line on page 67.

Mr. President, I would be very glad to find some basis upon which—something like justice and decent consideration for the solemn engagements of the United States—we could carry on the invasion of that Indian people by our appropriation bills if the progress of the invasion can not be resisted. The amendment as it is proposed by the Committee on Appropriations undertakes to sweep away the very solemn engagement made by this country with the Five Civilized Tribes. We have, in the manner by which the United States executes its most solemn covenants, agreed to give the Five Civilized Tribes their own government. We agreed to give them their own lawmaking councils, their own courts, and under the courts which they instituted, under the councils which they established, they progressed in their own way to a degree beyond that which any other Indians in this country have ever attained. There was no trouble with their progress, there was no trouble with their development, until white men, in violation of the solemn promises of the United States, invaded their territory and undertook to throw down their usages and customs.

Now, sir, not in response to the necessities of the Indians, not in response to any demands which faults of theirs invoke judgment from us, but purely and simply that the progress of invasion upon their rights may be stimulated and assisted by the United States Government, it is proposed to trample down their courts, their councils, and all there is of their own government which they have maintained under the promise of our protection.

Mr. JONES of Arkansas. I should like to ask the Senator from Wisconsin if he believes the United States judges selected by the President of the United States, and appointed to preside over the courts in that country, are less honest than the incompetent men who are selected by Indians to preside over their courts?

Mr. VILAS. Mr. President, I do not. I should be much better satisfied to have the United States judges administer the law there than to have the Indian courts do it.

Mr. JONES of Arkansas. That is all that it is proposed to do.

Mr. VILAS. But, sir, I have no right to tell those Indian people, when we covenanted with them that they should govern their own country and their courts should administer justice after their laws, that we will take them by the throat and subject them to ourselves. For that reason I move to strike out these words in order that we may extend to our judges jurisdiction to try the cases concurrently with theirs, as a primal step in this invasion. All the force and effect of the amendment which I propose is simply to so far moderate the demand which we are making upon them (or rather it seems to me to be the cruel and unjust invasion of their rights we are projecting) as to strike out those words which shall give our courts entire and exclusive jurisdiction, and leave them to exist side by side with the Indian courts.

Now see, Mr. President, and I hope Senators will recognize where this leaves the case. Our United States courts will then be there in their territory with a completely concurrent jurisdiction with their courts. Already the jurisdiction of the United States courts is conclusive in all cases in which a white man is concerned. All that I am asking to do here now is to prevent taking away from them the jurisdiction of their own courts in suits between Indians themselves. That is all that I ask.

The amendment of the committee undertakes to destroy not their courts for white men, but their courts for Indians. No, it goes a good deal further than that; for if our United States courts are to decide all the causes that arise between the Indians, as well as between Indians and white men, which they now have the jurisdiction to do, if they are to decide all causes of every description, if they are to decide them according to the laws of the United States and the laws of the State of Arkansas extended over that Territory, then all there is left of their autonomous government is gone. What is there of a country whose laws can not be enforced, whose courts are gone, whose officers have no power? And thus it is, sir, that by this single act we are at once stripping those people of every advantage which they have so long possessed with such benefit to themselves, and based upon the solemn covenants of this Government.

Sir, we have been talking here for two or three days about protecting the rights of an American citizen whose citizenship depended only upon some act without the accompaniment of a single article of benefit to this country, and yet all at once we are about to trample down these people who have lived in this country from their birth, whose ancestors lived here, who gave up their own territory to occupy this upon the faith of our obligation to preserve it to them. We will trample them down with a ruthlessness and recklessness of right such as has hardly been shown in Cuba to any of the people who have been abused and injured there.

I would be glad, as I said, to find some way to agree with this amendment, or at least to have it less violent and less oppressive than it is. I appeal to those gentlemen who seek it. If we begin by giving to our courts a concurrent jurisdiction with theirs, I think we have gone far enough at this time.

At the last session of Congress we passed laws which almost denuded them of their rights. Let us not carry it so far at this session of Congress that nothing remains. Let us at least try to preserve the semblance of fair dealing, and if we do add something to the force of the persuasion which the Dawes Commission is addressing to those people, yet let us add it so that in the end we may secure an agreement with them and that this thing shall be done less by the violence of arbitrary enactment than by the consent of the Indians, however that consent may be obtained.

I do not desire, sir, to occupy the attention of the Senate or to protract the discussion, but I can not suffer this thing to pass in this way without some effort to do what seems to me the duty incumbent upon me, much as I should be glad to escape it.

Mr. GALLINGER. Mr. President, a few moments ago unanimous consent was given that we should take a recess at 6 o'clock until the hour of 8 o'clock. Since then several Senators have appealed to me to ask that that order may be changed, so that the recess may be taken until half past 7, and that from half past 7 until 8 o'clock be occupied with the consideration of pension bills on the Calendar, and no other business to be done from that time until 8 o'clock. I will ask the chairman of the Committee on Appropriations if this will be agreeable to him, if the Senate will consent to it?

Mr. ALLISON. It will be agreeable to me, if the Senate agrees to it.

Mr. GALLINGER. I ask unanimous consent that my request be acceded to.

Mr. BATE. I hardly think that will give sufficient time to Senators to get their dinners and return to the Chamber. I know yesterday evening when we came back we remained here quite a little while before there were more than twenty Senators in the Chamber.

Mr. GALLINGER. I will say that several Senators on the other side of the Chamber have appealed to me to make this request. There is no case on the pension Calendar in which I am personally interested.

Mr. BATE. I do not wish to interfere with the Senator, but merely make the suggestion. A good many of us live quite a distance from the Capitol.

Mr. JONES of Arkansas (to Mr. GALLINGER). Ask unanimous consent.

Mr. GALLINGER. I ask unanimous consent to modify the agreement in regard to the recess as I have suggested.

The PRESIDING OFFICER. The Senator from New Hampshire asks unanimous consent that the agreement heretofore made be modified so that the Senate will convene after the recess at half past 7 o'clock instead of 8 o'clock, with the understanding that no other business be done, but that the time be devoted to pension bills on the Calendar.

Mr. VILAS. And no other business but pension bills shall be transacted?

Mr. GALLINGER. That alone.

The PRESIDING OFFICER. And that no other business shall be transacted.

Mr. BROWN. I understand, then, that another unanimous consent can not be obtained for any other purpose?

Mr. GALLINGER. That is right.

The PRESIDING OFFICER. No other bills can be considered except those included within the unanimous consent. Is there objection to the request?

Mr. BROWN. Is it understood that no other unanimous consent can be obtained?

Mr. GALLINGER. That is it.

The PRESIDING OFFICER. It excludes all other matters, whether by unanimous consent or otherwise. Is there objection to the request? The Chair hears none, and it is so ordered.

Mr. GALLINGER. The time is to be consumed in the consideration of pension bills only.

The PRESIDING OFFICER. Unobjected pension bills already on the Calendar.

Mr. PLATT. Mr. President, it is very unsatisfactory to attempt to debate a matter of this sort under circumstances in which the Senate is placed almost at the close of the session and almost at the close of the day, but I think that I ought to occupy a few minutes' time in reply to the Senator from Wisconsin [Mr. VILAS].

I know that the Senator from Wisconsin would be glad to have the carnival of crime and the saturnalia of corruption which is going on in the Indian Territory among the Indians and by means of Indian courts put an end to. I am sure he desires that. I think that he recognizes, as we who are familiar with that situation do, that never in the history of the world was there a condition of affairs so disgraceful and so deplorable. The means by which that disgraceful and deplorable condition is kept up is the Indian courts.

Mr. President, I am not going into the question of treaties. It extends over a long period of our history. Men of great legal ability who have gone into it, who have investigated it thoroughly, do not believe that in this provision there is any violation of any treaty which we have made with the Indians, either in the early history of this Government or more recently. But that is too long a subject, too complicated a subject, to discuss in the few minutes which I may be permitted to occupy.

I take the other ground that, if there is any treaty which by its letter stands in the way, that treaty has been violated in its spirit by those Indians, until the United States not only is no longer bound to observe it, but is bound to step in and exercise its duty and its power to take care of those Indians.

The Senator from Wisconsin talks as if they were all Indians who are in control of those courts; as if white people had gone there and invaded that Territory, and were seeking to despoil the Indians. Not at all, Mr. President. The people who are responsible for this corruption, for this deplorable condition of things, are as white as you or I, sir. They are Indians under the Indian law. They have been admitted by the Indian tribes as Indian citizens; they have come in complete control of the Indians, and are running legislatures and courts for their own benefit, and not for the benefit of the real Indians.

Mr. STEWART. Will the Senator state what is the proportion of whites and Indians?

Mr. PLATT. About one-third of the Indians in the Five Civilized Tribes are full bloods, and two-thirds are either of mixed blood or white people. By the laws of those tribes, when a man marries an Indian woman, he becomes an Indian for all purposes of their laws, and white people have gone there and become Indians by marrying women with Indian blood, for the purpose of enriching themselves and despoiling the real Indians. That thing has been carried on until the whole community have come under the power of those white men, who are now insisting upon treaties originally made with the Indians.

Now, about those treaties. Those treaties were made when it was supposed that a white man would not go to that country. They were made by the Indians upon the representation that they wanted to be kept away from white people and that white people should be kept away from them; that they wanted to live by themselves, have their own courts—their Indian courts, their Indian legislatures, their Indian laws. They have not only violated the spirit of those treaties in this, but they have allowed white people to become Indians. But all those white people who are Indians in that country are not intruders at all. They have gone there by permission of the Indians. The spirit of the treaty whereby we agreed that they should live by themselves and have their courts has been utterly violated by the Indians; and I insist upon it that the United States, in making those treaties, did not absolve itself from the duty, if the Indians so conducted that they were to be overrun by white people, to step in and take care of those Indians, the real Indians, to see that they were not despoiled by white people whom they themselves had brought among them.

Mr. President, there is only one way to remedy this state of affairs, and that is to give our courts jurisdiction there. The Indian courts are so utterly corrupt that injustice is bought in them at every term of the court openly and notoriously. Justice is not administered. If the amendment of the Senator from Wisconsin should prevail, giving concurrent jurisdiction to the United States courts with the Indian courts, it would simply amount to this, that the men who were honest would go into the United States courts, and the men who were dishonest would go into the Indian courts, until they would be purely dishonest bodies and dishonest means of the so-called administration of justice.

I do not believe that there is anything in this amendment which violates the spirit of any treaty we have made. I do not believe that the United States, in making an agreement with the Indians, is bound to keep the letter of that agreement when the Indians have so conducted themselves that to keep the letter of it will destroy its spirit and destroy the Indians also.

But with regard to treaties, the Seminoles have none which guarantee them any courts. The Choctaws and Chickasaws have entered into an agreement whereby they have agreed to give up their courts, and if this amendment passes it will not be three months before the other Indian tribes, the Creeks and the Cherokees, will also have agreed to surrender their courts.

Mr. President, this is the most important piece of legislation that has been proposed for the settlement of this difficulty, for the settlement of this disgrace, this burning shame, this blot on our system of government; and the Senators who insist now upon keeping the letter of the treaties, as it seems to me, are sticking in the bark, and are unconsciously asking the Senate to do great wrong and injustice by keeping to the technical letter of treaties.

Mr. BATE. Mr. President, I wish to say but a few words in response to the remarks which have just been concluded by the Senator from Connecticut [Mr. PLATT]. They induce me to present some letters from leading citizens of that country. I have those letters here. I do not propose to comment upon them, but I wish them to go into the RECORD as a controversion and contradiction of what the Senator has said in regard to the morals of those people and in regard to the criminality and saturnalia of crime of which the Senator spoke.

Two of the letters are from judges of the court there, one is from a Baptist minister and there are one or two others from prominent people there. The letters are short, but they show just to the contrary of what the Senator has stated, and show that there is a better average morality per capita there than in any of the States of the Union. There may be troubles in that Territory, as there are troubles elsewhere. Those people are not responsible for that. It is the fault of the white men who are there, the white men who have crowded out the Indians. The Indian has been driven to the jumping-off place, and now that he has reached that condition, you propose to strike him down, and deny him the last vestige of right, which is this little court of his own, where he has his magistrates and constables to administer justice where nobody but Indians are tried. That is what you propose to do now, by giving exclusive jurisdiction to the courts which are to supplant the Indian courts.

Mr. President, the United States courts are already there. Those courts have jurisdiction in cases between white men and Indians and between white men exclusively; but the Indians have a little court of their own, exerting that power which was given them under every treaty. The Senator from Connecticut says the treaties do not do that. I have read the language, and it is in print to-day. They do it in every instance.

Talk about the morals of those people! Mr. President, I challenge history, I challenge the Senator's historical knowledge, to point out, from the day of the rape of the Sabines in Rome down to the present day, an instance where any single nation of people have ever advanced in civilization from a barbarous condition to the condition in which those Indians now are. They have their schools, they have their churches, they have their capital at Tahlequah, with 3,000 inhabitants. How many churches are there, Mr. President? Twelve churches, I understand; at any rate, they have eight or ten, Moravian, Unitarian, Baptist, Methodist North and South, Presbyterian, and others. That is not all. There are negroes there, and they have a separate church for the negroes. They also have their schools, with 200 pupils, male and female, in separate institutions, with separate teachers, at the public expense.

Mr. President, talk to me about these Indians being desperadoes and being immoral and vicious and bad people! We should take the beam out of our own eye before we take the mote out of our brother's. We have these troubles at home all around us daily. I trust matters will improve in that Territory. I hope that the Christian religion will advance and relieve the present state of affairs. The Christian religion has already done much for the people of that Territory. It has elevated them from barbarism into civilization, and it is making advances there now. I say it is historically true, as I am informed, that there are more members of Christian churches and communicants among this tribe of Indians per capita than there can be found in any State in this Union, and yet we are told by the Senator from Connecticut that a saturnalia of crime exists there.

These things, Mr. President, are historic. They may have troubles in the Indian country. There are, of course, marauders there just as there are in other portions of this country. But the gist of this thing is, Will you override the sacred obligation that this country has entered into with these poor creatures?

I have listened here for the last few days, and particularly during the last week of this session, to appeal after appeal in behalf of the unfortunate Cubans. Not only that, sir, but lamentations loud and long have been uttered in favor of the Armenians, inhabitants of a country three or four thousand miles away from us. Furthermore, we have heard much said here about the arbitration treaty. Why is that treaty favored? Because it will benefit mankind. But you say, Does that help us? The very men who advocate that treaty, the very men who advocate the cause of Cuba, and who shed tears over Armenia, are the men who now stand on tiptoe, with their ears pricked to hear a sweet sound that may come from Crete.

It is our duty, sir, according to my view of this matter, to maintain the status quo with these Indians. Let your courts which are there now have the jurisdiction which they at present exercise. We do not propose to disturb that, but do not let us extend their jurisdiction; do not let us make it exclusive; do not sweep away the rights of the Indian in a judicial point of view.

Mr. President, it is a part of their social organism to have these courts, which have been allowed by our Government in every treaty we have made with them. Theirs is a tribal organization; and I say, sir, you may look to the history of the Indian race, and wherever you have found the tribal organization of the Indians has been disturbed you have destroyed the Indians. The tribal relation is their natural condition, and whenever it is maintained as it is amongst these civilized tribes, with the laws of Christianity and the influence of the good people of this country thrown around them, as it has been, you find that they become elevated to a high point of civilization, surpassing, as I have said, any race of people known to history.

The question now is, shall we take the last prop from under them, which is their own courts, thereby giving exclusive jurisdiction to the courts presided over by judges whom we have sent there?

I do not care to say anything further upon the subject, Mr. President, but I hope the amendment will prevail. It is a proper, it is a just amendment; it goes to the merits of this case, and I shall vote for it.

I now formally request that I may be permitted to insert in the RECORD three or four letters of about twenty-five lines each from Judge Parker, Judge Bryant, Mr. King, the principal of the American Baptist Home Mission Society, and Mr. Wisdom, the United States Indian agent.

The PRESIDING OFFICER. If there be no objection, the papers indicated by the Senator from Tennessee will be inserted in the RECORD. The Chair hears no objection, and it is so ordered.

The papers referred to are as follows:

OFFICE UNITED STATES DISTRICT JUDGE,
EASTERN DISTRICT OF TEXAS,
Galveston, Tex., March 9, 1896.

DEAR SIR: As you are aware, for nearly six years I have been on the bench, and among other places hold court at Paris, Tex. During this time my duty has led me to a careful study of the conditions existing in the Indian Territory. The courts at Paris and Fort Smith have improved the Territory very much in ridding the country of lawless men, and if a comparison is made with any adjoining country, considering area and population, it will be found that less crime is committed in the Territory than any contiguous Territory or State of equal size. This is due solely to the fearless and certain enforcement of the law by the above courts.

If you look to Oklahoma, you will find that crime is practically unpunished as compared with the Indian Territory. Many circumstances combine to make the Paris and Fort Smith courts preferable, but the main reason is, the juries are not acquainted with the parties or witnesses, are not related to nor interested in them, except to do their duty firmly and fairly, and consequently the innocent are protected and the guilty punished.

The records of these courts will compare favorably, to say the least, with any court on earth. The Indian is seldom a defendant in my court. The crimes are committed by white men nearly altogether, and they are generally fugitives from justice from the States.

The question of governing the Indian Territory is a simple one. If the United States will follow strictly its treaty obligations and expel all intruders from the Indian country, the question is then settled. The trouble comes from the intruder, and when he is removed, the cause is removed and the trouble ceases.

If Congress puts the Indian Territory into a Territorial form of government, or takes the jurisdiction from Paris and Fort Smith and gives it exclusively to the courts in the Indian country, crime will rule the day; life and property will not be safe. In making this statement I desire to be distinctly understood as not reflecting on the judges or marshals of those courts. They are gentlemen and good officers and will do all that anyone can do to enforce the law. The fault is not with them. If the juries are composed of white men, in many verdicts of fact feeling will determine it, and the Indian will sincerely think it does in all. If the juries are composed of Indians, the white men will think the same. If the juries are composed of both, they will agree possibly in one case out of ten. In any event, either the white or Indian element will have no confidence that the verdicts are impartial. You know there are many feuds in the country, and they play no small part in the enforcement of law.

The Indians and the law-abiding white men in your country have confidence in the juries at Paris and Fort Smith, because they are not involved in the local feuds and local interests, not related to nor acquainted with the defendants, and consequently can have no motive to do other than right. If the United States will expel the intruder, let the tribal relations stand as they are, the question is settled and settled right. Many white men live in the Indian country that are honest and good citizens, but they comply with all regulations, are not in the criminal courts, and this letter does not apply to them. I refer to the large class of white men in your country who live by crime.

I would write more fully, but I am very busy here and have not the time. I will add, personally, it would be to my interest to lose the jurisdiction at Paris; it would relieve me of great labor and annoyance, but interest does not control me. I have given you my real convictions on this question.

Yours, truly,

D. E. BRYANT.

Hon. HOLMES COLBERT,
Washington, D. C.

—

Charge of Judge Stewart, December 1, 1894:

* * * * * * *

"And I say now, and I say it everywhere, and I am proud to say it, that I lived on the border, right on the edge of the Chickasaw Nation, for years before I came to this country, and I will say that there never has been a more law-abiding people than the people of this Territory. Why do I say it? These people were here for years without law; these white men who came in here with the permission of the Indians had intercourse with each other to protect their rights; they had no law to protect them against crime; yet these men went out and built towns, they erected churches and schoolhouses, and the good order of society was preserved and maintained without law, and now for the world to say that this Territory, as a whole, is more lawless than other new countries is a slander on the good people of this Territory, and it is not true. I have seen it and I know it."

—

WASHINGTON, D. C., *December 20, 1894.*

SIR: In accordance with your knowledge of crime in the Cherokee Nation, were there as many as fifty-three murders committed there during September and part of October last, and no attempt to make arrests?

W. A. DUNCAN.

To Judge I. C. PARKER, *Fort Smith, Ark.*

—

FORT SMITH, ARK., *December 21, 1894.*

To Hon. W. A. DUNCAN,
Cherokee Delegate, National Hotel:

In reply to your dispatch of 20th, I state four cases of murder were reported to United States commissioners here as having occurred in the Cherokee Nation during the whole of September and October last. Arrests in all cases.

I think all the cases over which court had jurisdiction were reported. These were cases over which court here had jurisdiction. There were probably as many more cases of murder committed by Indians upon Indians. There was more crime than usual during these months, owing to the number of reckless men attracted to that country by payment to the people of so large a sum of money. The story that there were 53 murders committed in the Cherokee Nation during the month of September and part of October for which no one was brought to justice, in my opinion, is a grave mistake. Some one has imposed on the author of the statement to the committee. I do not believe any such statement is warranted by the truth, and I think a gross injustice is unintentionally done your people by such statement.

I. C. PARKER.

—

CHEROKEE ACADEMY,
Tahlequah, Ind. T., January 15, 1895.

HONORED SIR: I have read with interest the newspaper report of your reply to the report of the Dawes Commission. Allow me to add my humble indorsement thereto. After a three years' residence in your nation, with perfect liberty to observe your people, and every possible opportunity to study their customs and the administration of your Government, with no possible political limitations, and in a work that brings men of all classes and conditions together on common ground, and having traveled the length and breadth of your country in public and private conveyance, I am free to say that I have ever found the enforcement of law as effectual, and the safety of persons and property as sure as in any of the well-governed Atlantic Seaboard States in which I made my home for many years. And this is especially true of the safety of our women from insult and annoyance upon our streets, or on the highways, where they frequently travel unattended for many, many miles together. I have never heard of a single instance where the slightest insult or indignity has been offered them.

I may say also upon the grave question at issue, merely as the conviction of one who has the best interest of your people at heart, and who has no personal gain or loss in the balance, that any of the plans submitted for a change of government for the Cherokee Nation (I know nothing about the others) must be detrimental to the best interests of the Cherokee people, if not of fatal result to the full-blood Indians.

Believing the position of yourself and your delegations to be the only correct one in the face of the facts, allow me to wish you godspeed toward success in your noble efforts for your people.

WALTER P. KING,
Principal under the American Baptist Home Mission Society.

Hon. C. J. HARRIS,
Principal Chief of the C. N.,
National Hotel, Washington, D. C.

—

UNITED STATES INDIAN SERVICE, UNION AGENCY,
Muscogee, Ind. T., January 3, 1895.

SIR: I am in receipt of your letter of December 18, 1894, in which you state that a statement was made on that day, before the House Judiciary Committee, that 53 murders had been committed in the Cherokee Nation from the 15th of September to the 20th of October, for which no one had been brought to justice. You also ask if I have any information to prove or disprove this statement, or if I give it any credit.

I would respectfully state that my information discredits any such statement, and I do not believe it to be true.

I know that the Cherokees, as a rule, apprehend and punish all criminals, and their laws are reasonably well executed.

Whenever I have called upon the Cherokee authorities to assist me in capturing outlaws they have always responded.

Very respectfully,

DEW M. WISDOM,
United States Indian Agent.

J. F. THOMPSON,
Cherokee Delegate, care National Hotel, Washington, D. C.

Mr. TELLER. Mr. President, we owe to these Indians just the same obligation that we owe to any other class of our population, and that is to secure them a proper government. We practically agreed to do that when we made our treaties with the Indians, but they have shown themselves incapable of managing their own affairs in a way to bring peace and order and quiet and to do justice to the citizens of that country.

Three years ago a committee of this body went down to the Indian Territory and took testimony as to the condition there, and came back and made a report of the condition. That report is on file. It shows the necessity for this class of legislation.

METROPOLITAN RAILROAD COMPANY.

Mr. HILL. With the kind permission of the Senator from Colorado, I rise to a question of privilege. I introduced yesterday, in behalf of the Senator from Nebraska [Mr. ALLEN], a concurrent resolution calling for the recall of a bill from the President, and said that it could go over until to-day. It was called up this morning, as I supposed it would be, but instead of it another resolution was called up which was not the one I offered in behalf of the Senator from Nebraska. It was waived. I desire to know why it was that the concurrent resolution was not laid before the Senate this morning as a part of the morning business. I ask that it may be called up now and passed.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New York?

Mr. TELLER. Will it take any time?

Mr. HILL. It ought not to.

Mr. ALLEN. Oh, no.

Mr. PETTIGREW. What is it?

Mr. HILL. It is to recall a bill from the President, in accordance with the resolution I offered yesterday.

Mr. PETTIGREW. I should like to know whether it is simply to correct a clerical error?

Mr. ALLEN. Yes; a clerical error.

Mr. HILL. It is not my bill. It is a matter of courtesy on my part to another Senator. The Senate passed the wrong resolution.

Mr. PETTIGREW. I think if the Senator from New York could remain in the Senate long enough, he would get full information with regard to the powers of the body. I am glad he has discovered this one.

Mr. HILL. Yes, sir; the resolution is correctly drawn.

Mr. TELLER. Let it be taken up. I do not want to spend much time over it.

The PRESIDING OFFICER. The concurrent resolution will be read for information.

The Secretary read the concurrent resolution, as follows:

Resolved by the Senate (the House of Representatives concurring therein), That the President be, and is hereby, requested to return to the House for correction the bill (H. R. 9647) to authorize the extension of the Metropolitan Railroad Company, of the District of Columbia.

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

Mr. FAULKNER. I object to the consideration of the resolution. I do not know the object of the resolution.

Mr. HILL. The Senator knows, permit me to suggest, because I discussed the question with him yesterday.

Mr. FAULKNER. The Senator never gave me any reason for it.

Mr. HILL. Was not the Senator from West Virginia in the chair when I offered the resolution?

Mr. FAULKNER. I was, but the Senator never gave me any reason why the resolution should be passed. As a member of the subcommittee, I do not know any reason why it should. I can not agree to a concurrent resolution recalling the bill from the President unless I know the reason why it is to be done.

Mr. ALLEN. I should like to ask the Senator from West Virginia if he wants to take advantage of the technical mistake of the Presiding Officer in not laying this resolution instead of the other one before the Senate?

Mr. FAULKNER. I would ask the Senator, in reply, if he would want to take advantage of the District Committee when every member of it was engaged in public business elsewhere when the matter was taken up this morning? If they had been here they would have discussed the question, and the propriety of passing the resolution.

Mr. ALLEN. When the resolution was submitted almost every member of the District Committee was here.

Mr. FAULKNER. There was——

Mr. HILL. The Senator from West Virginia was in the chair. Why was the wrong resolution presented this morning instead of the one I offered in behalf of my friend the Senator from Nebraska?

Mr. FAULKNER. That I do not know. I was in the committee room.

Mr. VEST. Let me make an inquiry. Does the Senator from West Virginia state that the right resolution was offered?

Mr. FAULKNER. Two resolutions was offered yesterday, one by the Senator from Nebraska. Then the Senator from New York called the attention of the Senator from Nebraska to the fact that it requires a concurrent resolution to accomplish the result he had in view, and at the request of the Senator from Nebraska the Senator from New York, for that Senator, prepared a concurrent resolution and offered it to the Senate, and it went over until to-day.

Mr. HILL. It is there now.

Mr. ALLEN. Was it not in lieu of the simple Senate resolution?

Mr. FAULKNER. I do not know how it was offered; I do not remember the language, but it was offered with that view. This morning, while the District Committee was engaged with its public duties, when the morning hour came on, this resolution was passed without any objection whatever. It would have been objected to by the District Committee if any of the members of the committee had been present. I can say that to the Senator frankly.

Mr. HILL. That has nothing to do with it. I was entitled, or the Senator from Nebraska was (for I care nothing about the bill; I know nothing about it; I did it as a pure act of courtesy to him), to have the concurrent resolution laid before the Senate as a part of the morning business. I supposed the resolution laid before the Senate was the one I offered.

Mr. FAULKNER. I made a very fair proposition to these gentlemen. If they can give any reason why the bill should be recalled from the President, then, of course, I will not object to the resolution being considered.

Mr. HILL. What is the Senator's statement?

Mr. FAULKNER. If the Senator can give any reason why it is the duty of the Senate to recall the bill from the President, I will not object to the consideration of the resolution; but there ought to be some reason given to the Senate.

Mr. HILL. I have already explained that I am not opposed to the bill. I know nothing in regard to it. I was consulted about it by the Senator from Nebraska. He kindly asked me to put it in form, as I have been giving some little attention to the question suggested—the recall of a bill from the President. That is all. It was purely as a matter of courtesy that I offered it. I supposed it was laid before the Senate this morning, until the Senator from Nebraska called my attention to the fact that the wrong resolution was laid before the Senate, not the one I offered.

Mr. FAULKNER. I will say to the Senator from Nebraska, that if he can give any good reason why the resolution should be passed and the bill recalled from the President, I will not interpose any objection; but there ought to be some reason stated.

Mr. ALLEN. The Senator from West Virginia knows the reasons, and he has known them for a month or more.

Mr. FAULKNER. If it is the reason——

Mr. ALLEN. No, no; there are a variety of reasons.

Mr. FAULKNER. If it is the reason as to which I stated, I would oppose the resolution. I will oppose it.

Mr. ALLEN. The Senator is not in ignorance of the reasons, and he has not been for several weeks.

Mr. FAULKNER. If that is the only reason, then I do not think the public interest would justify us in recalling the bill from the President.

Mr. ALLEN. I want to say that in my judgment the conference report was deliberately slipped in and passed in the absence of several Senators who were known to be antagonistic to the bill.

Mr. GALLINGER. I will say in behalf of the chairman of the committee, who does not seem to be present, that he resents any such imputation.

Mr. ALLEN. I know he resents it. I understand the Senator from New Hampshire resents it.

Mr. GALLINGER. I do not, because I do not know anything about that part of it.

Mr. FAULKNER. If the Senator will permit me, I think if he will look at the RECORD he will find that there has been no bill which has had the deliberation, the length of time bestowed on it in the Senate as the bill of which he is speaking and the conference report thereon have had. The conference report was here from the 13th of January until the middle of February.

Mr. ALLEN. I have been in the Senate every day with the exception of a day or two from the opening of Congress until this moment, occasionally being in the cloakroom and out in the committee room, as my duties required me to be. I never could be here when the bill was mentioned by a member of the District Committee. I would come in after a time and find that some order had been made in relation to it.

Mr. GALLINGER. Will the Senator permit me?

Mr. ALLEN. Certainly.

Mr. GALLINGER. This bill was referred to the Senate committee on the 21st day of December, reported to the Senate on the 13th day of January, passed the Senate on the 5th day of February; on the 8th day of February the conferees failed to agree and reported, and it went back to them; on the 23d day of February, 1897, the conference report was agreed to, and on the 24th of February the bill was signed by the Presiding Officer.

Mr. ALLEN. I am not disputing that. It is not pertinent to the question at all.

Mr. GALLINGER. It shows simply that the bill has had most careful consideration and deliberation.

Mr. ALLEN. Most deliberate, doubtless, but it was always at a time when the opponents of the bill were not present.

Mr. FAULKNER. I wish to say, in justice to the committee, and I think the Senator from Nebraska ought to admit it, that he never called the attention of any member of the committee to any objection to the bill up to the time when he presented the resolution. At least, if he did so, I never heard of it, and I never heard of any objection either to the bill or to the conference report except from the senior Senator from Missouri [Mr. COCKRELL]. I would not sign the conference report until he was thoroughly satisfied with the modifications of it to suit his views. That is the sole objection I ever heard to the bill from any Senator.

Mr. ALLEN. What can be the objection to allowing the concurrent resolution to pass, and let the bill come back and be considered?—because it can be considered before Congress adjourns.

Mr. GALLINGER. Is unanimous consent asked?

The PRESIDING OFFICER. The proposition before the Senate——

Mr. BURROWS. I desire to say to the Senator from Nebraska that my colleague, the chairman of the Committee on the District of Columbia, is called out of the Chamber and is not here at this time, and I shall have to object myself to the resolution being taken up in his absence. So I ask that it may be passed over.

Mr. TELLER. If that is the case, I should like to proceed.

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

Mr. GALLINGER. I object, most decidedly.

Mr. HILL. I rise to a parliamentary inquiry. What is the effect of the error of the Presiding Officer, or the error of the clerks, in not handing down the concurrent resolution as a part of the morning business? Will it not come up to-morrow morning?

Mr. TELLER. Certainly.

Mr. GORMAN. It will.

Mr. COCKRELL. It ought to.

Mr. HILL. I want a ruling to that effect, and then we will decide.

The PRESIDING OFFICER. The Chair understands that the concurrent resolution will come up regularly to-morrow morning.

Mr. COCKRELL. Let it come up to-morrow morning, just as it ought to have come up this morning.

Mr. FAULKNER. I will say frankly that if the Senator from Nebraska will ask unanimous consent that the resolution may be treated as a part of the morning business to-morrow, personally I will not object, and I do not think any other Senator will object, under the circumstances.

The PRESIDING OFFICER. There can not be any objection, inasmuch as the resolution has not been submitted to the Senate as a part of the morning business.

Mr. FAULKNER. If there is not consent, the resolution will go to the Calendar.

The PRESIDING OFFICER. The resolution is entitled to its day. The Chair understands that the request for unanimous consent for the present consideration of the resolution is denied. The Senator from Colorado [Mr. TELLER] is entitled to the floor.

Mr. ALLEN. Mr. President——

Mr. TELLER. I have been yielding. I do not want to interfere if the concurrent resolution can be disposed of.

The PRESIDING OFFICER. Does the Senator from Colorado yield to the Senator from Nebraska?

Mr. TELLER. Certainly.

Mr. ALLEN. I desire to ask the Senator from West Virginia and the Senator from New Hampshire, in view of the fact that there was a clerical error in not laying the resolution before the Senate this morning, to allow it to be corrected now, so that the RECORD shall show the passage of the concurrent instead of the Senate resolution.

Mr. GALLINGER. We must object to that. We have no objection to the resolution coming up when we are present. It came up this morning when every member of the committee was absent. I have no objection to its being considered to-morrow morning.

Mr. ALLEN. I understand the Senator objects to the resolution, however.

Mr. GALLINGER. I shall oppose it with all the power I have.

Mr. ALLEN. No doubt.

Mr. GALLINGER. It is not much, but all I have.

Mr. ALLEN. Doubtless, if the Senator uses all his power, the resolution will be defeated.

Mr. GALLINGER. That depends upon circumstances.

Mr. COCKRELL. Will the Senator from Colorado yield to me?

Mr. TELLER. Certainly.

EXECUTIVE SESSION.

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

Mr. BROWN. On that I ask for the yeas and nays.

Mr. ALLISON. I submit to the Senator from Missouri that it will take ten minutes to call the roll.

Mr. FRYE. We will take a recess at 6 o'clock.

The PRESIDING OFFICER. The Senator from Missouri moves that the Senate proceed to the consideration of executive business, on which the yeas and nays are demanded.

The yeas and nays were not ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Missouri.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After twelve minutes spent in executive session the doors were reopened, and (at 6 o'clock p. m.) the Senate took a recess until 7.30 o'clock p. m.

EVENING SESSION.

The Senate reassembled at 7.30 p. m.

Mr. HOAR. I ask unanimous consent to call up the bill (H. R. 3623) to amend section 4 of an act entitled "An act to define the jurisdiction of the police court of the District of Columbia."

Mr. PEFFER. That is not a pension bill.

Mr. GALLINGER. When the order was made, I suggest to the Senator from Massachusetts, an agreement was entered into that no other business but action upon unobjected pension bills would be done during this half hour.

Mr. HOAR. Very well.

Mr. GALLINGER. I should be happy to yield, of course; but that agreement was made on the floor at the suggestion of several Senators.

The PRESIDING OFFICER (Mr. PASCO in the chair). Under the unanimous agreement entered into this afternoon, unobjected pension bills on the Calendar will now be considered, and the Secretary will read the first bill.

MALACHI SALTERS.

The bill (H. R. 9319) granting a pension to Malachi Salters was considered as in Committee of the Whole. It proposes to place the name of Malachi Salters, late a sergeant of Company F, Ninth Regiment of Illinois Volunteer Cavalry, upon the pension roll of the United States, and to grant him a pension of $50 a month.

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

ANNIE FOWLER.

The bill (S. 3237) granting a pension to Annie Fowler was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with amendments, in line 6, after the word "Brigadier-General," to strike out "Edwin" and insert "Edward;" and in line 7, after the word "Fourteenth," to strike out "New York Regiment" and insert "Brooklyn (Eighty-fourth New York Volunteers);" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he hereby is, authorized and directed to place on the pension roll, subject to the limitations of the pension laws, the name of Annie Fowler, widow of Col. and Bvt. Brig. Gen. Edward B. Fowler, of the Fourteenth Brooklyn (Eighty-fourth New York Volunteers).

The amendments were agreed to.

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

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

CHARLOTTE WEIRER.

The bill (H. R. 2689) granting a pension to Charlotte Weirer was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 8, after the words "in lieu," to strike out "of all pension granted" and insert "of the pension she is now receiving;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Charlotte Weirer, widow of Antonio Weirer, late of Company E, Second Regiment United States Artillery, and pay her a pension of $12 per month, in lieu of the pension she is now receiving.

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.

ALPHONZO O. DRAKE.

The bill (H. R. 7205) granting a pension to Alphonzo O. Drake was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with amendments, in line 8, before the word "dollars," to strike out "twenty" and insert "twelve;" and in the same line, after the word "month," to strike out "in lieu of the pension he is now receiving;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Alphonzo O. Drake, late a private in Company E, Second Regiment Rhode Island Volunteer Infantry, and pay him a pension at the rate of $12 a month.

The amendments were agreed to.

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

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

The bill was read the third time, and passed.

ANDREW J. MOLDER.

The bill (H. R. 6757) granting a pension to Andrew J. Molder was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Andrew J. Molder, late a private in Capt. John Miser's Company, Hempstead County Arkansas Militia, and to pay him a pension of $12 per month.

The PRESIDING OFFICER. There is a mistake in the spelling of the word "captain." The bill will be amended by inserting the correct spelling, in the absence of objection.

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.

ANNA G. VALK.

The bill (H. R. 7055) increasing the pension of Anna G. Valk was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions, with an amendment, in line 7, before the word "dollars," to strike out "twenty" and insert "thirty-five;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and is hereby, authorized and directed to increase the pension of Anna G. Valk, widow of William W. Valk, late surgeon of the Fourth Maryland Volunteer Infantry, to the sum of $35 per month.

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.

ELI D. WALKER.

The bill (S. 583) to grant a pension to Eli D. Walker was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an

amendment, in line 8, after the word "month," to strike out "from and after October 1, 1891;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Eli D. Walker, late a private in Company I, One hundred and sixty-first Ohio Infantry Volunteers, and to grant him a pension of $12 per month.

SEC. 2. That this act shall be in force from and after its passage.

The amendment was agreed to.

Mr. GALLINGER. I suggest that section 2 be likewise stricken out. It is unusual.

The amendment was agreed to.

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

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

HATTIE A. BEACH.

The bill (H. R. 4903) for the relief of Hattie A. Beach, child of Erastus D. Beach, late a private in Company H, One hundred and forty-third New York Volunteers, was considered as in Committee of the Whole. It proposes to grant a pension of $12 a month to Hattie A. Beach, child of Erastus D. Beach, late private of Company H, One hundred and forty-third Regiment New York Infantry Volunteers.

Mr. GALLINGER. In line 5, after the word "Beach," I move to insert the words "dependent and helpless."

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.

The title was amended so as to read: "A bill for the relief of Hattie A. Beach, dependent and helpless child of Erastus D. Beach, late a private in Company H, One hundred and forty-third New York Volunteers."

JERE SMITH.

The bill (H. R. 5128) to increase the pension of Jere Smith was considered as in Committee of the Whole. It proposes to place the name of Jere Smith, a sergeant of Company F, Thirteenth Regiment of Tennessee Cavalry, on the pension roll at $12 per month, in lieu of the pension he is now receiving.

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

MAJ. JOHN H. GEARKEE.

The bill (H. R. 6845) granting an increase of pension to Maj. John H. Gearkee was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Maj. John H. Gearkee, late of the Twenty-second Regiment of Iowa Volunteer Infantry, at $50 per month, said pension to be in lieu of the one he now receives.

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

DAVID N. THOMPSON.

The bill (H. R. 6765) to increase the pension of David N. Thompson was considered as in Committee of the Whole. It proposes to increase the pension now paid to David N. Thompson, late a private of Company C, Thirty-fourth Regiment Illinois Infantry Volunteers, and to pay him $30 per month, in lieu of the pension that he is now receiving.

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

REBECCA A. KIRKPATRICK.

The bill (H. R. 9785) granting a pension to Rebecca A. Kirkpatrick was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Rebecca A. Kirkpatrick, widow of William A. Kirkpatrick, late a sergeant and second lieutenant in Company F, Sixty-third Regiment of Illinois Volunteer Infantry, and to pay her a pension of $15 per month.

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

CASSIUS M. CLAY, SR.

The bill (S. 3640) granting a pension to Cassius M. Clay, sr., a citizen of Kentucky, and a major-general in the Army of the United States in the war of the rebellion, was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 7, before the word "dollars," to strike out "one hundred" and insert "fifty;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place upon the pension roll the name of Cassius M. Clay, sr., a major-general in the volunteer service of the United States in the war of the rebellion, and pay him a pension of $50 per month, in lieu of any pension he may now receive on account of such service.

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.

WILLIAM N. WELLS.

The bill (H. R. 6268) to increase the pension of William N. Wells was considered as in Committee of the Whole. It proposes to place on the pension roll the name of William N. Wells, late acting master United States Navy, at $30 per month, in lieu of the pension now paid him.

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

WILLIAM SHEPPARD.

The bill (H. R. 3402) granting a pension to William Sheppard, late of Company A, Sixteenth Regiment Indiana Volunteer Infantry, was considered as in Committee of the Whole. It proposes to place on the pension roll the name of William Sheppard, late private of Company A, Sixteenth Regiment Indiana Volunteer Infantry, and to grant him a pension of $50 per month.

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

MRS. HELEN A. DE RUSSY.

The bill (H. R. 6159) to increase the pension of Helen A. De Russy was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Mrs. Helen A. De Russy, of Washington, D. C., widow of Col. Rene E. De Russy, Corps of Engineers, and brevet brigadier-general, United States Army, and to pay her a pension of $50 per month, the same to be in lieu of the pension now drawn by her.

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

WESLEY C. SAWYER.

The bill (S. 3393) to increase the pension of Wesley C. Sawyer was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 7, before the word "dollars," to strike out "seventy-two" and insert "fifty;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and is hereby, authorized and directed to place on the pension roll the name of Wesley C. Sawyer, late captain Company H, Twenty-third Massachusetts Volunteers, and pay him a pension of $50 a month, in lieu of the pension he is now receiving.

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.

MRS. ARETHUSA WRIGHT.

The bill (S. 3343) granting a pension to Mrs. Arethusa Wright, of Sheridan, Oreg., was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 7, before the word "dollars," to strike out "fifty" and insert "twenty-five;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he hereby is, directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Mrs. Arethusa Wright, of Sheridan, Oreg., at the rate of $25 per month.

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 an increase of pension to Mrs. Arethusa Wright, of Sheridan, Oreg."

LEROY M. BETHEA.

The bill (H. R. 7317) to increase the pension of Leroy M. Bethea was considered as in Committee of the Whole. It proposes to increase the pension of Leroy M. Bethea, of Wilcox County, Ala., from $12 to $25 per month, for services in the war with Mexico.

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

NANCY ROBERTS.

The bill (H. R. 8633) granting a pension to Nancy Roberts, of Manchester, Clay County, Ky., was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 7, before the word "dollars," to strike out "twenty" and insert "twelve;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he hereby is, authorized and directed to place the name of Nancy Roberts, widow of Jesse Roberts, late a private in Company A, Forty-ninth Kentucky Volunteer Infantry, on the pension roll at $12 per month.

Mr. PEFFER. I am satisfied there was a mistake in preparing the report. I ask the Senate to recede from its amendment, so as to let the amount stand as it was reported.

Mr. GALLINGER. I think that course is proper.

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

The amendment was rejected.

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

MRS. CATHERINE G. LEE.

The bill (H. R. 1933) granting a pension to Mrs. Catherine G. Lee was considered as in Committee of the Whole. It proposes to place upon the pension roll, and to pay her a pension of $12 per month, the name of Mrs. Catherine G. Lee, the daughter of William Rosser, a soldier of the Revolutionary war from the State of Virginia.

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

JULIA D. BEEBE.

The bill (H. R. 6915) granting a pension to Julia D. Beebe was considered as in Committee of the Whole. It proposes to place upon the pension roll of the United States the name of Julia D. Beebe, widow of Frank D. Beebe, late assistant surgeon of the One hundred and fifty-seventh Regiment New York Volunteer Infantry, and to pay her a pension of $17 per month.

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

LYDIA W. HOLLIDAY.

The bill (H. R. 7422) granting a pension to Lydia W. Holliday was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 9, before the word "dollars," to strike out "thirty" and insert "twenty;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and is hereby, authorized and directed to place the name of Lydia W. Holliday, of Wheeling, Ohio County, W. Va., late army nurse in the army hospitals of the United States Volunteers, in the late war, from 1861 to 1865, on the pension roll, at $20 per month from and after the passage of this act.

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.

HARRIET CLARISSA MERCUR.

The bill (S. 3183) granting a pension to Harriet Clarissa Mercur, widow of James Mercur, late professor of civil and military engineering in the United States Military Academy at West Point, N. Y., was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 9, before the word "dollars," to strike out "seventy-five" and insert "forty;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Harriet Clarissa Mercur, widow of Prof. James Mercur, late professor of civil and military engineering in the United States Military Academy at West Point, N. Y., and pay her a pension of $40 per month.

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.

GROTIUS N. UDELL.

The bill (H. R. 3605) granting a pension to Grotius N. Udell was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Grotius N. Udell, late private of Company B, Sixth Regiment Iowa Infantry, and to pay him a pension of $72 per month, in lieu of the pension he is now receiving.

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

ABNER ABERCROMBIE.

The bill (H. R. 4076) for the relief of Abner Abercrombie was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Abner Abercrombie, of Monroe County, Ga., late a private in Captain Ashurst's Company of Alabama Volunteers in the Indian war of 1838, at $8 per month.

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

EDWARD C. SPOFFORD.

The bill (H. R. 6730) granting a pension to Edward C. Spofford was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 7, before the word "dollars," to strike out "fifty" and insert "thirty;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll the name of Edward C. Spofford, late a sergeant of Company F, Thirty-fifth Massachusetts Volunteer Infantry, and pay him a pension of $30 per month from and after the passage of this act, in lieu of the pension now received by him.

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.

EMILY M. TYLER.

The bill (H. R. 6560) to increase the pension of Emily M. Tyler was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Emily M. Tyler, widow of Erastus B. Tyler, late a brevet major-general of United States Volunteers, at $50 per month, in lieu of the pension she is now receiving.

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

CARRIE L. GREIG.

The bill (H. R. 2962) granting a pension to Carrie L. Greig, widow of Theodore W. Greig, brevet major of volunteers, was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Carrie L. Greig, widow of the late Theodore W. Greig, brevet major of volunteers, and to pay her a pension of $20 per month.

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

ANN MARIA MEINHOFER.

The bill (H. R. 8942) granting a pension to Ann Maria Meinhofer was considered as in Committee of the Whole. It proposes to place upon the pension roll the name of Ann Maria Meinhofer, widow of Louis Meinhofer, late a private in Company B, Forty-first New York Infantry, and to pay her a pension of $12 per month.

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

MRS. FRANCES C. DE RUSSY.

The bill (S. 2125) granting a pension to Mrs. Frances C. De Russy was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with amendments, in line 5, before the word "dollars," to strike out "seventy-five" and insert "fifty;" and in line 7, before the name "Gustavus," to insert "and brevet brigadier-general;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, at the rate of $50 per month, the name of Frances C. De Russy, widow of the late Col. and Bvt. Brig. Gen. Gustavus A. De Russy, of the United States Army.

Mr. COCKRELL. I thought we had already passed that bill.

Mr. GALLINGER. There are two pension bills where the beneficiaries have similar names, I will say to the Senator.

The amendments were agreed to.

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

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

JAMES EGANSON.

The bill (H. R. 7451) for the relief of James Eganson, of Henderson, Ky., was considered as in Committee of the Whole. It proposes to place on the pension roll the name of James Eganson, late seaman United States Navy, serving on ships *Pennsylvania* and *United States*, and to pay him a pension of $12 per month.

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

CATHERINE A. BRADLEY.

The bill (S. 3707) granting a pension to Catherine A. Bradley was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Catherine A. Bradley, widow of James F. Bradley, captain of Company F, One hundred and second Regiment United States Colored Volunteer Infantry, and to pay her a pension of $20 per month.

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

JOSEPH M. DONOHUE.

Mr. GALLINGER. I have one bill in charge that I intended to report this morning. I ask permission to report it and have it considered at this time. I report back from the Committee on Pensions without amendment the bill (H. R. 6038) to increase the pension of Joseph M. Donohue, and I ask for its present consideration.

There being no objection, the bill was considered as in Committee of the Whole. It proposes to place the name of Joseph M. Donohue, of Shelby County, Ky., late a private in Company A,

Fifteenth Kentucky Regiment, on the pension roll as a pensioner at $12 per month instead of $6 per month, which he now receives.

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

Mr. COCKRELL (at 7 o'clock and 50 minutes p. m.). I move that the Senate take a recess until 8 o'clock.

The motion was agreed to; and at the expiration of the recess (at 8 o'clock p. m.) the Senate reassembled.

ENGROSSING AND ENROLLING OF BILLS.

The PRESIDING OFFICER (Mr. PASCO in the chair) laid before the Senate the following concurrent resolution of the House of Representatives; which was read:

Resolved by the House of Representatives (the Senate concurring), That during the last six days of the present session of Congress the engrossing and enrolling of bills and joint resolutions by printing, as provided by act of Congress approved March 2, 1895, may be suspended, and said bills and joint resolutions may be written by hand.

The PRESIDING OFFICER. The Chair calls the attention of the Senator from Maine [Mr. HALE] to the resolution.

Mr. ALLISON. It ought to pass.

Mr. HOAR. As a matter of course.

Mr. HALE. I ask concurrence on the part of the Senate.

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

PETITION.

Mr. CALL presented a petition of sundry citizens of Ocala, Fla., praying for the speedy recognition as belligerents of the Cuban patriots in their struggle for freedom; which was ordered to lie on the table.

AMENDMENTS TO DEFICIENCY APPROPRIATION BILL.

Mr. GORMAN 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.

Mr. HILL 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.

DISTRICT POLICE COURT.

Mr. HOAR. I ask the Senate to lay aside the pending order informally that I may call up the bill (H. R. 3623) to amend section 4 of an act entitled "An act to define the jurisdiction of the police court of the District of Columbia."

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported from the Committee on the Judiciary with amendments.

The first amendment was, in line 10, after the word "of," to insert the words "the United States, the District of Columbia, or;" so as to read:

That section 4 of the act entitled "An act to define the jurisdiction of the police court of the District of Columbia," approved March 3, 1891, be, and the same hereby is, so amended as to read as follows:

"SEC. 4. That in all cases tried before said court the judgment of the court shall be final, except as hereinafter provided. If, upon the trial of any such cause, an exception be taken by or on behalf of the United States, the District of Columbia, or any defendant to any ruling or instruction of the court upon matter of law, the same shall be reduced to writing and stated in a bill of exceptions, with so much of the evidence as may be material to the question or questions raised, which said bill of exceptions shall be settled and signed by the judge within such time as may be prescribed by rules and regulations which shall be made by the court of appeals of the District of Columbia for the transaction of business to be brought before it under this act, and for the time and method of the entry of appeals, and for giving notice of writs of error thereto from the police court of the District of Columbia; and if, upon presentation to any justice of the court of appeals of the District of Columbia of a verified petition setting forth the matter or matters so excepted to, such justice shall be of opinion that the same ought to be reviewed, he may allow a writ of error in the cause, which shall issue out of the said court of appeals, addressed to the judge of the police court, who shall forthwith send up the information filed in the cause and a transcript of the record therein, certified under the seal of said court, to said court of appeals for review and such action as the law may require, which record shall be filed in said court of appeals within such time as may be prescribed by the court of appeals, as hereinbefore provided.

The amendment was agreed to.

The next amendment was, in line 34, after the word "any," to strike out the word "defendant" and insert the word "party;" and in line 36, after the word "his," to insert the words "or its;" so as to read:

Any party desiring the benefit of the provisions of this section shall give notice in open court of his or its intention to apply for a writ of error upon such exceptions, and thereupon proceedings therein shall be stayed for ten days.

The amendment was agreed to.

Mr. ALLEN. I should like to ask the Senator from Massachusetts if there is any provision made in this bill for the allowance of a writ of error provided the justice to whom it is presented refuses?

Mr. HOAR. Yes; there is the same provision which applies now in all United States jurisprudence, that there may be an application to the court above, and if the justice thinks proper, he orders it.

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

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

The bill was read the third time, and passed.

MEMORIAL MUSEUM.

Mr. HAWLEY. I have the consent of the Senator in charge of the Indian appropriation bill now pending to enter a motion requesting the return of a certain bill from the House of Representatives. I will not take up the time now to explain the matter, but I give notice that I will move that the Senate request the House of Representatives to return to this body Senate bill 3608. I will call up the motion afterwards for action.

Mr. CHANDLER. What is the title of the bill?

Mr. HAWLEY. That compels a little explanation. I am sure the Senate did not fully understand the purport of the bill. It gives away a portion of the Washington Monument Lot. Nothing on earth is good enough to come into the ground which is dedicated to that magnificent monument, the admiration of the world. The Washington Monument Lot is not mentioned in the bill, but the description will show that it takes a piece, about an acre, out of the lot.

Now, we decided long ago that we would erect no more buildings on the reservations in this city. Senators who have been here for some time will remember the prolonged discussions that arose over the location of the Congressional Library. Many Congressmen desired to place the building upon some one of the reservations, saying we had public land enough; that we were under no necessity of buying other land. The better sentiment of Congress prevailed, and the Library is where it ought to be, as every man of taste will say, a very noble adornment of this city and an honor to the nation.

I then said, and others said, that we never, never would consent to an encroachment of any sort upon these reservations. If we continue this, we shall have, perhaps, in the Washington Monument Lot buildings used for honorable purposes like this one, but they will be of incongruous architecture—a village of incongruous architecture—and posterity will curse us for the mauling and mangling of the noble plan of this grand city.

So, while I am perfectly willing to vote for any necessary appropriation or be taxed personally to buy any other piece of ground to obtain a suitable site for the noble purpose of the bill, I still adhere to my views—no buildings on the reservations, and, above all things, no building on the Washington Monument Grounds. No man shall exceed me in profound admiration and respect for the Daughters of the Revolution. They are doing a noble work, reviving not only intellectual creeds of patriotism, but a blessed sentimental love of country.

They shall have a museum and a good place for it; we will buy them any proper location, but I do beg the Senate to say that it shall not be on the Washington Monument Lot. That is the purport of Senate bill 3608. I do not think Senators knew it. I doubt if there has been a meeting of the Committee on Public Buildings and Grounds this winter. I have consulted three gentlemen on that committee, and they never knew of the bill at all.

Mr. CHANDLER. I ask the Senator to request unanimous consent to move the recall of the bill.

Mr. HAWLEY. I will be glad to do so. I will do so at this moment, if Senators say so.

Mr. TELLER (to Mr. HAWLEY). Do it now.

Mr. HAWLEY. I move that the Senate request the House of Representatives to return Senate bill 3608.

The PRESIDING OFFICER. The Senator from Connecticut moves that the House of Representatives be requested to return Senate bill 3608, the title of which will be stated.

The SECRETARY. A bill setting apart a plot of public ground in the city of Washington in the District of Columbia for memorial purposes under the auspices of the National Society of the Daughters of the American Revolution.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Connecticut.

The motion was agreed to.

CALEB L. JACKSON.

Mr. PETTIGREW. I demand the regular order.

Mr. QUAY. I wish to have passed a bill to correct the military record of a soldier. It will not take half a minute.

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Pennsylvania?

Mr. PETTIGREW. I will yield to the Senator from Pennsylvania provided the bill leads to no discussion, but not after this.

Mr. QUAY. Certainly it will not lead to discussion. It is merely a bill to complete a military record. I ask the Senate to proceed to the consideration of the bill (H. R. 6417) to complete the military record of Caleb L. Jackson.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to remove the charge of desertion standing against Caleb L. Jackson as a member of Company D, One hundred and forty-sixth Regiment of New York Volunteers, and provides that it shall be held and considered that the said Jackson died on or about the 4th day of June, 1863, while in the military service of the United States, and on account of disability incurred in such service and in line of duty.

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

ORDER OF BUSINESS.

Several Senators addressed the Chair.

Mr. PETTIGREW. I insist upon the regular order.

Mr. BRICE. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Ohio?

Mr. PETTIGREW. I insist upon the regular order.

Mr. PALMER. Will the Senator from South Dakota yield to me?

Mr. BRICE. I ask the indulgence of the Senator from South Dakota——

The PRESIDING OFFICER. The Senator from South Dakota declines to yield.

Mr. PALMER. Will the Senator from South Dakota consent that I may ask for the present consideration of Senate bill 588, for the relief of William H. Hugo?

The PRESIDING OFFICER. The Chair will state that the Senator from South Dakota has just declined to yield to the Senator from Ohio.

Mr. PALMER. But I still hope the Senator from South Dakota will yield to me, on account of the peculiar merit of this claim.

Mr. PETTIGREW. I insist upon the regular order. We could spend the entire evening in calling up bills from the Calendar, but I should like to dispose of the Indian appropriation bill to-night.

Mr. ALLISON. We must dispose of it to-night.

Mr. PALMER. I understand the Senator from South Dakota declines to yield.

The PRESIDING OFFICER. The Senator from South Dakota insists upon the regular order.

INDIAN APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 10002) making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June 30, 1898, and for other purposes.

The PRESIDING OFFICER. The pending question is on the adoption of the amendment offered by the Senator from Wisconsin [Mr. VILAS] to the amendment reported by the Committee on Appropriations inserting the matter on page 57 of the bill. Is the Senate ready for the question? [Putting the question.] The noes appear to have it.

Mr. VILAS. I call for the yeas and nays on the amendment to the amendment.

The yeas and nays were not ordered.

Mr. BROWN. I ask that the amendment be read at the desk.

The PRESIDING OFFICER. The amendment will be read.

The SECRETARY. In line 20, page 57, before the word "jurisdiction," strike out the words "full and exclusive;" so as to read:

That the United States courts in said Territory shall have jurisdiction, etc.

Mr. BROWN. The pending question is on the adoption of that amendment?

The PRESIDING OFFICER. The pending question is on the adoption of the amendment just stated.

Mr. TELLER. Mr. President, I had the floor when the Senate went into executive session.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. TELLER. I do not intend to make any lengthy remarks. I called attention to the fact that the Senate had sent a committee to the Indian Territory some three years ago, and the committee made a report to the Senate of the condition of affairs in the Indian Territory. I judge from the remarks of the Senator from Wisconsin [Mr. VILAS] that he never read that report, because he seems to think that if we take from these Indians the right to hold their own court we shall be doing them some injustice and that it will be against their will.

There is in no country that I know of a civil condition like that in the Indian Territory. Perhaps there is no community in the world where so few, in proportion to the whole number, control and manage the affairs of the nation or community as in the Indian Territory. The great body of the Indian people have no voice or lot, so to speak, in the management of its affairs. Its political affairs are controlled by a few; they have the advantage of all the wealth of the nation; and the courts instituted many years ago by the Indian community, and to which they are entitled if we maintain the strict letter of the treaty, I have no doubt are not such courts as civilization and commerce and trade require.

The committee that went from this body to the Indian Territory took especial pains to look into the condition of the Indian judiciary, and I think I state it mildly when I say that perhaps in no community in the world are there more inefficient courts than there. I do not believe I should overstate it if I should say that in no community in the world are there courts so corrupt as those in that country. Numbers of citizens of that Territory came to us and presented cases of their individual experience in those courts. I recall a good many of them, but I recall one in particular, which I think I may mention.

A reputable man in the Territory came and told us that he had a contest as to his right to the possession of certain lands. He went into court as the plaintiff. After he had got into court, the judge sent him a note saying that if he would pay him $300 he would give him the decision. The case was to be tried by a jury. The jury was called, and the foreman of the jury, not intending that the judge should have much advantage of him in the way of a financial transaction, sent a note to the plaintiff's counsel, telling him that for $40 he would give him the verdict of the jury. This citizen, thinking that that was not the proper way to secure justice, declined to make the arrangement. He found the jury against him, and of course he was defeated.

Mr. PLATT. And, Mr. President, the result of that lawsuit is that a white man who by marrying an Indian wife has become an Indian, owns a town of 2,000 inhabitants.

Mr. VILAS. On what evidence is such a statement as that made about a court or a jury? Is there any testimony about it; has there been any trial of it?

Mr. TELLER. I have been stating what a citizen told us.

Mr. VILAS. Oh, yes.

Mr. PLATT. It is notorious there, and there is not any question about it.

Mr. TELLER. That is not the only instance where similar occurrences have taken place. I have been at a trial in the woods where one of these courts was in session, where a man was being tried for his life. I do not know what the methods were; but it seemed to be generally understood around there that the man was in no possible danger, because his friends were there with a sufficiency of currency to see that he was not convicted. Possibly that statement was not true, but the air was absolutely full of such talk. At any rate, the man got off. I listened to the testimony, and I doubt very much whether he would have gotten off in any other community; but he did get off there. It seems to be a common thing for people there to say, "Oh, he will not be convicted, because Mr. So-and-so is here, who will see that he is not convicted." That is the condition all over that country. I do not mean, of course, to say that every judge does that; but a great many of them do it.

I repeat, a great number of Indians came to us and said: "Above all things we want an opportunity, if we have a contest about property, to go into the United States court." I have no doubt that if the matter could be submitted to the Indians who would act independently, a great majority of them would be delighted to have the opportunity of having the security and certainty of justice which they would get in the United States courts.

Now, why should the Senator from Wisconsin complain? I said, when I opened my remarks before the recess, that we are under obligation to give to the Indians a decent government. We have the power to legislate for them absolutely. I know we have made a number of treaties with them, and that some of them may stand in the way; but a treaty, after all, is but a statute, it is but a law, and there is no more crime in abrogating a treaty by law than there is in the repealing of a statute. It depends, of course, upon what the character of the repealing statute may be.

So far as the people's property rights are concerned, we have no power to take away any such rights; but when it comes to a question of political rights, we are as absolute over them as we are over the citizens of this District; we are as absolute as any State legislature over the political affairs of a State; and if a member of a legislature should get up and insist that they had enacted a law on a certain subject heretofore, and that a bill pending proposed to repeal it, and that that was a great crime, he would not be any further out of the way than is the Senator from Wisconsin when he treats this transaction as a violation of a treaty.

We have made innumerable treaties with these Indians which it is neither to their interest nor to ours should be maintained, and we have not attempted to maintain them. If we found it to our interest, we would see that the treaties were not maintained, and if they found it to their interest, they would see that they were not maintained.

We stipulated that they might go to and remain in that Territory in isolation; we agreed to protect them in that isolation; that they should remain there by themselves, subject only to their own law, without interference by anybody. Mr. President,

it was the Indians themselves who made that condition impossible of execution on our part.

I was told recently by a man who is an Indian—although nobody would know it to look at him; but he is an Indian in law—that in some neighborhoods there are ten white men to one Indian; but I believe from my observation, and the best information I can gather, taking the whole Indian Territory, there are five white men to one Indian.

Those white men went there by the invitation of the Indians; they are not there in violation of our treaties, because we were only to remove such persons as the Indians insisted should not go into that country; but the Indians took them in, invited them there, and they are the people who have made that country worth living in.

Of course we have taken jurisdiction of all the white men, and we have established courts; but still one Indian may bring another Indian into these corrupt, incompetent courts, where there is neither protection for person or property, and where, if they get justice at all, they are compelled in a great many cases, if not in a majority of cases, to buy it. There is no use of mincing words about this subject. There is not on the face of the green earth, in my judgment, a country where there is more corruption than there is in that Territory in their legislative affairs and in their judicial affairs.

It is incumbent upon us to see that they have honest and capable courts, and no one should say that is a hardship when we say that every controversy, whether it arises between an Indian and an Indian or an Indian and a white man, or between white men and white men, should be submitted to the Federal courts. Those courts have always been of the very highest possible character; and I believe I may say that the courts there now and the United States judges there now are men of the highest character, and nobody complains that there is any want of protection to life, liberty, and property in those courts.

When the Senator from Wisconsin gets up here and tells us that the pending proposition is a violation of the treaties, I say it is not a violation of the treaties. It may be that we may abrogate a treaty, but if we do, we do it in a constitutional and legal manner. The Senator is a lawyer, and ought to distinguish between a violation of a treaty and the abrogation of a treaty. There never was a treaty made where the right was not reserved by the party making it to abrogate it whenever the conditions required it. There never was a treaty made between two nations where there was not a reserved power of abrogation, and that will always be the case. That will be the case with a treaty of arbitration or anything else, and especially, as suggested to me by a Senator on my left [Mr. DAVIS], for a breach of it. The Indians have failed to keep the provisions of the treaty on their part.

Mr. VILAS. In what respect?

Mr. TELLER. In the respect that they have covenanted with us that they would maintain a decent government there. They have not done so. If the Senator will look over the treaty, he will find that those Indians have agreed to maintain a government to give protection to all classes, and they have not had such a condition there for many years.

Mr. President, I shall not attempt to detail the condition there. Senators know something about it. There is not any community in the United States in any such condition, and no such condition has ever elsewhere existed. The crime, the murder, theft, and other things that are going on there are beyond comparison with any other community that has ever existed on this continent. I do not mean to bring an accusation against all those people. There are a great many people down there who are good people, and they are Indians, too; but they are not those who are standing with the Senator from Wisconsin to-day. They are the men who want to see the strong hand of the Government put out.

We paid those people immense sums of money. We paid it to them upon the theory that every Indian there participated with every other Indian; that all men stood alike. There can be no complaint of the want of benevolence and generosity on the part of the United States, because we paid them more than their lands were worth. That should be divided among them per capita. When our committee were there Indians would appeal to us, and say, "If any more money is to be paid to us, do not let it be paid through the nation; see that it is paid through a United States officer, for that is the only way that we shall ever get it."

Mr. President, I could take an hour to detail the methods by which they swindle the poor Indians, who live in the bush and the brush, as they were detailed to us not by the Indians themselves, not so much by those who had suffered, for they were too ignorant to do that; but many of them who had stood by and looked on knew there was no method of redress save through the strong hand of the United States.

Whatever may be said about our treatment of the Indians, we have dealt with the Indians in the Indian Territory most munificently and magnificently. We bought them out in Mississippi and Georgia in 1828, 1829, or 1830; we commenced negotiations with them, and paid them immense sums of money. Considering at the time the poverty of the American people, the sums were immense. We moved them out to that country and gave it to them. I do not know how much right we had to do that; I believe we took it away from one tribe of Indians, perhaps, to give it to another; but we gave them that land to which they had no claim, or we paid them immense sums of money, and have been paying them immense sums of money since.

A few years ago we paid the residue of it; and for their title, which was disputed by a great many, we paid immense sums. We have treated them in such a way that no complaint ought to be made; and now we say to them, "We intend that every Indian in that Territory shall have the same right with every other Indian." We find, however, that one man has got three or four farms, another man has got a hundred, another man has got fifty; and we say, "You are not carrying out the purpose for which you were put upon this land; you are not giving to all the tribes the benefit of this great fund." We might say to them, "You have stolen most of the money paid into the hands of your rulers; you have not stolen the land, but you have stolen the usufruct of it."

I know they told me that one Indian had 150 farms rented out, while there were plenty of Indians living along the streams cultivating an acre or two of land. I found one man there who, I was told, had an income of $20,000 a year. He is an Indian under the law, but he is a white man in fact. He became an Indian under the law by marrying an Indian woman—a white woman who had married an Indian, and thus became an Indian under the law, and when her first husband died, she married this white man, and then he became an Indian. He had an income, we were told, from the town in which he had settled, of $20,000, and yet he had not a drop of Indian blood in his veins, nor had his wife, from whom he had derived this great advantage. That man is one of those who are talking about the great crime of removing people from the protection of Indian law, and putting them under the protection of the laws of the United States.

We passed on the railroad through a community where the country was settled, and I think upon every quarter section was a farm. In going miles there was not an Indian to be seen, but the whole community was a white settlement, and every white settler in the entire community for more than twenty miles was paying tribute to a single man, a white man who had married an Indian woman.

Mr. President, that is the condition all over that country, and those are the men who can induce some people who are friendly and kindly disposed toward the Indians, but ignorant of the true condition, to protest against any legislation that shall take from them their ill-gotten gains and the lands to which they are not entitled and divide them amongst the Indians.

That is all that is proposed by this amendment. First, we say we will give to the Indians the protection of the Federal courts. I do not see how any American citizen can complain of that. Nobody can pretend anywhere that the Indian will derive any more benefit from his Indian court than he will from a white man's court. Nobody can suppose, and nobody can believe, that the Indian will be better off. Shall we allow them to continue this system of jurisprudence simply because we have made a contract with them that they should have their own courts? Mr. President, such contracts, if made, had better be abrogated than kept.

That is all that has been attempted. The Committee on Indian Affairs of this body have carefully examined this proposed legislation. Senators who, like the Senator from Missouri [Mr. VEST], live on the border of that country, who have been familiar with it for twenty or thirty years, and all the people, I believe, who live in that section on both sides of the Territory, who have as much interest and as much attachment for the Indians as anybody who lives in any other section of the country, favor such legislation. I will say here that the best friends of the Indian are found amongst the people who live in his neighborhood and by the side of him. They are the men who know his weaknesses and his wants; they are the people who are ready to help him and lift him up. There is no antagonism felt for him by them. They know what is good for him.

We have to-day heard the Senator from Missouri, who has had large experience with these people, discuss this matter; and I do not think he has said anything about the condition of that country compared with what he might have said. It is a little difficult for one to come here and make these charges; but we might as well understand the truth about the matter.

The time has come when this condition must be changed, when there must be protection to life and property in that Territory; and the first step toward it is to give those people courts; to make a place where every Indian, whenever he thinks his interests are being intrenched upon, may go and have redress. We want to

open the United States courts to every Indian who may think he is being imposed upon by others. That is all there is of it, Mr. President; and if the Senator from Wisconsin had, as the Senator from Connecticut, the Senator from South Dakota, and myself, spent a week there and found the facts, and when we came back and made a report as mildly as we could consistently with the truth, I am sure he would not feel that it was incumbent upon him to stand here as the defender of a system which is a stench in the nostrils not only of the white man, but of the Indian.

Mr. HOAR. Mr. President, it does not seem to me that it is necessary to discuss the theory of the power of abrogating treaties, as stated by the Senator from Colorado [Mr. TELLER]. It ought, it seems to me, as he has stated it, to have a considerable limitation. But it seems to me that these Indian treaties are very different things from ordinary treaties with entirely independent nations. They are like the promise made by a father to his son, or by a guardian to an insane ward or a spendthrift ward.

Mr. TELLER. Or a minor.

Mr. HOAR. Or a minor ward. Now, after a bargain is made, the father is bound by his honor and good faith and duty, of course, to keep his promise, in substance, and he has no right to break it for his own advantage and for the sake of getting something for himself; but, after all, he is the representative of the boy's interest, and not the boy. Now, if a father promises a son that, if he will attain a certain rank at school, he shall spend his vacation in New York, and it turns out that there is a pestilence in New York, is he obliged to keep that promise? Or suppose he finds that the boy has contracted bad habits which would make it perdition to him to be allowed some indulgence the father has promised him, some luxury which his doctor has said would be ruinous to the boy's health, should the father keep such a promise? He must, from the necessity of the case, be the representative and the judge of both sides.

Now, we are the supreme legislator for the Indian; we must be, and if we agree that an Indian shall have courts of his own, or a legislature of his own, or have certain indulgences which belong to civilized man, and it turns out in experience that keeping that promise in its letter is the ruin of the Indian himself, we are discharged from our obligation.

I will go as far as my honorable friend the Senator from Wisconsin [Mr. VILAS] in saying that it would be base and wicked, after we have got Indian lands, or any other thing which was Indian property, or after we had settled with them a claim which was doubtful, upon the consideration that we would do something for them in the way of paying them money or anything else, to break that promise for our own purposes. And I do not understand that the Senator from Colorado, or any other member of this committee, differs from the Senator from Wisconsin on that proposition.

Mr. TELLER. Not at all.

Mr. HOAR. But they say that, having undertaken to give the Indians this kind of autonomy, legislative and judicial, it has turned out that the Indian is being ruined by it. You might just as well do as our ancestors would have done if they had been making a bargain with them. Suppose that we passed a law one hundred years ago that we would give a tribe of Indians 100 hogsheads of rum a year forever, and it turned out that we have thereby created a nation of drunkards, who are getting delirium tremens whenever that gift was carried out, would we not consider it a duty to repeal that law?

This account of the state of things in the Indian Territory does not come from the class of persons who, whether justly or unjustly, are charged with being greedy for Indian lands. This pitiful picture comes from men who have endured obloquy and opposition as the humane and disinterested friends of the Indian.

Take my late colleague, Mr. Dawes. Mr. President, there is not an example in our recent public life of a statesman who deserves the honor and gratitude of the American people, and especially of the Indian, as he does. He came into this body a great political leader. He had led the House of Representatives through the stormiest and most difficult period of its recent history, perhaps of its entire history, with a vigor and a power that none of the great leaders of that time surpassed or hardly equaled. He came in here and, laying aside very largely the ordinary object of ambition and of political desire, which would have given him a fame and political power which human nature likes to enjoy, he devoted himself to a thorough and intelligent study of the Indian problem.

Wherever there was an attempt to do a wrong to a poor Indian, you found him at the Department of the Interior or at the Indian Office or on his feet in the Senate protesting. He spent his summers in visiting those countries and in studying that problem, and there are few of the philanthropists among mankind who deserve a crown of laurels for their disinterested, faithful, wise, and honest work more than he. Now he comes back with a picture, which the Senator from Connecticut [Mr. PLATT] confirms.

I cite these names, Mr. President, rather than those of the Western Senators, because of the imputation sometimes cast upon some persons in that part of the country of an indifference to Indian rights, and it turns out that here are those wards of ours that we are to legislate for, in which the United States is, in keeping the word of promise to the ear, breaking it to the hope.

When we said we would give them an Indian court did we promise to give them what is no court, but a corrupt partisan on the bench, bribed and bought? That is not keeping a treaty; that is not doing the duty of a guardian; that is not doing the duty of a legislator; that is not doing the duty of a friend.

Mr. President, suppose we had not any treaty, and that there were Indians for whom we were legislating, and they had property, and they were using their property in this way, or it was being taken from them by leeches and bloodsuckers. We should not have a right to take that property from them and put it in the United States Treasury for the benefit of the people, but it would be our duty to take it from them and put it into the hands of some other guardianship than their own. Now, this treaty right being respected to its full extent is nothing but protecting the property of these wards, and when we enact that that property shall be secured and protected by the best tribunal we can devise, we are keeping the treaty, and we are keeping it for their benefit and not for ours.

So I expect to follow the humane Senator from Connecticut; I expect to follow the experience of the Senator from Colorado, who has had something to do with the administration of such things in executive as well as legislative capacity, in removing from these courts what has been described, the correctness of which description no one can contest, and providing two courts composed of men whom we know we can trust.

Mr. STEWART. I have just a word to say in regard to this matter. We entered into a treaty with these Indians that they should have Indian courts. They were separated from the whites and lived in a tribal relation. They have no Indian courts; they have no possibility of Indian courts. There are, as stated in these reports, at least five white men to one pure-blooded Indian. Now, will anybody say that where there are only one-fifth of them pure-blood Indians they can have Indian courts? By inviting the whites in there they have wholly incapacitated themselves to hold courts at all. They do not have any control over the courts. The white influence is entirely predominant, and while there are a great many good, honest people there, as there are everywhere, there are a great many who have gone there and married Indian women for the purpose of what they could make out of it.

The description of these courts and of the condition there, as given in the Dawes report and in the report of our own Senators, is such, it seems to me, that if anybody will read it carefully, will listen to it, he will see that the whole purpose of the treaty is gone; that the Indians are not capable of carrying out their part of it, and establishing and maintaining Indian courts, because they are but a remnant of the population. They have no power there at all. That condition of things having taken place, they being unable and being insufficient in number to maintain courts or laws, it seems to me it is the duty, under the treaty, for the United States to give them courts, and to give them honest courts, because there is in the proper sense no Indian rule there at all.

It is the rule of the white man, and the white man must necessarily be governed by law, or he will not be a good citizen. We all know that. He must be restrained. A few of the leading Indians, very few, and a great number of whites who have gone there as adventurers have control of this government, and the whole purpose of the treaty is subverted. If we carry out that treaty in its spirit, we will establish courts and give the Indians the benefit of the law which the treaty contemplated.

Mr. ALLISON. I ask unanimous consent that the debate upon this amendment may be continued under the five-minute rule until the vote is taken.

The PRESIDING OFFICER. The Senator from Iowa asks unanimous consent that the debate upon the pending amendment shall proceed under the five-minute rule.

Mr. VILAS. I wish to make some observations.

Mr. ALLISON. Then I will modify my request. I ask unanimous consent that after the Senator from Wisconsin shall have concluded his remarks, the five-minute rule shall be applied to this amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Iowa? The Chair hears none, and it is so ordered.

Mr. VILAS. I do not know of any other Senator who wishes to speak on it.

Mr. ALLISON. Very well.

Mr. VILAS. Mr. President, the Senator from Colorado [Mr. TELLER] asked why I should complain, and he spoke once or twice as if in making the remarks I made I were merely echoing the complaint of some of the Indian people whose rights are to be rudely trampled upon. I have not spoken to one of them on the subject. I have never discussed the question concerning their

rights in this matter with one of those people or given any heed to them. I do not make a personal complaint. I presume nothing that can be said will now stay the action of the Senate as nothing heretofore has ever stayed the action of the Senate in dealing with these Indian people, but I do still venture to say *that when* the United States makes a solemn agreement it ought to keep it.

I utterly repudiate any such code of law or ethics as that laid down by the Senator from Colorado, that we are to keep a covenant so long only as it comports with our interests; that we can break treaties made with people so soon as we find that we are not deriving benefit from our engagement and they are.

The United States made a bargain with these several tribes. The Senator from Colorado says that we paid them a great deal of money. Sir, it was an insignificant sum of money. We have paid other tribes vastly greater sums since that time for their lands. But are we to break our bargain because now, sixty years afterwards, we think we paid them too much? Is our engagement dependent upon our subsequent judgment of the consideration we gave for their lands? No, sir. And precisely in the same way it seems to me we can not, as men of honor, burden it with such sweet sophistries as our friend the Senator from Massachusetts [Mr. HOAR], with all his distinguished ability, has endeavored to ingraft upon this discussion.

But when the United States bargains with a tribe of Indians that if they will surrender their homes and their lands for a new home and a patent in fee, with the right of absolute government by themselves, is the United States by and by, when greedy citizens thrust themselves unbidden upon them and have destroyed or disturbed their comfort in defiance of the engagement of the United States to protect them, to turn around and say, "We will ravish the rest from you of what is yours; we will kick our engagement under foot, not because we want it, but in tender consideration of you poor people."

Yet that very people have progressed since the time when they were given their separate government as no barbarians ever before progressed in the march toward civilization. Those people who were raw Indians when they went there established for themselves governments and courts and legislatures, and until white men came upon them, reckless of every right of theirs and greedy as devils let loose, they were making such gains that they needed no kind father's hand to spare them from themselves.

Mr. HOAR. May I ask the Senator from Wisconsin a question?

Mr. VILAS. Certainly.

Mr. HOAR. Suppose this bargain had been made with individuals who had become insane, what would the Senator do then?

Mr. VILAS. Suppose the Senator had made a bargain with some individual person who subsequently became insane, would the Senator answer that he would not keep it?

Mr. HOAR. No. If I were the guardian, I would deal with him, an insane person, so as to see that his interests were properly dealt with. But the trouble with what the Senator from Wisconsin is talking about is that nobody proposes it.

Mr. VILAS. Nobody proposes to do anything except in the interests of the Indian, and that race of Indians, which have prospered and advanced in civilization until but a few years ago they were pointed to with pride as an evidence of what an Indian people could become, are now to be treated as unworthy of expressing an opinion about their own desires simply because we want their land.

Take the Senator from Nevada [Mr. STEWART]. He says the Indians have incapacitated themselves for conducting government because they have suffered white men to come in upon them. In each one of the treaties with these people the United States solemnly promised them that they would use their whole force to prevent these intruders from coming upon them, and only so long ago as just four years, when we wanted that fine body of land known as the Outlet, we stipulated and bargained with the Cherokees and enacted into a statute that we would remove their intruders and relieve them from those persons who were crowding in upon them and denying them their rights. And one of the stipulations of the engagement was, not that the United States would tell whom it was good for them to have among them, but that they should decide, in accordance with the agreement which was made—let me read a word from it, for this was the bargain made with the Cherokee Nation when they made cession of that 6,000,000 acres—

For and in consideration of the above cession and relinquishment the United States agrees, first—

It was the prime consideration which they demanded—

that all persons now resident or who may hereafter become residents in the Cherokee Nation and who are not recognized as citizens of the Cherokee Nation by the constituted authorities thereof, and who are not in the employment, etc., shall be removed in accordance with the treaty.

Sir, has ever a man been removed?

Mr. TELLER. Many of them.

Mr. VILAS. Are not the hordes in that country there in defiance of the Indian's rights?

Mr. PLATT. Mr. President——

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to the Senator from Connecticut?

Mr. VILAS. Certainly.

Mr. PLATT. The intruders referred to were about 6,000 persons who claimed to be Indians. The other persons who are there are white people who do not claim to be Indians, but who have been permitted to come there by the citizens, and are not called intruders.

Mr. VILAS. Were the 6,000 removed?

Mr. PLATT. That question is practically settled. We afterwards had an appraisal of the improvements which those persons had put on their lands, and they have been paid for those improvements, and most of them have gone from the Territory.

Mr. VILAS. I only read that as a single illustration.

Mr. HOAR. I should like to ask my honorable friend, if I am not interrupting him too much, what he proposes to do? In the first place, is the picture of these courts drawn here and drawn by Mr. Dawes in his report a true one, in his judgment? If it be true, as stated by Senators on this floor and as stated by Mr. Dawes, what does the Senator propose to do? Shall it continue? Shall the United States allow a court in which a judge gets $300 from a party for a judgment and the jurors get $40 apiece for a judgment to continue perpetually? Now, I should like to know what the Senator's view is?

Mr. VILAS. I wish to ask the Senator from Massachusetts if he thinks our fathers would have established government, if in forming its institutions, they had considered a rumor that some time or other there was bribery of a jury or of a court?

Mr. HOAR. That is not a fair answer to my question.

Mr. VILAS. I think this is the third session of Congress in which I have heard this same story as the reason why we should despoil these people.

Mr. HOAR. The Senator does not answer my question. Does the Senator believe Mr Dawes's statement, and Mr. PLATT's statement, and Mr. TELLER's statement on that subject? That is what I should like to know. I do not want to ask him as to the veracity of those gentlemen; but does the Senator believe they are correct in their statements?

Mr. VILAS. I have no doubt whatever——

Mr. HOAR. It is a practical question.

Mr. VILAS. That there are evils in that country which need correction?

Mr. HOAR. That is not my question. It is a very interesting matter. Have these gentlemen given us a correct picture of those courts?

Mr. VILAS. I doubt it very much.

Mr. HOAR. Well.

Mr. VILAS. Now I will state my answer, if the Senator desires.

Mr. HOAR. The next question, then, would be, if it is a correct picture, what would the Senator do about it?

Mr. VILAS. Before I undertake to throw down established institutions, contrary to our solemn engagements, I would have a thorough inquiry and a careful examination, and I would have my bill taken up as a proper measure and not jammed through on an appropriation bill. If there is any court in the Indian Territory that renders a judgment more reckless of rule and law than that such a measure as this is not general legislation upon an appropriation bill, where is the judgment?

Mr. HOAR. That is another proposition. I should like to know and I ask whether the Senator really believes that the report of the committee of this body who visited the Territory for that purpose and the report of the Dawes Commission, the official authorities visiting those Indians, is true or not; and if it be true, whether he thinks that state of things should continue. And the Senator replies by saying that he thinks the Senate did very wrong in letting this legislation in on the appropriation bill. I voted with the Senator on that.

Mr. VILAS. I understood the Senator did.

Mr. HOAR. But what I want to know, if the Senator is willing to tell me, is whether he thinks the report of the Senators and of Mr. Dawes and his Commission, as friendly a judge of the Indians as ever existed, is true? I am acting on that belief, and if it be true, then I should like to know what the Senator from Wisconsin would suggest?

Mr. VILAS. I do not think the Senator derives from that report anything but a one-sided view of the condition that exists there. Of course I am not distrusting the good faith or the veracity or the excellent judgment of those men; I know it; but they are presenting only a single side of the picture, and they are presenting it as darkly as possible, almost. On the other hand, we have such information as the Senator from Tennessee produced here to-day, statements of clergymen, statements of agents and persons of excellent character, just as much character, just as good judges, as those gentlemen, who say the Indians are doing well in many respects.

I do not doubt that there are a great many violations of law.

We do not, as I had occasion to point out a little while ago, set them a very good example of law when we trample down our own rules in order to trample them down too. I do not wonder that the Indians can not understand our methods. I remember too, sir, that with all our self-exploitation, as honest and upright man as ever was in this country, old General Harney, testified before a committee of Congress that in fifty years' service of this country in the West he had never known the Indians to be the first to break a treaty, and had never known one to be kept to them.

I will answer the Senator in another respect. I have been very desirous of having something done with the Indian Territory. I am violating no confidence and saying nothing of self-praise when I say that the very bill upon which the Dawes Commission was enacted I wrote and participated in its enactment. I have desired the success of the Dawes Commission. At the last session of Congress, after various provisions had been attempted to be made for the purpose of crowding down these Indians had been ruled out of order by the Vice-President, I offered an amendment which was adopted by the Senate to continue the Dawes Commission and making an appropriation for them, and the conference committee wrote the whole thing in there afterwards.

Now, I am not going to do more than point out the right of these people, and there I am going to leave it. I know perfectly well how fruitless it is to struggle against any combination here to obtain an end through an appropriation bill, such as we have seen manifested in this case, but I am going simply to point out the ground upon which we stand and upon which I think we have a right to expect another judgment.

Let me observe the fifth article of the treaty with the Cherokee Nation, which was made in 1835:

The United States hereby covenant and agree that the lands ceded to the Cherokee Nation in the foregoing article shall in no future time, without their consent, be included within the territorial limits or jurisdiction of any State or Territory.

Yet, although the United States gave them a perpetual covenant, it is with the understanding that they could extend to them afterwards that sort of fatherly love and care which entitled them to break up whenever the United States wanted the territory.

But they shall secure to the Cherokee Nation the right by their national councils to make and carry into effect all such laws as they may deem necessary for the government and protection of the persons and property within their own country belonging to their people or such persons as have connected themselves with them: *Provided always*, That they shall not be inconsistent with the Constitution of the United States and such acts of Congress as have been or may be passed regulating trade and intercourse with the Indians.

The only qualification under our laws relating to intercourse with Indians; in everything else we stipulated it should be their councils' right forever to pass. Yet, sir, this very amendment proposes to substitute courts of the United States, to disregard their laws, and to practically leave their councils without any authority whatever.

By and by, and that only thirty years ago, there was another treaty made with them. They wanted the Cherokees to do something, and they procured from the Cherokees an agreement, or made another treaty with them, in which, in article 13—

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

There is the explicit provision of the treaty, which it is unnecessary that we should trample down. When the Senator asks what I would do, I have suggested by the establishment of the Dawes Commission, by the continued effort to treat with the Indians, by dealing with them honestly, that we should secure their engagement again in a fair way to exchange the present condition of things for that which we may represent and show them to be applicable. It is entirely possible there is nothing but the terrific haste of some persons to obtain their ends which is urging on this legislation.

Only within a year a very marked advance has been made by the Dawes Commission. They have agreed with these people upon the obtaining of certain steps which look to a final adjustment of the whole matter. It is reasonable to believe that we can do it, and my earnest hope and prayer have been that instead of doing this deed of wickedness and disregard of our rights we should facilitate in a reasonable and proper way the accomplishment of the object for which the Dawes Commission was established.

Mr. President, I do not desire to detain the Senate. I have presented the idea I wished to present on the subject, and with that I shall leave it.

Mr. PLATT. Mr. President, I wish to reply to the Senator from Wisconsin in a single sentence. He talks about the sacredness of some treaties, to keep which is to violate every reason for which the treaty was made. As the Senator from Alabama [Mr. MORGAN] to-day referred to the Scriptures, I wish to answer the entire argument of the Senator from Wisconsin in a scriptural quotation:

For the letter killeth, but the spirit giveth life.

The PRESIDING OFFICER. Is the Senate ready for the question on agreeing to the amendment to the amendment?

Mr. VILAS. We ought to have on this question, I think, the yeas and nays.

Mr. HOAR. I hope the vote will not be taken now, but that it may be deferred until to-morrow morning. ["No!" "No!"]

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. BROWN (when his name was called). The question, I understand, is upon the amendment of the Senator from Wisconsin?

The PRESIDING OFFICER. It is upon the amendment offered by the Senator from Wisconsin to the amendment of the committee.

Mr. BROWN. I vote "yea."

Mr. BACON (after having voted in the affirmative). I misunderstood the question. I thought it was upon the amendment of the committee. I ask that the amendment offered by the Senator from Wisconsin be read.

Mr. CULLOM. I think we had better start again and call the roll over. I do not think anyone knows exactly what we are voting on.

Mr. BACON. The discussion has lasted so great a length of time that we have lost sight of the precise question. I ask that the amendment offered by the Senator from Wisconsin may be read at the desk.

Mr. HOAR. I ask unanimous consent that the roll be called over again after the reading of the amendment.

Mr. CULLOM. After the reading of the amendment offered by the Senator from Wisconsin to the amendment of the committee.

The PRESIDING OFFICER. Unanimous consent is asked that the roll call be again commenced. Is there objection? The Chair hears none. The amendment upon which the vote is to be taken is the amendment offered by the Senator from Wisconsin to the amendment of the committee, which will now be read; and then the roll will be immediately called, as it has already been commenced. The Secretary will state the amendment to the amendment.

The SECRETARY. On line 20, page 57, it is proposed to strike out the words "full and exclusive" before "jurisdiction;" so that the clause will read:

That the United States courts in said Territory shall have jurisdiction and authority to try and determine all civil causes in law and equity hereafter instituted, etc.

The PRESIDING OFFICER. The roll will be called on agreeing to the amendment to the amendment.

Mr. PALMER. Before the call commences I should like to state——

The PRESIDING OFFICER. The Chair will state that the matter is not debatable, as the roll call had commenced and several Senators had responded to their names.

The Secretary proceeded to call the roll.

Mr. CARTER (when his name was called). I am paired with the Senator from Maryland [Mr. GIBSON]. Not knowing how he would vote, I withhold my vote.

Mr. DAVIS (when his name was called). I am paired with the Senator from Indiana [Mr. TURPIE].

Mr. FAULKNER (when his name was called). I am paired with the Senator from West Virginia [Mr. ELKINS].

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

Mr. McBRIDE (when his name was called). I have a general pair with the Senator from Mississippi [Mr. GEORGE]. As my colleague [Mr. MITCHELL of Oregon] is paired with the senior Senator from Wisconsin [Mr. VILAS], by consent of the Senator from Wisconsin, I have transferred my pair to my colleague, so that we may vote. I vote "nay."

Mr. MANTLE (when his name was called). I am paired with the junior Senator from Virginia [Mr. MARTIN]. If he were present, I should vote "nay."

Mr. ROACH (when his name was called). I have a general pair with the Senator from California [Mr. PERKINS]. If he were present, I should vote "nay."

The roll call was concluded.

Mr. ROACH. I announced my pair, but I have the privilege of voting to make a quorum. I vote "nay."

Mr. BACON (after having voted in the negative). I have a general pair with the junior Senator from Rhode Island [Mr. WETMORE]. I am informed by his colleague that if the junior Senator from Rhode Island were present he would vote as I have voted. I therefore permit my vote to stand.

Mr. PALMER (after having voted in the affirmative). I perceive that the Senator from North Dakota [Mr. HANSBROUGH] did not vote. I withdraw my vote.

Mr. GALLINGER. I am paired with the senior Senator from Texas [Mr. MILLS], and I suggest to the Senator from Illinois that we transfer the pairs, so that the Senator from Texas [Mr. MILLS] and the Senator from North Dakota [Mr. HANSBROUGH] will stand paired.

Mr. PALMER. That arrangement will be satisfactory. My vote will then stand.

Mr. GALLINGER. I vote "nay."

The result was announced—yeas 8, nays 40; as follows:

YEAS—8.

Bate,	Chandler,	Palmer,	Vilas,
Brown,	Gray,	Pasco,	White.

NAYS—40.

Aldrich,	Chilton,	Lindsay,	Roach,
Allen,	Cockrell,	McBride,	Sewell,
Allison,	Cullom,	McMillan,	Shoup,
Bacon,	Daniel,	Nelson,	Squire,
Berry,	Dubois,	Peffer,	Stewart,
Blackburn,	Gallinger,	Pettigrew,	Teller,
Brice,	Gorman,	Platt,	Thurston,
Butler,	Hawley,	Proctor,	Tillman,
Call,	Hoar,	Pugh,	Vest,
Cannon,	Jones, Ark.	Quay,	Wilson.

NOT VOTING—42.

Baker,	Gear,	Kyle,	Pritchard,
Blanchard,	George,	Lodge,	Sherman,
Burrows,	Gibson,	Mantle,	Smith,
Caffery,	Gordon,	Martin,	Turpie,
Cameron,	Hale,	Mills,	Voorhees,
Carter,	Hansbrough,	Mitchell, Oreg.	Walthall,
Clark,	Harris,	Mitchell, Wis.	Warren.
Davis,	Hill,	Morgan,	Wetmore,
Elkins,	Irby,	Morrill,	Wolcott.
Faulkner,	Jones, Nev.	Murphy,	
Frye,	Kenney,	Perkins,	

So the amendment to the amendment was rejected.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment of the Committee on Appropriations.

Mr. PALMER. I rise for information having reference to this same amendment reported by the committee. I ask the attention of the Senate, and particularly of the Senator from South Dakota [Mr. PETTIGREW], to that part of the amendment which commences on line 19, page 57. I want to get from him his interpretation of the language that follows. I read:

That the United States courts in said Territory shall have full and exclusive jurisdiction and authority to try and determine all civil causes in law and equity hereafter instituted—

The word "of" was inserted after the word "and," in line 22; so as to read—

and of all criminal causes for the punishment of any offense committed after the passage of this act by any person in said Territory.

I wish to ask the Senator whether the purpose is to abolish all the Indian courts? As a matter of course, there can be no difference between abolishing courts in express terms or taking from them all jurisdiction. I then read further——

Mr. PETTIGREW. Shall I answer the Senator from Illinois now?

Mr. PALMER. I will at this point be glad to hear from the Senator.

Mr. PETTIGREW. I will state that the purpose of it is to take away the jurisdiction of the Indian courts as to all cases and offenses hereafter. It would leave those courts, however, in existence to dispose of the business on hand at the present time. But as to all new cases, all new crimes, all new offenses, from the time this bill becomes a law, the jurisdiction is placed in the United States court. That is the purpose of the committee amendment.

Mr. PALMER. I understand, then, that the purpose of the language which I have just read is to practically abolish all the Indian courts?

Mr. PETTIGREW. That is the purpose.

Mr. PALMER. And that they shall have no jurisdiction hereafter?

Mr. PETTIGREW. Hereafter.

Mr. PALMER. But that they may exercise such jurisdiction as they now have in causes pending before them?

Mr. PETTIGREW. Yes; pending before them.

Mr. PALMER. Now, I should like information upon another point. Beginning in line 24, the amendment proceeds:

And the United States commissioners in said Territory shall have and exercise the powers and jurisdiction already conferred upon them by existing laws of the United States as respects all persons and property in said Territory; and the laws of the United States and the State of Arkansas in force in the Territory shall apply to all persons therein, irrespective of race, etc.

May I be permitted to inquire whether the commissioners appointed under existing laws have any final jurisdiction whatever?

Mr. PETTIGREW. They have.

Mr. PALMER. What is that jurisdiction?

Mr. PETTIGREW. They have the jurisdiction of a justice of the peace to try and determine civil actions where the sum involved is not greater than $100.

Mr. PALMER. Who appoints the commissioners?

Mr. PETTIGREW. They are appointed by the judges.

Mr. PALMER. By the judges?

Mr. PETTIGREW. Yes; the same as United States court commissioners are appointed elsewhere.

Mr. HOAR. They are appointed by the courts, not the judges.

Mr. PALMER. My doubt would be whether a court can give judicial functions to its appointees. The commissioners appointed by the United States courts have no judicial powers. Although they have powers that very nearly resemble those that are judicial, I should doubt exceedingly the right of any court to create judicial officers.

The PRESIDING OFFICER. The time of the Senator from Illinois has expired.

Mr. PALMER. I am very glad that it has. I may be permitted at least to ask a question for information.

Mr. HOAR. Mr. Webster declared in the Senate a great many years ago that these provisions of the Constitution of the United States were not applicable to the Territories, and that our power of legislation in regard to the Territories was not fettered; and I think that has been the understanding ever since. Undoubtedly all the constitutional provisions which declare what is of common right, like the prohibition to try a man twice for the same offense or to take his property without due process of law, etc., will be scrupulously observed, and should be; but perhaps they would be treated as limitations on the legislative power. But the power to create judicial officers or the exercise of judicial functions by officers not appointed for life, which would not be permitted in the States, is not denied to Congress so far as it relates to a Territory. I suppose that is the well-settled law.

Mr. ALLEN. I suggest to the Senator in charge of the bill to strike out the word "full," in line 20, on page 57, and insert the word "original." That will make the amendment comply more closely with the language used in the law books.

Mr. PETTIGREW. The Senator will find that the jurisdiction of these courts is prescribed by special statute.

Mr. ALLEN. The sentence reads:

That the United States courts in said Territory shall have full and exclusive jurisdiction, etc.

The law book used the expression "original and exclusive jurisdiction." The word "full" is not equivalent to "original." I suggest that there may be some trouble in the tribunals there respecting that matter.

Mr. PETTIGREW. I have no objection to the amendment to the amendment.

Mr. ALLEN. Then I move to strike out the word "full," in line 20, after the word "have," and to insert "original."

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. In line 20, page 57, after the word "have," strike out the word "full" and insert the word "original;" so as to read:

That the United States courts in said Territory shall have original and exclusive jurisdiction, etc.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question recurs upon agreeing to the amendment of the committee as amended.

Mr. VILAS. I should like to ask the Senator in charge of the bill if, since the motion of the Senator from Missouri [Mr. VEST] was adopted striking out fifteen lines on page 57, the words in line 24, page 58, and in lines 1 and 2, on page 59, ought to go out of the bill? Those words relate only to the words which were included in the amendment before it was changed by the motion of the Senator from Missouri. The first half of the sentence ought to be retained and the last member of it rejected, it seems to me.

Mr. PETTIGREW. The words the Senator refers to are, I think, the last three lines on page 58 and the first two lines on page 59.

Mr. VILAS. The last part of the last line on page 58 and the first two lines on page 59.

Mr. PETTIGREW. That simply provides, as to any one of the tribes which makes an agreement through the commission appointed to make an agreement with them, that this act shall not apply after the agreement is ratified by Congress. If we ratify an agreement which takes care of all the questions in this act——

Mr. JONES of Arkansas. But there is nothing that this will apply to, since the provision was stricken out on the motion of the Senator from Missouri this morning. It seems to me if it were modified so as to leave stand the words "That said commission shall continue to exercise all authority heretofore conferred on it by law to negotiate with the Five Tribes," and stop right there, it will be complete; and the other is practically inoperative on account of the amendment made to the amendment this morning.

Mr. PETTIGREW. I am not so sure about that. I do not see why they could not make an agreement to change absolutely the jurisdiction of courts or substituting another court or a different court. They might make a contract with these people that we

would ratify which would take that nation out of the jurisdiction of the court constituted by this act. I can see no harm in leaving the words in the bill.

The PRESIDING OFFICER. The question is upon the committee amendment as amended.

Mr. PALMER. May I ask the Senator from South Dakota whether it is the purpose of the amendment to make the members of these tribes citizens of the United States? I find this language, commencing on page 58:

Now conferred upon them in the trial of like causes; and any citizen of any one of said tribes otherwise qualified who can speak and understand the English language may serve as a juror in any of said courts.

Is it the purpose of the amendment to limit juries to the Indian tribes, or is it meant to declare that any citizen may be a competent juror? Now, it happens in this case that there are white people in that Territory who are citizens of the United States. Would they be competent jurors?

Mr. PETTIGREW. As the law now stands, only persons who are not citizens of the tribes can act as jurors in the United States courts; but as we confer jurisdiction over citizens of these tribes, we also allow those who can speak the English language to act as jurors. That is the force and effect of the provision.

Mr. PALMER. With other citizens?

Mr. PETTIGREW. With other citizens.

The PRESIDING OFFICER. The question recurs on the adoption of the amendment of the committee.

The amendment was agreed to.

Mr. JONES of Arkansas. I should like to ask if the amendment offered by the Senator from Mississippi [Mr. WALTHALL] was adopted by the Senate?

The PRESIDING OFFICER. It was adopted as amended.

Mr. PETTIGREW. The substitute which I offered for it was adopted.

Mr. JONES of Arkansas. Very well.

Mr. PETTIGREW. I now offer an amendment to come in on page 30, at the end of line 8.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 30, after line 8, it is proposed to insert:

The Secretary of the Interior is directed to negotiate through an Indian inspector with the Allegheny and Cattaraugus Indians in the State of New York for an allotment of all the lands in their reservation to the Indians entitled thereto in severalty; and the agreement, if any, shall not be binding until approved by Congress.

Mr. COCKRELL. Does that amendment say that they shall make their report to Congress?

Mr. PETTIGREW. It says that the agreement shall not be binding until ratified by Congress.

Mr. COCKRELL. Let them make their report to Congress.

Mr. PETTIGREW. I have no objection to that.

Mr. COCKRELL. I ask that the amendment be again read.

The Secretary read the amendment.

Mr. COCKRELL. The amendment should read:

The agreement, if any, shall be reported to Congress.

Mr. HOAR. I think a proper way, instead of having all these subordinates report directly to Congress, would be to provide that the agreement should be reported to the Secretary of the Interior, and then laid before Congress.

Mr. COCKRELL. That is right. Let it read:

The agreement shall be reported to the Secretary of the Interior, and by him submitted to Congress for approval or disapproval.

Mr. PETTIGREW. The amendment says it shall not be binding until ratified by Congress, and as it is made by the regular officer of the Department, an inspector, I do not see how he could report to anybody else but to the Secretary of the Interior. However, I do not object to the Senator's amendment.

Mr. CALL. I should like to hear the amendment read.

The PRESIDING OFFICER. The amendment will be read as amended.

The Secretary read as follows:

The Secretary of the Interior is directed to negotiate through an Indian inspector with the Allegany and Cattaraugus Indians in the State of New York for an allotment of all the lands in their reservation to the Indians entitled thereto in severalty, and the agreement, if any, shall be reported to the Secretary of the Interior, and by him reported to Congress for approval or disapproval.

Mr. ALDRICH. The other language is better than the language now proposed.

Mr. CALL. I do not know anything about this amendment. There may be some discussion about it, but I have a memorial on the subject.

Mr. PETTIGREW. Let the amendment be read.

The PRESIDING OFFICER. The Senator from Florida has the floor.

Mr. CALL. I have been requested to ask the attention of the Senate to a memorial of the Seneca Indians in connection with this amendment.

I supported an amendment similar to this at the last session, in connection with the New York Senator.

I have no knowledge on the subject, and have done all that I promised to do in bringing this memorial to the notice of the Senate, without expressing any opinion on the subject.

Mr. STEWART. While the amendment is in preparation, I wish to offer an amendment.

Mr. ALLEN. I want to call attention to this matter.

Mr. STEWART. While that amendment is in the course of preparation will the Senate receive an amendment which I offered last night?

The PRESIDING OFFICER. The amendment of the Senator from South Dakota [Mr. PETTIGREW] will be passed over temporarily, and the amendment of the Senator from Nevada will be stated.

Mr. STEWART. It is an amendment which I offered last night. An objection was then made on account of its not having been referred to a committee. That objection has now been disposed of.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 67, after line 2, it is proposed to insert:

To reimburse the county of Ormsby, State of Nevada, for money expended in the purchase of improvements on lands donated to the Government for an Indian school, $6,375.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Nevada.

The amendment was agreed to.

Mr. ALLEN. I call attention to some amendments offered by me last evening, which were laid over until to-day. I desire to have them now taken up.

The PRESIDING OFFICER. The Chair will recognize the Senator from Nebraska as soon as the pending amendment is disposed of.

Mr. COCKRELL. I offer the amendment now in the form in which I send it to the desk.

The PRESIDING OFFICER. The amendment proposed by the Senator from South Dakota [Mr. PETTIGREW], as modified by the Senator from Missouri [Mr. COCKRELL], will be again stated.

The Secretary read as follows:

The Secretary of the Interior is directed to negotiate, through an Indian inspector, with the Allegany and Cattaraugus Indians in the State of New York for an allotment of all the lands in their reservation to the Indians entitled thereto, in severalty, and report the result to Congress, and the agreement, if any, shall not be binding until approved by Congress.

The PRESIDING OFFICER. The question is on the adoption of the amendment.

Mr. TELLER. I do not know that I shall object to that amendment going in, because I suppose they might try the allotment plan; but I know that it does not come from the Indians. I know they do not desire any allotment, and I do not believe they ought to have it.

Mr. CALL. The purport of their memorial is that they do not desire it.

The PRESIDING OFFICER. The question is on the amendment.

The amendment was rejected.

Mr. ALLEN. I call for the reading of the amendment to which I referred.

The PRESIDING OFFICER. The amendment proposed by the Senator from Nebraska will be stated.

The SECRETARY. At the bottom of page 26 it is proposed to insert:

That the adult allottees of land in the Peoria and Miami Indian Reservation, in the Quapaw Indian Agency, Ind. T., who have received allotments of 200 acres each, may sell 100 acres each of said allotments and all inherited lands, on obtaining the consent of the Secretary of the Interior in each individual case, which sale shall be afterwards approved by him.

Mr. PALMER. I am opposed to that amendment. I should like to raise the point of order against it, if I can do so.

The PRESIDING OFFICER. Does the Senator from Illinois raise the point of order against the amendment?

Mr. PALMER. I do.

Mr. ALLEN. I hope my friend from Illinois will not do that.

The PRESIDING OFFICER. The Senator from Illinois will please state his point of order.

Mr. ALLEN. This is desired by the Indians themselves. They are a civilized tribe of Indians. They have 200 acres of land each, and many of them are competent and intelligent business men, and they want to sell a portion of the land. The Senator from Illinois knows very well that the Indians do not cultivate very extensive farms. This amendment proposes to permit them to sell one-half of their inheritance, providing the Secretary of the Interior, in the first instance, gives his consent to it, and then, after the contract is made, it must go back to him in each case for his approval or disapproval.

Mr. PALMER. I withdraw the point of order.

The PRESIDING OFFICER. The point of order is withdrawn, and the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MANTLE. I now desire to offer an amendment moved by me last night on behalf of the Committee on Indian Affairs, which was objected to by the Senator from Iowa [Mr. ALLISON], and the point of order raised against it. I understand that the Senator from Iowa is willing to withdraw his objection and permit the amendment to be adopted.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. It is proposed to insert, after line 3, on page 43, the following:

That there be paid to the Naalem Band of the Tillamook tribe of Indians, of Oregon, the sum of $10,500, to be apportioned among those now living and the heirs of those who may be dead, by the Secretary of the Interior, as their respective rights may appear; and that for this purpose there be appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of $10,500: *Provided*, That said Indians shall accept said sum in full of all demands or claims against the United States for the lands described in said agreement made with them, dated the 6th day of August, 1851.

Mr. MANTLE. I do not care to discuss the amendment, unless some explanation is desired. As a report has been made upon the matter and printed, I presume Senators understand what the amendment is.

Mr. LINDSAY. I will ask the Senator whether the amendment contemplates the payment of the money per capita to each individual Indian, or, if to the tribe, to what authority?

Mr. MANTLE. It proposes to pay this money to the remnant of the tribe. I understand there are only about seventeen members of the tribe now living. This claim has been pending a good many years, and there is absolutely no objection to it from any official source. Upon the other hand, the claim has been recommended and its payment advocated by every Secretary of the Interior, every Commissioner of Indian Affairs, and everyone who has had anything whatever to do with it since the time the debt was contracted.

Mr. LINDSAY. I do not make the inquiry in any spirit of objection to the amendment——

Mr. MANTLE. I understand.

Mr. LINDSAY. But only to ascertain to whom this money is proposed to be paid.

Mr. MANTLE. It is proposed that the money shall be distributed per capita among the members of the tribe now living and the heirs of those who are dead. It does not appear that they have ever received a cent for the land.

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

The amendment was agreed to.

Mr. ALLEN. I call attention now to the other amendments which I offered yesterday, and which were passed over. I ask, first, action on the amendment with reference to the Sisseton and Wahpeton Indians.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 35, after the amendment adopted after line 3, it is proposed to insert:

That the annuities of the Sisseton and Wahpeton bands of Dakota or Sioux Indians arising under the treaty of July 23, 1851, between said bands of Indians and the United States, which annuities were declared forfeited by the act of Congress entitled "An act for the relief of persons for damages sustained by reason of depredations and injuries by certain bands of Sioux Indians," approved February 16, 1863, be, and the same are hereby, restored and continued from the time of the last payment before said act forfeiting the same to July 1, 1902, the date of the expiration of said treaty of July 23, 1851, for which purpose a sum of money sufficient to pay said annuities is hereby appropriated out of any money in the Treasury not otherwise appropriated; and after deducting all sums actually paid to said Sisseton and Wahpeton Indians, by reason of said treaty of July 23, 1851, the sum remaining unpaid, after deducting and paying attorneys' fees in accordance with agreement with said Indians on file in the office of the Commissioner of Indian Affairs, the balance shall be paid per capita to said Indians or disbursed for their benefit for such objects and purposes and in such manner as the Secretary of the Interior may deem for their best interests, or deposited in the Treasury for the use and benefit of said Indians, and paid to them or expended for their benefit in such manner as the Secretary of the Interior may direct; and on all sums remaining in the Treasury of the United States said Indians shall receive interest at the rate of 4 per cent per annum, said interest to be paid to them per capita on the 1st day of November of each year.

Mr. ALLISON. That amendment was read last evening, and I made the point of order against it that it was general legislation. I have since consulted with the Senator from Nebraska respecting this matter, and I have prepared an amendment in substitution of that amendment and to one other offered by him.

Mr. ALLEN. Yes, sir; the one in reference to the Wapakootas and Medawakantons.

Mr. ALLISON. If the Senator from Nebraska will accept the amendment which I send to the desk as a substitute, I will withdraw the point of order.

The PRESIDING OFFICER. The substitute proposed by the Senator from Iowa will be stated.

The SECRETARY. On page 42, after line 2, it is proposed to insert:

That the Secretary of the Interior is hereby directed to report to Congress, as soon as practicable, or at its next regular session, copies of all treaties or agreements made with the Sisseton and Wahpeton bands of Dakota or Sioux Indians prior to and since 1863; also a statement in detail, as far as practicable, of all amounts or sums paid to said Indians under said treaties or otherwise, including amounts for subsistence since said period; also the extent of reservations granted to them by said treaties or agreements, or any of them, and amounts now in the Treasury arising from the sale of their reservation or portions thereof; also a statement of all the appropriations made for or on their behalf since said period, or on behalf of any of them. The Secretary of the Interior shall also make a like report respecting the Santee Sioux Indians, of Nebraska, and the Flandreau Sioux Indians, of South Dakota, formerly known as and being a confederacy of the Medawakanton and Wapakoota Sioux Indians; also including any and all amounts paid to said bands, or any of them, under treaties and appropriations made since 1863 for the benefit of the Sioux of different tribes, including the Santee Sioux, of Nebraska. The Secretary of the Interior shall also embrace in his report a statement of annuities due, if any, and unpaid to said Indians prior to the passage of the forfeiture act of 1863.

Mr. ALLEN. I suggest to the Senator from Iowa the propriety of adding to the Sissetons and Wahpetons the same language that is added to the Santee Sioux; that is, the closing portion of the amendment. One thing which I think ought to be made prominent in the report of the Secretary of the Interior is the amount of money the Government has received from the sale of these lands. To illustrate, the 320,000 acres of land in one body that the Government of the United States got from these Indians, paying, all told, 30 cents an acre for them—that is, we did not pay them 30 cents, but we agreed to pay them the interest on 30 cents—and the Government got that land and sold it for $1.25, and possibly more, an acre.

Mr. ALLISON. I think the amendment covers all the essential points.

Mr. ALLEN. I suggest to the Senator from Iowa that it probably does cover them as to the Santee Sioux, but does not cover them as to the Sissetons and Wahpetons.

Mr. COCKRELL. I want to ask the Senator if that is a substitute for the amendment of the Senator from Nebraska?

Mr. ALLISON. Undoubtedly.

Mr. COCKRELL. That is what I supposed.

Mr. ALLISON. I propose to have this amendment placed in the bill where I have indicated, and the other amendments are to be dropped by the Senator from Nebraska.

Mr. ALLEN. Yes, sir.

Mr. ALLISON. All the information required is to be found in the amendment as I proposed it. I think there is no modification necessary.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Iowa, the Senator from Nebraska having withdrawn his amendment, as the Chair understands.

Mr. ALLEN. I withdraw the amendment I offered.

The PRESIDING OFFICER. The question is on the adoption of the amendment submitted by the Senator from Iowa.

The amendment was agreed to.

Mr. JONES of Arkansas. I ask the Senate now to take up some of the amendments I offered last evening, and which were laid over.

The PRESIDING OFFICER. The first amendment proposed by the Senator from Arkansas will be stated.

The SECRETARY. On page 18, after line 4, it is proposed to insert:

That the Secretary of the Interior shall, through an officer of the Government, disburse $300,000 of the money in the Treasury of the United States belonging to the Creek Nation of Indians, only for the payment of the debt to the Government of the Creek Nation: *Provided*, That no debt shall be paid until by investigation the Secretary of the Interior shall be satisfied that said nation of Indians incurred said debt, or issued its warrants representing the same, for a full and valuable consideration, and that there was no fraud in connection with the incurring of said debt or the issuing of warrants.

The PRESIDING OFFICER. The question is on the adoption of the amendment of the Senator from Arkansas.

Mr. WILSON. Mr. President, it seems to me that before we adopt that amendment there ought to be some explanation by the Senator of the character of this debt. If it is simply warrants held by certain people scattered over the country, who are seeking in this manner to get the cash, the full par value, on these warrants, which probably were obtained at a great discount—of which, of course, I have no knowledge, and perhaps the Senator can correct me, if I am mistaken—anyhow, I should like to have some explanation of the amendment.

Mr. JONES of Arkansas. I think if the Senator had listened to the reading of the amendment, he would have been satisfied that any difficulty such as he suggests is guarded against in the amendment.

Mr. WILSON. I beg to assure the Senator from Arkansas that I listened to every word of the amendment. I understand this matter is to be examined into and is to be reported upon, and if it shall be found that no fraud of any kind is shown, that then it is to be paid, and it is to have the approval of the Secretary of the Interior first. I undertake to say that no fraud will be shown, that the $300,000 will be paid out if this amendment is adopted, and I should like to know something of this debt before we adopt

an amendment paying this amount out of the trust fund of this Indian nation.

Mr. JONES of Arkansas. Mr. President, the language of the amendment which I thought had possibly escaped the attention of the Senate is:

Provided, That no debt shall be paid until by investigation the Secretary of the Interior shall be satisfied that said nation of Indians incurred said debt, or issued its warrants representing the same, for a full and valuable consideration, and that there was no fraud in connection with the incurring of said debt or the issuing of warrants.

Mr. ALLISON. I should be glad to have the Senator read the first clause of that amendment.

Mr. JONES of Arkansas. It reads:

That the Secretary of the Interior shall, through an officer of the Government, disburse $300,000 of the money in the Treasury of the United States belonging to the Creek Nation of Indians, only for the payment of the debt to the Government of the Creek Nation.

Mr. ALLISON. That surely should require the assent in advance of the Creek Nation to such payment.

Mr. JONES of Arkansas. The Creek Nation is asking for it. Their petition is here, presented by officers of that nation.

Mr. ALLISON. Then it should be stated in the amendment "with the consent and authority of the Creek Nation filed with the Secretary of the Interior." Is this amendment reported from any committee?

Mr. JONES of Arkansas. I think it has not been. The matter is before the Committee on Indian Affairs, but my impression is that the amendment has not been reported. There are two agents of the Creek Nation here, accredited by the Creek council, asking that this appropriation be made. The reason they give for asking for this appropriation is that there are $103,000 outstanding of debts incurred by the nation for the building of certain schoolhouses and the establishment of certain schools; that there are outstanding $230,000 of warrants, which have been incurred in the administration of their affairs as a nation, making a total of $335,000 outstanding of the debt. They sent these two agents here from the council, authorized by the governor, asking that they be allowed to use a sufficient sum of their money in the Treasury to pay these debts. The limitations were prepared by members of the Committee on Indian Affairs, though I believe the amendment has not been voted on by the committee.

Mr. ALLISON. Then I suggest, if this amendment is to be adopted, that it provide for the assent and approval of the council of the Creek Nation, to be passed after the passage of this act and to be filed with the Secretary of the Interior.

Mr. JONES of Arkansas. I have no objection to the amendment. I shall be glad to have any limitation of that sort put on the payment of the money. If the Senator from Iowa will suggest the amendment that he would like to have go in, it can be inserted.

Mr. ALLISON. I would suggest to insert:

Upon the properly authenticated demand of the Creek Nation after the passage of this act.

Mr. JONES of Arkansas. At the beginning of the amendment?

Mr. ALLISON. Yes.

Mr. PEFFER. While the Senate is considering the phraseology of the amendment, I will take the liberty of suggesting that it would be well to have an officer appointed, either an individual or several of them, to examine into the facts and report them to Congress.

Mr. ALLISON. Before the payment is made?

Mr. PEFFER. Before the payment is made.

Mr. JONES of Arkansas. This requires that the Secretary of the Interior shall do that.

Mr. TELLER. He will provide the method.

Mr. PEFFER. Does it require him to disburse the money?

Mr. JONES of Arkansas. It requires him to investigate before he pays a dollar.

Mr. TELLER. And then he has to disburse it.

Mr. JONES of Arkansas. Then he has to disburse it.

Mr. WILSON. My recollection is that the Committee on Indian Affairs pretty thoroughly investigated this matter at the time when the two representatives were before the committee asking for the allowance of this money. That was some time ago. I do not recall fully all the facts, but my recollection is that from the statements made by the agent of the Indian council the appropriation did not meet with the entire approval of the Indian Affairs Committee.

Now, my objection is that we are in every Congress coming here and taking these trust funds, gradually appropriating them for this purpose and that, and if it is to continue a little longer, there will be none of them left. These people have issued a large amount of county or Territorial warrants——

Mr. JONES of Arkansas. National warrants.

Mr. WILSON. Or national warrants (I do not know by what name they may be called in that country; they are the same as our county warrants in the West) and doubtless these warrants are to-day in the hands of the much-despised goldbugs. They are here in this manner and in this way seeking payment of the same. I have been greatly in hopes that the resources of that section of country, their rentals, might keep up their schools, etc., without intrenching upon their trust funds, and I regret to see an amendment of this character proposed to the Indian appropriation bill without first having received full and complete consideration and recommendation by the Committee on Indian Affairs.

Mr. ALLISON. Let me ask the Senator from Washington if there is a recommendation from the Secretary of the Interior for this payment?

Mr. JONES of Arkansas. There is; and from the Commissioner of Indian Affairs.

Mr. WILSON. I am very much obliged to the Senator from Arkansas for answering the question of the Senator from Iowa.

Mr. JONES of Arkansas. I will withdraw what I said just now, and let the Senator from Washington answer. I do not want to interrupt.

Mr. WILSON. Oh, no. The Senator from Arkansas entirely misunderstands me. If he had only waited a moment, he would have heard. I was about to say that I do not recall that there had been any such recommendation before the committee, but I do recall, I will inform the Senator from Iowa, that these two representatives appeared before the committee. The Senator was present at the time.

Mr. ALLISON. I ask that the amendment may be stated as amended.

The Secretary read as follows:

Upon the properly authenticated demand of the Creek Nation, made after the passage of this act, the Secretary of the Interior shall, through an officer of the Government, disburse $300,000 of the money in the Treasury of the United States belonging to the Creek Nation of Indians, only for the payment of the debts of the government of the Creek Nation: *Provided*, That no debt shall be paid until by investigation the Secretary of the Interior shall be satisfied that said nation of Indians incurred said debt and issued its warrants representing the same for full and valuable consideration, and that there was no fraud in connection with the incurring of said debt and the issuing of warrants.

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

The amendment was agreed to.

Mr. JONES of Arkansas. I ask the Senate now to take up the next amendment which I offered last night.

The SECRETARY. On page 11, after line 25, it is proposed to insert:

For fulfilling treaty stipulations with the Chickasaw Nation of Indians, namely, for arrears of interest, at 5 per cent per annum, from December 31, 1840, to June 30, 1889, on $184,143.09 of the trust fund of the Chickasaw Nation erroneously dropped from the books of the United States prior to December 31, 1840, and restored December 27, 1887, by the award of the Secretary of the Interior, under the fourth article of treaty of June 22, 1852; and for arrears of interest, at 5 per cent per annum, from March 11, 1850, to March 3, 1890, on $56,021.49 of the trust fund of the Chickasaw Nation erroneously dropped from the books of the United States March 11, 1850, and restored December 27, 1887, by the award of the Secretary of the Interior, under the fourth article of the treaty of June 22, 1852, $558,520.54, to be paid to the treasurer of said nation upon requisition signed by the governor and national secretary of the Chickasaw Nation, and to be immediately available.

Mr. ALLISON. I make the point of order upon the amendment that it is not estimated for, and that it is a pure claim and an absolute gratuity. I believe it has the partial sanction of the Committee on Indian Affairs, although I am not sure about it.

Mr. JONES of Arkansas. The amendment passed the Committee on Indian Affairs almost unanimously; possibly there may have been one or two votes against it. I am not sure about it. I think there was but one. It was reported to the Senate and referred to the Committee on Appropriations.

Mr. ALLISON. That does not make it in order.

Mr. JONES of Arkansas. I think the fact that it is an appropriation to carry out treaty stipulations with the Chickasaw Indians does make it in order.

Mr. TELLER. That is a mooted question.

Mr. JONES of Arkansas. I will not detain the Senate at this late hour in making a statement about it further than to relate the facts, as I understand them, in a word.

Between 1830 and 1835 the Chickasaw Indians sold their lands on this side of the Mississippi River and put the money into the Treasury of the United States. They had an agreement with the Government of the United States that they should receive 5 per cent interest on that fund. In 1840 the United States erroneously used $180,000 of that fund. In 1850 it erroneously used $60,000 of that fund, and of course there was no interest paid on those items after they were taken out of the trust fund.

In 1854 there was a treaty between the Chickasaw Indians and the Government of the United States, in which, in article 4, the statement was made that the Chickasaw Indians claimed that there had been funds improperly taken out of their trust funds, and it was agreed between the parties that the Secretary of the Interior should take up and determine the question whether these sums had been improperly taken out of the trust fund, and that his finding should be final.

Now, there was no action under that agreement solemnly made between the Government of the United States and these Indians

until Mr. Lamar, Secretary of the Interior, thirty years after that time, took up the question. It being an old question, it was referred to the Court of Claims to find the facts. The Court of Claims found the facts. It reported that these sums had been erroneously taken out of the funds of the Indians, and the funds were restored by act of Congress to the trust fund of the Indians. From 1887 the interest has been paid on the $180,000, and from 1889 or 1890 it has been paid on the $60,000.

The claim of the Indians is that there ought to be the same interest paid on these funds from the time they were taken out of the trust fund until they were restored that would have been paid if by the mistake or the wrongful act of the Government this money had not been taken out of their funds. That is the statement in a nutshell, as I understand it.

The Court of Claims did not undertake to pass on the question of interest. While I do not understand how it would be possible for them to have any question about the propriety of paying interest on funds taken out in this way, they said the question of the payment of interest was a matter to be settled by the legislative branch of the Government, and they left that to be determined by Congress. I believe the money is fairly and justly due these people. If we had settled this debt when the Indians insisted that it should be done—if, instead of the Secretary of the Interior failing to take up and determine this question and decide what was right between the Government and these Indians, he had done so, the interest on this fund would have been paid all along from then until now.

It seems to me the Government of the United States ought not to take advantage of the neglect of the Secretary of the Interior to take up and determine this question, the Indians being willing that the Secretary himself should render his finding and agreeing in the treaty that his finding should be final.

I have said all I care to say about it. I believe I have stated the facts fairly.

Mr. PLATT. As one member of the Indian Affairs Committee, I did not agree to report this amendment to the Senate to have it go before the Appropriations Committee and be placed on the appropriation bill. I do not think it ought to be put on the appropriation bill, because there is no time to go into the question.

Mr. CULLOM. It is merely a claim.

Mr. PLATT. There is no time to go into the history of the whole case.

It is true that there has been restored to these Indians about $240,000 through the action of the Committee on Appropriations. It took one of the findings of the Court of Claims one year, and then it was not satisfied with the other, and referred it back to the Secretary of the Interior. The Secretary of the Interior indorsed the finding of the Court of Claims, and so it was paid through the Committee on Appropriations. But that was $240,000. Now, here is a claim for $585,000 for interest to be paid on the $240,000 principal.

Without going into the whole history of this case, which is a long and somewhat interesting one, there is one feature of it which it seems to me ought to be considered by the Senate in determining whether or not it will pay this interest. These funds were invested by the United States in State bonds, a considerable portion of them being invested in the bonds of the State of Arkansas. The United States was not bound by law or in equity or in any other way to assume the securities. The State of Arkansas and other States, the bonds of which were in this fund, defaulted, and the United States assumed the debt in order that the Indians might not suffer; and they pay a good deal more than interest by assuming the debt and the interest on the securities, being the bonds of the States which did not pay them. It seems to me that that certainly as an equitable consideration ought to come in. But I am not going to discuss the merits of this question on a point of order.

Mr. ALLISON. The Senator from Arkansas alludes to the fact that this payment is to be made under the fourth article of the treaty of 1854, whereby there was to be a restatement of accounts between the Indians and the Government. That restatement of accounts, although provided for in 1854 was not made until Mr. TELLER, now a member of this body, came into the Interior Department, and then he, under what is known as the Bowman Act, referred the whole question to the Court of Claims to state an account.

Mr. PETTIGREW. Secretary Lamar.

Mr. ALLISON. Secretary Teller made the submission.

Mr. PLATT. Secretary Lamar indorsed it.

Mr. ALLISON. Secretary Teller made the submission.

The Court of Claims allowed $240,000 of errors in the statement of account. In restating this account they held the Government to be bound for $50,000 paid to Hon. William M. Gwin, who at one time was a member of this body, and received under contract made with those Indians $50,000 out of that sum which he had secured for the Indians. It is shown by the testimony fairly well that these Indians made an agreement to pay him $50,000 if he would secure for them certain allowances which had been refused. The Court of Claims allowed the Indians for that $50,000 in restating the account. They alluded to the question of interest, and stated that as between individuals a restatement of account did not authorize interest upon a readjustment of items, and that the question of interest was purely an equitable one in the discretion of Congress, and in the report they allowed $240,000 in all.

When the report came to the Committee on Appropriations, we were asked to make an appropriation for that sum. We reinvestigated, so far as we could, the findings and statements and evidence before the Court of Claims, and we made up our minds that the $50,000 paid to Mr. Gwin was paid under the authority of the Indians, and that they had no right to ask the Government to reimburse them for that sum; and instead of appropriating $240,000 we appropriated $184,000. We allowed, however, a restatement of the account by the Secretary of the Interior and a reexamination of it as respects the Gwin claim. Mr. Noble, then the Secretary of the Interior, made a restatement of the account, and said upon the whole he thought it was wiser and better for the Government to pay that sum. He submitted an estimate for the amount, as Secretary Lamar had submitted an estimate for the whole amount four years before, and upon this report of Secretary Noble we appropriated the remaining $50,000.

This account covered a good many items of expenditure made by the Government under treaties for subsistence, transportation, and various things which, upon restatement, were found to be excessive. These amounts were not taken from the funds that were in the Treasury as trust funds, but they were a part of the funds authorized by treaty stipulations to be paid to these Indians for certain purposes.

After the provision for a restatement of account was put into the treaty of 1854, it lay sleeping there until 1885, apparently without any urgency as respects the restatement of account, and in 1885 this question was resurrected and submitted, and the Secretary of the Interior approved the finding of the Court of Claims and allowed them $240,000, and we appropriated the money and they have received it.

Now comes the suggestion of $585,000 of interest to be paid out of the Treasury, including interest upon the $50,000 which was paid to Mr. Gwin upon the direction certainly of the accredited agents of these Indians here in the city of Washington. I undertake to say that a more glaring gratuity was never projected into the Senate. I make the point of order on the amendment.

The PRESIDING OFFICER. The Chair will request the Senator to state again the grounds on which he bases the point of order.

Mr. ALLISON. The grounds of the point of order are that, as shown by these reports and the statements, it is not under treaty stipulations, but is a gratuity to these Indians, as shown by the reports which I have on my desk; an equity about which we have absolute discretion, and that it is in the nature of a private claim of an Indian tribe. So it has no foundation whatever.

Mr. JONES of Arkansas. I will ask the Senate to indulge me for a moment to reply to the statement made by the Senator from Iowa, as I can not agree that it shall go unchallenged in the Senate, if I understand this case.

Article 4 of the treaty of which I speak, and which the amendment proposes to carry into effect, is in these words:

> The Chickasaws allege that in the management and disbursement of their funds by the Government they have been subjected to losses and expenses which properly should be borne by the United States. With the view, therefore, of doing full justice in the premises, it is hereby agreed that there shall be, at as early a day as practicable, an account stated, under the direction of the Secretary of the Interior, exhibiting in detail all the moneys which from time to time have been placed in the Treasury to the credit of the Chickasaw Nation, resulting from the treaties of 1832 and 1834—

That was their trust fund—

> and all the disbursements made therefrom.

"And all the disbursements made therefrom."

> And said account, as stated, shall be submitted to the Chickasaws, who shall have the privilege, within a reasonable time, of filing exceptions thereto, and any exceptions so filed shall be referred to the Secretary of the Interior, who shall adjudicate the same according to the principles of law and equity, and his decision shall be final and conclusive on all concerned.

I will not detain the Senate by going over all the details, but I will read what the court said on the question of interest, and I will read the statement of the account as stated, and then I shall be willing for the Senate to determine whether or not it was part of the trust fund. These are the words of the court:

> In an action between individuals interest would also be allowed, for the issue presented is one of unauthorized disbursement by a trustee of trust funds expressly stipulated to be held invested in interest-bearing securities.
>
> We refrain, however, from expressing any opinion on this subject, as the question must necessarily be taken to the legislative department of the Government, which alone has power to grant relief, which will consider the equities of the case, and which will decide whether it is one wherein the doctrine should be waived that, as the sovereign does no wrong and is ever ready and willing to pay just debts, the Government pays no interest.

"The sovereign does no wrong," and yet by treaty stipulation we agreed (section 4 of the treaty of 1854) that the Secretary of the Interior should state this account, and still it was not done for more than thirty years. The sovereign, of course, does no wrong, but

ought not to pay interest, because it was not to be blamed for that delay.

Now, the items, as stated from the office, of which this account consisted are as follows:

Chickasaw general fund—

This is from the finding of the court—

Chickasaw general fund:
Payments of transportation and demurrage to S. Buckner (charged against the trust fund prior to December 31, 1840), $58,299.

And yet the Senator from Iowa says this was not a trust fund.

Mr. ALLISON. No; I did not say that. I said it had not been placed in trust bearing interest. That fund was a part of the $6,000,000 that was used to transport these people across the Mississippi and into the Indian Territory. It was to be used for that purpose, and the remainder of it not used, as I recollect now—I do not remember the obligations of the treaty—was to be part of the trust fund.

Mr. JONES of Arkansas. Whatever it was, the courts said it was taken out of the trust fund, and taken out erroneously.

Payments to conductors of emigration (charged prior to December 31, 1840), $26,563.68.

The same time exactly. Now comes the other item:

Payment to assignees of William M. Gwin (charged prior to March 12, 1850), $56,021.49.

Mr. ALLISON. Will the Senator allow me? How could the William Gwin payment be taken out of the trust fund when William Gwin agreed to secure the placing in the trust fund of a certain amount of money? One hundred and twenty-five thousand dollars was ordered to be paid to them, and he took $50,000 out of the sum before it was put into the trust fund.

Mr. JONES of Arkansas. The court finds that out of the Chickasaw general fund these three items were taken. It mentions the Gwin payment among the others. Out of the incompetent fund the other item, $69,000, was taken.

We had agreed by treaty stipulation to pay the interest on this money. I admit that the sovereign ought not to do any wrong; but I believe as firmly as I believe that I am living that the Government is under every moral obligation on earth to pay interest on every dollar of this money that went into the trust fund of these Indians, and was misappropriated. Would not the interest have been paid if the money had remained in the trust fund? Will anybody pretend to deny it? We paid interest on it before it was taken out. We have paid interest since it was put back. Why not pay interest in the interim? Why not pay interest for all that time?

The Senator complains that this amounts to $500,000. Whose fault is that? If the Secretary of the Interior had made the restatement in 1854, when it should have been made, it would have amounted to a bagatelle, but when our own neglect has allowed this to stand for more than thirty years, refusing to do justice to these people, I must think that a complaint of the amount of the interest that is due can not be charged as a fault on the part of the Indians, and it ought not to be a just ground for complaint against the amendment.

The PRESIDING OFFICER. The Chair understands the Senator from Iowa to raise the point of order that this is a claim. The Chair will read the rule applicable to the case. Section 4 of Rule XVI provides that:

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.

The amendment purports on its face to be for the purpose of carrying out certain treaty stipulations with the Chickasaw Nation, but it appears from the statement of the case that has been made that the amount actually agreed to be paid under the treaty has been paid; that the amount has been approved by the Secretary of the Interior and has been paid, but that there is a claim for a still further amount of interest which has never yet been adjudicated. That being the case, it is not included in the exception to the rule. The point of order is sustained.

Mr. JONES of Arkansas. I wish to offer another amendment.

The SECRETARY. On page 11, after line 25, it is proposed to insert:

That the disbursing officers of the Treasury be, and they are hereby, directed to pay, from any money in the Treasury not otherwise appropriated, to the trustee or legal representatives of Eli Ayres the sum of $58,158.46: *Provided*, That such payment when made shall operate as a final settlement in full, as between the said trustee and legal representatives of said Eli Ayres, his or their heirs or assigns, and the United States, for any claim against the United States which—

Mr. ALDRICH. This is evidently a private claim. I suggest there is no use to take the time of the Senate at this late hour by reading the whole of the amendment. The first part of it shows it to be a private claim, and subject to the point of order.

Mr. JONES of Arkansas. If the Senator from Rhode Island will hear it all, he may possibly know more about it; but as he seems to know what it is without reading it——

Mr. ALDRICH. The first sentence in the amendment shows that it is a private claim.

The PRESIDING OFFICER. The Chair will be unable to rule upon the amendment until it has been presented in full.

The Secretary resumed and concluded the reading of the amendment, as follows:

Said Ayres may have had during his lifetime by reason of the fact that he purchased, and there was conveyed to him, the right and title of certain Chickasaw Indians to 124,160 acres of land in the State of Mississippi, held by such Indians under the provisions of a treaty made by the United States with the Chickasaw Nation of Indians on the 24th day of May, 1834, and which said lands so purchased by said Ayres were appropriated and disposed of by the United States; the deeds by which said Indians conveyed said lands to said Ayres to be duly surrendered upon the payment to said trustee or legal representatives of the amount herein appropriated: *And provided further*, That when said deeds are so surrendered to the United States, and said payment so made to the trustee or legal representatives of said Eli Ayres as aforesaid, this act shall operate to forever quiet all such land titles in the State of Mississippi heretofore and now affected by reason of the appropriation and sale or other disposition of the lands so purchased by said Ayres of said Indians, as herein set forth. The said amount of $58,158.46 is hereby made immediately available.

Mr. ALDRICH. I raise the point of order that it is a private claim.

The PRESIDING OFFICER. The Chair would like to hear the Senator from Arkansas upon the point of order.

Mr. JONES of Arkansas. I have nothing to say. I submit the amendment. To be frank about it, however, the amendment is a private claim. There is no question about it.

The PRESIDING OFFICER. The Senator from Arkansas admits the point of order. It will therefore be sustained.

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

The SECRETARY. On page 53 strike out lines 10 to 17, inclusive, and insert:

For support and education of 300 pupils at the Indian school, Salem, Oreg., at $167 per annum each, $50,100; for pay of superintendent at said school, $1,600; for the erection of a school and assembly building, and dining hall and kitchen, and other necessary buildings, $15,000; for general repairs and improvements, $5,000, for steam-heating plant, $15,000; in all $86,700.

Mr. PETTIGREW. This is a substitute for the provision now in the bill. This school has been enlarged, so that it takes a larger sum of money to manage it. The amendment is recommended by the Secretary of the Interior and the Commissioner of Indian Affairs. I have the letters here, which I shall be glad to have printed in the RECORD.

The PRESIDING OFFICER. The letters will be printed in the RECORD, as requested, without being read, in the absence of objection.

The letters are as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, January 18, 1897.

The honorable SECRETARY OF THE INTERIOR.

SIR: My attention has been called to the needs of increased capacity for the Indian Industrial School at Salem, Oreg., and upon request of Senator MCBRIDE, from that State, I have the honor to modify my estimate of appropriations for this school. That estimate was as follows:

Support of 250 pupils	$41,750
Pay of superintendent	1,800
General repairs	5,000
Steam heat	10,000
Total	58,550

The capacity of this school is between 250 and 300 pupils, but that capacity refers almost entirely to dormitory accommodations, as the school building and dining hall are entirely inadequate for the accommodation of even 250 pupils. The total enrollment for this school for 1896 was 350 pupils. Under the present management the school has prospered to a considerable extent, and, as stated in my annual report, I am of the opinion that this school should be enlarged. It is the only nonreservation school of any size on the Pacific Coast, and being located near the Indian population of the Northwest can be filled at less expense than in the majority of instances. Climatic conditions, also, demand that there should be a large nonreservation school for the Indians of that section. Salem, by reason of its location, presents the most available point for this purpose. Superintendent Potter states that in order to increase the capacity of his school it will be necessary to give him additional buildings, and therefore desires to have a new school and assembly building, a new dining hall and kitchen, three small cottages for employees, and a shop building; all of which to be heated by steam, thus doing away with the dangerous method at present used of warming the buildings by stoves. I would therefore respectfully recommend that, in view of the circumstances, that my first estimate be changed so as to read as follows:

Support and education of 300 pupils at the Indian school, Salem, Oreg., at $167 per annum each	$50,100
Pay of superintendent at said school	1,800
For the erection of a school and assembly building, and dining hall and kitchen, and other necessary buildings	15,000
For general repairs and improvements	5,000
Steam heating plant	15,000
Total	86,900

The increase in the estimate for steam heating plant is rendered necessary on account of the additional buildings asked for, which require to be heated. By the expenditure of this additional amount, I am of the opinion that the efficiency of this school will be enhanced very largely, and that it will extend its influence throughout the Northwest. While the appropriation is only increased for 50 pupils, yet, under the economical management of the superintendent, he will unquestionably maintain a much larger number. As before stated, the utmost capacity of the school is taxed, and I am informed by the superintendent that many are therefore necessarily turned away. The improvements asked for will give the Pacific Coast a most excellent nonreservation industrial school.

Very respectfully, D. M. BROWNING, *Commissioner.*

DEPARTMENT OF THE INTERIOR,
Washington, February 25, 1897.

SIR: I am in receipt of your communication of 18th instant, addressed to the Commissioner of Indian Affairs, and also your letter of 22d, to me, relative to an amendment intended to be proposed by Mr. MCBRIDE to the bill (H. R. 10002) 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, 1898, and for other purposes, viz: On page —, strike out the clause making appropriations for the Indian school at Salem, Oreg., and insert the following in lieu thereof:

"For support and education of 300 pupils at the Indian school, Salem, Oreg., at $167 per annum each, $50,100; for pay of superintendent at said school, $1,000; for the erection of a school and assembly building and dining hall and kitchen, and other necessary buildings, $15,000; for general repairs and improvements, $5,000; for steam-heating plant, $15,000; in all, $86,900."

In response you are informed that under date of the 18th ultimo the question of increasing the capacity of this school was submitted by the Commissioner of Indian Affairs (copy herewith), and I have had the matter under advisement, and have concluded, in view of the statements contained in the Commissioner's letter, to recommend that the proposed amendment be adopted.

Very respectfully,
D. R. FRANCIS,
Secretary.

The CHAIRMAN COMMITTEE ON INDIAN AFFAIRS,
United States Senate.

The PRESIDING OFFICER. The question is on the adoption of the amendment of the Senator from Oregon [Mr. MCBRIDE].

Mr. COCKRELL. What does the Senator propose to strike out?

Mr. PETTIGREW. Simply a whole paragraph, and inserting what has been read.

Mr. COCKRELL. On what page?

Mr. PETTIGREW. On page 53.

The PRESIDING OFFICER. The words proposed to be stricken out will be read.

The SECRETARY. On page 53 strike out beginning with line 10 down to and including line 17, in the following words:

For support and education of 250 Indian pupils at the Indian school, Salem, Oreg., at $167 per annum each, $41,750; for pay of superintendent at said school, $1,600; for general repairs and improvements, $5,000; for steam-heating plant, $10,000; in all, $58,350.

The amendment was agreed to.

Mr. DAVIS. I offer an amendment in lieu of the one I offered last night.

The SECRETARY. After line 3, page 35, it is proposed to insert:

And nothing in section 27 of chapter 543, volume 26, of the United States Statutes at Large, pages 1038 and 1039, shall be construed to apply to any contract for services for the prosecution of any claim against the United States or the Indians named in said section, and which had been prosecuted to its final allowance by the Department before which it was prosecuted within the period stated in said contracts, and said contracts shall not be deemed or taken to have been in full force and legal effect until the date of their official approval by the Secretary of the Interior and the Commissioner of Indian Affairs, and the date of the approval thereof officially indorsed thereon by said Secretary of the Interior and Commissioner of Indian Affairs, as required by the provisions of the fourth paragraph of section 2103 of the Revised Statutes of the United States, and in all such cases the Secretary of the Interior shall cause all claims for service under such agreements to be adjusted, audited, allowed, and paid out of any moneys in the Treasury belonging to the bands or tribes to which such Indians belong, and so much money as is necessary for that purpose is hereby appropriated, out of any money in the Treasury not otherwise appropriated, and the amount so paid shall be charged against any fund to the credit of said Indians, tribes, bands, or individuals, in the Treasury of the United States: *Provided*, That the amount so audited, allowed, and paid shall not exceed the sum of $44,000.

The PRESIDING OFFICER. The question is on the adoption of the amendment proposed by the Senator from Minnesota [Mr. DAVIS].

Mr. ALLISON. I make the point of order upon the amendment that it is legislation.

Mr. DAVIS. I have no doubt, under the spirit of the ruling of the Chair made a few moments ago, that the amendment is subject to that objection. I am very sorry for it. It is a just amendment.

The PRESIDING OFFICER. The point of order is sustained. If there are no further amendments as in Committee of the Whole, the bill will be reported to the Senate.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER. The question is on concurring in the amendments made as in Committee of the Whole.

Mr. ALLISON. Let them be concurred in in gross, unless certain amendments are to be reserved.

Mr. VILAS. I was going to ask for the reservation of the one amendment simply to make a remark upon it; that is all; not to take a vote.

Mr. PALMER. I desire to propose two amendments on page 71.

The PRESIDING OFFICER. The amendments indicated will be reserved.

Mr. CULLOM. My colleague proposes to offer new amendments.

Mr. PALMER. I propose to strike out the words "power to contract," etc., on page 71, line 2.

The PRESIDING OFFICER. That is a committee amendment on page 71. The Senator from Illinois had better reserve that amendment and let the others be acted upon.

Mr. PALMER. I want to reserve those two amendments.

The PRESIDING OFFICER. Are there other amendments to be reserved?

Mr. VILAS. I should like to have, for a moment, the amendment in respect to the Uncompahgre Ute Reservation reserved. I do not intend to ask for any vote upon it, but I should like to have it reserved.

Mr. COCKRELL. Those three amendments are reserved.

The PRESIDING OFFICER. Two amendments; the one indicated by the Senator from Illinois and the one indicated by the Senator from Wisconsin will be reserved. The question is on concurring in the other amendments made as in Committee of the Whole.

The amendments were concurred in.

The PRESIDING OFFICER. There are two exceptions. The Senator from Illinois [Mr. PALMER] is now recognized with reference to the amendment which he had reserved.

Mr. PALMER. I desire to strike out on page 71 the words "power to contract through their duly authorized commissioner, agent, or attorney," and insert the words, "capacity to sue and be sued." The whole paragraph relates to the Old Settler or Western Cherokee Indians.

The PRESIDING OFFICER. The Secretary will state the amendment to the amendment made as in Committee of the Whole.

The SECRETARY. On page 71, line 2, after the word "with," strike out the words "power to contract through their duly authorized commissioner, agent, or attorney" and insert the words "capacity to sue and be sued;" so as to read:

And the Old Settler or Western Cherokee Indians, for the purposes of the actions hereby authorized, shall be considered a tribe of Indians, with capacity to sue and be sued.

Mr. PALMER. I desire to insert the words "capacity to sue and be sued," so that the provision shall not be held to ratify any contract that may have been heretofore made.

Mr. PETTIGREW. I have no objection to the amendment.

Mr. TELLER. The very purpose of submitting the whole thing is that the court could try it upon the contracts which they have made. If this amendment is made, it practically nullifies the whole theory and spirit of the submission.

Mr. PALMER. I do not think so.

Mr. TELLER. Of course. We have provided in another place that they may be sued, and they are not asking to sue.

Mr. PALMER. The real effect of the language I propose to strike out would be to validate the contracts already made. I do not think it is necessary at all that those contracts should be validated. The force and effect of those contracts should be determined by the Court of Claims. I propose to amend so as to read:

And the Old Settler or Western Cherokee Indians, for the purposes of the actions hereby authorized, shall be considered a tribe of Indians with the capacity to sue and be sued, etc.

As it now stands, it reads:

And the Old Settler or Western Cherokee Indians, for the purposes of the actions hereby authorized, shall be considered a tribe of Indians, with power to contract through their duly authorized commissioner, agent, or attorney, etc.

If it is not intended to validate contracts that would otherwise be invalid, the mere capacity to sue and be sued, of a standing in the Court of Claims, would be given by the words I propose to substitute. But the effect of the words I propose to strike out would be to validate the contracts which would be involved in the very authority given to the Court of Claims to adjudicate these matters.

Mr. TELLER. It is nothing of the kind. It simply says that these people may have made contracts, and it leaves it to the court to determine whether they have made them or not. It is said that they had the power to make them. The court determines whether they have made the contracts.

Mr. PLATT. There was a question as to whether these Indians were so much a tribe that they had power to contract, and it is simply to cover that. That is the reason why it was inserted.

Mr. TELLER. It does not validate a contract.

Mr. PALMER. I do not believe a word of it. I believe that the real intent and office and effect of the words that I propose to strike out is to validate contracts. This is a matter between the United States and these claimants, and while the United States may have no power to validate contracts between private parties, it may validate contracts with itself or contracts that it is called upon to execute. I insist upon the amendment, because this will give them a standing in the court, but will determine nothing as to their rights.

The PRESIDING OFFICER. The question is on the adoption of the amendment offered by the Senator from Illinois to the amendment made as in Committee of the Whole. [Putting the question.]

Mr. PALMER. On that I ask for the yeas and nays. ["No!" "No!"] I must do it, because I insist upon the amendment.

Mr. CHANDLER. I ask that we may have the amendment read that the Senate is to vote upon.

The PRESIDING OFFICER. The amendment to the amendment will be again read.

The SECRETARY. In line 2, page 71, after the word "with," it is

proposed to strike out the words "power to contract through their duly authorized commissioner, agent, or attorney," and to insert the words "capacity to sue and be sued;" so that it will read:

And the Old Settler or Western Cherokee Indians, for the purposes of the actions hereby authorized, shall be considered a tribe of Indians, with the capacity to sue and be sued.

Mr. CULLOM. I hope the vote will be taken over again without calling for the yeas and nays. If the Senate votes on it again, perhaps it will allow the amendment to be made.

Mr. PETTIGREW. Let the amendment go in.

Mr. CHANDLER. I hope the Senator from Illinois will not call for the yeas and nays, because it may delay the passage of the bill.

Mr. NELSON. Mr. President——

Mr. CHANDLER. I do not yield to the Senator from Minnesota.

Mr. CULLOM. I simply ask that the vote may be taken over again by a viva voce vote.

Mr. QUAY. I understand the Senator from South Dakota has accepted the amendment.

Mr. PETTIGREW. I have no objection to it.

Mr. CHANDLER. I have not yielded to anyone. I wish to address myself to the amendment. I do not think that the yeas and nays ought to be called, because it may delay the business of the Senate. I wish that the pending bill could be disposed of to-night, but it ought to go over until to-morrow morning, because there may be some votes upon material questions.

Mr. ALLISON and others. No, no.

Mr. CHANDLER. Very good.

Mr. CULLOM. Let us have another vote on the amendment of my colleague.

Mr. TELLER. Let us take another vote on it. I do not care.

Mr. CHANDLER. I hope the Senator from Illinois will not insist upon the yeas and nays on his amendment.

Mr. TELLER. No one has insisted upon the yeas and nays.

Mr. QUAY. I wish some Senator would inform me why a vote is to be taken on an amendment which has been accepted by the Senator in charge of the bill?

Mr. COCKRELL. Let the Chair have an opportunity of announcing that the objection is withdrawn and the amendment has been accepted.

The PRESIDING OFFICER. The Chair will state, on the question of the adoption of the amendment submitted by the Senator from Illinois, that the Chair understands the request for the yeas and nays to be withdrawn.

Mr. PALMER. Am I correct in my understanding?

Mr. TELLER. Let the vote be taken over again.

Mr. CULLOM. Yes; let the vote be again taken without the yeas and nays.

Mr. PALMER. Very well.

The PRESIDING OFFICER. The Chair will again put the question on the adoption of the amendment to the amendment.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment as amended.

The amendment as amended was agreed to.

The PRESIDING OFFICER. There is one more amendment to receive the action of the Senate, and that is the one reserved by the Senator from Wisconsin [Mr. VILAS] on page 66, in relation to the Uncompahgre Indian Reservation.

Mr. VILAS. With reference to that I only want to make one remark. We had some question the other day with respect to the quantity of minerals which had been reported by the Geological Survey, and their value, and my distinguished friend from Colorado [Mr. TELLER] was of the opinion that it did not amount to much. I want to give the figures just in a moment from the special report on that subject made by the Geological Survey, and instead of elaborating, I will simply say that they sum up the amount of tons of that mineral as disclosed in six veins, which they name at 23,744,000 tons.

Mr. TELLER. That is the St. Louis property.

Mr. VILAS. No: that is in the Uncompahgre Ute Reservation.

Mr. TELLER. The St. Louis property is the only property that ever has been worked. No other has been worked.

Mr. VILAS. I am reading from what is said in the report in respect to the Uncompahgre Ute Reservation, that the amount in the six veins, which they name and of which they give a map disclosing the particular location and all, is above 23,000,000 tons.

Mr. TELLER. I will say that on the ground in dispute there never has been a location made, and there is no law to make locations. The Geological Bureau are talking about another place. They are talking about the property that is owned by the St. Louis company.

Mr. VILAS. The Senator is simply mistaken.

Mr. TELLER. I am not mistaken at all.

Mr. VILAS. Here are the maps, and here are the veins described and shown on the Uncompahgre Ute Reservation.

Mr. TELLER. The St. Louis company owns the property.

Mr. PETTIGREW. If there is that much mineral in it, it is not worth anything, for it would supply the world for thousands of years.

Mr. VILAS. The report not only shows this quantity of mineral there by the figures of the Geological Survey, each vein carefully stated in full detail—which I shall not take the time to read—but the commercial value of the mineral is set forth, showing that the present price per ton in Chicago and St. Louis is from $40 to $50, and, even with hauling it nearly 100 miles by wagon, the cost of delivering it is but about $25 to $30 a ton, which can unquestionably be immensely reduced. If we estimate it, therefore, at but $10 a ton, the value of that mineral goes above $200,000,000.

Mr. STEWART. That is only their estimate.

Mr. VILAS. Of course it is such an estimate as the Geological Survey would make from a careful examination of the veins, measuring their length and width, and the calculations they make in regard to them. Of course it is not a mineral location, and nobody pretends that it is; but this is the Geological Survey's report.

Mr. TELLER. There is no possible way for the Geological Bureau, or anyone else, to tell what is in an undeveloped region; and if they have made any statement as to quantities in a mine, it is a developed mine, for from a hole 10 feet deep nobody can tell anything about it. They are talking about a property that has been located and filed on by the parties who have gone in there; but not a single filing has been made on this land proposed to be opened, for it can not be made.

Mr. VILAS. Nobody pretends that it is a mineral location.

Mr. TELLER. Then they can make no estimate.

Mr. VILAS. Of course they can; but they can not make as complete a one as they could by digging; but they can make a very good estimate.

I do not desire to take up the time by asking for a vote, but I want to call attention to the fact that, so far from overestimating, unquestionably the value of that mineral deposit was underestimated in what I said in regard to it.

Mr. PALMER. I wish to propose a further amendment. After the word "attorney," in line 3 on page 71, in the committee amendment, I move to strike out the words:

And the operation of sections 2103 and 2104 of the Revised Statutes of the United States are otherwise hereby suspended as to said actions.

Mr. TELLER. I would say that those words were moved to be stricken out, and the amendment was voted down in the Senate. I suppose, of course, technically, the Senator can move the amendment over again, but are we to go over this fight again?

Mr. PETTIGREW. We have voted on the amendment in the Senate as well as in Committee of the Whole.

Mr. PALMER. I do not understand it to be so.

The PRESIDING OFFICER. The question is on concurring in the amendment made as in Committee of the Whole, inserting the clause in relation to the Uncompahgre Indian Reservation in Utah, as it has been amended. [Putting the question.] The ayes appear to have it. The ayes have it, and the amendment is concurred in.

Mr. TELLER. What is the amendment which the Senator from Wisconsin reserved?

The PRESIDING OFFICER. The amendments adopted with reference to the Uncompahgre Indian Reservation.

Mr. ALLISON. Let us have the third reading of the bill, Mr. President.

Mr. HILL. I move that the Senate adjourn.

Mr. ALLISON. I hope the Senator will not do that, but will allow the bill to pass. It has passed every stage now except the third reading.

Mr. HILL. The Senator from Illinois is entitled to be heard and to have an opportunity to offer his amendments.

The PRESIDING OFFICER. The Senator from Illinois has the floor, and will be heard.

Mr. PALMER. I move, beginning with line 3, and concluding with line 6, on page 71, to strike out the words:

And the operation of sections 2103 and 2104 of the Revised Statutes of the United States is otherwise hereby suspended as to said actions.

The PRESIDING OFFICER. The Chair will inform the Senator from Illinois that that amendment has already been concurred in, and that his motion comes too late.

Mr. PALMER. If it is too late, I submit; but I did not hear the question put on the amendment.

The PRESIDING OFFICER. All the amendments made in Committee of the Whole have been concurred in in the Senate. The bill is in the Senate and still open to amendment.

Mr. CHANDLER. The Senator from Illinois had intended, as he told me, to reserve this amendment to be voted on in the Senate.

Mr. PALMER. I announced my intention to do so.

Mr. CHANDLER. And this amendment reaches the whole root of this business. There is an attempt here to create contracts

by law which do not otherwise exist. I submit that this amendment should be voted on.

Mr. PALMER. I gave notice of it.

The PRESIDING OFFICER. The Chair will state that the only way to reach the matter now is by a reconsideration, the *Senate having* acted.

Mr. BATE. I move a reconsideration, Mr. President.

Mr. STEWART. Let the reconsideration be had by unanimous consent.

Several SENATORS. All right.

Mr. PALMER. If that shall be agreed to, I have no objection.

The PRESIDING OFFICER. Unanimous consent is asked that the adoption of the amendment which appears upon pages 71, 72, and 73 be reconsidered.

Mr. TELLER. As to all those items?

The PRESIDING OFFICER. The motion is that the amendment be reconsidered. Is there objection? The Chair hears none, and it is so ordered.

The amendment now offered by the Senator from Illinois will be stated.

The SECRETARY. After the word "attorney," in line 3, on page 71, it is proposed to strike out the words:

And the operation of sections 2103 and 2104 of the Revised Statutes of the United States are otherwise hereby suspended as to said actions.

The PRESIDING OFFICER. The question is on the adoption of the amendment offered by the Senator from Illinois to the committee amendment.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question now recurs upon the amendment as amended.

The amendment as amended was agreed to.

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

The bill was read the third time, and passed.

POST-OFFICE APPROPRIATION BILL.

Mr. ALLISON. I now move that the Senate proceed to the consideration of the bill (H. R. 10289) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1898.

The motion was agreed to.

Mr. ALLISON. I should be glad to proceed a little while with this bill to-night, not with a view of considering any controverted questions, but to make some progress with the reading of the bill; and I desire to give notice that immediately after the routine morning business to-morrow I shall ask the Senate to proceed with its consideration. There are very few controverted questions in this bill, and I think it will take but a short time to dispose of it. I now yield to the Senator from Ohio.

FUNDING OF TERRITORIAL INDEBTEDNESS.

Mr. BRICE. I ask unanimous consent for the present consideration of the bill (H. R. 10271) authorizing the funding of indebtedness in the Territories of the United States.

I will state, if I may, for the information of Senators, before asking for the reading of the bill, that this is a bill for extending the present law governing the refunding of bonds in the Territory of Arizona so as to include other Territories, without making any other substantial change. It is not a bill validating bonds, or a bill changing the character or status of bonds, except authorizing the refunding of bonds at a lower rate of interest in the adjoining Territories precisely as is now and has been for some years the law in the Territory of Arizona.

Mr. JONES of Arkansas. Has the bill passed the House of Representatives?

Mr. BRICE. It has.

The PRESIDING OFFICER. The bill will be read for information.

Mr. BRICE. If the Senator desires any examination of the bill, I will ask that the bill be now read and shall not press its passage until the Senator has had an opportunity to examine it.

Mr. THURSTON. The bill passed the other House and came to the Committee on Territories and has been very carefully amended in that committee so as to exclude the refunding of any future indebtedness, or of any indebtedness which is not interest bearing. It only extends substantially the provisions of the present laws of Arizona to the refunding of the interest-bearing indebtedness of the other Territories as they exist at the present time.

Mr. WHITE. I call the attention of the Senator from Nebraska to the other fact, that the committee have reported in favor of eliminating section 16 of the bill, which, perhaps, would have the effect of validating certain bonds. The committee had not time to investigate it, and therefore reported in favor of eliminating that provision of the measure.

Mr. THURSTON. That is also true.

Mr. DAVIS. The committee gave particular attention to the bill, scrutinized it at several meetings, and had it examined by a subcommittee. It is an extension, almost in identical terms, to the other Territories of the act passed two years ago, I think, in regard to Arizona, which has worked extremely well. The Delegates from all the Territories were consulted; there was no objection to it, and, indeed, there was a very general desire for its passage.

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

The SECRETARY. A bill (H. R. 10271) authorizing the funding of indebtedness in the Territories of the United States.

The PRESIDING OFFICER. The Senator from Ohio asks unanimous consent that the bill may be now proceeded with. Is there objection? The Chair hears none.

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 Territories with amendments.

Mr. ALLISON. I am told by the Senator from Nebraska that there are several amendments to the bill. Why not consider the amendments as they are reached in the reading of the bill, and thus save an additional reading?

The PRESIDING OFFICER. The Senator from Iowa asks unanimous consent that the amendments to the bill may be considered as they are reached. Is there objection? The Chair hears none, and it is so ordered.

The first amendment of the Committee on Territories was, in section 1, line 5, before the word "indebtedness," to insert "interest-bearing;" and in the same line, after the words "United States," to strike out "and such future indebtedness as may be or is now authorized by law;" so as to make the section read:

That for the purpose of liquidating and providing for the payment of the outstanding and existing interest-bearing indebtedness of the Territories of the United States the governor of each Territory, together with the Territorial auditor and Territorial secretary, and their successors in office, shall constitute a board of commissioners for the Territory in which they hold office, to be styled the "loan commissioners of the Territory," and shall have and exercise the powers and perform the duties hereinafter provided.

The amendment was agreed to.

The next amendment was, in section 2, line 4, after the word "due," to strike out "or that is now or may be hereafter authorized by law;" in line 12, before the word "indebtedness," to insert "interest-bearing;" and in line 13, after the word "due," to strike out "or is now or may be hereafter authorized by law;" so as to make the section read:

SEC. 2. That it shall be, and it is hereby, declared the duty of the loan commissioners of each Territory to provide for the payment of the existing indebtedness of such Territory due and to become due, except such indebtedness as has been recognized or covered by reason of an act of the legislative assembly of New Mexico, approved January 28, 1867, entitled "An act to amend an act entitled 'Militia' and acts amendatory thereof," and for the purpose of paying, redeeming, and refunding all or any part of the principal and interest, or either, of the legal interest-bearing indebtedness hereby provided to be paid, and also that which may at any time become due, the said commissioners shall from time to time issue negotiable coupon bonds of the Territory when the same can be done in harmony with this act.

The amendment was agreed to.

The next amendment was, in section 4, line 6, after the word "treasurer," to insert "or have his engraved signature thereon;" so as to read:

That coupons for the interest shall be attached to each bond, so that they may be removed without injury to or mutilation of the bond.

They shall be consecutively numbered and bear the same number as of the bond to which they are attached, and shall be signed by the Territorial treasurer or have his engraved signature thereon.

The amendment was agreed to.

The next amendment was, in section 9, line 15, after the word "supervisors," to insert "or commissioners;" and in line 17, after the word "supervisors," to insert "or commissioners;" so as to make the clause read:

The Territorial board of equalization, or, on the failure of said board, the Territorial auditor, shall determine the rate of tax to be levied in the different counties in the Territory to carry out the provisions of this act, and shall certify the same to the board of supervisors or commissioners in each county and to the municipal and school authorities; and the said board of supervisors, or commissioners, or authorities, are hereby directed and required to enter such rate on their assessment rolls in the same manner and with the same effect as is provided by law in relation to other Territorial, county, municipal, and school taxes.

The amendment was agreed to.

The next amendment was, in section 10, line 27, after the word "supervisors," to insert "or commissioners;" in line 33, after the word "supervisors," to insert "or commissioners;" in line 39, before the word "county," to insert "interest-bearing;" in line 42, before the word "indebtedness," to insert "interest-bearing," and in line 43, after the word "allowed," to strike out "or that may be hereafter allowed by law;" so as to make the clause read:

The board of supervisors or commissioners of the counties, the municipal and school authorities are hereby authorized, directed, and required to report to the loan commissioners of the Territory their bonded and outstanding indebtedness; and said loan commissioners shall, on written demand of any taxpayer or holder of said indebtedness, require an official report from the board of supervisors or commissioners of counties, the municipal or school authorities, of their bonded and outstanding indebtedness; and said loan commissioners shall have the same power to enforce said order and compel the production of evidence as a court of competent jurisdiction; and said loan commissioners shall provide for the redeeming or refunding of the interest-bearing county, municipal, and school district indebtedness, and

shall refund said indebtedness in the same manner as other Territorial indebtedness, and they shall issue bonds for any interest-bearing indebtedness now allowed to said county, municipality, or school district.

The amendment was agreed to.

The next amendment was, in section 11, line 3, after the word "funded," to strike out "bearing a higher rate of interest than 4 per centum," and in line 8, before the word "bonds," to strike out "lower interest-bearing;" so as to read:

That whenever any of the holders or owners of any bonds, warrants, or other evidence of indebtedness of the kind and description in this act authorized to be funded, desire to surrender the same to the loan commissioners on or before the maturity of said indebtedness and exchange such bonds, warrants, or other evidences of indebtedness for the bonds by this act authorized to be issued, it shall be the duty of the loan commissioners to receive and cancel the indebtedness so surrendered and issue in lieu thereof to said holders or owners of said surrendered obligations 4 per cent Territorial bonds.

The amendment was agreed to.

The next amendment was, in section 16, line 1, after the word "that," to strike out:

The provisions and requirements of this act shall apply to and be in full force and effect in all the Territories of the United States; and all outstanding bonds, warrants, and other evidences of indebtedness of said Territories, and the counties, school districts, and municipalities within said Territories heretofore authorized by legislative enactments of said Territories, or by Congress, and which said bonds, warrants, and other evidences of indebtedness have been sold, donated, or exchanged in good faith, and which are now held by innocent purchasers by purchase, donation, or exchange, shall be funded as in this act provided; and all of said bonds, warrants, and other evidences of indebtedness so authorized, issued, sold, donated, or exchanged as aforesaid are hereby confirmed, approved, and validated, and shall be funded as in this act provided.

And insert:

The United States shall in no way be liable for any of the indebtedness in this act authorized to be funded.

So as to make the section read:

SEC. 16. That the United States shall in no way be liable for any of the indebtedness in this act authorized to be funded.

The amendment was agreed to.

The next amendment was, in section 17, line 4, after the word "eighty-six," to strike out:

Known as the Harrison Act: *Provided, however*, That the present existing and outstanding indebtedness, together with such warrants as may be issued for the necessary and current expenses of carrying on Territorial, county, municipal, and school governments for the year ending December 31, 1898, may also be funded and bonds issued for the redemption thereof; and thereafter no warrants, certificates, or other evidences of indebtedness shall be allowed to issue or be legal where the same is in excess of the limit prescribed by the Harrison Act.

So as to make the section read:

SEC. 17. That nothing in this act shall be construed to authorize any future increase of any indebtedness in excess of the limit prescribed by the act of Congress approved July 30, 1886.

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

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

The bill was read the third time, and passed.

Mr. BRICE. I move that the Senate request a conference with the House of Representatives on the bill and amendments.

The motion was agreed to.

By unanimous consent, the Presiding Officer was authorized to appoint the conferees on the part of the Senate; and Mr. THURSTON, Mr. SHOUP, and Mr. WHITE were appointed.

POST-OFFICE APPROPRIATION BILL.

Mr. ALLISON. I ask that the Post-Office appropriation bill may be laid before the Senate.

The PRESIDING OFFICER. The Chair lays before the Senate the bill indicated, which will be read by title.

The SECRETARY. A bill (H. R. 10289) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1898.

Mr. QUAY. Mr. President——

Mr. ALLISON. I was about to move that the Senate adjourn.

Mr. QUAY. I wish to suggest to the Senator, and I trust he will withdraw his motion for the purpose of permitting me to make the suggestion, that the Senate might now devote five or ten minutes to the consideration of the measure known as the Little bill, to prohibit the sale of intoxicating liquors in the Capitol.

Mr. ALLISON. I certainly have no objection if the Senator thinks he can pass the bill to-night.

Mr. QUAY. I should be very glad, if the Senate will indulge me, to call up the bill.

Mr. HILL. We last evening passed a substitute for that bill, which is a measure to provide an additional supply of pure and wholesome water for the District of Columbia. That answers the purpose.

Mr. QUAY. We can take care of the water, and the tea, too.

Mr. ALLISON. I am satisfied that it will be impossible to dispose of the bill to-night, in view of the thinness of the Senate.

Mr. QUAY. Then I give notice that I will call it up to-morrow.

Mr. HILL. I give notice that I will oppose it.

Mr. ALLISON. I move that the Senate adjourn.

The motion was agreed to; and (at 11 o'clock and 35 minutes p. m.) the Senate adjourned until to-morrow, Saturday, February 27, 1897, at 11 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate February 26, 1897.

PROMOTIONS IN THE ARMY.

Cavalry arm.

First Lieut. Elon Farnsworth Willcox, Sixth Cavalry, to be captain, February 6, 1897, vice Carter, Sixth Cavalry, appointed assistant adjutant-general, who resigns his line commission.

Second Lieut. Milton Fennimore Davis, Fourth Cavalry, to be first lieutenant, January 14, 1897, vice Michie, Second Cavalry, appointed adjutant.

Ordnance Department.

Maj. Isaac Arnold, jr., to be lieutenant-colonel, February 22, 1897, vice Parker, deceased.

Cavalry arm.

Second Lieut. James Augustine Ryan, Tenth Cavalry, to be first lieutenant, February 3, 1897, vice Preston, Ninth Cavalry, appointed adjutant.

Second Lieut. Frank Merrill Caldwell, Third Cavalry, to be first lieutenant, February 6, 1897, vice Willcox, Sixth Cavalry, promoted.

Infantry arm.

First Lieut. Benjamin Ward Leavell, Twenty-fourth Infantry, to be captain, February 12, 1897, vice Bullis, Twenty-fourth Infantry, appointed paymaster, who resigns his line commission.

CONSULTING ENGINEER, INTERNATIONAL BOUNDARY COMMISSION.

W. W. Follett, to be consulting engineer of the United States on the International (Water) Boundary Commission provided for in the convention with Mexico of March 1, 1889, to fill a vacancy.

PROMOTIONS IN THE NAVY.

Lieut. Commander Uriel Sebree, to be a commander in the Navy from the 24th day of February, 1897, vice Commander Francis M. Green, retired.

Lieut. Uriah R. Harris, to be a lieutenant-commander in the Navy from the 24th day of February, 1897 (subject to the examinations required by law), vice Lieut. Commander Uriel Sebree, promoted.

Lieut. (Junior Grade) Augustus N. Mayer, to be a lieutenant in the Navy from the 24th day of February, 1897 (subject to the examinations required by law), vice Lieut. Uriah R. Harris, promoted.

UNITED STATES DISTRICT JUDGE.

William W. Clark, of North Carolina, to be United States district judge for the eastern district of North Carolina, vice Augustus S. Seymour, deceased.

POSTMASTERS.

Alice B. Bussey, to be postmaster at Cuthbert, in the county of Randolph and State of Georgia, in the place of Alice B. Bussey, whose commission expired January 4, 1897.

Ira R. Allen, to be postmaster at Fairhaven, in the county of Rutland and State of Vermont, in the place of Warren L. Howard, removed.

HOUSE OF REPRESENTATIVES.

FRIDAY, *February 26, 1897.*

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.

THE RECORD.

Mr. MILES. Mr. Speaker——

Mr. PERKINS. I desire to present a privileged report.

Mr. MILES. Mr. Speaker, I rise to a question of personal privilege.

The SPEAKER. The gentleman from Maryland rises to a question of personal privilege.

Mr. MILES. Mr. Speaker, in the consideration of the bill H. R. 4808, from the Judiciary Committee, of which I have the honor to be a member, on yesterday I participated to some extent in the colloquial debate. The gentleman from Illinois [Mr. HOPKINS] laid down a certain proposition of law to which I respectfully and particularly called his attention, and I begged leave to differ with that gentleman on the principle of law as he had stated it. I had no objection to the position which the Reporter's notes as taken yesterday indicated that I had taken on the principle of law then under discussion. I supposed that the RECORD this morning would show his position and mine as taken on yesterday. I find, however, this morning that the gentleman from Illinois has seen fit to

correct the RECORD in such a way as to reverse positions with me, and to put me in the position of denying a proposition of law which I consider sound.

Mr. PAYNE. May I ask the gentleman a question?

Mr. MILES. Certainly.

Mr. PAYNE. The gentleman refers to the gentleman from Illinois [Mr. HOPKINS]. I notice that he is not here. Will not the gentleman defer until the gentleman from Illinois comes in?

Mr. MILES. I would like to say, Mr. Speaker, that I would gladly do that, except that I will be compelled to ask leave of absence on account of sickness in my family, and may be away a few days. I desire that the RECORD shall be corrected, in order that I may be put right before I shall leave. I have no disposition to insist that the motion which I shall presently make shall be acted on now, namely, that the RECORD be corrected so as to conform to the notes of the Reporter, which I have before me, and which I propose to have read. I have no objection whatever to the gentleman from Illinois correcting the RECORD so as to sustain his well-known reputation as a lawyer; but I have very serious objection to the gentleman so correcting the RECORD as to put me in a ridiculous position, and to put me before the lawyers of this House and the country in the position of denying the very proposition of law which he himself was denying. I shall, therefore, ask, Mr. Speaker, that the Reporter's notes as taken be read; that the notes as corrected by the gentleman from Illinois be read; and I shall move that the RECORD, on page 2350, containing the remarks of the gentleman from Illinois, be amended so as to conform with the Reporter's notes.

The SPEAKER. The Clerk will read as indicated by the gentleman from Maryland.

Mr. MILES. I would like to call the attention of the Speaker to the fact that, although the Reporter's notes are interlined, the Clerk will be able to read very distinctly what was said. The gentleman from Illinois being absent, I have no disposition to seek to put him in a false position. I believe he made a bad break as a lawyer, but I believe him to be a good lawyer, and a little too much of a tactician for me. I desire, Mr. Speaker, simply to put myself right; I am perfectly content, however, and want it understood that so far as I am concerned the whole matter may be stricken out, in order to protect the gentleman's reputation as a lawyer.

Mr. PAYNE. I still suggest to the gentleman to let this matter stand over until the gentleman from Illinois [Mr. HOPKINS] comes in.

Mr. MILES. This is my only opportunity.

Mr. GROUT. I understand the gentleman says it may lay over for action?

Mr. MILES. Until next week, when I expect to be here, if the gentleman considers it of sufficient importance.

Mr. PAYNE. I think the gentleman from Illinois [Mr. HOPKINS] will be in in a few minutes. He is in the city, and no doubt he will be here directly.

Mr. MILES. I would like to have the Reporter's notes read. I want the Reporter's notes read without the interlineations, and then I desire that the Reporter's notes shall be read with the interlineations which were made by the gentleman from Illinois.

The Clerk read as follows:

Mr. RAY. My friend from Illinois [Mr. HOPKINS] does not claim that the sureties on a sheriff's or a marshal's bond are liable in case he makes a mistake?

Mr. HOPKINS of Illinois. I undertake to say that if an action would lie against the principal without a bond, then, in my State, if the deputy makes a false arrest his principal, the sheriff, is liable for it, and his bondsmen are liable upon an action brought against the principal, the sheriff.

Mr. WATSON of Ohio. What does a marshal or a sheriff give bonds for?

Mr. HENDERSON. Not against murder.

Mr. WATSON of Ohio. Against breach of the peace?

Mr. RAY. Against murder and against assault and battery——

Mr. HOPKINS of Illinois. A sheriff gives bond against his illegal acts, and against the illegal acts of his deputy, and his bondsmen are liable for his acts under color of his office.

Now, allow me to state my proposition a little further. These gentlemen seem to take exception to it.

Mr. WATSON of Ohio. Not all of us; I agree with the gentleman.

Mr. HOPKINS of Illinois. Under the law as it exists to-day the bondsmen of these officers of the courts are liable for their illegal acts. If a sheriff arrests unlawfully a constituent of mine, that constituent has a right to sue the bondsmen. But in this bill there is no such provision. And the remedy which is proposed here is a remedy without any merit whatever, because these post-office inspectors are in general men without any property. There is no method of garnisheeing the salaries paid by the Government of the United States. If, therefore, a post-office inspector is clothed with the authority proposed in this bill, there is absolutely no remedy for a man who may be unlawfully arrested by such an official. So it seems to me that if gentlemen here desire to give to post-office inspectors authority which they do not now possess, the bill ought to be elaborated so as to make these men liable for their unlawful acts. That the bill as now framed does not do this is my chief objection to its passage in its present form.

Mr. MILES. Do I understand the gentleman from Illinois [Mr. HOPKINS] to maintain that the bondsmen of a sheriff or marshal or deputy marshal are responsible for any illegal acts of that officer, or does the gentleman mean to say that they are responsible only for acts necessarily incident to the discharge of the duties of the office?

Mr. HOPKINS of Illinois. I mean to say that as the bond runs, the bondsmen are liable to pay whatever judgment is rendered against the officer.

Mr. MILES. Of course; but can judgment be rendered for any unlawful act that he may commit?

Mr. HOPKINS of Illinois. I undertake to say that it can in Illinois; and such ought to be the law everywhere.

Mr. MILES. It certainly would not be good law anywhere else than in Illinois.

Mr. HOPKINS of Illinois. Well, I understand the law is the same in Ohio and most of the States.

Mr. BURTON of Missouri. I desire to yield five minutes to the gentleman from New York [Mr. RAY] and then I wish to reserve the balance of my time. I trust the Chair will recognize, at the end of five minutes, the gentleman from Arkansas [Mr. TERRY].

Mr. RAY. Mr. Speaker, some of these gentlemen have taken issue with me as to the law in this case as I have stated it. I said that any man who would read the statutes would not make the statement that some of these gentlemen have made, and I was contradicted by some of my wise friends. Now, the Congress of the United States has passed a law on this subject, and I desire to read it. Perhaps I do not understand it, but I think I do. Section 786 of the Revised Statutes of the United States reads as follows:

The Clerk read as follows:

Mr. RAY. My friend from Illinois [Mr. HOPKINS] does not claim that the sureties on a sheriff's or a marshal's bond are liable in case he makes a mistake?

Mr. HOPKINS of Illinois. I undertake to say that if an action would lie against the principal without a bond, then, in my State, if the deputy makes a false arrest acting under the color of his official authority, his principal, the sheriff, is liable and his bondsmen are liable upon an action brought against the sheriff.

Mr. WATSON of Ohio. What does a marshal or a sheriff give bonds for?

Mr. HENDERSON. Not against murder.

Mr. WATSON of Ohio. Against breach of the peace?

Mr. RAY. Against murder and against assault and battery——

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Now, allow me to state my proposition a little further. These gentlemen seem to take exception to it.

Mr. WATSON of Ohio. Not all of us; I agree with the gentleman.

Mr. HOPKINS of Illinois. Under the law as it exists to-day the bondsmen of these officers of the courts are liable for their illegal acts. If a sheriff arrests unlawfully a constituent of mine, that constituent has a right to sue the bondsmen. But in this bill there is no such provision. And the remedy which is proposed here is a remedy without any merit whatever, because these post-office inspectors are in general men without any property. There is no method of garnisheeing the salaries paid by the Government of the United States. If, therefore, a post-office inspector is clothed with the authority proposed in this bill, there is absolutely no remedy for a man who may be unlawfully arrested by such an official. So it seems to me that if gentlemen here desire to give to post-office inspectors authority which they do not now possess, the bill ought to be elaborated so as to make these men liable on good and sufficient bonds for their unlawful acts. That the bill as now framed does not do this is one of my objections to its passage in its present form.

Mr. MILES. Do I understand the gentleman from Illinois [Mr. HOPKINS] to maintain that the bondsmen of a sheriff or marshal or deputy marshal are responsible for any illegal acts of that officer, or does the gentleman mean to say that they are responsible only for acts necessarily incident to the discharge of the duties of the office?

Mr. HOPKINS of Illinois. I mean to say that as the bond runs, the bondsmen are liable to pay whatever judgment is rendered against the officer.

Mr. MILES. Of course; but can judgment be rendered for any unlawful act that he may commit?

Mr. HOPKINS of Illinois. I undertake to say that it can in Illinois, if done under color of his office; and such ought to be the law everywhere.

Mr. MILES. It certainly would not be good law anywhere else than in Illinois.

Mr. HOPKINS of Illinois. Well, I understand the law is the same in Ohio and most of the States.

Mr. BURTON of Missouri. I desire to yield five minutes to the gentleman from New York [Mr. RAY], and then I wish to reserve the balance of my time. I trust the Chair will recognize, at the end of five minutes, the gentleman from Arkansas [Mr. TERRY].

Mr. RAY. Mr. Speaker, some of these gentlemen have taken issue with me as to the law in this case as I have stated it. I said that any man who would read the statutes would not make the statement that some of these gentlemen have made, and I was contradicted by some of my wise friends. Now, the Congress of the United States has passed a law on this subject, and I desire to read it. Perhaps I do not understand it, but I think I do. Section 786 of the Revised Statutes of the United States reads as follows:

Mr. MILES. Now, Mr. Speaker, as my attention has been called to the fact that the gentleman from Illinois [Mr. HOPKINS] is absent, I desire to say that if it is understood that my motion that the RECORD be corrected so as to conform to the notes of the stenographer shall remain pending, I will not insist upon its consideration at this time, but will wait until the gentleman from Illinois can have an opportunity to be heard upon it if he so desires.

Mr. PAYNE. I hope that will be done.

The SPEAKER. The gentleman from Maryland must make some motion.

Mr. MILES. I have made a motion. I have moved that the RECORD, on page 2350, containing the remarks of Mr. HOPKINS of Illinois, be so corrected as to conform to the notes of the Official Reporter.

The SPEAKER. The gentleman moves that the RECORD be corrected on page 2350, in the part indicated by him, so as to conform to the notes of the stenographer. That is the motion now pending before the House.

Mr. MILES. Now, Mr. Speaker, I ask unanimous consent, in deference to the gentleman from Illinois, that my motion lie over until he can have an opportunity to be present and be heard upon it.

The SPEAKER. The gentleman from Maryland asks unanimous consent that his motion lie over subject to being called up by him; not, however, to interfere with——

Mr. MILES. I can not make any qualifications of my request, Mr. Speaker.

The SPEAKER. The fear of the Chair is that, as the time will be very much occupied from now until the end of the session, this matter might interfere with more urgent public business.

Mr. MILES. Well, Mr. Speaker, I am not responsible for this error, and I am not content that the RECORD shall stand so that the gentleman from Illinois and I shall appear to have exchanged positions upon a legal proposition, and if I am not permitted to have the motion lie over in deference to the gentleman from Illinois, then, in deference to myself, I must insist upon its being disposed of now.

The SPEAKER. The Chair merely desired to know how long the gentleman desired to have the motion lie over.

Mr. MILES. If I can not have unanimous consent that it lie over, I shall insist upon having it disposed of some time before 3 o'clock to-day, as I shall be compelled to leave at that time.

Mr. PAYNE. If it is to go over to be called up during the day, I do not see any objection to that.

The SPEAKER. The gentleman from Maryland asks unanimous consent that this motion lie over for the present, to be called up at some time during the day.

There was no objection, and it was so ordered.

CORRECTION.

Mr. BARTHOLDT. Mr. Speaker, I desire to correct the Journal. On page 5 of volume 1 of the Journal of this Congress, published a few days ago, I find that my name is omitted from the list of those who cast their votes for the honored occupant of the Speaker's chair. By reference to page 4 of the RECORD it will be seen that I did cast my vote for Hon. THOMAS B. REED for Speaker of this House, and I will add that if I had had ten votes I should have cast them all the same way.

INTERNATIONAL MONETARY CONFERENCE.

Mr. CHARLES W. STONE. Mr. Speaker, I move to suspend the rules and pass the bill S. 3547, with the amendments recommended by the Committee on Coinage, Weights, and Measures.

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

ORDER OF BUSINESS.

Mr. MORSE. Mr. Speaker, I rise to a question of order.

The SPEAKER. The gentleman will state it.

Mr. MORSE. I have been examining the Manual, and I think I am entitled to have consideration of House bill No. 366, which was under consideration on last suspension day. I ask the attention of the Chair to page 348 of the Manual, which says that on the third Monday of each month——

The SPEAKER. If the gentleman from Massachusetts will suspend, the Chair will try to see that justice is done him.

Mr. MORSE. I thank the Speaker. I trust that he will see that I do not lose any of my rights.

The SPEAKER. The Chair will see that the gentleman from Massachusetts does not lose either his rights or his privileges.

INTERNATIONAL MONETARY CONFERENCE.

The bill (S. 3547) was read, as follows:

Be it enacted, etc., That whenever after March 4, 1897, the President of the United States shall determine that the United States should be represented at any international conference called by the United States or any other country with a view to securing by international agreement a fixity of relative value between gold and silver as money by means of a common ratio between these metals, with free mintage at such ratio, he is hereby authorized to appoint five or more commissioners to such international conference; and for compensation of said commissioners, and for all reasonable expenses connected therewith, to be approved by the Secretary of State, including the proportion to be paid by the United States of the joint expenses of any such conference, the sum of $100,000, or so much thereof as may be necessary, is hereby appropriated.

SEC. 2. That the President of the United States is hereby authorized, in the name of the Government of the United States, to call, in his discretion, such international conference, to assemble at such point as may be agreed upon.

Mr. MCRAE, Mr. QUIGG, and Mr. DOCKERY demanded a second.

Mr. CHARLES W. STONE. Mr. Speaker, I ask unanimous consent that a second may be considered as ordered.

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent that a second be considered as ordered. Is there objection?

Mr. MCRAE. I object.

The SPEAKER. The Chair desires to submit the question to the House. The gentleman from Pennsylvania [Mr. CHARLES W. STONE] moves to suspend the rules and pass the bill (S. 3547), which has been read, with certain amendments which have been reported to the House from the Committee on Coinage, Weights, and Measures, and the question is upon the suspension of the rules.

Mr. RICHARDSON. Mr. Speaker, I rise to a question of order.

The SPEAKER. The gentleman will state it.

Mr. RICHARDSON. It may be that there is no rule of the House and no custom that would control in the matter, but the gentleman from Arkansas [Mr. MCRAE], who is a member of the committee and is opposed to the principle of this proposition, as I understand, rose and demanded a second. The Chair, in his discretion, recognized the gentleman from New York [Mr. QUIGG] as calling for a second. The effect of that recognition, under our rules, is to put the control of the time on both sides in the hands of gentlemen on the same side of the question.

The SPEAKER. The gentleman is correct as to the practice, but the Chair was informed, or supposed he was informed, by the gentleman from Arkansas that he was in favor of the proposition, and therefore told him that he thought he ought to recognize somebody who was opposed to it. If the Chair was mistaken in that, he will accord recognition to the gentleman from Arkansas.

Mr. RICHARDSON. I was under the impression that the gentleman from Arkansas was opposed to the proposition.

The SPEAKER. Possibly the Chair misunderstood.

Mr. MCRAE. I did state to the Chair that I would perhaps vote for this bill, but explained——

Mr. MCCREARY of Kentucky. Mr. Speaker, a parliamentary inquiry——

The SPEAKER. The Chair would like to have the present one disposed of.

Mr. MCRAE. I stated to the Chair the exact position I occupied toward this bill. While I have no faith in the scheme proposed by the bill, I expect——

Mr. GROSVENOR. I rise to a point of order.

Mr. MCRAE. I expect, if we are fairly treated, and an opportunity given to explain why, to vote for it.

Mr. GROSVENOR. I make the point of order that debate on the question is not in order at this stage.

The SPEAKER. The gentleman from Arkansas is not debating the question. He is simply making a statement in regard to the parliamentary situation—correcting a misunderstanding that may have existed.

Mr. RICHARDSON. Besides, there is already a point of order pending.

Mr. MCRAE. While I am opposed, as I believe the most of the Democratic party are opposed, to this method of reaching the question, yet those of us who were members of that committee have felt that it was our duty to consent to the reporting of the bill, and perhaps we may vote for it, in order that the judgment of the people as registered in the November election in favor of an international agreement may be promptly and fairly tested. We thought that the minority in this House and the minority on the committee should at least have the right to control a part of the little time allowed, and for that purpose and for these reasons I sought recognition.

The SPEAKER. The Chair desires to recognize members in accordance with a distinct understanding that a part of the time goes to one side of the question and a part to the other. The Chair hopes the gentleman from Tennessee will accord to the Chair a desire to carry out that understanding.

Mr. RICHARDSON. Unqualifiedly. I indorse the position of the Chair in this matter. I was under the impression that the gentleman from New York [Mr. QUIGG] agreed with the gentleman from Pennsylvania; and I meant no reflection on the gentleman from New York in opposing the recognition made by the Chair. I thought the minority of the House ought to control the time in opposition to the measure. But I think the Chair is correct if the gentleman from Arkansas occupies the position which I now understand him to state that he does.

The SPEAKER. Is there objection to considering a second as ordered?

Mr. MCCREARY of Kentucky. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will proceed.

Mr. MCCREARY of Kentucky. Under the rule, if the pending motion be seconded, only twenty minutes are allowed for debate on each side. I desire, at the proper time, to move that one hour be allowed on each side. This is a very important bill.

Mr. DINGLEY. The time can only be extended by unanimous consent.

Mr. MCCREARY of Kentucky. I am aware of that. I desire to ask unanimous consent at the proper time.

The SPEAKER. Is there objection to considering a second as ordered?

There was no objection.

So the motion to suspend the rules was seconded.

The SPEAKER. Twenty minutes on each side are now allowed for debate. The gentleman from Pennsylvania [Mr. CHARLES W. STONE] is recognized to control the time in the affirmative, and the gentleman from New York [Mr. QUIGG] to control the time in the negative.

Mr. MCCREARY of Kentucky. I ask unanimous consent (though I would prefer that the request be made by my friend from Pennsylvania) that one hour be allowed for debate on each side of this question. This is a matter of international importance. This is one of the most important bills that we have had before the House of Representatives. And I should like to occupy fifteen or

twenty minutes myself. I had the honor of participating in the last international conference on this subject, and there are some questions connected with it that I should like to bring to the attention of the House.

The SPEAKER. The gentleman from Kentucky [Mr. McCREARY] asks unanimous consent that the time for debate be extended so as to allow one hour on each side. Is there objection?

Mr. GARDNER. I object.

Mr. GROW. I hope the gentleman from New Jersey [Mr. GARDNER] will withdraw his objection. On a question of this kind a debate of two hours is certainly not too long.

Mr. GARDNER. Upon the appeal of gentlemen around me, I withdraw the objection.

The SPEAKER. Is there further objection? The Chair hears none, and the time for debate is extended accordingly. The gentleman from Pennsylvania [Mr. CHARLES W. STONE] is recognized.

Mr. BAILEY. I ask unanimous consent, in view of the extension of time, that the two hours shall be so divided that gentlemen represented by the gentleman from New York [Mr. QUIGG], who believe in the maintenance of a single gold standard, shall have one-third; gentlemen represented by the gentleman from Pennsylvania, who believe in international bimetallism, shall have one-third, and that the gentleman from Arkansas [Mr. McRAE] shall be permitted to control one-third of the time in behalf of those who believe in independent bimetallism.

Mr. DINGLEY. The artificial distinction which the gentleman is making can not be admitted.

Mr. BAILEY. Of course the granting of the request does not agree to the distinction.

Mr. DINGLEY. Let the time be divided between those who are in favor of this bill and those who are opposed to it. That is all there is of it.

Mr. BAILEY. The gentleman knows very well that there are three different views in the House on this question.

Mr. MILNES. Regular order.

Mr. TERRY. Let us have a little fair play about this matter, instead of calling for the regular order.

The SPEAKER. The gentleman from Pennsylvania [Mr. CHARLES W. STONE] is recognized.

Mr. CHARLES W. STONE. Mr. Speaker, in order that there may be no misunderstanding, I desire to ask the Chair whether the extension of time was in addition to the twenty minutes allowed under the rule or whether it included the twenty minutes.

The SPEAKER. It included the twenty minutes.

Mr. McCREARY of Kentucky. Mr. Speaker, one other question. At the time I asked for the extension, I said that I should want fifteen or twenty minutes myself.

The SPEAKER. That was not included in the request submitted by the Chair.

Mr. McCREARY of Kentucky. I hope I may have that time.

Mr. HENDERSON. Let us have the regular order, and go on with this bill.

Mr. McMILLIN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. McMILLIN. I know that, under the rule, the gentleman having charge of a bill, under the motion to suspend the rules, controls the twenty minutes provided for in the rules. I desire to inquire whether he will control the whole hour, under the agreement that has been made, and whether the gentleman from New York [Mr. QUIGG] will control the hour on the other side.

The SPEAKER. The Chair understands, unless some special provision is made, that the gentleman from Pennsylvania [Mr. CHARLES W. STONE] will be recognized to control the hour on the one side and the gentleman from New York [Mr. QUIGG] to control the hour on the other side.

Mr. McMILLIN. I think there ought to be some equitable disposition of the time.

The SPEAKER. The gentleman from Pennsylvania [Mr. CHARLES W. STONE] is recognized, and the debate begins at a quarter before 1 o'clock.

Mr. CHARLES W. STONE. Mr. Speaker, the purpose of this bill as it came from the Senate was very simple and easily understood. It provided merely for representation of the United States in any international monetary conferene that may be called, and it authorized the President of the United States to call such conference, if, in his judgment, that course seemed judicious.

The committee of the House of Representatives having charge of this bill have recommended some additional features. They propose to vest in the President not simply the power to call a conference, but to prepare for the conference, if necessary, or to substitute for it the plan of negotiation by diplomatic communication.

It is a fact, stated by our representatives at the last conference, that in that conference they were embarrassed, owing to the fact that they had not, as they expressed it, that knowledge of the autonomy and the monetary systems of the nations with which they were to confer that enabled them to formulate propositions which would be likely to be patiently and favorably considered by those nations; and it is in part in aid of a monetary conference, as preliminary thereto, that we propose to vest in the President the right to appoint special commissioners to conduct any preliminary negotiation that may be necessary and that may contribute to the success of the conference.

If in his judgment it is deemed best, if it is deemed that he can promote the purpose of the bill better by commissioning men with special qualifications to conduct diplomatic negotiations with the nations separately in lieu of a conference, this bill provides that he may do it. It simply proposes to vest in the Executive all appropriate means to attain the end which the bill has in view.

As gentlemen are aware, there is an existing law providing for the appointment of commissioners to an international conference by the Senate and the House as well as the President. This bill employs practically the same phraseology in expressing its purpose. A further amendment to the Senate bill now under consideration provides that the existing law shall be repealed, so that there shall be no question whether the proposed legislation is simply supplementary to the present law or whether by implication it repeals it. The committee say that it is prudent and proper, to avoid misunderstanding, that there should be an express repeal, and that the exclusive power of designating the representatives of this country at the international monetary conference shall be vested in the President.

Now, as to the general purpose of the bill, I do not propose in anything that I shall say to open the door for an academic discussion of the relative merits of silver and gold or of the question of a single or a double standard. That question was debated on a hundred thousand platforms throughout this country before the last election, and the verdict of the people was rendered. A fair concensus of the opinion of the voters of the country would indicate that the people of the United States are in favor of what is termed bimetallism, but they differ in the methods by which they will attain it, and the basis upon which they would have it rest.

The majority of the voters of this country have pronounced in unmistakable terms that they propose to attain it by no methods and to have it rest on no basis that shall lower the present standard of value or diminish by the hundredth part of a cent the value of a single dollar that now exists in our currency. They insist that the end in view shall be attained only with due reference to that fundamental principle, and that such end can be attained with due regard to that principle only by the concurrent agreement of the principal commercial nations of the world. We have announced a distinct purpose, a distinct pledge, if you please, that we will endeavor to promote this end by that means, and by that means simply; and the purpose of this bill is to crystallize into statutory form that express sentiment, purpose, and pledge of the American people.

Now, sir, it may be said—it frequently is said—that a conference will be but a vain and useless thing; that we have held four conferences, and that they have been failures. It is true, Mr. Speaker, that we have held four conferences, and it is true that they have not been productive of practical results; but it is also true that the last conference had so much promise of practical results that it saw fit to adjourn with a view of meeting again and continuing the investigation. It is also true, Mr. Speaker, that within the two or three years that have elapsed there has been a decided change in the condition of affairs. The popular branch of the British Parliament twice has passed resolutions favoring an international conference, and they passed them once, at least, without opposition. It is also true that the popular branch of the German legislative body has passed a resolution to a similar effect. It is also true that the French Chamber of Deputies, echoing the declarations of the minister of finance of France, has declared its purpose and its desire to promote this object.

So, sir, with the change of the control of the ministry of England, with the practical change in the zeal and earnestness, at least, of the attitude of France, with a declared interest in this matter in the legislative body of Germany, we approach another conference under entirely different circumstances from those which characterized the opening of the last. And then again, what I deem an important matter, the United States goes into that conference under an entirely different condition of affairs. It was announced in the conference of 1892, by the chairman of our delegation, that the United States then occupied simply a temporary position, prepared to travel one way or the other, as its policy and interest might dictate. The United States enters another conference now with a declaration of a positive purpose and policy. It enters that conference saying to the other nations, "We come to you in agreement substantially; we come not as suppliants, asking any special favor to ourselves, we come to stand by the commercial nations of the world upon whatever basis they may determine, and to compete with them, to struggle with them, if necessary, for our share of the space upon that platform. We come with an avowed purpose, and we ask of them, not simply as a favor to us, but as a matter of common concern, as a matter of interest to them as well as to us, to consider this great question."

I apprehend the representatives and the statement of the United States will be listened to in a manner which we have not been listened to before.

I do not undertake to say, Mr. Speaker, that an international conference is bound to be a success. I do not undertake to say that it will certainly result in the attainment of the purpose stated in the first section of this bill, but I do mean to say that it may result in that conclusion; and I insist that so long as there is reasonable possibility of success we ought in good faith to the American people to make an honest and an earnest effort to attain it. I do not undertake to say that the entire purpose contemplated by this bill may be attained; but I do say that there is a strong probability that something may be done. I say that some step in advance may be taken; and if you can secure an agreement that binds the great commercial nations of the world upon any proposition that recognizes the fact that this is a question of common concern, that it ought to be dealt with as a matter of common concern by all these nations, it is a long step in advance. But, sir, whether this shall be a success or failure, whether practical results shall come from it or not, it is time that the question was settled. If it shall succeed, if beneficent results shall come to this people and to the world, we shall all be gratified. If it shall not succeed, then there will be removed from the domestic arena an important factor which now seems to enter into the solution of our currency question.

So, sir, I say we ought to proceed, we ought to sound and sound to the bottom the possibilities of some practical results from this line of action. Upon these grounds, Mr. Speaker, upon the ground that there is a possibility, that there is a reasonable probability of progress, if not the attainment of the entire purpose in view, upon the higher ground of a moral obligation arising from a distinct and positive pledge to the American people, I ask for the passage of this bill. We have made an honest promise, a deliberate promise, and a promise by and to an honest people ought to be honestly and fairly recognized, and honestly put into practical operation. [Loud applause.]

Now, Mr. Speaker, I do not propose to use the time which I would like to occupy, but which many gentlemen upon this floor also have some claim to; and I desire as far as possible to divide it in such a way as shall be fair to the various elements desiring to be heard on this question.

Mr. HARTMAN. I desire to ask the gentleman a question. Has the gentleman any information which he would be willing to give to the House as to the effect, or the probable effect, of the additional amendments which are put on the bill?

Mr. CHARLES W. STONE. In answer to the inquiry of the gentleman from Montana, I have only to say that the amendments placed upon the bill are designed to give it greater efficiency, and in consultation—not consultation, but conversation—with various friends of the bill in the Senate, I am advised that they are regarded as valuable and important additions to the bill, which would rather tend to facilitate than to impede its passage. How much time have I occupied, Mr. Speaker?

The SPEAKER. The gentleman has occupied fourteen minutes.

Mr. CHARLES W. STONE. I will yield fifteen minutes to the gentleman from Kentucky [Mr. McCREARY], who was a member of the last international monetary conference.

Mr. McCREARY of Kentucky. Mr. Speaker, I shall support the Senate bill and also the amendment offered by the committee. The object of the proposed legislation is to secure, by an international monetary conference, or by diplomatic negotiations, "an international agreement establishing a fixity of relative value between gold and silver as money by means of a common ratio between those metals, with free mintage at such ratio." The bill fixes no time for the conference to be called or for the diplomatic negotiations to commence; but I have confidence that the incoming President, who is vested with such important power, will act promptly and wisely. I am in favor of the bill because I wish to do all in my power to promote bimetallism, and also because I desire to give Republicans every opportunity to comply with the pledge made in their last national platform.

The demands of commerce, agriculture, industry, and finance in the great and growing nations of the world, where progress and development, telegraphic communication, and railway facilities are so conspicuous, make it absolutely essential that there should be a currency which is safe and sound and of a common standard of value, and receivable by the people of every commercial nation on earth. That there is a growing feeling in our country in favor of an international agreement is very manifest. Both of the great political parties referred favorably to an international monetary conference in their national platforms in 1892, and in 1896 the Republican party in national convention declared:

> We are opposed to the free coinage of silver except by an international agreement with the leading commercial nations of the world, which we pledge ourselves to promote; and until such agreement can be obtained the existing gold standard must be preserved.

In addition to this, the President-elect, McKinley, declared in his letter of acceptance that he would use all proper means to promote an international agreement. The introduction of this bill, and its almost unanimous support in the Senate and the support it will receive in the House of Representatives, presents additional evidence that the people and their representatives are not in favor of the single gold standard, but that they earnestly desire pure and genuine bimetallism. When we add to this the fact that at the last November election six and one-half millions of voters cast their votes for a candidate for President who was in favor of the free and unlimited coinage of gold and silver at the ratio of 16 to 1 by the United States alone, the conviction that the people are in favor of bimetallism is clear and certain. The method of obtaining bimetallism seems to be the point of difference between the people of our country, and this is the problem which is to be solved. It is certain, however, that the last November election showed that the voters of our country were by an immense majority in favor of the concurrent use of gold and silver as a circulating medium of exchange at a fixed relative value as standard coin and legal tender. The Democratic party proposed to solve the problem by the free and unlimited coinage of gold and silver by the United States alone. The Republican party opposed this proposition, and pledged its best efforts to bring about bimetallism through an agreement between our country and other leading commercial powers. I have no doubt that thousands and perhaps hundreds of thousands of voters in the United States voted against the Democratic candidate for President and for the Republican candidate for President because they believed an international agreement was possible, and that this could be brought about with less disturbance to business and values and less danger to existing conditions than by the independent action of the United States.

The time has now come when we have an opportunity to try to solve the problem and determine whether international bimetallism is practicable. We have reached a situation when honest, earnest efforts should be made to secure an international agreement with the great commercial nations of the world; and if success should not be attained, then we will be ready to consider some other plan. It is certain that the demand for an international monetary agreement will not cease until it is accomplished or until an earnest effort results in failure. If it succeeds, I shall rejoice and be glad that the most momentous question now engaging the attention of the civilized world has been settled. If it fails, the tendency in favor of independent action by the United States alone will be greatly strengthened.

In this connection I can not omit to speak of the distinguished Senator who, as a preliminary promoter of international bimetallism, is now in Europe. He does not seem to have been successful in England, but his earnest efforts and the generous donation of his time, and the indorsement which it is claimed is given to him by those now high in authority, or soon to be high in authority, are confessions that something is desired or needed in monetary affairs other than that we now have.

Mr. COX. I would like to ask the gentleman two or three questions.

Mr. McCREARY of Kentucky. My time is limited. Give me one of them now. I yield for one question only.

Mr. COX. Did you not state on the floor of this House that at the last international conference, of which you were a member, the trouble in reaching bimetallism by international agreement was owing to the attitude of England?

Mr. McCREARY of Kentucky. My statement was not so broad as that. There were other causes. England has always stood like a lion in the way, obstructing movements toward international bimetallism. She is a creditor nation, and has had the single gold standard since 1816, and many believe she will never become a party to an international monetary agreement for the free coinage of gold and silver until other nations have entered into the compact and the situation compels her to such action. I hope she will join the movement after a while. I have no doubt the distinguished Senator who crossed the ocean in the interest of bimetallism found more encouragement in the Latin Union countries (France, Belgium, Switzerland, Italy, and Greece) and also in Spain and Russia, where silver and gold are used in nearly equal quantities as money, than he received in England.

I believe the nations of Europe, with perhaps the exception of the Scandinavian countries (Norway, Sweden, and Denmark), will gladly meet in conference with our country. Since I had the honor of being a member of the international monetary conference which met in Brussels, Belgium, in November, 1892, I have received many letters from the delegates composing that conference. I shall briefly refer to several letters received by me during the last month from distinguished and influential persons residing in some of the great commercial nations of Europe. Alfred de Foville, director of the mints in France, in his letter dated January 13, 1897, says:

> On the 9th of December last our prime minister, Meline, said to the Chamber of Deputies, relative to the agricultural crisis: "As to the remedy, it is

clearly indicated. It is to return to a state of thing which up to 1873 assured the safety of affairs—the reestablishment of a fixed relation between gold and silver."

Montefiore Levi, president of the Brussels monetary conference of 1892, and now a Belgian senator, in his letter dated January 11, 1897, says:

My firm belief is that if the United States proposes a conference it would meet with universal acceptance.

G. M. Boissevain, a delegate to the Brussels conference from the Netherlands, and the author of several important works on bimetallism, says in his letter dated January 16, 1897:

It is certain that my Government is as strongly as ever in favor of an international bimetallic arrangement, provided it can be secured on a solid basis, and in this opinion the Government is heartily supported by public opinion. I have a very strong feeling that it would be very desirable and necessary for your Government to invite a conference jointly with a European Government—let it be with France, best of all.

I have another letter, dated January 9, 1897, from one of the most prominent and influential members of Parliament in England, whose name I am not authorized to make public, who says:

It has long appeared to me that the only feasible way of bringing about an international agreement was for France and the United States to join in one at once at 15½ or 16 to 1. I look to France and the United States, by acting boldly, as the only countries fitted to move the question forward. * * * I should hope that if France and the United States agree to open their mints to silver and enter into an agreement for a term of years, England would open the Indian mints, and I believe Germany and other countries could be got to coin silver. France and the United States, with open mints in India, would be strong enough to maintain the parity. * * * When the ratio was once established, I should not despair of Germany and Russia and Austria, and even of England, ultimately joining. But two powers at least must lead the way. These powers must be France and the United States.

The suggestions of this able financier and distinguished member of Parliament are worthy of the kindest and most careful consideration. If the Latin Union countries were able under an international agreement to maintain the parity of gold and silver for many years, the question of the United States and a part of the nations of Europe entering into an agreement is well worthy of examination and consideration, especially when, as he says, Germany, Russia, and Austria, and even England, might ultimately join.

Mr. Speaker, I have been asked what international monetary conferences have accomplished. Four international monetary conferences have been held in the last thirty years. The first conference was held at the invitation of France, and met at Paris on June 17, 1867. The second conference met at the invitation of the United States at Paris, August 16, 1878. The third conference was called by France and the United States, and held in Paris in 1881. The fourth and last conference was held at Brussels in 1892. There were but nine nations represented in the conference of 1878, and thirteen nations represented in 1881. At the last conference, held in Brussels in 1892, twenty nations were represented and all the delegates were in their seats the first day the conference assembled. This showed the deep interest the nations of the world were taking in monetary questions, and that this interest had increased as the years had advanced. When the conference assembled at Brussels, the chairmen of the respective delegations, speaking for each of the twenty nations there represented, admitted that there was a serious monetary condition in Europe, and the minister of finance of Belgium, Mr. Berneart, in his address inaugurating the conference, declared that those who will find a remedy for the difficulties and perils of the actual monetary situation will certainly merit well of humanity; and Mr. Montefiore Levy, on accepting his high office as president of the conference, said with much force that the delegates had assembled to find, if it exists, a means of palliating by a more general use of silver in monetary affairs the serious inconvenience from which every civilized nation suffers to a more or less degree. I refer to these statements to show the great interest in monetary conferences and the universal admission that the monetary condition of Europe needed relief. While the monetary conferences that have been held were not successful on the main question, they made substantial progress in the development of bimetallism and helped to educate the people and open the way for that international agreement which I hope will come after a while.

I have been asked also if the prospect of success is better now than heretofore.

I believe the prospect for international bimetallism is better now than ever before. When the first conference was held, only about half of the nations of Europe participated. At the last conference all sent delegates. In the last year the French Chamber of Deputies and the German Reichstag have each declared in favor of a monetary conference, in order to secure an international agreement for the rehabilitation of silver at a common ratio with gold, and in England the House of Commons urged upon the Government the advisability of doing all in their power to secure, by international agreement, a stable monetary par of exchange between gold and silver.

The latest information I have seen on this subject is in the February number of the National Review, published in London, which contains an important review of the bimetallic situation in Europe by the several leaders of the movement in England, France, and Germany.

Dr. Edmond d'Arters, secretary of the French Bimetallic League, declared that there is no doubt that the French Government and a great majority of the French Parliament are in favor of bimetallism.

Dr. Otto Arendt, a member of the Reichstag and of the Prussian Diet, declares that only England blocks the way. Germany, he says, will participate in a conference called by any other power.

Lord Aldenham, who is a director of the Bank of England, says:

There is no doubt that France and the United States, by agreeing together, would themselves maintain a bimetallic law.

The action of legislative bodies and the declarations of prominent statesmen in the leading commercial nations of Europe show that the desire for international bimetallism is increasing.

I am heartily in favor of the amendment offered by the Committee on Coinage to the Senate bill which authorizes the President in his discretion to appoint one or more commissioners or envoys to such of the nations of Europe as he may designate to seek by diplomatic negotiations an international agreement for the purposes specified in the Senate bill.

The greatest obstacle encountered in all the international monetary conferences, and particularly in the Brussels conference, was that the delegates were not vested with authority to make an agreement, and were compelled to deal with important questions theoretically rather than practically. One of the chief officers of the Bimetallic League in England stated a few days ago his opposition to any conference being summoned unless an agreement has been arrived at beforehand by the countries concerned, and many prominent bimetallists in Europe have recently expressed substantially the same opinion.

If it is possible to arrive at an agreement before the conference meets, the best plan I know of is through diplomatic negotiations.

I believe gold and silver should be maintained side by side; they should be equal in purchasing power, equal in debt-paying power, equal in legal-tender quality.

The position of the United States stands recorded in the act of Congress passed by the Senate and House of Representatives and approved by the President November 1, 1893, and there is no later law on this subject. It is as follows in part:

And it is hereby declared to be the policy of the United States to continue the use of both gold and silver as standard money, and to coin both gold and silver into money of equal intrinsic and exchangeable value, such equality to be secured through international agreement, or by such safeguards of legislation as will insure the maintenance of the parity in value of the coins of the two metals, and the equal power of every dollar at all times in the markets, and in the payment of debts. And it is hereby further declared that the efforts of the Government should be steadily directed to the establishment of such a safe system of bimetallism as will maintain at all times the equal power of every dollar coined or issued by the United States in the markets and in the payment of debts.

The legislation now pending is for the purpose of securing international bimetallism. The bill as amended should be passed unanimously. Let us do all that can be honorably done to secure international bimetallism, and if, after an honest, sincere effort, the great commercial nations of the world will not join us, then the brave, patriotic, self-reliant, and self-confident people of our great Republic will determine what the United States shall do alone.

Mr. Speaker, "there is a divinity that shapes our ends, rough hew them how we will." Monetary problems and other problems are being solved in a way not expected by some. No longer can genuine bimetallism be opposed, as has so often been done, because of the enormous overproduction of silver. In 1890 the production of gold in the world was $118,000,000, and the production of silver about $200,000,000. In six brief years, as if the great Creator of man and of the world had interposed to answer the argument, the amount of gold annually produced in the world nearly doubled, while the amount of silver annually produced increased but little, and the Director of the Mint shows the remarkable fact that in 1896 the world's production of gold was $215,000,000 and the world's production of silver was $215,000,000, coinage value.

No longer can it be claimed that the election of a President will restore prosperity and bring every blessing to our country, for low prices, breaking banks, sheriffs' sales, armies of unemployed men and women, and the absence of a prosperity which cometh not refute the claim.

No longer can it be claimed that the per capita of money in the United States is just and sufficient, for the report of the Director of the Mint shows that in this the most progressive country on earth, surpassing all others in its agriculture, manufactures, mines, railroads, telegraphs, and enterprises of every description, all of which require large amounts of money, the per capita of money in the last quarter of a century has increased less than in any other great country in the world except France, where the per capita has for many years been a third more than in our country.

Since 1873 the per capita of money in the United States has increased $2.67, or from $21.36 to $24.03. In Great Britain it has more than doubled, having increased from $9.90 to $20.80. In

Germany it has increased from $13.59 to $19.28. In Belgium the per capita has doubled, having increased from $14.44 to $28.49, and in Italy it has also doubled, having increased from $4.88 to $9.96.

No longer can it be doubted who are the heaviest losers under existing conditions. There has been a loss to the farmers of this country on their products of nearly one-half by the fall in prices since 1875. I have here an exhibit made by Mr. Barker February 6, 1897, in which he gives the estimated acreage and value of the cereal crops of the United States for 1875, 1885, and 1895 and 1896, which I will insert in the RECORD:

Cereal crops of 1896 and estimation of what their value would have been at 1895, 1885, and 1875 prices.

Crop.	Area, 1896.	Value, 1896.	What the value would have been at prices realized in—		
			1895.	1885.	1875.
	Acres.				
Corn	81,627,000	$491,007,000	$564,042,570	$709,338,630	$1,011,958,530
Wheat	34,619,000	310,603,000	241,986,810	278,682,950	386,594,230
Rye	1,831,000	9,961,000	11,502,230	10,839,520	19,902,970
Oats	27,566,000	132,485,000	161,812,420	217,220,080	299,642,420
Barley	2,951,000	22,491,000	26,204,880	35,530,040	49,370,230
Buckwheat	755,000	5,522,000	6,862,950	5,983,000	9,648,850
Total	149,349,000	972,069,000	1,012,501,860	1,257,594,220	1,777,117,230

Not only has the farmer lost nearly one-half of the amount he should have received on his products, but he has lost heavily in the decrease in value of his land. The census report of 1890 shows that the property, real and personal, in the United States was of the value of $65,037,091,197, and that real estate, with improvements thereon, was valued at $39,544,544,333. According to the best information obtainable, real estate has shrunk in value nearly one-third, but the indebtedness of individuals and corporations, which has been stated by unchallenged authority to be sixteen thousand millions of dollars, has not shrunk, neither has the interest been reduced.

In the light of these facts who can doubt that something is radically wrong. The consensus of opinion is that our monetary system is one of the great causes, if not the greatest cause, of reduction in values, depression in trade, and want of confidence in business circles.

Our whole monetary system should be revised. I regret that my limited time will not permit me to say more on this important subject. The important act to be performed now is to secure bimetallism by international agreement, if possible.

I wish to say in conclusion that the passage of the pending bill will attract attention all over the world, and the people of the United States will watch with the deepest interest the debates and conclusions of the conference and regard its success as the crowning glory of the nineteenth century. The commissioners who will be appointed should go abroad with the indorsement of all parties. The nations of the world should understand by the action of our Congress that we are united and in earnest, and that we desire a fair and just settlement of this question for the benefit of the people and in the interest of nations.

The SPEAKER pro tempore. The time of the gentleman from Kentucky has expired.

Mr. McCREARY of Kentucky. I should like to have five minutes more to finish my remarks.

Mr. CHARLES W. STONE. I should be glad to yield to the gentleman, but in view of the promises I have made to other gentleman I can not do so.

Mr. McCREARY of Kentucky. I ask, then, permission to extend my remarks in the RECORD.

There being no objection, leave was granted.

Mr. QUIGG. Mr. Speaker, I yield twenty minutes to the gentleman from Arkansas [Mr. McRAE].

Mr. MILES. I believe it was understood this morning that I might have an opportunity, notwithstanding this discussion, to call up again the question of privilege which I raised this morning. The gentleman from Illinois [Mr. HOPKINS] is now present, and I want to allow him the opportunity which I stated I was content that he should have.

Mr. QUIGG. That does not come out of the time of this debate, I suppose?

Mr. HOPKINS of Illinois. Mr. Speaker, I requested the reporters to give me the notes of the remarks of the gentleman from Maryland, made this morning, and was waiting for them to be written out, but I had just as soon take the matter up now, if it is the wish of the gentleman.

Mr. MILES. I have no objection.

Mr. HOPKINS of Illinois. I ask the Reporter to allow me to take the notes of the proceedings of yesterday.

Mr. DINGLEY. I suggest that this be postponed until the bill under consideration is concluded.

Mr. MILES. Mr. Speaker, it was well understood this morning that I should have the opportunity which I am now insisting upon. The gentleman from Maine [Mr. DINGLEY] was not present. I assigned as a reason that it would be important for me to leave——

Mr. DINGLEY. But can it not be postponed just as well until this bill is completed?

Mr. MILES. The gentleman was not present when I stated the reason this morning. I can not consent to that, for the reason that I shall be compelled to leave here at 3 o'clock on account of sickness in my family. It will only take a few minutes, as far as I am concerned.

Mr. HOPKINS of Illinois. Mr. Speaker, I did not hear the statement of the gentleman from Maryland this morning, because I was not in the House. I have since conferred with him. The question that he propounded to me yesterday is as follows:

Do I understand the gentleman from Illinois [Mr. HOPKINS] to maintain that the bondsmen of a sheriff or marshal or deputy marshal are responsible for any illegal act of that officer; or does the gentleman mean to say that they are responsible only for acts necessarily incident to the discharge of the duties of the office?

This came up in a running debate, in which the gentleman from New York [Mr. RAY] took, as I supposed, a radical position. I did not fully understand the question of the gentleman from Maryland [Mr. MILES] at the time, and supposed that his position was identical with the one taken by the gentleman from New York [Mr. RAY]. My answer was:

I mean to say that as the bond runs, the bondsmen are liable to pay whatever judgment is rendered against the officer.

His rejoinder was:

Of course; but can judgment be rendered for any unlawful act that he may commit?

My answer, as taken by the Reporter, was:

I undertake to say that it can in Illinois; and such ought to be the law everywhere.

What I desired to impress upon the House yesterday was that the officer and his bondsmen were liable for his acts as such officer while done under the color of his office. When I came to look at my answer as taken by the Reporter, I thought that was not sufficiently clear, and I inserted what my understanding of the law then was and always has been, that he is liable for his acts "done under color of his office."

I inserted those words, which the gentleman complains of, because of the subsequent answer which he made.

Mr. MILES. What was that subsequent answer? The gentleman should read it, in justice to me.

Mr. HOPKINS of Illinois. The subsequent answer of the gentleman is:

Mr. MILES. It certainly would not be good law anywhere else than in Illinois.

Mr. MILES. That is, as you stated it.

Mr. HOPKINS of Illinois. The gentleman's position on the law, as he stated it, was correct law, and as I have understood it, and as I supposed the House understood my position. Now, in inserting the words—

If done under color of his office—

I simply did what has been done by every member of this House in the revision of his remarks where the notes of the Reporter do not state his position as he intended to state it. I did no more than the gentleman from New York or any other member has done in doing that. I did not look at the gentleman's answer yesterday, to see whether I had misconstrued the position of the gentleman from Maryland, and did not notice it until the gentleman called my attention to it after I came in on the floor this morning.

Mr. MILES. The gentleman will admit, however, I think, that the question which I asked him clearly shows that I had a correct apprehension of what he said.

Mr. HOPKINS of Illinois. Your original question, as I understood it, and as I was seeking to state it to the House——

Mr. MILES. But you evidently misunderstood me, did you not?

Mr. HOPKINS of Illinois. Yes; I misunderstood your first question. So that in inserting the words—

If done under color of his office—

I simply exercised the privilege that has never been denied to any member on this floor, and that is constantly practiced by members in revising their remarks.

Mr. COLSON. I ask unanimous consent that the gentleman from Illinois [Mr. HOPKINS] and the gentleman from Maryland [Mr. MILES] be considered as most excellent lawyers. [Laughter.]

Mr. MILES. Mr. Speaker, I do not wish this House to consent to any such general proposition. I think the gentleman from Illinois is an excellent lawyer; I am only a humble member of that great profession; but in this particular instance an humble member of that profession was right, and is willing and content to insist upon the statement that he was right before this high tribunal. The gentleman from Illinois, as I now understand him,

has stated to the House that he misapprehended my question, and that, therefore, he was to some extent wrong, or stated the proposition of law a little too broadly, and that he revised the Reporter's notes so as to confirm the proposition of law which I had laid down. Is that correct or not?

Mr. HOPKINS of Illinois. The gentleman does not understand me to convey the idea that I have misstated him?

Mr. MILES. I do not want to be understood in that way. I do not believe the gentleman undertook, or now undertakes, to misstate me. I accept, Mr. Speaker, in good faith, the explanation which the gentleman has made to the House, and I am content that the matter shall drop where it is. [Applause.]

INTERNATIONAL MONETARY CONFERENCE.

The SPEAKER pro tempore (Mr. GROSVENOR). The Chair recognizes the gentleman from Arkansas for twenty minutes.

Mr. McRAE. I yield five minutes to the gentleman from Florida.

Mr. QUIGG. Does this come out of the time for debate?

The SPEAKER pro tempore. Ten minutes' time has been consumed and will not be considered as having been occupied during this debate.

Mr. QUIGG. I do not know that I understand the Chair to state that the ten minutes is to be deducted from the two hours' debate?

The SPEAKER pro tempore. Debate has been suspended for five minutes. The debate will now continue for the two hours originally agreed upon.

Mr. QUIGG. Excepting the ten minutes?

The SPEAKER pro tempore. The debate will continue for the full time of two hours.

Mr. SPARKMAN. Mr. Speaker, I shall occupy but a few minutes of the time of this House in stating the reasons which impel me to give this measure my support. I voted in the committee to report this bill to the House, and I shall vote here to pass it through the House, because, in my judgment, the people of this country, and a large majority of them, too, are in favor of bimetallism, at least by and through an international agreement. If there is anything in the history of this country during the past twelve months that has been emphasized above everything else, it is that the people desire bimetallism.

When the two great political parties of this country assembled in their respective national conventions last year, each one as I read their platforms declared in favor of bimetallism. True, the Republican party only favored this condition of things through international agreement, but they pledged themselves to use their best efforts to bring about an international agreement, which should result in giving the people bimetallism. The Democratic party did not go so far as that, but considering the conditions surrounding the country and the difficulties lying in the way of international agreement, and recognizing the great necessity of early action, declared in favor of bimetallism at the ratio of 16 to 1. On these two propositions, plainly set forth, each party went to the country and something like 14,000,000 of voters attested the devotion of the people to the double standard.

Now, Mr. Speaker, certainly the Republican party can not object to this bill, which has for its object the furthering of bimetallism by international agreement, as they stand committed to that proposition; nor can the Democratic party object, because the same necessities and conditions which justified them in demanding the free coinage of silver, even at the ratio of 16 to 1, would induce them to agree to a proposition that would give them similar results by international agreement.

Again, Mr. Speaker, I favor the passage of this bill because I think if its provisions are carried out in good faith it will redound to the benefit of the people of this country. As I view the situation which confronts us to-day, I feel that the best interest of the country will be conserved by a return to the bimetallic system, and especially so if it is brought about by international agreement. Many, even of those who supported the Democratic ticket, seemed to think that the proposition to coin gold and silver alike at the ratio of 16 to 1 was an experiment more or less dangerous; but certainly no bimetallist can find any objection to the adoption of that system through the concert of the great commercial nations of the world. And these are the objects and purposes of this bill.

Now, Mr. Speaker, I am not one of those who think that the provisions of this bill can not be carried out, and that the efforts we are making to-day are doomed to failure. On the contrary, I believe that the plan as outlined in this bill can be conducted to a successful termination, provided the proper effort is made to attain success. I believe that success or failure depends largely upon the incoming Administration, which will be charged with the execution of the provisions of this bill.

If an honest, earnest effort is made in that direction, then I believe success will crown the efforts of the President, and he will not have gone out of office before bimetallism by international agreement will have become an accomplished fact, or before such steps shall have been taken as will assuredly bring it about in the near future; but if he should disregard the wishes of the great body of American people, so recently expressed at the polls, and, listening to the whisperings of the small minority who believe in a single gold standard, should make no determined effort in the direction of international agreement upon this great question, then nothing will be accomplished and we had as well not pass this bill, as it is a waste of time and effort.

I repeat, Mr. Speaker, that there is no reason why with proper effort the objects and purposes of this bill should fail of accomplishment. Why, Mr. Speaker, ours is the most powerful nation on the face of the earth, and her influence when properly exerted is correspondingly great. Our past history affords many illustrations of this truth. Three-quarters of a century ago, when in our infancy, a President of the United States promulgated a doctrine alike startling and far-reaching in its effects. This was none other than the Monroe doctrine; and although we were weak then as compared with our present condition, all the great nations of the earth practically acquiesced in our claims thus clearly and plainly made, and to-day no principle of national law is more firmly established than the rights we then asserted.

Still more recently, and within the past few weeks, by and through the influence of this country, a treaty has been signed by the agents of the two English-speaking countries which, if formally ratified, as it doubtless will be, will make war between them a thing of the past. And when, through the same influence and the example set by these two great countries, the provisions of this treaty shall have extended to the other nations of Europe arbitration will take the place of sword and universal peace will prevail throughout the world. Then the large standing armies of Europe, which tax the resources of those great countries to their uttermost, will be disbanded and the millions of men forming them will be returned to peaceful pursuits, and, entering the various fields of industry, will contribute much toward bettering the condition of mankind and toward the material progress of the world.

If, then, our influence in all these great undertakings has been so potent among the nations of the earth, why should we fail of success in our efforts to bring about bimetallism by agreement between these nations? I see no reason, Mr. Speaker, except indifference. If we try, I believe success is possible. If we make no effort, or if the Republican party is not sincere in this matter, we will not succeed within the next four years at least. The opportunity is the Republicans, and the responsibility is likewise theirs. They have sought the former, and they can not escape the latter.

Mr. McRAE. I yield five minutes to the gentleman from Montana [Mr. HARTMAN].

Mr. HARTMAN. Mr. Speaker, in the five minutes allotted me to address the House upon the pending measure, I desire briefly and plainly to state the position of the silver Republicans with reference to this bill. We intend to cast our votes in favor of the passage of the bill. In so doing, we desire to distinctly disavow any belief at all that there will result from its passage any international agreement for the achievement of bimetallism; and at the same time we desire to register our unqualified detestation of the idea embodied in the declaration which is made that we must have the consent of the leading commercial nations of the earth before we can legislate for ourselves. We desire to denounce that declaration of national incapacity as un-American, unpatriotic, humiliating, and degrading. We call attention to the fact that all of the international conferences which have been held in the past to achieve bimetallism have been dismal failures. We call attention further to the fact that, from the authority of the London Statist, which ought to be good authority in a gold-standard House, it appears that Great Britain enjoys an annual advantage each year in the matter of exports and imports of $245,000,000. In addition to that, she takes annually over $200,000,000 increased amount of our products in payment of interest, when the value of that property is measured by the scale of prices of 1895 as compared with the scale of 1890. Who believes that, thus enjoying an aggregate advantage of $425,000,000 per annum under the existing gold standard, Great Britain will ever consent to its surrender by an international agreement?

Again, I want it distinctly understood, Mr. Speaker, that no longer is there any opportunity to juggle with the word "bimetallism." Why? Because the word "bimetallism" does not appear in the platform at all.

Mr. ANDREWS. Mr. Speaker——

Mr. HARTMAN. I decline to yield, Mr. Speaker; I have but five minutes.

The pledge of the platform says, in plain words:

> We are therefore opposed to the free coinage of silver except by international agreement with the leading commercial nations of the world, which we pledge ourselves to promote, and until such agreement can be obtained the existing gold standard must be preserved.

That statement is a solemn pledge, first, to oppose free coinage except by international agreement, and second, failing in such agreement, to maintain the existing gold standard. Therefore,

Mr. Speaker, I want to impress upon this House the fact that no longer can they bring up before the American people the definition of bimetallism which was born in the mind of a distinguished Senator of the United States, and which means the maintenance of the gold standard, with silver as a subsidiary coin. That will not fulfill the pledge. An international agreement that England shall take so much silver, Germany shall take so much silver, France shall take so much silver, and that we shall have an enlarged use of silver, will not fulfill the pledge. It must be a straight, unequivocal, unqualified agreement to open the mints of the nations of the earth to the free and unlimited coinage of gold and silver at an established ratio, without any discrimination against either, each to be used as standard money. Mr. Speaker, we propose, as I have said, to respond to the demand of the platform and to give an opportunity to the Republican party to carry out their pledge. If they fail to carry it out, they fail to keep their promise. If they attempt to carry it out, they will fail to achieve international bimetallism.

Mr. McRAE. I do not think, Mr. Speaker, that it is fair that we should be required to occupy all our time before the gentlemen on the other side say anything; but that is the condition upon which we are allowed any time at all. As I desire to occupy only five minutes, I hope the Chair will notify me when that time has expired.

The question presented to us to-day by this bill, as I understand it, is whether this House will authorize the majority party to do what it promised by its platform adopted June 18, 1896, which declares that—

> We are unalterably opposed to every measure calculated to debase our currency or impair the credit of our Government. We are therefore opposed to the free coinage of silver, except by international agreement with the leading commercial nations of the world, which we pledge ourselves to promote, and until such agreement can be obtained the existing gold standard must be preserved.

Upon that platform they went to the country, with Mr. McKinley as their candidate. In opposition the Democrats, Populists, and Silverites nominated Mr. Bryan on platforms declaring for the free and independent coinage of silver. The Democratic platform is as follows:

> We demand the free and unlimited coinage of both silver and gold at the present legal ratio of 16 to 1, without waiting for the aid or consent of any other nation.

These two candidates, with these two propositions, Mr. Speaker, went to the people in November last, and if the returns are to be accepted as the proper judgment of the people, a proposition we can not now dispute, a majority of the people have decided that the Republican party, at least for the next four years, shall have an opportunity to bring about international bimetallism. I do not believe that it can be done. The declarations of all the political parties and the utterances of speakers throughout the country in the last campaign show that almost all of the people, without regard to party affiliation, believe in bimetallism, and so I think that since we can not get it independently at present we ought to put no obstructions in the way of those who believe in this method of reaching the question.

The Democratic party, the minority party in this House, is willing, I think, that the Republican majority and the new Administration which is to be inaugurated next week shall be given full opportunity and power and as many methods as is possible to devise to accomplish international bimetallism, if such a thing can be done. So far as I am concerned, I want the test and trial made as promptly as possible, for it is important that something be done to relieve the people from the present strain. We all know that the country is in a desperate condition and demands the careful attention of every patriotic citizen, be he Republican, Democrat, or Populist. We know that banks and business houses are failing every day, that thousands and millions of people are out of employment. We know that all branches of business are prostrated and values are falling.

We believe that this is because of the lack of a sufficient volume of redemption or real money; and with this condition confronting us we should not hesitate to take any step or try any plan that looks toward accomplishing what is needed. While I have no faith in this method, I hope it may succeed. The gentlemen who are by the favor of the people to conduct the affairs of this Government for the next four years ought to have the hearty cooperation of all friends of silver in their efforts to establish international bimetallism, for if they fail, I want this to be the last of such efforts. When we find Germany, England, and France with one-half of the gold of the world, and the annual interest charges to them from the other part of the world absorbing all the products of the gold mines of the world, it is unreasonable to suppose that those countries will agree with the United States, a debtor country, to assist her in securing bimetallism. But if you can get it that way, do so. If you fail, the people will, I think, demand of you, four years from now, to answer why; and if you do not make an honest effort, and do not recede from the position which you took in the canvass of 1896, I believe they will do for you in 1900 what they did last year for the retiring Administration. The people of this country, with their increasing business, do not intend to continue upon the gold standard if there is any possible way by which it can be changed. This is the opportunity for the Republican idea. If it fails, as I think it will, we shall demand independent action on the part of the United States.

[Here the hammer fell.]

The SPEAKER pro tempore. The gentleman from Arkansas [Mr. McRAE] has five minutes remaining.

Mr. McRAE. Mr. Speaker, I yield one minute to the gentleman from Tennessee [Mr. COX].

Mr. COX. Mr. Speaker, we have had several international conferences, and they have resulted in nothing. The gentleman from Kentucky [Mr. McCREARY] has confessed this morning that the great trouble in these conferences lies with England. Is there any man in this House who supposes that England is going to yield the great advantage which she enjoys under the existing system? Suppose, Mr. Speaker, this conference should be appointed and it should utterly fail; then I want to ask, gentlemen, what are you going to do? What kind of security are you going to get? What kind of legislation are you going to have?

[Here the hammer fell].

Mr. McRAE. I yield four minutes to my colleague on the committee, the gentleman from Texas [Mr. COOPER].

Mr. COOPER of Texas. Mr. Speaker, in the Committee on Coinage, Weights, and Measures I gave my assent to this proposition. I expect to give my assent to it again when the vote is taken. But I say now that I believe this measure to be a will-o'-the-wisp. I believe that by this bill we are undertaking to do circuitously that which we ought to do directly and which we have the power to do independently of any nation on the earth. Four conferences of the kind provided for in this bill have been held; and it has been observed, I think, that at each conference the chance of obtaining the coinage of both gold and silver upon equal terms and so as to perform equal functions is getting further away from us.

We want to increase the volume of money in this country, and we want the volume of money to keep pace with population and commerce, and we want actual money. What gives value to money? It is the demand, and it is this that gives value to any article. It is use and demand that fixes the price and value of all things. Mr. Speaker, if this country alone can furnish the demand for the quantity of silver that is produced in the world, then it can give it the highest possible value and can sustain that which is asked, namely, a parity between the two metals.

It is insisted that we must have the agreement of other nations in order to sustain the parity or value of the two metals when coined. It is asked that we have a conference of this kind in order to secure the assent of England to bimetallism, or to the free and equal use of both gold and silver in this country. Sir, for eighty years England has refused to assent to bimetallism; since 1816 she has declined to place silver and gold upon equal terms. Yet from that period up to the demonetization of silver in 1873 there was no disparity in the value of the two metals. We do not need the concurrence of England in order to establish and maintain bimetallism, nor can we get it, because she is a creditor nation and it would not be to her interest to increase the volume of money, which would be done by the free coinage of silver.

Mr. Speaker, from a partisan view, it is, of course, immaterial to me or to those on this side of the House what course may be pursued by the party which is responsible for legislation here. But I remember, and I give it as a reminder to the other side, that four years ago we had a platform declaring, as I construed it—and it was so construed all over this country—for the free coinage of silver, accompanied with a declaration about maintaining a parity between the two metals, yet when that platform came to be construed the parties then in power construed it to mean the continuation of the single gold standard. The Republican party has now been placed in charge of the affairs of the Government upon a platform declaring that they will do all that they can to promote the free coinage of silver by international agreement. Yet that platform is to-day being construed by a large and strong element of that party to mean a single gold standard. They say that at the last election the issue was drawn between the single gold standard and the free coinage of silver and gold, and that upon that issue the people have decided, and therefore the platform must be construed in the light of events subsequent to the writing of the platform, and that such events justify the conclusion that the plank in the platform means the maintenance of the present single gold standard; and by this they argue that on this question the people are evoluting, and that they will never turn back to what those gentlemen term the "barbaric" system of the use of silver.

Mr. Speaker, it is immaterial to us from a partisan standpoint what course the gentlemen on the other side may pursue; but being interested in promoting the prosperity of the country, in increasing the volume of money, in furnishing to the people that character of money which will circulate freely and equally everywhere, we demand as Democrats the free coinage of silver and

gold upon equal terms—that they may both perform in this country the functions of money; and that this be done without waiting the advice, aid, or assent of any nation on earth.

[Here the hammer fell.]

Mr. QUIGG. It does seem to me that as this debate has proceeded the Republicans of this body must feel a decided nausea at the meal which their Committee on Coinage, Weights, and Measures have invited them to digest in this bill. They have heard from Democrats of the sort that supported the mule ticket, and from Democrats of the sort that supported the Bryan ticket, and from "Pops" of the sort that supported both tickets, that they are going to vote for this bill; and now Republicans, after having fought and won the most desperately contested campaign that this country ever saw, upon the distinct proposition that free silver was a humbug and a wrong, are asked to do something that throws a doubt upon the sincerity of their professions and tends to persuade the people that the Republican position was wrong and that free silver was right.

You can no more get away from the fact that the country will receive our vote—if to-day we pass this bill—as a concession to Bryanism any more than you can get away from the proposition that we fought and won the battle of 1896 on the gold standard; for that is how we did win it. If the Republicans who are asking us to pass this bill had had their way at St. Louis, we should have adopted a straddle platform and should have been hopelessly and deservedly defeated.

I oppose this bill, Mr. Speaker, first, because it is unnecessary as to its object; second, because it is inexpedient and unsuitable as to time and place, and third, because if any results are to follow, either upon the business of the country or upon the welfare of the Republican party, they must be distinctly dangerous.

What is the use of the bill, anyway? The President of the United States has a machine, for which we pay nearly $3,000,000 a year, by which he can conduct diplomatic negotiations. If he wants to find out the temper of any government upon any subject, all he has to do is to set in motion the machinery ordinarily and regularly provided for him, and he straightway discovers all that can be found out by any method of inquiry. Have we not proved by the results of three of these monetary conferences that the ordinary diplomatic machinery is as competent to get results as any such as is here proposed?

Why, sir, we had one conference when silver and gold were at par, and the question simply was how to keep them there. Yet it was impossible to reach an agreement. We had another when silver and gold were only at two points difference, and the question was how to bring them together just two points. But even in that condition agreement was impossible. We had a third when they were about twelve points off, and at that conference nobody so much as suggested a plan by means of which he was willing to say, on his reputation as an economist, that he thought a ratio could be established and held.

We are now invited to create another conference, and at a time when silver is not two, nor ten, nor twelve, but sixteen points away from the ratio that is proposed and intended by the advocates of this bill. The true ratio is now 32 to 1, not 16 to 1; and if we could not hold them together when they were together, and could not reconcile them when they were only two points off, or when they were only ten points off, how can it be supposed that success in this bimetallic enterprise is now possible?

Mr. LACEY. May I ask the gentleman a question?

Mr. QUIGG. I should rather not be interrupted. I have only a few minutes.

The gentleman from Kentucky [Mr. MCCREARY] said that the reason why we failed in these previous conferences was because the Governments empowering the commissioners did not give them a free hand. Well, are your commissioners under this bill going to have a free hand? Why, you know they are not. You know, indeed, there is no way by which you can give them a free hand. You know that the Constitution of your country requires that every treaty that is entered into upon any subject shall come to one branch of this Congress to be ratified. You know that the only authority that could be given to the delegates under this bill is the same which has always been given and no more, and there is no reason to suppose that the delegates from any country will enjoy a larger liberty than ours. It is quite true that they have not had a free hand. They have always gone to the scene of a conference apologizing to one another because they knew they could not do anything, and because they knew they were not expected to do anything.

I object to this bill because it is improper. This Congress has nothing to do with the declaration at St. Louis. The persons who were elected under that platform, to whom this country gave authority under the declaration of 1896, will be in this Capitol—when? Why, in just one week from now, and yet we are told that in advance of their arrival, before they have had any opportunity to consider what policies they will pursue, we must support a bill that comes to us from a Populistic Senate, a body that has defeated every measure for the relief of the Treasury that the Republicans of this House have passed; that we must accept its construction of what our party promised at St. Louis, and with its construction tie the hands of those by whom we shall be succeeded. I say that we have no business to muss with this question at all. We should leave it to be dealt with by those who were commissioned last November. It is they who have the right to construe that verdict and to say what measures they will adopt to give it effect.

In the report which the Committee on Coinage has sent in here in advocacy of this bill they quote from the Republican platform certain observations concerning an international agreement, which are held to be a promise to do something. But there is no promise to do this thing. We did not say in that platform what we should do. We did not say we would call an international conference. We did not define by what means the agreement should be promoted. We left all such questions to be decided in the light of events. Nor did we say only that we would do something to promote international agreement. We said very much more than that, and it is to be observed that the gentleman from Pennsylvania [Mr. CHARLES W. STONE] has left out of his report all the other words, the further words, that were used at St. Louis concerning our financial position. I want to read the whole of that plank, in order that the Republicans of this body shall have it in its entirety in their minds when they vote on this proposition. Now listen to this:

> The Republican party is unreservedly for sound money. It caused the enactment of the law providing for the redemption of specie payments in 1879.

A MEMBER. Specie?

Mr. QUIGG (continuing reading)—

> Since then every dollar has been as good as gold.
>
> We are unalterably opposed to every measure calculated to debase our currency or impair the credit of our country.

Does that look like any more nonsense on the subject of a conference?

> We are, therefore, opposed to the free coinage of silver, except by international agreement with the leading commercial nations of the world, which we pledge ourselves to promote, and until such agreement can be obtained the existing gold standard must be preserved. All our silver and paper currency must be maintained at a parity with gold, and we favor all measures designed to maintain inviolably the obligations of the United States and all our money, whether coin or paper, at the present standard, the standard of the most enlightened nations of the earth.

That is the pledge on which we defeated the combined forces of Democrats and Populists, so valiant here in support of this bill. And we won our victory, not because of what we said concerning an international agreement, but in spite of it. I oppose this bill, in the next place, because if it is going to have any results at all they are bound to be dangerous to the commercial prosperity of the country. We have to-day the same standard that we have had for twenty years. We have to-day the monetary standard under which we were doing business when the McKinley bill was in operation. We had then the highest and the greatest prosperity that this country or any other country under the sun ever enjoyed. That prosperity was interrupted by a bill that locked up the capital of the country, suspended production, and drove labor into idleness, and by propositions that were aimed, as this is aimed, at a double standard and financial confusion. Instead of giving place in our policies to any more follies of this sort, follies which have always been expensive to the Republican party, we should hold aloof from them and repress them.

I warn the Republicans of this House against any more nonsense on the subject of free silver. I warn them against any more attempts to fool the people of this country. We have always been defeated and rebuked when we have engaged in that kind of enterprises. We took on every stump the plain position that the gold standard ought to be maintained, and from that position we should not depart. I reserve the balance of my time.

Mr. TOWNE and Mr. MILLIKEN rose.

Mr. QUIGG. I yield to the gentleman from Maine for a question.

Mr. MILLIKEN. I would like to ask my friend, in the first place, whether he thinks the Republican party was "fooling the people of this country" when they put in their platform the proposition that they would do all they could for international free coinage; and, in the second place, whether, when we get a ratio between gold and silver agreed to by the commercial nations of the world—and that is what the proposition is in the platform and what it means in this bill—whether that is going to interfere with the prosperity of the country; and whether the people of this country will be frightened by a bimetallic currency that is consented and agreed to by the commercial nations of the world?

Mr. QUIGG. The gentleman has asked me two questions that would take at least an hour and a half adequately to answer. But I will say, in the first place, that the men to construe the platform of 1896 and to adopt the measures to give it effect are the men who were elected under it, not the men who are here now and about to go home. To the second question I answer that I do not believe, nor is there any reason why anybody should believe, that this international conference, if called, will have any better or other results than all the other international conferences have had, which is

none at all; and, in the second place, that if an agreement were reached by an international conference upon any ratio whatever, I do not believe that the ratio would stay put. These are the answers. Now I yield to the gentleman from Minnesota for a question.

Mr. TOWNE. I wish the gentleman from New York would kindly state whether his construction of the platform of 1896 is that it embraces a promise to use the endeavors of the incoming Administration honestly and promptly to secure genuine free silver coinage by agreement with the leading commercial nations of the world.

Mr. QUIGG. I will say to the gentleman from Minnesota that I shall give my answer to that question in the next Congress, and to those who were elected with me to membership in that body. [Applause.]

Mr. TOWNE. Is that your answer? If you are content with it, I am, and the country will hold you to it.

Mr. QUIGG. I am absolutely content with it. How much time have I used, Mr. Speaker?

The SPEAKER pro tempore. The gentleman has twenty-two minutes remaining.

Mr. QUIGG. Will the gentleman from Pennsylvania use a portion of his time now?

Mr. CHARLES W. STONE. I yield five minutes to the gentleman from Pennsylvania [Mr. GROW].

Mr. GROW. Mr. Speaker, by reason of the relative production of gold and silver in the world for the last forty years, without some agreement among commercial nations for the use of silver as a money metal, the question of a standard of value in the money unit would be no longer one of bimetallism—that is, of gold and silver circulating on a parity with each other as standard money of ultimate redemption.

BIMETALLISM ONLY BY INTERNATIONAL AGREEMENT.

Without such agreement the question will be simply whether the standard of value shall be gold, with silver circulating in subsidiary coin, or whether the standard shall be silver alone, without any gold in circulation as money.

For more than five hundred years in all nations it has been a conceded fact, which Sir Thomas Gresham, master of the British mint under Queen Elizabeth, formulated about 1560 in the following words, known since that time as Gresham's law:

When two sorts of coin are current in the same nation of like value by denomination, but not intrinsically, that is, in market value, that which has the least value will be current, and the other as much as possible will be hoarded or melted or exported.

This statement of a fact of universal application in the experience of nations through all time varies in its wording but little from that of Nicolas Oresme, a Frenchman, one of the counselors of Charles V in his treatise on money in 1370, almost two hundred years before Gresham. Oresme's statement is:

That the legal ratio of coins must conform strictly to the relative market value of the metals; that if the fixed legal ratio of coins differs from the market value of the metals, the coin which is undervalued entirely disappears from circulation.

In our present money circulation there are two sorts of coin, one of gold, the other of silver; of the same value by denomination, but not intrinsically, i. e., in market value. They both circulate now on a parity with each other, because the Government has pledged its faith, in a duly enacted law, to keep them so, and has promised to keep in its Treasury not less than $100,000,000 in gold for such purpose. By reason of that pledge, an American silver dollar buys in market just as much of anything as a gold dollar. And a paper dollar buys just as much of anything as either a silver or a gold dollar. Take away that pledge, which is entirely independent of our coinage laws, and our gold and silver coins would immediately come under the operation of Gresham's law, which is just as fixed and immutable as Newton's law of gravitation. Take away this Government pledge, and so long as silver should have a less market value than its denomination, gold would not circulate as money. There would then be only silver in circulation so long as there should be any considerable difference in the market value of the two metals, unless both were kept in circulation by some specific agreement among the nations.

Many persons believe that the passage by Congress of a law to reopen the mints of the United States to the free and unrestricted coinage of silver at a ratio of value of 16 ounces of silver to 1 ounce of gold would of itself restore the silver of the world to its former market price of $1.29 cents an ounce, while it is now selling in all the markets of the world for less than 63 cents an ounce, making the commercial value of our silver dollar about 53 cents. In support of such belief it is claimed that this nation is great enough, rich enough, and powerful enough to legislate on any subject in its own way. Whatever may be claimed for this nation in greatness and power, in territorial extent, in vastness of material resources, and in its ever-increasing wealth and population—grant it all—but this nation is not great enough, rich enough, or powerful enough, nor is any other nation, nor are all the nations of the world put together great enough, or powerful enough, to make 53 cents in commercial value buy in the markets of the world 100 cents in commercial value. This nation is, however, great enough and powerful enough, and so is any other nation, no matter how poor or weak it may be, to make 53 cents in commercial value pay a debt to its own citizens of 100 cents.

There is no nation on the face of the earth, and there never will be one, great enough or powerful enough to fix by law the value in the money unit except for debt paying. Law everywhere makes and fixes the unit of valve, but the dealers in the commodities for which money is exchanged make and fix the real value in the unit. Value in money for trade and commerce is no more the creature of law than is the value in flocks, herds, and cultivated fields. The expectation of acquiring wealth through some theory of legislation has always been more alluring to mankind than by the slow process of labor and economy. But it is not in the power of human ingenuity to devise any scheme by which debased or depreciated money can be used successfully to develop the industries of a country or add to the wealth of a nation.

BUSINESS MAKES MONEY PLENTY.

The advocates of free and unrestricted coinage of silver, no matter what its commercial value may be, have a ready answer to all objections in the question, How can there be too much money? That depends upon its quality. If it is poor money, there is always too much. If good money, then never too much, if there is any use for it. The mere existence of money, no matter how much there may be, creates no business. Money not in circulation neither makes business nor adds anything to what is called prosperity. Business puts money into circulation, not the making of it. While there can not be great prosperity without money, yet business itself must first call for capital, for its development or its enlargement. And capital, which is only accumulated wealth, then furnishes the money for such purpose. Thus is created the demand for labor, and employment gives to labor its purchasing ability, for without employment it has none. In that way comes what is called prosperity. The mere fact of an abundance of money in existence but not in circulation can not make it. There never has been so large an amount of money in this country in time of peace as there has been for the last five or six years. Yet business never languished more, and the ability of labor to buy has seldom, if ever, been less.

There is of money in the country now over sixteen hundred million dollars, all good money, based on gold. A per capita, in round numbers, of $24, being greater than that of any nation, except France, Belgium, Australia, and the Netherlands. It is $3 per capita greater than the per capita in Great Britain. The per capita in gold and silver in this country is equal to that of Great Britain, and greater than that of any other nation except those already mentioned. France has more gold and silver and less paper than any nation. Her per capita is greater than that of any other nation, being $35.97, with only 84 cents of it in paper.

MONEY PER CAPITA.

The following table shows the money per capita and the kind of money in the seven nations having the largest money per capita, and the monetary system of the nation:

Nation.	Gold.	Silver.	Paper.	Total.	Monetary system.
France	$22.19	$12.94	$0.84	$35.97	Gold and silver.
Belgium	8.72	8.71	10.38	27.81	Do.
Australia	24.47	1.49	.....	25.96	Gold.
Netherlands	6.21	11.96	6.08	24.25	Gold and silver.
United States	8.78	8.89	5.92	23.59	Do.
United Kingdom	14.91	2.96	2.91	20.78	Gold.
Germany	12.21	4.20	1.18	17.59	Do.

There is no single silver standard nation in the world that has a money per capita of over $18. Mexico has $4.95 and Russia has $8.46. These two nations are fair representatives of the silver nations in their per capita.

The coinage of silver money of all denominations in the mints of the United States from April, 1792, to February, 1873, was $143,813,598.70; since 1873 to December, 1895, it has been $543,794,030.70, being about four times greater in coinage value for these twenty-two years since 1873 than for the eighty-one years preceding. The money per capita now is greater than ever before in time of peace. Ten years preceding 1892, which is conceded by everybody to be a period of equal if not greater business prosperity than in any other like period in our history, there was through it all the same kind of money we have now, except that there was less per capita and less of silver money. Whatever depression, therefore, there may be in the business of the country, or want of prosperity in its industries at this time, can not possibly be caused by a lack of money, especially in the coinage of silver.

COINAGE OF GOLD AND SILVER.

The coinage of silver money in the United States for the ten years preceding 1893, the year the law was repealed for Government purchase of silver bullion, was, coinage value, $301,926,941, and the coinage of gold for the same time was $271,095,731, the

silver coinage for the ten years being $31,000,000 greater than the gold. The world's coinage of silver money for the ten years preceding 1893 was, coinage value, $1,340,558,658, and the world's coinage of gold for the same period was $1,264,181,751, the silver coinage of the world for these ten years being $76,000,000 greater than the gold. For the year 1873 the world's coinage of silver money, coinage value, was about one-half as much as the coinage of gold. For the year 1888 the world's coinage of gold and silver was almost identically the same, each being, in round numbers, $135,000,000. For the three years ending with 1895 the world's coinage of gold alone was $691,042,987, being a larger average annual coinage of gold than the average annual coinage of both gold and silver from 1881 to 1887. Whatever may be the condition, therefore, of the business of this country at the present time can not possibly result from too little coinage of silver money any more than from too little coinage of gold. For the coinage of silver, like its production in the last twenty years, has greatly exceeded that of any equal period in the history of mankind. The public mind at this time is not so much disturbed about the quantity of money as about its quality, and as to what may be its character in the future.

Jefferson, in his notes on coinage in 1786 to Robert Morris, then Superintendent of Finance, says:

> The proportion between the value of gold and silver is a mercantile problem altogether. Just principles will lead us to disregard legal proportions altogether and inquire into the market price of gold in the several countries with which we shall principally be connected in commerce, and to take an average from them.

He recommended "the appointment of persons to inquire what are the proportions between the volume of the value of fine gold and fine silver at the markets of the several countries with which we are, or probably may be, connected in commerce, and what would be the proper proportion here, having regard to the average of the value at these markets." Jefferson, unlike many of the professed statesmen of to-day, did not think it wise to attempt to settle legal proportions between gold and silver without reference to the market value of the metals in the nations with which we should be connected in commerce. That the present market value of silver could be materially changed by the mere passage of a law by Congress for its free coinage at its old ratio of value to gold would seem to be utterly impossible, in view of the relative production of gold and silver in the world since 1850 and the decline in the market value of silver since 1859.

WORLD'S PRODUCTION OF GOLD AND SILVER.

The following statements of the production of gold and silver, including market price and coinage value of silver, are based upon the tables compiled by Dr. Adolph Soetbeer, who is, as all know, a most competent and reliable authority on these subjects. His tables of production and price, with the additions of the Directors of the Mint, for four hundred years are embodied in the Annual Report of the Director of the United States Mint for 1895 and 1896.

The following table shows the world's production of gold and silver, coinage value, from 1841 to 1895, both years inclusive, in periods of ten years each, except for the last five years:

Years.	Gold.	Silver.
1841–50	$363,928,000	$324,400,000
1851–60	1,332,981,000	372,261,000
1861–70	1,263,015,000	507,174,000
1871–80	1,150,814,000	918,578,000
1881–90	1,060,055,600	1,298,846,900
1891–95	815,664,500	1,025,742,300
Since 1850 (45 years)	5,622,530,100	4,122,602,200

The silver production of the world, coinage value, for the twenty years from 1855 to and including 1875 was $1,104,588,000; for the twenty years from 1875 to and including 1895 it was $2,833,845,200, being $1,729,257,200 greater for the twenty years ending with 1895 than for the twenty years ending with 1875. While the silver production of the world, coinage value, for the ten years ending with 1860 was less than a third in value of the gold production for that period, the production for the ten years ending with 1895 was $349,678,100 greater in value than the gold production for the same period.

The following table shows the production of gold and silver in the world in ounces and coinage value for each of the following years:

Year.	Gold.		Silver.	
	Ounces.	Value.	Ounces.	Value.
1840	652,291	$13,484,000	19,175,867	$24,793,000
1850	1,760,502	36,393,000	25,090,342	32,440,000
1860	6,486,262	134,063,000	29,093,428	37,618,000
1870	6,270,086	129,614,000	45,051,533	55,663,000
1895	9,688,821	200,285,700	169,180,245	218,738,100

The great increase in the world's annual production of gold began in 1850. The great increase in silver began in 1860. The world's production of silver, coinage value, for the year 1840 was, in round numbers, $25,000,000; for the year 1860 it was, in round numbers, $38,000,000, being less than a third in value of the gold for that year. Its production for the year 1870 was $56,000,000, and for 1895, in round numbers, it was $219,000,000.

MARKET PRICE OF SILVER.

The world's annual production of silver and market price since 1859 was as follows:

Year.	Ounces.	Coinage value.	Market price.	Price less than 1859.
1859	29,095,428	$37,618,000	$1.36	
1861	35,401,972	45,772,000	1.33¼	.02¾
1870	43,051,583	55,663,040	1.32½	.03½
1873	63,317,814	81,864,000	1.29¾	.06¼
1875	70,996,708	91,585,753	1.24½	.11½
1880	78,775,602	101,851,000	1.14¼	.21¼
1886	93,297,290	120,626,800	.99½	.36½
1894	167,752,561	216,892,200	.63¼	.72¼

In 1859 the market value of silver was $1.36 an ounce, the highest price ever known, before or since. Its market price in 1861 was $1.33¼ an ounce, being 2¾ cents an ounce less than in 1859; the world's production for that year, coinage value, in round numbers was $46,000,000. Its market price in 1870 was $1.32½ an ounce, being 3¼ cents less than in 1859, and its production for that year was in round numbers $56,000,000. Its market price in 1873 was $1.29¾ an ounce, being 6¼ cents an ounce less than in 1859, and the world's production for the year 1873 was in round numbers $82,000,000. Its market price in 1875 was $1.24½, being 11½ cents less than in 1859; the world's production that year was in round numbers $92,000,000. Its market price in 1880 was $1.14¼, being 21¼ cents less than in 1859; the world's production was in round numbers $102,000,000. Its market price in 1886 was 99½ cents an ounce, being 36½ cents an ounce less than in 1859; the world's production for that year was in round numbers $121,000,000. Its market price in 1894 was about 63¼ cents an ounce, being 73 cents an ounce less than in 1859; the world's production for 1894 was in round numbers $217,000,000.

This great increase in the world's production of silver for the last twenty years and the present production of both gold and silver, with their prospective increase for the future, renders it absolutely impossible for the free coinage of silver by this nation alone at a ratio of value to gold of 16 to 1 to add materially to the market value of silver.

COINAGE CREATES NO VALUE.

Reopening the mints to free and unrestricted coinage of silver would not create a single purchaser for it. The owners of the bullion brought to the mints would be the owners of the money coined therefrom. Coinage itself only stamps upon the coin its denomination, which is in reality only the same thing as stamping on it the weight and fineness of the metal out of which it is coined. That is all that law can do, except to fix the amount of indebtedness which the denomination of the coin would pay within the jurisdiction of the law. Law makes and fixes its denomination and debt-paying value. Its commercial value is fixed by the dealers in the commodities for which it is exchanged. As the uses of money for debt paying are so much less than its uses for trade and business, if its commercial value is much less than its debt-paying value it will fall to its commercial value for any purpose after the debts are paid existing at the time of its coinage or the fall in its market value. For all creditors, before creating a debt, if they know what the debt can be paid in, will see to it that the amount of the debt is enough greater to meet the difference, whatever it may be, in the commercial value and the debt-paying value of the legal tender to be received.

With free coinage the owner of silver bullion would have two ways of disposing of it. One, to sell it in the market, just as he does now; the other, to take it to the mint and have it coined. After coinage he would then have two methods of disposing of his coin. One, to pay his own debts, if he had any; the other would be to buy something with it. In debt paying it would pass at its denominational value to a person within the jurisdiction of the law under which it was coined. Its purchasing value in business would be its commercial value; that is, the market price of the metal out of which it may be coined. And there is no ingenuity of the human intellect that could by law change these conditions of trade.

Since Abraham paid Ephron for the Cave of Machpelah 400 shekels of silver, "current money with the merchant," mankind in business transactions with each other have dealt in realities, not in fictions; and that will continue to be the case until the acquisition of property ceases to be a desire of the human heart and the love of money is no longer an incentive to action. In this earliest business transaction settled with money (of which we have any account), it was money current with the merchant. From that time to this the merchant—that is, the dealer in property for which money is exchanged—determines what money shall

be current by fixing its commercial value, in receiving or rejecting it in trade for commodities, or in payment for property purchased.

The decline in market value of silver began while all the mints of the world were open to its free coinage, just as they had been for years before. No mint of any nation was closed before 1870. Silver, with its yearly increasing production, has continued to decline in market price since 1860, and it never has at any time regained the market price it sold for in 1870. Without some agreement, therefore, with the leading commercial nations as to the use of silver as a money metal, three grave questions in our monetary affairs will be presented for final settlement: First, whether we shall have a single silver standard, without any gold circulating as money; second, whether we shall continue the gold standard that we now have, with the pledge of the Government to keep silver money in circulation as now coined on a parity with gold; third, whether we shall have a single gold standard with silver circulating in subsidiary coin, on its market value for coinage, just as we had both metals from 1806 to 1878.

Without some agreement with or concurrent action by other nations for the use of silver as a money metal the result of reopening the mints of the United States to the free and unrestricted coinage of silver at a ratio of value of 16 ounces of silver to 1 ounce of gold, with the present market value of silver, would be: First, to drive all gold in this country out of circulation as money. Second, all debts due American citizens would be paid, if paid at all, at about 50 cents on the dollar, while all debts of American citizens due to citizens of foreign countries, not having a single silver standard, must be paid, if paid at all, at 100 cents on the dollar. A foreigner could buy silver bullion at the present market price of silver costing about $500,000, and take it to the mints of the United States, have it coined into about 1,000,000 of our standard dollars, and with such dollars he could pay a million dollars of indebtedness to citizens of this country, while an American citizen with a million of our standard silver dollars could pay only about $500,000 of indebtedness to citizens in foreign countries not having a single silver standard. Third, while the rate of wages would probably remain about the same as now, they would be payable in this depreciated silver money, which would then be the standard in our money unit. Thus would be established in reality for this country a single silver standard of money.

Should we keep the double standard as we now have it, by reason of the guaranty or pledge of the Government to keep silver, as money, on a parity with gold, no matter what the market value or the ratio of coinage might be, it would, so far as the Government is concerned, be in reality the same as having a single gold standard. For in all business fairness and honest dealing, even without such guaranty or pledge, the Government must pay gold on all its obligations, unless some other kind of payment is specifically named. In all cases where the debtor does not make legal tenders for the payment of debts, the debtor has the option of paying in any tender, if there is more than one; yet where the debtor himself makes the legal tenders, his creditors have the option as to which legal tender, if there is more than one, they will receive in payment of their debt. If that were not the case, then the debtor could make a worthless tender for the payment of debts, while there might be a good one in existence. In such case, if the debtor could select the legal tender for the payment of his debt, it would be a violation of the first great precept in equity, that the wrongdoer can not take advantage of his own wrong.

So long as 371¼ grains of pure silver—the weight fixed by our coinage law for a dollar in silver—was the equivalent in market value of 23.22 grains of pure gold—the weight fixed by our coinage law for a dollar in gold—the market value of each kept them as money, on a parity with each other, without any Government pledge or guarantee. So long as silver bullion sold in market for $1.29 an ounce, and it was coined into money at a ratio of 16 ounces of silver to 1 ounce of gold, each would exchange for the other, as 2 bushels of corn at 50 cents a bushel would be the equivalent of 1 bushel of wheat at a dollar, provided each sold in market as readily as the other at these prices. But when silver bullion of the same fineness fell in market value below $1.29 an ounce, then the parity in money value between it and gold was broken. At $1.29 an ounce 16 ounces of silver was the equivalent in market value of 1 ounce of gold, and each was selling in market as readily as the other.

FREE COINAGE OF GOLD AND SILVER.

So long as silver retained a market price of $1.29 an ounce, individuals owning silver bullion, the same as those owning gold bullion, could take it to the mint and have it coined into money of such denominations as might be fixed by law, without expense to themselves, for the reason that the silver was of the same market value before coinage as after. Its coinage, therefore, being only for the convenience of the public in doing business, was without expense to the owner, so it was called free coinage. But the owner of the bullion put the money coined into circulation and had whatever advantage might result from changing it from bullion to money. It made no difference how much silver bullion was coined into money so long as its market value at the relative ratio of coinage with gold was the same. That is, so long as 16 ounces of silver was equivalent, or nearly so, in market value to 1 ounce of gold, the mints of the world were everywhere open to the unrestricted coinage of silver. From 1792 to 1873 the mints of the United States were open to the free and unrestricted coinage of silver, except that the coinage of silver dollars was suspended from 1806 to 1834 by an order of Jefferson. The total coinage of silver of all denominations from 1792 to 1873 in the mints of the United States was done for individuals, and amounted to $143,813,598. Since 1878 all coinage of silver in the mints of the United States has been from bullion purchased by the Government, and the mints have been closed to the coinage of silver for individuals. But the total coinage of silver of all denominations from 1873 to December 31, 1895, was, as before stated, $543,794,030, being almost four times greater in these twenty-two years than for the eighty-one years preceding. For each of these silver dollars, or for the certificate which represents them, so coined and paid out the Government has received 100 cents, no matter what it paid for the bullion it purchased or what the market value of silver may have been.

Hence in business fairness the Government pledge to keep silver money on a parity with gold. But the reopening of our mints to the free and unrestricted coinage of silver at the old ratio of 16 to 1 would of necessity change all this. The Government would then cease to coin on its own account, and individuals would again put silver money into circulation coined out of their own bullion; and whatever profit or advantage there might be in the coinage would be theirs instead of the Government's. The Government could not, therefore, stand responsible for the money thus coined, and it would go forth, as in all cases of free and unrestricted coinage of money, without any redeemer except its own intrinsic value.

USE OF CREDIT INSTRUMENTALITIES.

If it would not be advisable for this nation to adopt either of the foregoing plans in its monetary affairs, then the only other alternative, in case of no agreement among the nations, would be a single gold standard in our money unit, with silver circulating as subsidiary coin. Whether that would be advisable and could be done successfully would depend, first, upon whether there is gold enough in the world for the world's business should all nations adopt it as the standard in their money of ultimate redemption, and whether, in case that should be done, there would be a reasonable probability that the future annual production of gold would be sufficient for any increase there might be in the world's business. To ascertain whether such a result would be possible, there are many considerations to be considered in connection therewith, and upon which ultimate success would largely, if not wholly, depend.

Reliable statistics show that of all the business transactions of the people of commercial nations as now transacted not to exceed 8 per cent of the volume of such transactions are made with actual money. The other 92 per cent is made with what is called substitute money or credit, like bank bills, bills of exchange, checks, drafts, letters of credit, and certificates of various kinds. This substitute or credit money answers just as well if not better for the transaction of business, if it is at all times convertible at the will of the holder at its face value into money of real or commercial value, commonly called intrinsic value. To illustrate, 1,000 persons owe each to the other $1. The first one has a dollar deposited in the bank. He draws a check on the bank for a dollar and passes it to his creditor, who takes it, if he believes it will be paid when presented at the bank. The second one does the same, and so it passes from one to the other until it again reaches the drawer of the check. One thousand dollars of indebtedness has been discharged and not a dollar in actual money has been used in doing it. This process is the same in large or small transactions by which business is done on what is called credit. But it could not be done at all without the actual dollar, which is called the money of ultimate redemption, nor without confidence that the dollar itself would be paid when the check should be presented. Without such confidence the dollar itself would have to be used in each transaction.

While the check was the instrument used to discharge $1,000 of indebtedness, yet the check itself was not paid, and no matter how many times it might be passed it would not be paid until the holder received for it $1 in commercial value. By its use the creditor simply exchanges one debtor for another. But without the confidence that the dollar of commercial value promised would be paid whenever the check should be presented, the first creditor to whom it should be offered would refuse to take it, and so on with every other one. The same would be true with the purchaser of commodities. No one would take the check for his commodity except in full faith and confidence that the dollar of commercial value which it promised was on deposit to be paid whenever called for. Law makes all the regulations for the use of substitute money, and makes and fixes the money unit in the standard of

value, but can not make or fix the value in the unit itself except for debt paying. There must therefore be the actual commercial value in the money of ultimate redemption called for in all this substitute money, or it would be no better than the paper rags of which it is composed.

The record of the clearing house of the city of New York, where all the business transactions passing through the banks of that city are settled daily, shows that not more than 8 per cent of the amount of business transactions are settled with actual money. The following statement is taken from the annual report of the clearing house of New York City for the year 1895.

The clearing-house transactions for the year have been as follows:

Exchanges	$28,264,379,126.23
Balances	1,896,574,349.11
Total transactions	30,160,953,475.34

The average daily transactions:

Exchanges	$92,670,095.49
Balances	6,214,276.55
Total	98,888,372.04

The average daily transactions for 1895, in round numbers, were $100,000,000. The actual money used in settling the final balance was, in round numbers, $6,000,000. As standard or coin money of commercial value is not consumed or destroyed, the same $6,000,000 would pay the balance of $100,000,000 of transactions the next day just the same, and so on through the year. From bank reports and reliable estimates there is at this time in this country about $600,000,000 in gold. That is a sufficient amount of actual standard money with our present facilities of communication and transportation to sustain in ordinary times of business confidence a volume of daily business transactions of ten thousand million dollars; which would be one hundred times greater than the daily business transactions of the city of New York, as shown by the report of its clearing house.

While this 8 per cent of the volume of business transactions in real money, that is, money of intrinsic value, might be sufficient in times of business confidence, yet to make sure that such confidence would not be injuriously affected in times of panicky distrust it is necessary that there should be in existence a larger amount of real money of ultimate redemption than 8 per cent of the volume of ordinary business transactions. Exactly how much larger it should be is not easily determined. That would depend upon facilities for communication and the cost and time in transportation. Less money would be required the greater the facilities, and the less the time and the cost in both communication and transportation. It would depend also largely upon what was used as money, and what was the standard of value in the money unit.

STANDARD MONEY.

What is money? What are its uses, and how can it be affected by law? Money is what is used to facilitate the exchange of commodities and the transfer of property, and to pay for the property transferred, and the difference in the values of the commodities exchanged. The essential requisites for standard money, that is, money of ultimate redemption, are:

First. That it shall retain the same value when paid out that it had when it was received; otherwise some one would be a loser by its use.

Second. That it shall contain the greatest amount of commercial value in the smallest space; for weight and bulk affects both convenience and expense in its use.

Third. That it shall be regarded by all who use it of the same commercial value; otherwise the uncertainty in the discounts or premiums to be agreed upon would destroy its uniform and certain value.

Fourth. That it shall be of a substance indestructible by fire, thus avoiding loss or the risk and expense of insurance.

Gold possesses all these requisites for such money in a greater degree than any other known substance; hence it has been used as money by all commercial nations. An additional reason to the inherent qualities already mentioned why gold is preferable as money over any other known metal is that it varies less in amount and cost of production from year to year, as proven by the experience of four hundred years, if not for all time. Another reason in its favor, the others being conceded, is its beauty. Everywhere and in everything, all else being equal, beauty rules the world. Silver has one of the requisites of standard money, the same as gold; it is indestructible by fire; but in all other respects it is not equal to gold as a money metal. While both gold and silver have been used as money from the earliest times, yet gold has always been regarded as the most desirable. In our earliest record of mankind, one branch of the river that went out of the Garden of Eden compasseth the land of good gold.

How is the standard of value in money fixed and what are its requisites? The standard or measure of anything must partake of the nature of the thing of which it is the standard. If it is the standard of length, it must itself have length, like the yardstick. If it is the standard of weight, it must itself have weight, like the pound. So of the standard of cubic contents, like the bushel. In the standards and units of weights and measures value is not involved; therefore law makes and fixes the standard. The words of the Constitution are:

> Congress may coin money, regulate the value thereof, and fix the standard of weights and measures.

Law makes and fixes the unit of value, just as it makes and fixes the unit of weights and measures; but it does not make or fix real value in one case any more than in the other. It regulates the relative value in one case and fixes the standard in the other. It regulates the value in money by fixing the alloy and the relative weights of the metals in exchangeable value.

THE UNIT OF VALUE.

The units fixed by law are only part of the arithmetic intended to facilitate a final settlement and payment of balances in business transactions. With us the unit of value is a dollar. In England it is a pound sterling. In France it is a franc, and so on, differing in different nations. These units differing in different nations, made by law for convenience, could be changed into any others, and the new ones would answer just as well; but the value in the money unit itself is not made by law. That the value in the standard of value varies with the amount of commodities, like wheat, corn, or cotton, which it would buy at different times is a perfect absurdity. If that was the case, then the commodities, varying in their production with the seasons, would be the standard of value. The standard of value could not itself be changing with abundant or short crops, or by decreasing or increasing demand for them. As the standard of value measures the value in all commodities, it can not itself be changing in its own value by the increasing or lessening quantity of any commodity.

The standard of value in the money unit of nations is a certain number of grains of gold, not so many bushels of potatoes, beets, or onions. The value of a grain of gold of certain fineness has been fixed by the acquiescing consent, the consensus of opinion of commercial nations, and it is of the same commercial value in them all. It is an absurdity that the standard of value by which the value in all commodities is measured could itself vary with the seasons, hot or cold, wet or dry, upon which depend the supply and demand of the commodities produced. Abundant or short crops, supply and demand in commodities, determine how many grains of gold shall be paid for them at different times. And the number of grains of gold will vary with the supply and demand of the commodity; but the value of the grain of gold itself does not vary, and can not while it continues to be the standard. If it did, it would no longer be a standard any more than would a yardstick 36 inches long be the standard of the yard in length if it was expanding and contracting with wet or dry weather.

In the report to Congress made by Robert Morris in 1782 on coinage and establishing a mint he says:

> It is right that money should acquire a value as money, distinct from that which it possesses as a commodity, in order that it should be a fixed rule whereby to measure the value of all other things.

Unlike the wise statesmen of our times, he did not think all other things called commodities could measure the value in gold or in the standard of the money unit. A grain of gold is the unit in weight of the money standard of value in all commercial nations to-day, and by it is settled and paid the balances in trade of them all, no matter whether gold or silver standard nations, in their domestic policy. Twenty-three and twenty-two hundredths grains of gold of a certain fineness is a dollar in our legal unit of value. A hundred and thirteen and one-tenth grains of gold of a certain fineness is a pound sterling in the legal unit of value in English money. But the value of the grain of gold is the same in either. Four cents three mills and a fraction is its value in our money, and it is equivalent to that value in the money of any commercial nation. Multiply 23.22—the number of grains in our dollar—by four cents three mills and a fraction, and the sum will be within a small fraction of 100 cents—i. e., our dollar. Multiply 113.1—the number of grains of gold in a pound sterling—by four cents three mills and a fraction, and the sum will be $4.86 and a fraction—the value of a pound sterling in our money, without reference to exchange. So with the gold in the money unit of any nation. The grain of gold of a certain fineness is everywhere the same in standard value, and what are called premiums or discounts are in reality only the discounts or varying amounts in value of what is to be exchanged for the gold.

PURCHASING POWER OF GOLD.

We hear much about the purchasing power of gold varying at different times, implying that the value of the gold unit in the standard of value itself is of greater or less value at one time than another. This is a confusion of terms in the use of language. The cheapening of the cost of commodities by reason of inventions

in labor-saving machinery, greater skill in various appliances of human ingenuity, may so reduce the cost of any commodity that the same number of grains of gold will purchase a much larger quantity at one time than another, the supply and demand remaining the same; but the value in a grain of gold would be the same in either case, and must continue to be the same so long as it is the standard of value. Will anyone contend that because wheat sold six months ago for 50 cents a bushel and now sells for $1 the value in the grain or ounce of gold that paid for it is now one-half what it was six months ago? Can the value in the grain of gold itself, in the money unit of the standard of value, which measures the value in all commodities, be varying with the supply and demand of the commodities themselves? If so, then there is no fixed standard of value independent of the supply and demand of the commodities. If that were the case, then the value in the money unit of the standard of value shrinks and expands to meet the conditions of supply and demand, and what is called the purchasing power of gold would then be greatest when the supply of commodities is greatest and the demand least, no matter what the cost of production might be, and vice versa in their supply and demand.

The value of the grain of gold in the money unit of the standard of value must remain the same through the varying conditions of supply and demand and cost of production in commodities, or there could be no such thing as a fixed standard of value. If that is not the case, then it is possible to have a fixed standard of weights and measures, but impossible to have a fixed standard of value, the most essential thing in all the business affairs of life, that will not be varying with the supply and demand and cost of production of commodities, the value of which is to be measured by the standard itself. The greater purchasing power of gold at one time over another consists in the cheapening of the cost, or the increase of supply over demand, of the commodities purchased, and not in an absolute increase in the value of a grain of gold. It may take more grains of gold at one time than another to buy the same quantity or amount of commodities, by reason of their greater or less cost in labor, by abundant or short supplies; but the real value in the grain of gold in the money unit of the standard of value must remain the same, and the variation in the amount or quantity of commodities that it will buy is not in the value of the unit, but in the greater or less cost of, or the respective supply and demand of, what is to be exchanged for it. No matter how many grains of gold, more or less, any commodity may at any given time command in the market, the value in the grain of gold itself continues the same, and that must necessarily be the case so long as it is the standard of value in the money unit of nations. It can no more be changed by one nation than can the mathematics of the world be changed by a nation attempting to change the axiom of the multiplication table that twice 1 are 2 into twice 1 are 4.

The scale of feet and inches on the stone or iron pier for marking the rise and fall of the tides or the flow of rivers marks the depth of the surrounding water, no matter how much or how little there may be; so the standard of value measures the rise and fall in the value of all commodities by the number of grains of gold which are required in payment. But the value in the grain of gold itself, so long as it is the standard, can no more vary than can the inches in the feet of the scale on the stone or iron pier. If it does, then it is no longer the standard of value, and the value in commodities would be measured by something else.

ONE STANDARD OF VALUE.

For a money standard of value the world might have selected some other metal, or it might have placed a different value on a grain of gold. But as that has not been done, any attempt to change it now would be like an attempt to change the mathematics of the world. There can be but one real standard of value in use in the same nation at the same time, no matter what may be in use as money. All attempts to fix a double standard, as it is called, has always required more or less legislation to keep both in circulation. While changes in alloy and relative weights have been resorted to for that purpose, the value in the grain of gold itself has remained unchanged.

Congress in 1853 changed all the silver coins of less denomination than the dollar from being proportionate parts of 412½ grains of standard silver to proportionate parts of 385 grains and a fraction, and fixed the legal tender for all silver at $5, which continued until 1873. The changes in legislation in 1834, 1853, and in 1873 were all made in order to keep a double standard, by keeping silver circulating on a parity with gold as a money metal.

Hamilton, in his report as Secretary of the Treasury on the establishment of a mint in 1791, said:

As long as gold, either from its intrinsic superiority as a metal, from its rarity, or from the prejudices of mankind, retains so considerable a preeminence in value over silver as it has heretofore had, a natural consequence of this seems to be that its condition will be more stationary. The revolutions, therefore, which may take place in the comparative value of gold and silver will be changes in the state of the latter rather than that of the former. One consequence of overvaluing either metal in respect to the other is the banishment of that which is undervalued. There is scarcely any point in the economy of national affairs of greater moment than the uniform preservation of the intrinsic value of the money unit. On this the security and steady value of property essentially depends.

This declaration of Hamilton applies to all time and to all nations.

The standard of value in the dealings of mankind must be a fixture. Otherwise, how could agreements be made for future execution? If it is proposed to buy cloth of the merchant for future delivery, how could the merchant fix a price per yard if he could not tell what the length of the yardstick by which it must be measured would be at the time of delivery? If there were two yardsticks fixed by local law different in number of inches, then, of course, it would have to be specified which should be used. But if all mankind consented and tacitly agreed that the space measured by 36 inches would be a yard in all the dealings of mankind which were to be settled by measurement, that would be a standard of length which nobody would take into account as liable to vary, and whatever local legislation there might be would only relate to adapting other things to it. So with the world's standard of value in gold. All legislation has been only in relation to its debt paying, and to adapting other things to it in debt paying, or in exchangeable value.

As gold possesses all the requisites for a money standard of value and is in every way preferable as a money metal, there can not possibly be any objection to making it the standard of value in all commercial nations, provided that as standard money of ultimate redemption there would be enough of it in the world for the world's business, and that there would be a reasonable probability that its annual increase in production would be sufficient for any increase there might be in the world's business transactions. Whether that would be possible depends upon the relative production of gold and silver in the past, and the present annual production of gold, and its probable production for the future.

The world's annual production of gold alone now exceeds the annual production of both gold and silver twenty years ago or for any time previous to that. The world's coinage of gold alone into money for the three years ending with December 31, 1895, was $691,052,047, an average annual coinage of $230,350,682, being in round numbers $5,000,000 larger than the average annual coinage of both gold and silver from 1878 to 1888. The world's coinage of both gold and silver for the nine years from 1878 to 1888 was $2,033,725,461, being an average annual coinage of $225,969,495, which is $4,381,187 less than the average annual coinage of gold alone for the three years ending with 1895.

As neither gold nor silver are consumed, and as they are indestructible by fire or floods, all the gold and silver produced since the beginning of time is to-day in the keeping of mankind, except what may have been used in the arts and in manufactures, and the little that may have been lost in use.

Dr. Soetbeer's tables show that if the mints of all nations had been closed in 1850 to the coinage of silver into money, except what was then in existence, the world's annual production of gold since that time, as shown by these statistics of its production, would have been more than sufficient in standard money—i. e., money of ultimate redemption—for the world's business, just as it has been conducted from that time to this. And the annual production of gold at the rate of its production since 1891 would be sufficient in standard money for any probable increase in the world's business for the future.

For the year 1850, the beginning of the great increase in gold, the world's production was $36,393,000, and that was double the production of any previous year. For the year 1840 the world's production was $13,484,000, an increase in annual production in the ten years from 1840 to 1850 of $22,909,000. The world's entire gold production for twenty years preceding 1850 was $498,769,000, being an average annual production of $24,938,450. But the increase in the annual production of gold in the ten years immediately preceding 1850 having been $22,909,000, add that amount to the $24,938,450, average annual production for the twenty years, would make $47,647,450. Call it, in round numbers, $50,000,000 annual production of gold required for the world's business in standard money of ultimate redemption in 1850, in addition to the silver money then in use. That would be an amount in annual production more than three times greater than any year before 1840, and more than double any year previous to 1850. Then multiply $50,000,000 annual production by forty-five, the number of years from 1851 to 1895, inclusive, would make the sum of $2,250,000,000 in gold production required in standard money for the world's business for the forty-five years from 1851 to and including 1895.

WORLD'S SUPPLY OF SILVER GREATER THAN DEMAND.

When silver reached an annual production in 1860 of $37,618,000, its market price began to fall. In 1870 it had fallen 3½ cents per ounce below its price in 1859. In 1870, as I have already stated, the mints of all nations were open to the free coinage of silver just

as they had been for years before, so that the closing of the mints could not have effected the fall in price. Silver continued to decline in market price and was 6¼ cents an ounce less in 1873 than in 1859, and it never regained its market price of 1859 or 1870, notwithstanding the purchase by the Government for a number of years of substantially the entire silver production of American mines. But it continued to decline in all the markets of the world, until now it is less than one-half the price it sold for in 1870. The world's annual production of silver, therefore, had reached a supply before 1870 beyond the world's demand for its use, otherwise it would not have fallen steadily in market price for the ten years after 1859 and before the closing of any mint. This fact indicates that an annual production of silver of about $37,000,000 was all that the world's business required in 1870, for demand and supply regulate the market price of every product of labor.

The entire production of silver in the world for the twenty years preceding 1870 was, coinage value, $879,435,000, being an average annual production for that period of $43,971,750. Call it in round numbers $44,000,000. The decline in market value of silver from 1859 to 1870 of 3¼ cents an ounce, which it never regained, is conclusive, as I have already stated, that the world's production of silver had then in annual production reached, if it had not already passed, the limit required by the world in silver for its business transactions. But whether it had or not, that was the world's entire production for the twenty years. The increase since that time in the facilities for communication, the lessening of time and the cheapening in expense of transportation, would seem to render unnecessary any considerable increase of annual production in order to meet any increase there might have been in the world's business.

It is obvious that the world's increased facilities for doing business since 1870 have been much greater than the world's increase in population since that time. But call the average annual production of silver required for the world's business after 1870 in round numbers $44.000,000, which is a larger annual production than for any year before that time. Multiply this average annual production by twenty-five, the number of years from 1870 to 1895, inclusive, would make a sum of $1,100,000,000 as the amount of silver required from 1870 to and including 1895. To that amount add the entire production of silver from 1851 to 1870 of $879,435,000, making a total sum of $1,979,435,000, which would be what the world's business would have required in silver production, from 1851 to 1895, for its business transactions just as they were conducted during that period. On this basis of calculation the world would have required in standard money for all its business transactions of both gold and silver a production in these forty-five years from 1850 to 1895 of $4,229,435,000.

GOLD ENOUGH FOR THE WORLD'S BUSINESS.

The gold production of the world alone for this period from 1850 to and including 1895 was $5,622,530,100. So for these forty-five years from 1850 to 1895 if there had been no silver money in circulation except as subsidiary coin, there would have been a surplus in the world's production of gold of $1,393,095,100 over and above settling in gold the balances in the world's current business just in the way it was conducted. This $1,393,095,100 is the amount in gold production since 1850 over and above the world's business requirements for this period, in standard money of ultimate redemption, which might have been used additionally in the arts and manufactures, or to meet any unforeseen contingency in the world's business.

The increase in the world's production of gold, therefore, for the last twenty-five years shows conclusively that there is gold enough in the world for standard money—that is, money of ultimate redemption—for the world's business, without silver at all, except in subsidiary coin. With the present commercial value of silver in the markets of the world, and with the relative annual production of gold and silver, if there shall be no agreement with leading commercial nations for the use of silver as a money metal, then the great question to settle in our monetary policy will be whether we shall have a gold standard with silver circulating in subsidiary coin, just as we always had it after the time Jefferson suspended the coinage of silver dollars in 1806, until the coinage of silver dollars was resumed in 1878, or whether we shall have a single silver standard without any gold in circulation as money. For, as proven by the experience of all nations through all time, there can be no such thing as money coins, circulating at the same time in the same nation, coined at a ratio of value to each other differing materially from the commercial value of the metals out of which they are coined, without a specific government guaranty, or some arrangement for their redemption at their denominational value.

Mr. CHARLES W. STONE. I now yield to the gentleman from Iowa [Mr. HEPBURN].

Mr. HEPBURN. Mr. Speaker, I am not willing to allow the gentleman from New York [Mr. QUIGG] to interpret the Republican platform for me. [Applause.] I do not understand that document as he has attempted to interpret it here, and I do not believe that the Republicans of the United States understood it as he attempts to give it interpretation. I find in that platform, Mr. Speaker, a pledge that the Republican party would use all honorable exertions to labor to secure the very international agreement that is looked to in this bill. It must be remembered that the Republican party does not change its views every year, and that the Republican platform of 1896 is but a continuation of the platform of 1892. There is no material difference between them. Every declaration that you find in one you find clearly stated in the other, or find to be a fair and just implication from that which is stated.

In 1892 we expressly commended the efforts that were then being made by a Republican Administration in the direction of an international conference. When we made the declaration that we did make in the platform, that we would use all honest efforts to secure international agreement, every man understood that that was in continuation of the policy of the last Republican Administration, and through this very means of an international conference. That, I say, was the understanding of everyone. I want to disclaim again, Mr. Speaker, the right of the gentleman from New York to interpret the platform to mean that we pledged ourselves irrevocably to a gold standard and against the free coinage of silver. Our declaration ought not to be so construed by anyone. Here it is:

> The Republican party is unreservedly for sound money. It caused the enactment of the law providing for the resumption of specie payment.

"Specie payment," observe—not gold. It plumes itself upon that fact.

> Since then every dollar has been as good as gold. We are unalterably opposed to every measure calculated to debase our currency or impair the credit of our country. We are therefore opposed to the free coinage of silver except by international agreement—

"Except by international agreement." "Except" is the emphatic word. There is a pledge that we are in favor of the free coinage of silver through an international agreement. No man can escape that language. The platform goes on—

> except by international agreement with the leading commercial nations of the world, which we pledge ourselves to promote, and until such agreement can be obtained the existing gold standard must be preserved.

Do you find in that language an irrevocable pledge for all time to the gold standard? The pledge is that "until" we can secure this international agreement "which we pledge ourselves to promote," we will maintain the existing gold standard.

Mr. Speaker, with the views that I have of this platform, I could not utter the sentiments the gentleman from New York has uttered without regarding myself as an apostate from Republicanism and as recreant to the pledge. [Applause.]

Mr. QUIGG. I yield ten minutes to the gentleman from Indiana [Mr. JOHNSON].

Mr. JOHNSON of Indiana. Mr. Speaker, I am opposed to this bill. I can not give it my support. In my humble opinion bimetallism, that is, the concurrent circulation of gold and silver at a fixed ratio, each as a money of ultimate redemption, is a thing of the past, and I have no disposition to attempt to revive it. In my judgment, too, bimetallism is an absolute impossibility. I take no stock, sir, in the proposition that a mere statute can create values. A legislative enactment can no more control the immutable laws of trade than it can control the laws of God. When the market ratio between two metals is one thing, it can not by the simple edict of a legislative body be changed to another thing. The law of supply and demand will inevitably perform its perfect work, and the market ratio and not the legal ratio will prevail. We know something, sir, of bimetallism from our own experience.

Up to 1834 we had it in theory, as a matter of law, but as a matter of fact during all of that period we were upon a silver basis; we had only silver monometallism, gold having risen to a premium and gone out of circulation. Since 1834, down to the present, while for most of the time we have had bimetallism written in our laws, we have in fact been upon the existing gold standard. England tried bimetallism for years prior to 1816, and yet she was always on a monometallic basis, either on the gold basis or on the silver basis, according to which of the metals was the cheaper.

Mr. Speaker, if the immutable laws of trade, operating through the relation of supply and demand, make bimetallism impossible to a single nation, will you tell me how you can possibly expect that these laws will work any different results under an agreement for bimetallism among several nations? If every nation on the face of the globe to-day were to agree to the free coinage of gold and silver at a fixed ratio, in a short time you would have monometallism, either gold or silver, according to whichever metal was least in demand in the markets of the world.

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

Mr. JOHNSON of Indiana. No, sir. I mean no discourtesy to the gentleman, but my time is limited.

Mr. Speaker, relief for the country is to be found in standing by the gold standard, which is as naturally evolved from the progress

of mankind as is the telegraph, the sewing machine, or the great transatlantic ocean steamer; which is evolved from the necessities of trade and commerce, and not from a conspiracy upon the part of one class against the rights and interests of another class, as is often falsely asserted. Of this I have not the shadow of a doubt—gold is the best tool of trade, and is best adapted to the needs of a high civilization and a great commercial nation like our own. We should stand by the existing gold standard, sir, floating with it all the silver that we can safely maintain at a parity with it by the gold valuation. We should retire our greenbacks and our United States notes. We should divorce the Government from any of the functions of a bank of issue. We should put the burden of issuing paper money on the banks, where it properly belongs, they being amply able, under a well-devised system of banking and currency, to sustain it. We should so amend our national banking law as to give to the country not simply a sound and uniform paper currency, but also a currency ample in volume—one which can be diffused through the length and breadth of the land, to all sections—an inexpensive and elastic currency, which the people can everywhere have at a reasonable rate of interest with which to effect their daily exchanges and carry out their extraordinary undertakings. This is the only safe and sensible course to be pursued—the only one which will be sure to establish us upon a sound financial basis.

I am opposed to this measure, Mr. Speaker, for another reason. It is absolutely impossible to get the leading nations to agree to the free coinage of gold and silver at a fixed ratio. Is not our experience worth something to us upon this point? Four international conferences have assembled, and each one of them has terminated without doing anything toward promoting an international agreement. What has occurred recently to make us believe that there will be any change of sentiment upon the part of the other nations? On the contrary, all the leading commercial nations are now upon the existing gold standard, or, if not, they are anxiously striving to get there. Gentlemen say that certain legislative bodies abroad have recently declared in favor of an international conference; but, sir, is this anything more than occurred before some of the past conferences were held? The time was never more unpropitious for securing from other nations an agreement for the free coinage of the two metals at a fixed ratio than it is at the present time. I doubt not that a conference of the great commercial countries could be assembled. They would listen courteously to our proposals, discuss the economic questions involved, and then politely refuse to enter into any arrangement, and bid us goodbye, just as they have done on former occasions.

Certain gentlemen have risen on this floor and said that they had no faith in the success of this project, but that they were going to vote for it anyhow. I prefer, sir, to take the more logical position that this is a senseless proposal, without possibility of accomplishment, and therefore unworthy of my support. I propose to have the courage of my convictions and cast my vote against it. Mr. Speaker, how much longer shall we continue to temporize with this silver question? How much longer shall we continue to present to our countrymen and to the world the spectacle of our weakness, our vacillation, and our folly?

Why, sir, just at this time the great agitator who was the Democratic nominee for President in the last campaign, and who has renominated himself as the standard-bearer four years hence, is perambulating the country, rallying and organizing those who believe in a debased silver dollar for a renewal of the contest at the polls. Just at this very time the free-silver Republicans of the Senate and House, who walked out of the St. Louis convention to clasp hands with Populism and Democracy for a short-weight dollar, who went upon the stump and declared that the Republican party was irrevocably wedded to the gold standard, and that the bimetallism by international agreement, which it had suggested, was an absurdity and incapable of being attained, are issuing their address to the country, calling upon free-silver Republicans to organize in all the States and Territories of the Union to again do battle for a 50-cent dollar.

These advocates of remonetization of silver at the ratio of 16 to 1 are making no apologies or concessions; they have nothing in common with you in this measure. They are perfectly willing to see you stumble, and are biding anxiously their opportunity for another onslaught upon public and private credit. What is our plain duty in such an hour as this?

We should clasp our hands firmly to our swords; we should adjust our helmets; we should tighten our cuirasses; we should step bravely and resolutely into the arena of conflict, prepared once more to put our principles to the test and to battle nobly and courageously to maintain them.

I protest, sir, that the verdict which you will render, if you pass this senseless bill, will be that William McKinley ought to have been defeated last November, and that William J. Bryan ought to be inaugurated President of the United States on the 4th day of next March. [Applause.] You were obliged to temporize and to compromise on this question by the act of 1878, and you suffered the consequences. You were compelled again to violate sound monetary principles by the passage of the act of 1890, and the great distress under which the country is laboring to-day is in a measure owing to the fatal economic mistake which you made when you passed that act.

Let us now and henceforth have a little more courage, a little more resolution, than was displayed in the past. Let us not vacillate; let us not hesitate any longer. We are eternally right on the subject of the gold standard. We have won the field. Why should we now abandon it? Why pass a bill which will be construed all over the country as an admission upon our part that after all Mr. Bryan and his economic falsehoods are in a large measure entitled to public consideration and respect; that he is at least halfway right?

Ah, but we are told, Mr. Speaker, that the Republican platform requires us to do this thing; and you will mark, sir, that no class of men have been so solicitous to have the Republican party carry out the alleged pledges of its platform as the Democrats who fought against us with desperation and attempted to defeat us at the polls. We have, too, the refreshing spectacle of Republican free silverites who abandoned their party to battle for their financial heresies—those gentlemen who went on the stump in the recent campaign and proclaimed that the gold standard was an outrage and a conspiracy and that the Republican party was wholly unworthy of public confidence—now, after they have been defeated, not only insisting that we shall fulfill the pledges of our platform but actually undertaking, as the gentleman from Montana has done, to tell us what definition of bimetallism we have created for the future. They are supplementing all this with an open threat and declaration that they are now organizing, and propose, when this measure fails in operation, to meet us at the polls at the biennial election and at the next Presidential election, and force upon us a repudiation of public and private credit, and the adoption of a dollar which should be everywhere repudiated by advancing civilization and the intelligence of the nineteenth century.

Mr. Speaker, I know not what others may do in this matter. Speaking my individual preference and my individual conviction I say to this House that I shall take no step backward, but that I shall vote against this proposition, because I believe that bimetallism is a sham and a fraud, and that the existing gold standard ought to be maintained for the benefit of the very people in whose name it is so adroitly assailed and for the additional reason that I believe that the nations of the Old World will regard this invitation to a conference just as they have regarded the invitations we have previously extended, with outward courtesy, but at the same time with secret contempt, and that no good can possibly come of a conference, even if it is assembled.

Mr. CHARLES W. STONE. I yield four minutes to the gentleman from Tennessee [Mr. McMILLIN].

Mr. McMILLIN. Mr. Speaker, we have only to witness the spectacle to which the House has been treated to-day to be confirmed in the contention of the Democratic party during the last campaign that the plank on the currency question that was inserted in the Republican platform was only placed there for the purpose of catching votes. The irreconcilable divisions that exist on the other side are sufficient to show that if this question were left to the Republican party there could be no bimetallism in this country.

The party criticised the Democratic Administration a few years ago, charging it with an "effort to demonetize silver." But in its last platform it pledged itself to maintain the gold standard till an international agreement could be had with foreign nations in favor of it. If the foreign nations never agree for us to move in that direction, we promise to stand still.

Does anyone think England will give her consent? Will she go for bimetallism? Is she not the "leading commercial nation" outside the United States, or, at least, one of the leading commercial nations? It is vain to expect it of her.

For one, and speaking, I think, the sentiments of the majority on this side, we propose to vote for this resolution, although we know, or believe, that it is destined to result in failure. But we do not propose to put any obstacle in the way of those who pretend to be in favor of bimetallism. For one, I stand where I have always stood on this question. I have ever believed—and I have voted as I believed—that it was the duty of the American people to establish a currency system for that people. I have believed, and yet believe, that it is within the power of the United States to make possible the free and unlimited coinage of both gold and silver at the ratio of 16 to 1, and I regret that we can not have that proposition put through here to-day instead of the one that is before us. I have voted for free coinage of silver every time it has been before Congress since I became a member.

I have always believed in free coinage. I believe that the people of the United States, who do 32 per cent of all the banking done in the world, 31 per cent of all the manufacturing that is done in the world, who have a majority of all the railroads that have been

laid down in the world, whose agriculture and expenditures for education both surpass those of Great Britain, France, Germany, Austria, and Italy combined, and who do a majority of the carrying trade of the world, can, if they will, maintain the free and unlimited coinage of silver.

I beg gentlemen on the other side of this Chamber to remember that beyond them and out of their reach, by their own act, the settlement of this question has been placed; they have no control now. Those Republicans who believe in free silver have tied their own hands. The incoming President has already selected as his Secretary of the Treasury one who had heretofore been a Democrat, but who departed from his party, who bolted its platform and abandoned its ticket because he did not believe in the free and unlimited coinage of silver. If quoted correctly, he does not favor silver.

You sent over to the other side, in a quiet, unofficial way, a distinguished and bright statesman, Mr. WOLCOTT, who has been wandering from court to court, and bowing at the feet of statesman after statesman there, pleading in vain for some little recognition of the rights of silver. The poor dove that day after day returned to the ark, weary-winged and leafless, was a no more sad spectacle than he when he returns to the Republican party now, announcing that he can accomplish nothing, and that in foreign climes he finds no dry land on which to settle his party's drifting and dilapidated ark.

Go on, gentlemen, with your work. Do yourselves no harm in your straitened and uncertain condition. The people of the United States are for free silver coinage, and the people of the United States will have free silver, despite your schemes. [Applause.]

[Here the hammer fell.]

Mr. CHARLES W. STONE. How much time have I remaining?

The SPEAKER pro tempore. The gentleman has seventeen minutes remaining.

Mr. CHARLES W. STONE. I yield three minutes to the gentleman from Ohio [Mr. WATSON].

Mr. WATSON of Ohio. Mr. Speaker, I am in favor of this bill and shall vote for it with pleasure. I deny the right of the gentleman from New York [Mr. QUIGG] to place a construction upon the last national Republican platform which this House shall accept. I deny his interpretation of the financial plank of that platform, which undertakes to commit the Republican party, now and forever, to gold monometallism. I deny his assertion, made upon the floor of this House, that that construction carried the last national election. I say to him now, and I say to the members of this House, that if that construction had been accepted by the people of this country, that grand representative of American manhood and the highest possibilities of American life, William McKinley, would not be inaugurated on the 4th day of next March President of this Republic.

The American people do not believe now, and I doubt if they will ever believe, in gold monometallism in the United States; but they do believe in gold as a standard of value, with as much silver in circulation as can be maintained on a parity with gold.

Neither are they in favor of absolute free silver. What we want is an international monetary conference that, if possible, will adjust this great and all-important question so as to meet, as far as possible, the demands of international commerce; and if we can not do it, let us try to make the nearest approach to it that it is possible to make.

I ask the Republican members of this House what we can say to the Republicans of the nation if we fail to keep the pledge made in the last Republican platform? I agree with the distinguished gentleman from Iowa [Mr. HEPBURN] that we agreed and bound ourselves in that platform to an international monetary conference, and unless we keep faith with the people of this Republic upon that subject, we can not escape their condemnation, and ought not to ask them again to indorse us at the polls. I hope this bill will pass. I have faith in the wisdom of the commission that will be appointed and in their judgment and loyalty on all questions that will affect this Republic. The people are looking forward to some legislation of this kind, and I trust this House will have the courage to pass this bill.

Mr. CHARLES W. STONE. Mr. Speaker, I hope the gentleman from New York will now use his time.

Mr. QUIGG. I yield eleven minutes, the balance of my time, to the gentleman from Massachusetts [Mr. KNOX].

Mr. KNOX. Mr. Speaker, we are confronted here to-day with the spectacle of a bill presumably proposed by the Republican party, supported almost unanimously by the members of the Democratic and Populist parties upon this floor. I listened to the remarks of the distinguished gentleman from Iowa [Mr. HEPBURN]. He did not wish that the gentleman from New York [Mr. QUIGG] should construe the Republican platform for him. I say that I do not wish the distinguished gentleman from Iowa [Mr. HEPBURN] to construe the Republican platform for me. But I would far rather that he would do it than stand here and have the Democratic party and the Populist party construe the Republican platform for me. I have respect for those gentlemen and for their views. We met them fairly in open conflict; but I do not wish them to construe for me as a Republican the provisions of the platform under which we carried the country in November. Neither can I prevent distrusting their generous efforts to help us forward with this bill. I think they do it not in the interest of Republicanism, but in the interest of Populism, which has now got control of the Democratic party.

Now, Mr. Speaker, I do not intend to enter upon any general discussion of the principles of bimetallism; but I have heard nothing said in this discussion to change my view that bimetallism in the sense of the concurrent circulation of two metals as money at an arbitrary ratio, with free coinage for both, is an impossibility. I do not believe that you can create and maintain the value of a commodity by law. I do not believe you can create and maintain the relative value of two commodities by law. The demand for a metal for coinage may affect its value, but only to a degree. Other important considerations will determine its market value.

Now, Mr. Speaker, I think bimetallism and free coinage are a contradiction in terms; and that the only possible bimetallism is by preserving one as a standard and keeping the other as subsidiary. But I will not enter upon a discussion of this question; neither will I discuss any question of party policy or individual loyalty to party. I say they are not involved in this measure. I simply oppose the present bill at the present time. It is a bad bill. It is bad, in the first place, because it specifically provides that in whatever way a fixity of relative value of the two metals is to be brought about, it must be accompanied by free coinage. It does not leave it open to any conference that may be called for the purpose of securing international agreement to provide for an enlarged use of silver in any other way. The conference called, under the terms of this bill, when they meet, will find themselves bound hand and foot to the proposition that they must accompany whatever provision they may make with a provision for the free coinage of silver.

This bill is a bad bill, Mr. Speaker, because it does not prescribe any way or method by which free coinage is to be brought about, or by which fixity of relative value of the two metals is to be brought about. Is it not of considerable consequence that before we pass a bill of this importance the Congress of the United States should consider and determine in what way that is to be brought about? Should we not consider what propositions are to be submitted to this conference? Shall we go into this thing entirely in the dark? Ought not some proposition to be formulated? Why, the gentleman from Kentucky [Mr. MCCREARY] said the other conferences failed because they had no authority. What authority has this conference? I ask the gentleman in charge of the bill to tell us what this conference can do? They have nothing stated to them upon which they can act. This bill is a bad bill, and we are to have no opportunity for amendment. I refer to the way it is proposed to be put through under a suspension of the rules. An amendment was prepared which should contain the other provisions of the Republican platform, an amendment which says that—

In thus authorizing the calling of an international conference, as described in section 1 of this act, the Government of the United States hereby declares "that it is unreservedly for sound money, that it is unalterably opposed to every measure calculated to debase the currency or to impair the credit of this country, that until such an agreement as this act contemplates can be obtained, the existing gold standard must be preserved and all our silver and paper money must be maintained at a parity with gold."

Mr. Speaker, is there a Republican who would have voted against that amendment? Is there a Democrat or a Populist who would have voted for it? And yet, sir, with this important measure before us, we, standing here and seeking an opportunity to support the Republican platform, are prevented from even offering an amendment, by gentlemen endeavoring to pass this bill under a suspension of the rules. This bill is a bad bill, as I have said, because it prescribes no method, while it declares for free silver. We do not know exactly what that declaration means, but we know one thing that it means. It means that silver is to be overvalued and that the overvaluation is to be maintained by the stamp of the Government. It means that a large part of the value of circulation is to be maintained by the fiat of the Government. That is Populism. That is the fundamental doctrine of Populism. Mr. Speaker, that is the doctrine that lies at the foundation of an irredeemable paper currency, and I say here, and I think the House will bear me out in the statement, that an irredeemable paper currency is what the Populists are after, and that if the nations of the earth can be brought to that ground, the real Populistic heaven will have been discovered.

Mr. WATSON of Ohio. What maintains the greenback at a parity with gold now?

Mr. KNOX. What maintains the greenback at a parity with gold? Not fiatism. The greenback is simply a promise to pay on demand. To pay what? To pay gold; and the Government of the United States is behind that promise. But when you stamp

upon a piece of silver that it is worth more than it is worth and circulate it as money, that is fiatism; that is Populism; that is on the basis of an irredeemable currency.

Mr. TOWNE. Let me ask the gentleman what maintained the parity of the silver dollar between 1878 and 1890?

Mr. COOPER of Wisconsin. Before the pledge was made.

Mr. TOWNE. Yes; before the pledge was made which has been cited to-day as the cause of the parity.

Mr. KNOX. If I can make myself understood by the distinguished gentleman, I will answer him. My position upon bimetallism is that a certain amount of silver can be circulated as money, and that is true bimetallism. The parity was maintained because the amount of silver that was coined into dollars was limited, and because the coinage was made by the Government upon Government account, and was entirely controlled by the Government. Does that answer the gentleman's question?

Mr. TOWNE. I understand the gentleman, then, to concede the principle that the maintenance of the parity depends upon establishing a demand sufficient to employ the supply.

Mr. KNOX. Not at all.

Mr. TOWNE. Reconcile that with your other answer.

Mr. KNOX. The market value of the commodity, which is silver, will be maintained by the considerations which maintain the market value of any other commodity; but I say that none of the questions which the gentleman addresses to me apply to money when it is used as token money, when its amount is limited, and when the coinage is not free, but is simply made on Government account.

Mr. TOWNE. Does the gentleman contend that the silver dollar between 1878 and 1890 was token money?

Mr. KNOX. It was a legal tender.

Mr. TOWNE. It was standard money, was it not?

Mr. KNOX. For all purposes.

Mr. TOWNE. Why, then, do you speak of it as token money?

Mr. KNOX. I say it stands precisely upon the principle of token money as long as the amount of the coinage is limited and the coinage is done upon Government account.

Mr. QUIGG. The gentleman from Minnesota does not mean to suggest that the silver in the dollar does the buying, does he?

Mr. KNOX. No, he does not mean that.

Mr. TOWNE. I mean to suggest that——

[Here the hammer fell.]

Mr. TOWNE. I would like time to tell you what I mean. [Laughter.]

Mr. CHARLES W. STONE. Mr. Speaker, I yield six minutes to the gentleman from Maine, Mr. DINGLEY. [Applause.]

Mr. DINGLEY. Mr. Speaker, in the six minutes which have been allotted to me I can only briefly suggest two reasons why I shall support the pending bill. First, it is in response to the clear, distinct, unequivocal pledge of the Republican party in the last campaign. [Applause.] Mr. Speaker, sometimes resolutions are adopted in national conventions hastily and inconsiderately that have no binding force, but everyone who is acquainted with the circumstances under which the St. Louis convention was held understands that this feature of the platform was a clear, distinct, and well-considered declaration of the Republican party. [Applause.]

The Republican party at St. Louis declared against the free coinage of silver by the independent action of this country, because they believed, as I believe, and as every scientific bimetallist in the world outside of politics believes, that such independent free coinage of silver at the ratio of 16 to 1, would be nothing in the world but silver monometallism and a silver standard. But the party said at the same time that they would promote, so far as in their power, an international agreement for the free coinage of silver under conditions which should make every dollar in silver as good as every dollar in gold; and that pledge it is our duty to-day by the passage of this bill to endeavor to redeem. [Applause.]

Secondly, Mr. Speaker, I am in favor of the passage of this bill because I believe that its defeat under the circumstances under which it is presented, and in view of the pledge which we made at the St. Louis convention, would result in a great injury to the sound-money cause. [Applause.] It must be understood that there are in this country thousands—yes, millions—of voters who, while opposed to the free coinage of silver by this country alone, because they believe that would give us simply silver monometallism, as I believe it would, are yet in favor of an honest effort to secure an international agreement upon this point, because they believe that if that can be secured through the cooperation of the great commercial nations of the world it would give us a currency every dollar of which would be as good as gold, and that we should thus have a gold standard or its equivalent. That is what they believe.

Now, in view of the fact that there are these millions of people who believe that this can be accomplished, I hold, without entering upon any discussion as to the probabilities of success, that it would be a great mistake for this side of the House under those conditions not to meet the wishes of those men and make an earnest endeavor to obtain such an international agreement. It it fails, then we shall have done our full duty in the premises and no harm will have happened. If it succeeds, then we shall have secured throughout the commercial world a universal common standard of value that will promote international trade. [Applause.] I believe, therefore, under these circumstances, without entering upon the discussion of the various questions involved, that it is the duty of every Republican, in view of the pledge that we made, in view of the fact that we should damage the cause of sound money by refusing to meet our pledge, to vote for the pending bill.

The suggestion that this is not the time to act is purely technical. The bill is here before us; and we must meet it one way or another. We as Republicans or we as sound-money men can not go to the country and say that if this measure had been presented to us two months hence, we would favor it; but now we are opposed to it. We can not dodge in any such way. [Applause.]

One word further. When the suggestion is made that gentlemen in favor of the free coinage of silver at 16 to 1 by this country alone are voting for this bill, I want you to read between the lines of speeches condemnatory of this bill which have been made here and elsewhere and you can infer that nothing would please some of them so much as to see this bill defeated to-day; and if their votes would do it without shouldering the responsibility for such action, I fear they would be so cast.

Mr. TOWNE. Will the gentleman yield for a moment?

Mr. DINGLEY. I can not yield.

The SPEAKER. The time of the gentleman from Maine [Mr. DINGLEY] has expired.

Mr. TOWNE. I desire simply to say——

The SPEAKER. The time of the gentleman from Maine has expired.

Mr. TOWNE. I think I am entitled to rise to a question of personal privilege. The concluding remarks of the gentleman from Maine referred to those who believe in the free coinage of silver and gold at the ratio of 16 to 1, of whom I am known to be one——

The SPEAKER. The Chair thinks that is not a question of privilege.

Mr. TOWNE. The gentleman chooses to impute to us a sinister motive in voting for this bill——

The SPEAKER. In the opinion of the Chair, the gentleman does not present any question of privilege at all.

Mr. CHARLES W. STONE. I now yield to the gentleman from Ohio [Mr. GROSVENOR].

Mr. GROSVENOR. Mr. Speaker, important declarations in political platforms are never the result of accident, but are always the result of design. They are always born of conditions existing in the constituents of the party that gives the utterance. The Republican convention at St. Louis was a representative body of a great party in the country, and the men who went there and represented their several constituencies understood the conditions at home. They did not go to St. Louis to declare a platitude nor to make a mere declaration that was not demanded by existing conditions and that was not in consonance with the opinions of their constituents. The Republican party at the threshold of the campaign was met by the question of what should constitute its financial plank, and looking to what the party had done and what it had already pledged itself to do, it found that it had put into the statute book of the United States the declaration that the country pledged itself to the maintenance of the parity between gold and silver on November 1, 1893, when a Republican Congress, by the almost solid vote of its party in both Houses, repealed the Sherman purchasing clause and enacted the following:

> That it is hereby declared to be the policy of the United States to continue the use of both gold and silver as standard money and to coin both gold and silver into money of equal intrinsic and exchangeable value.

That was the law of the United States of America when the St. Louis convention assembled and the platform was adopted, and yet the gentleman from New York [Mr. QUIGG] comes here and tells us that the Republican party is under no obligations in regard to the parity of this coinage, but is a single gold standard party. The compromises of the St. Louis convention produced the result that we have before us, and I want to read a single paragraph from the proceedings of that convention, which will show what the understanding of the representatives there present was when this plank was brought in.

I will say, first, that that was a memorable occasion, one that no man who witnessed it will ever misunderstand. It was an occasion that will be a warning to a great many men in this country that they must obey party dictation and follow party standards, or cease to be members of that political party.

Mr. QUIGG. What does the gentleman mean by that?

Mr. GROSVENOR. I mean exactly what I say.

Mr. KNOX. Does the gentleman mean to read anybody out of the party?

Mr. QUIGG. I want to say that I will not accept the voice from Ohio.

Mr. GROSVENOR. Oh, the gentleman will follow his party. He is a good Republican. He is just out on a mistaken notion——

Mr. QUIGG. I will follow the voice of my constituents right along.

Mr. GROSVENOR. I am going to talk with you about your constituents in a moment. [Laughter.]

I read from the official report of the proceedings of the St. Louis convention. I will give the language that was sent out to a listening world, borne upon the magnificent voice of a most distinguished Ohioan, now Senator Foraker, who is soon to take his seat at the other end of the Capitol, pledged to stand by this platform, giving force and effect to all its language and all its promises. No one who was present in that convention will ever forget the splendid delivery of that platform and the magnificent reception which it received:

The Republican party is unreservedly for sound money. [Great applause.] It caused the enactment of a law providing for the redemption of specie payments in 1879. Since then every dollar has been as good as gold. [Applause.] We are unalterably opposed to every measure calculated to debase our currency or impair the credit of our country. [Applause.] We are therefore opposed to the free coinage of silver, except by international agreement with the leading commercial nations of the earth——

[The speaker was here interrupted by a demonstration of approval on the part of a large majority of the delegates which lasted several minutes. Continuing, Governor Foraker read as follows:]

which agreement we pledge ourselves to promote, and until such agreement can be obtained the existing gold standard must be maintained. All of our silver and paper currency must be maintained at parity with gold, and we favor all measures designated to maintain inviolable the obligations of the United States, of all our money, whether coin or paper, at the present standard, the standard of the most enlightened nations of the earth.

There was a scene never to be forgotten. Days had been spent in considering the platform, efforts had been made to compel candidates for President to more specifically announce their particular views upon this particular question, and finally the convention was brought face to face with the work of its committee, which had been carefully studied, fully deliberated upon, and finally brought forward for the action of the convention.

Now there came an issue, a crisis in that convention, when every representative of every constituency had an opportunity to declare whether he was satisfied or not satisfied with that declaration. A call of the States was demanded, and under the representative rules of a Republican convention every Republican representative had a right to stand up and record his vote for or against that platform, or that single section of the platform, voted upon as a separate and distinct proposition. They did not rush the platform through as a whole, but upon the demand for a vote upon the single resolution the States were called, and I am going to read the votes of four States on that occasion. That was the time to have protested. That was the time to say that it was a humbug. That was the time to deny the leadership of the committee on resolutions. When the State of Indiana was called, there were 30 votes, of thirty great Republicans, representing that great constituency, and all thirty of them voted "aye." [Applause on the Republican side.]

Mr. JOHNSON of Indiana. Inasmuch as the gentleman has referred to Indiana, he will permit me to remark that I never made an argument in the last campaign against free silver and its heresies that I did not necessarily strike bimetallism squarely in the face.

Mr. GROSVENOR. Very well, then, the gentleman struck his party in the face.

Mr. JOHNSON of Indiana. Not at all.

Mr. GROSVENOR. Now, we come down to the great State of Massachusetts.

Mr. JOHNSON of Indiana. I wish to say to the gentleman——

Mr. GROSVENOR. Now, the gentleman from Indiana has had time in his own right and has talked a good deal.

The SPEAKER. The gentleman from Ohio declines to yield.

Mr. JOHNSON of Indiana. The gentleman from Ohio ought not to reproach anybody for talking a good deal.

Mr. GROSVENOR. Well, "the gentleman from Ohio" does not talk as fast as the gentleman from Indiana, and does not talk as sweetly.

Mr. JOHNSON of Indiana. He talks a good deal oftener.

Mr. GROSVENOR. And his voice is not as musical to himself.

Mr. JOHNSON of Indiana. Nor to anybody else.

Mr. GROSVENOR. Now we come to Massachusetts. Massachusetts was represented in that convention by her great leaders, men who understood the wishes of their constituency. One of them, the distinguished Senator, Mr. LODGE, had had much to do with the framing of the platform, and it is claimed for him, and I have never heard it disputed, that it was his pen that drafted the language of this financial plank. Massachusetts cast 30 votes, all solidly "aye." Then we come to the great Empire State. Among her leading men was the Hon. Thomas C. Platt, soon to become a Senator from the Empire State, and the whole 72 of them voted "aye." So did Pennsylvania, and so did 812 out of 924 representatives. Among the "ayes," among the States that cast their vote solidly and without protest for that plank of that platform, with its interpretation fully known and fully understood, was the grand old New England State of Connecticut, then represented by a delegation intelligent, patriotic, and wise.

I will at this point, Mr. Speaker, reproduce the table showing the "ayes" and "noes" upon the financial plank. It will be seen that of the 110½ votes cast against the plank, practically all of them came from States that afterwards cast their vote for Mr. Bryan:

State.	Vote.	Aye.	No.
Alabama	22	19	3
Arkansas	16	15	1
California	18	4	14
Colorado	8	.....	8
Connecticut	12	12	.....
Delaware	6	6	.....
Florida	8	7	1
Georgia	26	25	1
Idaho	6	.....	6
Illinois	48	46	2
Indiana	30	30	.....
Iowa	26	26	.....
Kansas	20	15	5
Kentucky	26	26	.....
Louisiana	16	16	.....
Maine	12	12	.....
Maryland	16	16	.....
Massachusetts	30	30	.....
Michigan	28	25	3
Minnesota	18	18	.....
Mississippi	18	18	.....
Missouri	34	*33	.....
Montana	6	.....	6
Nebraska	16	13	3
Nevada	6	.....	6
New Hampshire	8	8	.....
New Jersey	20	20	.....
New York	72	72	.....
North Carolina	22	7½	14½
North Dakota	6	6	.....
Ohio	46	46	.....
Oregon	8	8	.....
Pennsylvania	64	64	.....
Rhode Island	8	8	.....
South Carolina	18	18	.....
South Dakota	8	7	1
Tennessee	24	23	1
Texas	30	30	.....
Utah	6	.....	6
Vermont	8	8	.....
Virginia	24	17	7
Washington	8	8	.....
West Virginia	12	12	.....
Wisconsin	24	24	.....
Wyoming	6	.....	6
Arizona	6	.....	6
New Mexico	6	2	4
Oklahoma	6	.....	6
Indian Territory	6	6	.....
District of Columbia	2	2	.....
Alaska	4	4	.....
	924	812½	110½

* One absent.

Mr. HARDY. And the gentleman from New York was a delegate to that convention?

Mr. QUIGG. Yes, I was, and voted for the platform and shall construe it in the Fifty-fifth Congress.

Mr. GROSVENOR. It does not need any construction. We did not need any construction of it during the campaign.

I was saying that more than 100 men who will ornament the next House of Representatives on the Republican side owe their election to that platform and an honest espousal of it before the masses of the people. [Applause.]

Now, what have we here? The Republican party on this floor is called upon to act to-day. This bill is here for action, not repudiation. This bill came from the gathered wisdom of its friends at the other end of the Capitol; it came in obedience to the voice of the Republican party. True, a great many men got on board of the Republican ship during last summer. Are we to turn from our own proposition because Democrats voted with us? Quite the reverse. When we saw them drowning in the water, we gathered them up and took them ashore, and we have planted them on the rock of honest money and good government, and the Republican party owes nothing more to the men who have joined it for principle. [Loud applause.]

The SPEAKER. The time of the gentleman has expired.

Mr. GROSVENOR. I ask unanimous consent to put certain of the paragraphs that I imperfectly read into my remarks.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. The question is on the motion to suspend the rules and pass the Senate bill as amended.

Mr. McMILLIN. Mr. Speaker, let us have the yeas and nays on that.

The yeas and nays were ordered.

The question was taken; and there were—ayes 281, noes 4, not voting 70; as follows:

YEAS—281.

Abbott,	Dingley,	Kleberg,	Settle,
Aldrich, T. H.	Dinsmore,	Kyle,	Shafroth,
Aldrich, Ill.	Dockery,	Lacey,	Shannon,
Allen, Miss.	Dolliver,	Latimer,	Sherman,
Anderson,	Doolittle,	Lawson,	Shuford,
Andrews,	Dovener,	Layton,	Simpkins,
Apsley,	Eddy,	Lefever,	Skinner,
Arnold, R. I.	Ellett,	Lewis,	Smith, Mich.
Atwood,	Ellis,	Linney,	Snover,
Avery,	Erdman,	Little,	Sorg,
Bailey,	Evans,	Livingston,	Southard,
Baker, Kans.	Fairchild,	Long,	Southwick,
Baker, Md.	Faris,	Loud,	Spalding,
Baker, N. H.	Fenton,	Loudenslager,	Sparkman,
Bankhead,	Fischer,	Low,	Spencer,
Barham,	Fitzgerald,	Maddox,	Sperry,
Barney,	Fletcher,	Mahany,	Stallings,
Bartholdt,	Foote,	McCall, Mass.	Steele,
Bartlett, Ga.	Foss,	McCall, Tenn.	Stephenson,
Beach,	Gamble,	McCleary, Minn.	Stewart, Wis.
Bell, Colo.	Gardner,	McClellan,	Stone, C. W.
Bell, Tex.	Gibson,	McCreary, Ky.	Stokes,
Bennett,	Gillet, N. Y.	McCulloch,	Stone, W. A.
Berry,	Gillett, Mass.	McDearmon,	Strode, Nebr.
Bingham,	Goodwyn,	McEwan,	Strong,
Bishop,	Graff,	McLachlan,	Strowd, N. C.
Black,	Griffin,	McMillin,	Sulloway,
Blue,	Griswold,	McRae,	Swanson,
Boatner,	Grosvenor,	Meiklejohn,	Taft,
Bowers,	Grout,	Mercer,	Talbert,
Broderick,	Grow,	Meredith,	Tate,
Brosius,	Hager,	Meyer,	Tawney,
Brumm,	Hall,	Miller, Kans.	Tayler,
Buck,	Halterman,	Miller, W. Va.	Terry,
Bull,	Hanly,	Milliken,	Thorp,
Burrell,	Hardy,	Milnes,	Towne,
Burton, Mo.	Harmer,	Minor, Wis.	Tracewell,
Burton, Ohio	Harris,	Mitchell,	Tracey,
Calderhead,	Harrison,	Mondell,	Treloar,
Cannon,	Hart,	Money,	Tucker,
Chickering,	Hartman,	Moody,	Turner, Ga.
Clardy,	Hatch,	Morse,	Turner, Va.
Clark, Iowa	Heatwole,	Mozley,	Tyler,
Clark, Mo.	Hemenway,	Murray,	Updegraff,
Clarke, Ala.	Henderson,	Neill,	Van Horn,
Cockrell,	Hendrick,	Newlands,	Van Voorhis,
Codding,	Henry, Ind.	Northway,	Wadsworth,
Coffin,	Hepburn,	Ogden,	Walker, Mass.
Colson,	Hermann,	Otjen,	Walker, Va.
Connolly,	Hilborn,	Overstreet,	Wanger,
Cooke, Ill.	Hitt,	Parker,	Warner,
Cooper, Fla.	Hooker,	Patterson,	Washington,
Cooper, Tex.	Hopkins, Ill.	Payne,	Watson, Ind.
Cooper, Wis.	Howe,	Pearson,	Watson, Ohio
Corliss,	Howell,	Pendleton,	Wellington,
Cousins,	Hubbard,	Perkins,	Wheeler,
Cox,	Huff,	Phillips,	White,
Crisp,	Hulick,	Pitney,	Williams,
Crowther,	Huling,	Poole,	Willis,
Crump,	Hull,	Powers,	Wilson, N. Y.
Culberson,	Hunter,	Price,	Wilson, Ohio
Cummings,	Hurley,	Prince,	Wilson, S. C.
Curtis, Iowa	Hyde,	Pugh,	Wood,
Curtis, Kans.	Jenkins,	Ray,	Woodard,
Curtis, N. Y.	Johnson, Cal.	Reeves,	Woodman,
Dalzell,	Johnson, N. Dak.	Reyburn,	Woomer,
Danford,	Jones,	Richardson,	Wright,
Daniels,	Joy,	Robertson, La.	Yoakum.
Dayton,	Kerr,	Royse,	
De Armond,	Kiefer,	Russell, Conn.	
De Witt,	Kirkpatrick,	Sayers,	

NAYS—4.

Henry, Conn.	Johnson, Ind.	Knox,	Quigg.

NOT VOTING—70.

Acheson,	Crowley,	Linton,	Raney,
Adams,	Denny,	Lorimer,	Rinaker,
Aitken,	Draper,	Maguire,	Robinson, Pa.
Aldrich, W. F.	Fowler,	Mahon,	Rusk,
Allen, Utah	Hadley,	Marsh,	Russell, Ga.
Arnold, Pa.	Hainer, Nebr.	Martin,	Sauerhering,
Babcock,	Heiner, Pa.	McClure,	Scranton,
Barrett,	Hicks,	McCormick,	Shaw,
Bartlett, N. Y.	Hill,	McLaurin,	Smith, Ill.
Belknap,	Hopkins, Ky.	Miles,	Stahle,
Boutelle,	Howard,	Miner, N. Y.	Stewart, N. J.
Brewster,	Hutcheson,	Moses,	Strait,
Bromwell,	Kem,	Murphy,	Sulzer,
Brown,	Kulp,	Noonan,	Thomas,
Catchings,	Leighty,	Odell,	Wilber,
Cobb,	Leisenring,	Otey,	Wilson, Idaho.
Cook, Wis.	Leonard,	Owens,	
Cowen,	Lester,	Pickler,	

The following pairs were announced:

Until further notice:

Mr. BARRETT with Mr. CATCHINGS.

Mr. MAHON with Mr. OTEY.

Mr. KULP with Mr. SHAW.

Mr. PICKLER with Mr. MINER of New York.

Mr. BROMWELL with Mr. STRAIT.

For this day:

Mr. MCCLURE with Mr. MCLAURIN.

Mr. WILBER with Mr. MILES.

Mr. HAINER of Nebraska with Mr. HUTCHESON.

Mr. COOK of Wisconsin with Mr. RUSSELL of Georgia.

Mr. STEWART of New Jersey with Mr. OWENS.

Mr. HICKS with Mr. CROWLEY.

Mr. WILLIAM F. ALDRICH with Mr. FITZGERALD.

Mr. THOMAS with Mr. COBB.

Mr. SMITH of Illinois with Mr. DENNY.

Mr. SCRANTON with Mr. SULZER.

Mr. LINTON with Mr. MOSES.

Mr. BELKNAP with Mr. RUSK.

Mr. LEONARD with Mr. LESTER.

On this question:

Mr. ADAMS with Mr. LEISENRING.

Mr. BAILEY. Mr. Speaker, the gentleman from Maryland, Mr. MILES, was called away on account of sickness in his family, and asked me to request leave of absence for him, and also to say that if he had been present, he would have voted "yea."

Mr. WALKER of Virginia. I ask if I am recorded?

The SPEAKER. The gentleman is not recorded.

Mr. WALKER of Virginia. I desire to vote.

The SPEAKER. Was the gentleman present at the time when his name should have been called, and listening, and failed to hear?

Mr. WALKER of Virginia. I was. It was not called, I think.

The name of Mr. WALKER of Virginia was called, and he voted "yea."

Mr. DANFORD. Mr. Speaker, I desire to announce that the gentleman from Pennsylvania, Mr. SCRANTON, was unavoidably called out of the House a little while before the roll was called. If present, he would have voted "yea."

Mr. BRUMM. Mr. Speaker, my colleague, Mr. STAHLE, was unavoidably called from the House before the vote was taken. I wish to state that if present he would have voted "yea."

The SPEAKER. On this question the yeas are 281, the nays are 4 [loud applause]; two-thirds having voted in the affirmative, the rules are suspended and the bill is passed as amended.

PRINTING OF CONSULAR REPORTS.

The SPEAKER laid before the House the following message from the President of the United States; which was ordered to be printed, and referred to the Committee on Printing:

To the House of Representatives:

I transmit herewith a communication from the Secretary of State, accompanying the annual reports of the consuls of the United States upon foreign industries and commerce. In view of the value of these reports to the business interests throughout the country, I indorse the recommendation of the Secretary of State that Congress authorize the printing of a special edition of 10,000 copies of the general summary entitled, "Review of the World's Commerce," and of 5,000 copies of "Commercial Relations" (including this summary), to enable the Department of State to meet the demand for such information.

GROVER CLEVELAND.

EXECUTIVE MANSION,
Washington, February 26, 1897.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. MCEWAN, its Chief Clerk, announced that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

A bill (S. 3722) granting a pension to Mrs. Hannah Letcher Stevenson, widow of the late Brig. Gen. John D. Stevenson;

A bill (S. 3721) to authorize the construction and maintenance of a bridge across the St. Lawrence River;

A bill (S. 3725) to prevent the importation of impure and unwholesome tea; and

A bill (S. 1823) to amend an act approved July 15, 1882, entitled "An act to increase the water supply of the city of Washington, and for other purposes."

The message also announced that the Senate had passed without amendment bills of the following titles:

A bill (H. R. 9709) to better define and regulate the rights of aliens to hold and own real estate in the Territories;

A bill (H. R. 8706) to correct the military record of Patrick Hanley;

A bill (H. R. 6792) granting a pension to Hannah R. Quint;

A bill (H. R. 1708) to amend an act entitled "An act authorizing the appointment of receivers of national banks, and for other purposes," approved June 30, 1876, as amended by an act approved August 3, 1892;

A bill (H. R. 5473) concerning delivery of letters in towns, villages, and other places where no free delivery exists;

A bill (H. R. 5898) granting a pension to Amanda M. Way, as army nurse;

A bill (H. R. 3842) to increase the pension of Edward Vunk; and

A bill (H. R. 3292) granting an honorable discharge to Seth Porter Church, alias Samuel Church.

The message also announced that the Senate had passed with

amendments the bill (H. R. 8582) to allow the bottling of distilled spirits in bond in which the concurrence of the House was requested.

REMOVAL OF SNOW AND ICE IN WASHINGTON, D. C.

Mr. CURTIS of Iowa. Mr. Speaker, I desire to present a conference report.

The conference report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 7469) for the removal of snow and ice from the sidewalks, cross walks, and gutters in the District of Columbia, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the first amendment of the Senate and agree to the same with an amendment as follows: After the word "to," in line 8 of section 1, insert the word "be;" and that the Senate agree to the same.

That the House recede from its disagreement to the second, third, fourth, fifth, and sixth amendments of the Senate, and agree to the same.

G. M. CURTIS,
AD. MEYER,
Managers on the part of the House.

JAMES McMILLAN,
CHAS. J. FAULKNER,
LUCIEN BAKER,
Managers on the part of the Senate.

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

The Senate amended the House bill by inserting the word "agent" for the word "owner" wherever it occurred. The House accepted the amendments of the Senate, but a clerical error having been made in the official copy of the print of the bill, the bill was sent to conference, and the clerical error has been corrected by the insertion of the word "be" in line 8, so that the phrase shall read "cause the same to be removed."

The conference report was adopted.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. PLATT, one of its clerks, announced that the Senate had passed with amendment the bill (H. R. 7320) to prevent trespassing upon and providing for the protection of national military parks, asked a conference with the House of Representatives on the bill and amendment, and had appointed Mr. HAWLEY, Mr. SHOUP, and Mr. WALTHALL as the conferees on the part of the Senate.

TARIFF HEARINGS.

Mr. PERKINS. Mr. Speaker, I desire to present a privileged report, which I send to the desk.

The report was read, as follows:

Resolved by the House of Representatives (the Senate concurring), That there be printed for the use of the two Houses of Congress 15,000 copies of the tariff hearings of the Committee on Ways and Means during the second session of the Fifty-fourth Congress, of which 5,000 copies shall be for the use of the Senate and 10,000 copies for the use of the House.

The Committee on Printing having had under consideration House concurrent resolution No. 70, for the printing of 15,000 copies of the tariff hearings of the Committee on Ways and Means during the second session of the Fifty-fourth Congress, recommend that the same be agreed to, with amendments, as follows:

Strike out, in line 3, the word "fifteen" and insert "ten."

In lines 5 and 6 strike out "5,000" and insert "3,250."

In lines 6 and 7 strike out "10,000" and insert "6,750;" so that it shall read: "That there be printed for the use of the two Houses of Congress 10,000 copies of the tariff hearings of the Committee on Ways and Means during the second session of the Fifty-fourth Congress, of which 3,250 copies shall be for the use of the Senate and 6,750 copies for the use of the House."

These hearings will occupy two volumes, and the Public Printer estimates the cost of the work under this resolution as amended at $10,666.

The amendments were agreed to.

The concurrent resolution was then adopted.

On motion of Mr. PERKINS, a motion to reconsider the vote by which the resolution was passed was laid on the table.

FOREIGN DECORATIONS FOR AMERICANS.

Mr. GROSVENOR. I have bills and resolutions, four in number, relating to allowing certain distinguished Americans to accept decorations. They have passed the Senate and are reported favorably in the House, and I should like to have them disposed of at this time.

The SPEAKER. The Clerk will report the first bill.

PROFS. SIMON NEWCOMB AND ASAPH HALL.

The Clerk read as follows:

Resolved, etc., That Prof. Simon Newcomb, United States Navy, and Prof. Asaph Hall, United States Navy, be, and they are hereby, authorized to accept from the Government of the Republic of France the decorations awarded to them, respectively, for their services to the French Academy of Sciences as corresponding members.

The joint resolution was ordered to a third reading; and it was accordingly read the third time, and passed.

The Clerk read as follows:

Be it enacted, etc., That Rear-Admiral W. A. Kirkland, United States Navy, be, and he is hereby, authorized to accept a gold box presented to him by the Emperor of Germany.

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

WILLIAM M'CARTY LITTLE.

The next business was the resolution (S. R. 76) authorizing Lieut. William McCarty Little to accept a decoration.

The joint resolution was read, as follows:

Resolved, etc., That Lieut. William McCarty Little, of the United States Navy, be, and is hereby, authorized to accept from the King of Spain, through the Queen Regent, the decoration of the cross of ordinary commander of the Order of Isabella the Catholic in recognition of his services in Spain in connection with the Columbian Exposition.

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

Mr. BAILEY. Mr. Speaker, I would like to know what the services referred to in the resolution were. In view of certain relations that we all perfectly understand, I doubt the propriety of passing this resolution, and I object.

The SPEAKER. Objection is made. The Clerk will report the next resolution.

HERBERT H. D. PEIRCE.

The Clerk read as follows:

Be it enacted, etc., That Herbert H. D. Peirce, secretary of legation at St. Petersburg, be, and he hereby is, authorized to accept a medal conferred upon him by the Imperial Russian Government in recognition of his services at the time of the coronation of the Czar.

Mr. GROSVENOR. The decoration in this case, as I understand, is a very small matter—a gold snuffbox or something of that kind. I do not know the details, as the resolutions do not come from my committee.

Mr. BAILEY. To my mind, Mr. Speaker, it is almost inexplicable that an American would want a decoration from any foreign government.

Mr. GROSVENOR. Well, these are not strictly decorations. They do not carry titles or anything of that kind.

Mr. BAILEY. I know; but some of these are cases of accepting decorations.

Mr. GROSVENOR. It is a custom to recognize the services of distinguished officers in connection with these international expositions.

Mr. BAILEY. This, I understand, is a proposition to recognize services rendered in the coronation of the Czar of Russia, and to that I object.

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

Mr. HITT. Will the gentleman from Ohio permit me a remark?

Mr. GROSVENOR. Certainly.

Mr. HITT. This medal is a form of international courtesy which has been extended by the Russian Government to many other governments; and to refuse it, or to authorize or necessitate its refusal, would be simple churlishness, because every other nation has accepted it. A refusal would be just like refusing an answer to a polite salute.

Mr. BAILEY. I decline to allow the gentleman from Illinois [Mr. HITT] to characterize my conduct as "churlish."

Mr. HITT. I did not impute any such thing to the gentleman. I spoke of the character of the act as it would be construed by people who are accustomed to the international usages. This matter is wholly unimportant and trivial to us in our view. But in the intercourse of nations these acts are so ordinary that they only attract attention when the customary compliance with usage is refused.

Mr. BAILEY. The gentleman from Illinois persuades me to yield; and while I think this is a very small thing for an American to want, still I will not raise any objection.

I am told that the proposition to accept something from the Government of Spain grows out of our Columbian Exposition, and while I do not know that this is a time for an American to be accepting decorations from Spain, yet in view of the fact that this relates to our own exposition I withdraw my objection.

Mr. GROSVENOR. This refers to an incident which occurred many years ago.

There being no objection, the House proceeded to the consideration of the bill; which was read three times, and passed.

MESSAGE FROM THE PRESIDENT.

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

On February 25, 1897:

An act (H. R. 1095) granting a pension to Annie M. Ermer;

An act (H. R. 4548) granting a pension to Mary L. Arnold;

An act (H. R. 4655) granting a pension to Frederick A. Driscol;

An act (H. R. 446) to increase the pension of Julia H. H. Crosby;

An act (H. R. 8898) to increase the pension of Elizabeth Wellons;

An act (H. R. 7121) to restore Mrs. Elizabeth T. Anderson to the pension roll;

An act (H. R. 8037) for the relief of John McLain, alias Michael McLain;

An act (H. R. 8926) to correct the war record of David Sample;

An act (H. R. 9168) to authorize the construction of a bridge over the Monongahela River from the city of McKeesport to the township of Mifflin, Allegheny County, Pa.;

An act (H. R. 5490) to license billiard and pool tables in the District of Columbia, and for other purposes; and

An act (H. R. 6834) to prevent the purchasing of or speculating in claims against the Federal Government by United States officers.

The following bills were presented to the President on the 13th of February, 1897, and not having been returned by him to the House of Congress in which they originated within the time prescribed by the Constitution of the United States, they have become laws without his approval:

An act (H. R. 1498) directing the Secretary of War to grant an honorable discharge to William M. Dalzell; and

An act (H. R. 1323) for the relief of Ira H. Sweatt.

WILLIAM M'CARTY LITTLE.

The SPEAKER. Objection is withdrawn to the consideration of the resolution, which will be read.

The Clerk again read the joint resolution (S. R. 76) authorizing Lieut. William McCarty Little to accept a decoration from the King of Spain.

The House proceeded to the consideration of the joint resolution; which was read three times, and passed.

DECORATIONS FROM HAWAIIAN GOVERNMENT.

On motion of Mr. GROSVENOR, by unanimous consent, the House proceeded to the consideration of the bill (S. 150) authorizing the persons herein named to accept certain decorations and testimonials from the late Hawaiian Government.

The bill was read, as follows:

Be it enacted, etc., That Rear-Admiral George Brown, United States Navy, be, and he is hereby, authorized to accept a decoration of a Knight Grand Officer of the Royal Order of Kalakaua, conferred upon him by the King of the Hawaiian Islands on December 5, 1890, in recognition of his services to the King upon the occasion of his visit to California;

That Ensign George P. Blow, United States Navy, be, and he is hereby, authorized to accept a decoration of the Royal Order of Kalakaua, conferred upon him by the Queen of the Hawaiian Islands in recognition of his services to the late King;

That Lieut. George S. Dyer, United States Navy, be, and he is hereby, authorized to accept a decoration of a Knight Companion of the Royal Order of Kalakaua, conferred upon him by the King of the Hawaiian Islands on December 5, 1890, in recognition of his services to the King upon the occasion of his visit to California;

That Frank Laviere, of the U. S. S. *Charleston*, be, and he is hereby, authorized to accept a medal of honor conferred upon him by the Queen of the Hawaiian Islands, in recognition of his services to the late King;

That Capt. George C. Remey, United States Navy, be, and he is hereby, authorized to accept a decoration of a Knight Commander of the Royal Order of Kalakaua, conferred upon him by the King of the Hawaiian Islands on December 5, 1890, in recognition of his services to the King upon the occasion of his visit to California;

That Medical Inspector George W. Woods, United States Navy, be, and he is hereby, authorized to accept a decoration of the Royal Order of Kalakaua, conferred upon him by the Queen of the Hawaiian Islands in recognition of his services to the late King.

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

ENGROSSMENT AND ENROLLMENT OF BILLS.

Mr. DALZELL submitted a resolution; which was read, as follows:

Resolved by the House of Representatives (the Senate concurring), That during the last six days of the present session of Congress the engrossing and enrolling of bills and joint resolutions by printing, as provided by act of Congress approved March 2, 1895, may be suspended, and said bills and joint resolutions may be written by hand.

The SPEAKER. The Chair understands that the law provides for this proceeding, and that it is necessary for the transaction of business.

The resolution was agreed to.

MEMORIAL BUILDING, DAUGHTERS OF THE AMERICAN REVOLUTION.

Mr. MORSE. I move to suspend the rules and pass the bill which I send to the desk.

The Clerk read as follows:

A bill (H. R. 10023) setting apart a plot of public ground in the city of Washington, in the District of Columbia, for memorial purposes, under the auspices of the National Society of the Daughters of the American Revolution.

Be it enacted, etc., That there be set apart for the permanent use of the National Society of the Daughters of the American Revolution, for the erection of a memorial building thereon, a portion of the reservation or public ground owned by the United States, in the city of Washington, D. C., described as follows, namely: A plot 200 feet square at the intersection of Fourteenth street and B street, bounded on the north by B street and on the east by Fourteenth street. Said land shall be used only for the purposes of a memorial building to commemorate the services and perpetuate the memory of the heroes of the Revolutionary war, to be erected and owned by the National Society of the Daughters of the American Revolution, and when it ceases to be used for that purpose it shall revert to the United States and all rights hereby granted shall determine and cease.

Mr. MORSE. I desire to offer an amendment.

The SPEAKER. The gentleman from Massachusetts moves to suspend the rules and pass the bill with the amendment which the Clerk will read.

The Clerk read as follows:

Provided, That the plans and specifications for such building shall be approved by the Secretary of the Treasury before the construction thereof shall be commenced, and that said building shall be completed within ten years from the passage of this act.

Mr. BLUE. I demand a second on the motion to suspend the rules.

Mr. MORSE. I ask that a second may be considered as ordered.

Mr. BLUE. I object.

Mr. MORSE and Mr. BLUE were appointed tellers; and the question being taken on seconding the motion to suspend the rules, it was seconded; there being—ayes 131, noes 8.

The SPEAKER. The question is on suspending the rules and passing the bill with the amendment.

Mr. MORSE. I rise to a parliamentary inquiry. This identical bill, without the amendment, has passed the Senate. Is it in order now to move to substitute the Senate bill with the amendment?

The SPEAKER. The Chair understood that the gentleman presented a Senate bill.

Mr. MORSE. No, sir. The two bills are identical; but I presented the House bill with an amendment which has been deemed necessary to meet the objections of certain gentlemen.

Mr. HEPBURN. Mr. Speaker, I want to inquire of the gentleman from Massachusetts [Mr. MORSE] if he has offered the amendment proposed by the committee of this House?

Mr. MORSE. Not exactly, but substantially.

Mr. HEPBURN. Allow me to suggest to the gentleman that there is a very material difference.

Mr. MORSE. The bill as reported to the House came from the Committee on Public Buildings and Grounds. That was the bill that was under consideration by the House. Now, Mr. Speaker, I ask unanimous consent, if that is necessary, to substitute the Senate bill for the House bill as amended.

Mr. BLUE. I object.

Mr. MORSE. Then I ask a vote on the House bill as amended.

The SPEAKER. The question is on suspending the rules and passing the bill.

Mr. BLUE. I desire to yield five minutes to the gentleman from Iowa [Mr. HEPBURN].

Mr. HEPBURN. Mr. Speaker, I want to call the attention of the House to the fact that a House bill identical, I think, with that of the Senate was introduced and referred to the Committee on Public Buildings and Grounds. They reported the bill back, recommending its passage, with a very important amendment, an amendment differing very materially from the one proposed by the gentleman from Massachusetts [Mr. MORSE],

Mr. MORSE. Will the gentleman from Iowa allow me to correct him. The Senate bill was not referred to the Committee on Public Buildings and Grounds, but was referred to the Committee on the District of Columbia.

Mr. HEPBURN. Well, I may have been mistaken about the committee; but the point I want to make is that a committee of this House thought that the bill ought to be guarded, and they have proposed an amendment. The gentleman has not seen fit to adopt that amendment or to offer it.

Again, I want to call the attention of the House to the fact that this organization is not the original Daughters of the Revolution. This is an offshoot from that, a sort of rebellion against it, which has not succeeded as was expected. It is not the great order that we are familiar with, but it is a sort of side show growing out of it. The real society is the Daughters of the Revolution. Three or four years ago certain ladies, as I am informed, who were dissatisfied with a certain election, saw fit to bolt the society and established this society. Now, this is a lingering, sickly institution, and I think if we are going to recognize a society of the Daughters of the Revolution, a very proper one, perhaps, to be recognized in this way, we ought to take the real society and not the bogus one, and we ought, if we make a grant, to make it with proper limitations, such as the committee of this House felt to be necessary.

Mr. HULL. Will the gentleman yield for a question and a statement? I think my colleague is mistaken as to the relative standing of the societies. The society asking this has some 18,000 membership, while the one he refers to has but 2,000.

Mr. HEPBURN. Oh, the gentleman is entirely mistaken.

Mr. HULL. I am not mistaken. I am stating what I know.

Mr. HEPBURN. The society that was in session here a few days ago was the Society of the Daughters of the Revolution.

Mr. HULL. Yes.

Mr. HEPBURN. There were 2,000 people here in attendance upon that.

Mr. HULL. And they are the ones who are asking this.

Mr. HEPBURN. I beg your pardon.

Mr. GROSVENOR. The gentleman from Iowa [Mr. HULL] is correct about that. They are the ones who are asking this.

Mr. HULL. They are the ones who are asking this.

Mr. HEPBURN. This society which is asking this donation from the House is an offshoot from the other.

Mr. GROSVENOR. Whatever it may be, it is the one just in session in this city.

Mr. HULL. It is the one now in session, which overshadows all the others.

Mr. HEPBURN. I yield back the time granted to me by the gentleman from Kansas [Mr. BLUE].

Mr. JOHNSON of California. I should like to ask a question, to determine my vote on this bill. Is it the Society of the Daughters of the Revolution that has just been in session in this city that is referred to by this bill?

Mr. HEPBURN. That is not my understanding.

Mr. HULL. Oh, yes; it is.

Mr. SPALDING. Yes; it is.

Mr. SHERMAN. I should like to say to the gentleman from Iowa [Mr. HEPBURN] that I was personally waited upon by a committee of the society of ladies that was recently in session in this city, and which may be still in session. I do not know anything about this title of either society, but this society in session in Washington is the society intended to be covered by this bill.

Mr. HEPBURN. I may be in error about it. This is the point I am making. This society here is an offshoot, or the bolters, as we would say if they were men in connection with a political party. They have set up a new society of their own.

Mr. SHERMAN. May I say to the gentleman——

Mr. POWERS. May I ask the gentleman if it is not true that these two organizations have practically come together and settled their differences?

Mr. HEPBURN. I do not know.

Mr. POWERS. I am told so by some of the members who are present in the city at this time.

Mr. HEPBURN. They should let us know before we make this national grant.

Mr. POWERS. I would say to the gentleman that the general organization now holding its sessions in this city is very far from being a sickly organization. It has a strong, large delegation of ladies from all over this country, and if he could see those ladies as I have in the last few days where I reside, he would come to the conclusion that they were far from being sickly.

Mr. MORSE. I yield now to the gentleman from Pennsylvania.

Mr. CHARLES W. STONE. Mr. Speaker, I introduced this bill, and consequently have some knowledge as to the parties for whose benefit it was introduced. The bill was introduced in behalf of the Daughters of the American Revolution, an organization the continental congress of which, the general congress of which, met in this city about a week ago, and which is still in session. It is an organization comprising 16,000 to 18,000 members, scattered throughout every State in this Union, with a subordinate organization in every State and Territory except Alaska. It has a national charter granted by the Congress of the United States; and one of the duties imposed upon it is that it shall report to the Secretary of the Smithsonian Institution such matters as he may deem proper for publication. This may be an offshoot of some other organization, but if so it has far outgrown it. The child is far stronger than its mother.

Mr. HULL. Swallowed it up.

Mr. CHARLES W. STONE. And has practically swallowed it up. I understand, as the gentleman from Vermont [Mr. POWERS] has stated, that negotiations have been in progress for some time, and that they are practically consummated, leading to the merging or union of the two societies, the Daughters of the Revolution and the Daughters of the American Revolution. There are two societies of Sons of the American Revolution, and the relative strength of these two organizations is entirely different from the relative strength of the two organizations of ladies.

Now, this organization is one of great strength, and has got a fund already raised for this building. It has a national charter, granted by Congress, and the obligation is imposed upon it to report to a national officer, and it simply asks that this little piece of land, not occupied for anything else, may be set apart for their use, while they use it, for memorial purposes; simply that they may erect their building, of colonial architecture, of proper design, intended as a museum, where they may preserve those things that illustrate the character and manner of life of the Revolutionary period. They desire in this city of Washington, full of memorials of the late war, to build one single memorial building, without a cent of money from the Government, simply to perpetuate the memory of the fathers of the Revolution. They ask no title; they simply ask the privilege of occupying this unoccupied land just so long as they occupy it for memorial purposes and no longer.

Mr. MORSE. I yield two minutes to the gentleman from New York [Mr. SHERMAN].

Mr. SHERMAN. Mr. Speaker, just one minute. If my friend from Iowa [Mr. HEPBURN] will notice, this is the National Society of the Daughters of the American Revolution. My understanding is that there are two societies—the Daughters of the Revolution and Daughters of the American Revolution. The latter, an offshoot, perhaps, of the former, has grown about ten times the size of the original parent. Now, their differences have been adjusted, and now they have agreed upon formation into a united society, making a new membership of both of the old societies. [Cries of "Vote!" "Vote!"]

Mr. HEPBURN. What is the name?

Mr. SHERMAN. The National Society of the Daughters of the American Revolution.

Mr. HEPBURN. The gentleman is satisfied as to the facts in regard to this union of the societies?

Mr. SHERMAN. I am; certainly.

Mr. MORSE. I yield three minutes to the gentleman from Tennessee [Mr. WASHINGTON].

Mr. WASHINGTON. Mr. Speaker, I do not care to take any of the time of the House, except simply to corroborate the statement made by my good friend from New York [Mr. SHERMAN] and the gentleman from Pennsylvania [Mr. CHARLES W. STONE] who preceded me, and to add that the differences that have existed between these two societies, one being the parent and the other the daughter, are rapidly approaching adjustment. And I might further add, in order to satisfy some little objection I have heard upon the floor, that this land is now public property, and the agreement with this patriotic organization in the bill is so guarded that if it ceases to be used for the purposes intended by this bill the ground and the improvements thereon revert to the Government. I hope there will be no objection to the passage of this meritorious measure.

Mr. MORSE. I reserve the remainder of my time.

Mr. HEPBURN. I would like to ask the gentleman from Massachusetts if he is willing, instead of the amendment he has offered, to substitute for that the amendment of the committee. If he will do that, after the statement made by the gentleman from New York, I have no objection to the passage of the bill.

Mr. MORSE. Mr. Speaker, I would simply say that I have conferred with some gentlemen on this floor, and it was found that the amendments of the Committee on the District of Columbia were so drastic that practically they would destroy the bill. The gentleman from Iowa [Mr. HEPBURN] would see if he had time to read the report.

Now, this building is to cost $100,000; and it has to be completed within a year. Gentlemen would not agree to that; that is unreasonable. They have raised a large amount of this money, but still have a large amount to raise. The gentleman from Pennsylvania [Mr. CHARLES W. STONE] has just told us that this fund is now in readiness.

Mr. CHARLES W. STONE. Oh, no. I said that $25,000 was in hand.

Mr. MORSE. If the gentleman from Iowa will look into the matter, he will be satisfied that the amendment I have offered covers all his objections. I ask that that amendment be read one more.

The SPEAKER. The amendment may be read in the time of the gentleman from Massachusetts.

The amendment was read, as follows:

Provided, That the plans and specifications for such building shall be approved by the Secretary of the Treasury before the construction thereof can be commenced, and the said building shall be completed within ten years from the passage of this act.

Mr. HEPBURN. Now, Mr. Speaker, I ask for the reading of the amendment proposed by the committee of this House.

Mr. BLUE. It may be read in my time, Mr. Speaker.

The amendment recommended by the Committee on the District of Columbia was read, as follows:

Provided, That before the construction of any such building upon said land shall be commenced pursuant to the right herein conferred the plans and specifications therefor shall be approved by the Secretary of the Treasury: *Provided also*, That the cost of said building shall not be less than $200,000, and also that said society shall furnish to the Secretary of the Treasury satisfactory proof of its ability to complete said building in accordance therewith: *And provided*, That the construction of said building shall be commenced within one year from the passage of this act and completed within five years.

Mr. BLUE. Now, Mr. Speaker, I am opposed to this measure, not because this is a patriotic society, nor because I object to the

erection of such a building or to the establishment of such institutions. But the capital city of this nation has been laid out on a general plan, with a parking system equal to that of any city in the world, and the chief beauty and glory of the capital of the Republic of the United States in coming time will be the adornment of the breathing places that are a part of this great plan. That plan ought not to be marred. This is merely furnishing a precedent for other encroachments which will eventually follow, and if this patriotic institution is to be permitted to appropriate a portion of one of the public parks, worth perhaps $150,000, other institutions, equally deserving, equally patriotic, will in time insist upon the same privilege. For that reason, Mr. Speaker, if this Government is to be compelled to donate a site for this building, I would very much prefer to vote an appropriation for the purchase of a suitable lot upon which the building could be erected than appropriate a part of one of the parks and thus mar the beauty of this splendid and glorious capital. I am against the bill for that reason.

I am against the bill as it now stands for a further reason. There is no good ground for the opposition which the gentleman from Massachusetts [Mr. MORSE] makes to the amendments proposed by the committee. If a portion of this public park, within the shadow of the Smithsonian Institution, in a beautiful portion of this great city, is to be occupied by a building belonging to this society, is it not wise to vest some executive officer of this Government with authority to pass upon the suitableness of the plans and specifications, so that the marring of the public grounds shall be as slight as possible?

Mr. MORSE. That is in my amendment.

Mr. BLUE. I did not so understand it.

Mr. CHARLES W. STONE. Yes; it is in the amendment.

Mr. BLUE. I think the gentleman is mistaken, and that he will find on examination of the amendment that it is not clearly stated; but if it is there, that disposes of so much of the objection. But, Mr. Speaker, what objection can there be to requiring this society to make a showing of its ability to construct this building? What objection can there be to fixing some reasonable limit of time for the commencement of this building? Is the Government to be required to turn over to this society for a period of ten years the exclusive right to use a portion of a public park under an option? Further than that, it has been disclosed in the discussion of this question that this society which seeks this donation was, at one time at least, divided into two rival branches.

Now, there is no assurance that this temporary coalition is to last, and perhaps long before the ten years have expired there will be two adverse wings of the society, each claiming the rights which this bill is intended to confer. Gentlemen say that the bill provides only for the "use" of this public square. Ah, but it is a perpetual use, and that means, in substance, that whatever may be the wording, however it may be explained that we give a mere "use," it really is equivalent to the conveyance of a fee simple, subject to forfeiture only when the society ceases to use the land for the particular purpose named in the bill. Mr. Speaker, I trust that this House will look into the matter well before voting a portion of one of the public parks of this city for this purpose without any sufficient restriction as to the time within which the building shall be constructed and without any sufficient regulation as to the character of the building that is to be erected there. But, if it is the sense of this House to pass this bill, then I trust that the gentleman from Massachusetts [Mr. MORSE] will give an opportunity for reasonable amendment before the vote is taken.

Mr. Speaker, I reserve the balance of my time.

Mr. MORSE. I yield ten minutes to the gentleman from Maine [Mr. MILLIKEN].

Mr. MILLIKEN. Mr. Speaker, I heartily agree with the gentleman from Kansas [Mr. BLUE] in his general proposition. I have always opposed taking public parks for public buildings. I believe that much of the beauty of this city consists in its beautiful parks. Distributed as they are all over the city, these small parks are more useful in the beautification of the city than if the same amount of land were aggregated in one location, which would be less convenient for the mass of the people.

But, Mr. Speaker, this is not a proposition to erect a public building for the use of the Government. We place in the public parks equestrian statues; we place there monuments to commemorate the great dead of our country, who gave their lives for its salvation. This building is to be a monument to the men of the Revolution, the men who for seven years fought to establish the Government under whose protecting shield we live to-day, and not only to establish free government, but to establish a home and a fortress for freedom upon the face of the globe.

If I had time, it would, of course, be easy to picture the great services and sacrifices and the heroic achievements of those men that have cast luster upon this great nation. Now, a patriotic society formed of patriotic women of this country are raising a fund (a part of which has been raised) to erect a building which shall be a monument to commemorate the achievements of the Revolution and which shall stimulate the patriotism of the younger generation that is growing up to-day and generations to come.

Why, sir, it is no new thing to do this. Every civilized nation on the globe has taken some means to commemorate the great achievements of those who have deserved well of their country. Greece did it; Rome followed her example. The people of those nations were not willing that the achievements of their great men should be recorded only in musty volumes upon the shelves of the student. They wanted those achievements brought before the eyes of the people in brass and stone, so that they might be reminded of the virtues of their great men and emulate their example.

While I agree with the gentleman from Kansas that as a general principle the parks should be preserved, I look upon the present proposition not as one to erect a building for public use, but rather a measure for erecting a building which shall serve as a monument and adorn any park of this city rather than mar it.

It is proposed to erect this building at the corner of Fourteenth street, immediately behind those shabby old buildings now there; and I have the hope that if we should put there such a monument as this building will be, it will have some influence in finally causing the removal of those old buildings, so that we may more conveniently have access to those public grounds.

My friend from Kansas [Mr. BLUE] wants to limit very strictly the time within which this building shall be erected. Why, sir, if gentlemen will look into the history of our public buildings, they will find that it would be very unreasonable to limit the time to less than ten years. How long has the post-office building down here been in course of construction? Why, sir, almost as long ago as I can remember, I was somewhat conspicuous in getting a bill passed by this House appropriating money to erect that post-office building. It has been growing and growing—not so fast as a hop vine in summer, but we hope that in the course of this generation it will be completed. My venerable friend from Pennsylvania [Mr. GROW], who occupied a distinguished position in this body almost a generation ago, reminds me of the fact that we were thirty years building the Washington Monument. And now, when a patriotic society of the women of this country, asking nothing of the Government in the form of money, propose to expend the contributions raised by themselves upon a monument to the men of the Revolution, you want to restrict them as to the time within which the building should be completed. You want to compel them to commence the building within one year. Why, sir, it was two years after the bill passed this House appropriating money for the post-office building in this city before the first blow was struck.

[Here the hammer fell.]

The question being taken on the motion of Mr. MORSE to suspend the rules and pass the bill, it was agreed to, two-thirds voting in favor thereof.

EVENING SESSION DISPENSED WITH.

Mr. PAYNE. I ask unanimous consent that the session for this evening be dispensed with, and that the present session continue until the House determines to adjourn.

There was no objection, and it was ordered accordingly.

COMMON CARRIERS AND THEIR EMPLOYEES.

Mr. ERDMAN moved to suspend the rules and pass, with the amendment of the Committee on Interstate and Foreign Commerce, the bill (H. R. 268) concerning carriers engaged in interstate commerce and their employees.

The bill was read, as follows:

Be it enacted, etc., That the provisions of this act shall apply to any common carrier or carriers and their officers, agents, and employees, except masters of vessels and seamen, as defined in section 4612, Revised Statutes of the United States, engaged in the transportation of passengers or property wholly by railroad, or partly by railroad and partly by water, when both are used under a common control, management, or arrangement, for a continuous carriage or shipment from one State or Territory of the United States, or the District of Columbia, to any other State or Territory of the United States, or the District of Columbia, or from any place in the United States to an adjacent foreign country, or from any place in the United States through a foreign country to any other place in the United States.

The term "railroad" as used in this act shall include all bridges and ferries used or operated in connection with any railroad, and also all the road in use by any corporation operating a railroad, whether owned or operated under a contract, agreement, or lease; and the term "transportation" shall include all instrumentalities of shipment or carriage.

The term "employees" as used in this act shall include all persons actually engaged in any capacity in train operation or car service of any description, and notwithstanding that the cars upon or in which they are employed may be held and operated by the carrier under lease or other contract. In every such case the carrier shall be responsible for the acts and defaults of such employees in the same manner and to the same extent as if said cars were owned by it and said employees directly employed by it, and any provisions to the contrary of any such lease or other contract shall be binding only as between the parties thereto and shall not affect the obligations of said carrier, either to the public or to the private parties concerned.

The wages paid by carriers subject to this act for any service rendered or to be rendered in the transportation aforesaid, or in connection therewith, or for the receiving, delivering, storage, and handling of such property, and the rules and regulations governing such employees, shall be reasonable and just. This provision shall not affect the right to make contracts for such wages not in contravention of any of the provisions of this act.

SEC. 2. That whenever a controversy concerning wages, hours of labor, or conditions of employment shall arise between a carrier subject to this act

and the employees of such carrier, seriously interrupting or threatening to interrupt the business of said carrier, the chairman of the Interstate Commerce Commission and the Commissioner of Labor shall, upon the request of either party to the controversy with all practicable expedition, put themselves in communication with the parties to such controversy and shall use their best efforts, by mediation and conciliation, to amicably settle the same; and if such efforts shall be unsuccessful shall at once endeavor to bring about an arbitration of said controversy in accordance with the provisions of this act.

SEC. 3. That whenever a controversy shall arise between a carrier subject to this act and the employees of such carrier which can not be settled by mediation and conciliation in the manner provided in the preceding section, said controversy may be submitted to the arbitration of a board of three persons, who shall be chosen in the manner following: One shall be named by the carrier or employer directly interested; the other shall be named by the labor organization to which the employees directly interested belong, or, if they belong to more than one, by that one of them which specially represents employees of the same grade and class and engaged in services of the same nature as said employees so directly interested: *Provided, however*, That when a controversy involves and affects the interests of two or more classes and grades of employees belonging to different labor organizations, such arbitrator shall be agreed upon and designated by the concurrent action of all such labor organizations. The two thus chosen shall select the third commissioner of arbitration; but, in the event of their failure to name such arbitrator within forty-eight hours after their first meeting, the third arbitrator shall be named by the commissioners named in the preceding section. The submission shall be in writing, shall be signed by the employer and by the labor organization representing the employees, shall state the questions to be decided, and shall contain appropriate provisions by which the respective parties shall stipulate, as follows:

First. That pending the arbitration the status existing immediately prior to the dispute shall not be changed.

Second. That the award shall be filed in the clerk's office of the circuit court of the United States for any district wherein the employer carries on business, and shall be final and conclusive upon both parties, unless set aside for error of law apparent on the record.

Third. That the respective parties to the award will each faithfully execute the same, and that the same may be specifically enforced in equity so far as the powers of a court of equity permit, except that no person shall be punished for his failure to comply with the award as for contempt of court.

Fourth. That employees dissatisfied with the award shall not by reason of such dissatisfaction quit the service of the employer before the expiration of three months from and after the making of such award, without giving thirty days' notice in writing of their intention so to quit. Nor shall the employer dissatisfied with such award dismiss any employee or employees on account of such dissatisfaction before the expiration of three months from and after the making of such award, without giving thirty days' notice in writing of his intention so to discharge.

Fifth. That said award shall continue in force as between the parties thereto for the period of one year after the same shall go into practical operation, and no new arbitration upon the same subject between the same employer and the same class of employees shall be had until the expiration of said one year if the award is not set aside as provided in section 4.

SEC. 4. That the award being filed in the clerk's office of a circuit court of the United States as hereinbefore provided shall go into practical operation, and judgment shall be entered thereon accordingly; at the expiration of ten days from such filing, unless within such ten days either party shall file exceptions thereto for matter of law apparent upon the record, in which case said award shall go into practical operation and judgment be entered accordingly when such exceptions shall have been finally disposed of either by said circuit court or on appeal therefrom.

At the expiration of ten days from the decision of the circuit court upon exceptions taken to said award, as aforesaid, judgment shall be entered in accordance with said decision unless during ten days either party shall appeal therefrom to the circuit court of appeals. In such case only such portion of the record shall be transmitted to the appellate court as is necessary to the proper understanding and consideration of the questions of law presented by said exceptions and to be decided.

The determination of said circuit court of appeals upon said questions shall be final, and, being certified by the clerk thereof to said circuit court, judgment pursuant thereto shall thereupon be entered by said circuit court.

If exceptions to an award are finally sustained, judgment shall be entered setting aside the award. But in such case the parties may agree upon a judgment to be entered disposing of the subject-matter of the controversy, which judgment, when entered, shall have the same force and effect as judgment entered upon an award.

SEC. 5. That every agreement of arbitration under this act shall be acknowledged by the parties before a notary public or clerk of a district or circuit court of the United States, and when so acknowledged shall be delivered to the chairman of the Interstate Commerce Commission, who shall at once cause a notice in writing to be served upon the arbitrators fixing a time and place for a meeting of the arbitrators.

If an agreement of arbitration shall be entered into conforming to this act, except that it shall be executed by employees individually instead of by a labor organization as their representative, the chairman of the Interstate Commerce Commission and the Commissioner of Labor shall decline to call a meeting of arbitrators thereunder unless, upon evidence satisfactory to them, it be shown that the employees signing the submission represent or include a majority of all employees in the service of the same employer and of the same grade and class, and that an award pursuant to said submission can justly be regarded as binding upon all such employees.

SEC. 6. That during the pendency of arbitration under this act it shall not be lawful for the employer, party to such arbitration, to discharge the employees, parties thereto, except for inefficiency, violation of law, or neglect of duty; nor for the organization representing such employees to order, nor for the employees to unite in, aid, or abet strikes or boycotts against said employer; nor, during a period of three months after an award under such an arbitration, for such employer to discharge any such employees, except for the causes aforesaid, without giving thirty days' written notice of an intent so to discharge; nor for any of such employees, during a like period, to quit the service of said employer without just cause, or without giving to said employer thirty days' written notice of an intent so to do; nor for such organization representing such employees to order, counsel, or advise otherwise. Any violation of this section shall subject the offending party to liability for damages.

SEC. 7. That in every incorporation under the provisions of chapter 567 of the United States Statutes of 1885 and 1886 it must be provided in the articles of incorporation and in the constitution, rules, and by-laws that a member shall cease to be such by participating in or by instigating force or violence against persons or property during strikes, lockouts, or boycotts, or by seeking to prevent others from working through violence, threats, or intimidations; but members of such incorporations shall not be personally liable for the acts, debts, or obligations of the corporations, nor shall such corporations be liable for the acts of members or others in violation of the provisions of this section; and such corporations may appear by designated representatives before the board created by this act, or in any suits or proceedings for or against such corporations or their members in any of the Federal courts.

SEC. 8. That whenever receivers appointed by Federal courts are in the possession and control of railroads, the employees upon such railroads shall have the right to be heard in such courts upon all questions affecting the terms and conditions of their employment, though the officers and representatives of their associations, whether incorporated or unincorporated, and no reduction of wages shall be made by such receivers without the authority of the court therefor after due notice to such employees.

SEC. 9. That any employer subject to the provisions of this act and any officer, agent, or receiver of such employer who shall require any employee, or any person seeking employment, as a condition of such employment, to enter into an agreement, either written or verbal, not to become or remain a member of any labor corporation, association, or organization; or shall threaten any employee with loss of employment, or shall unjustly discriminate against any employee because of his membership in such a labor corporation, association, or organization; or who shall require any employee or any person seeking employment, as a condition of such employment, to enter into a contract whereby such employee or applicant for employment shall agree to contribute to any fund for charitable, social, or beneficial purposes; to release such employer from legal liability for any personal injury by reason of any benefit received from such fund beyond the proportion of the benefit arising from the employer's contribution to such fund; or who shall, after having discharged an employee, unlawfully attempt or conspire to prevent such employee from obtaining other employment, is hereby declared to be guilty of a misdemeanor, and, upon conviction thereof in any court of the United States of competent jurisdiction in the district in which such offense was committed, shall be punished for each offense by a fine of not less than $100 and not more than $1,000.

SEC. 10. That a sufficient sum of money to pay the traveling and other necessary and proper expenses of the arbitrators appointed and serving under this act, and to pay all other necessary and proper expenses of any conciliation or arbitration had hereunder, to be audited and allowed by the Chairman of the Interstate Commerce Commission, is hereby appropriated, for the fiscal years ending June 30, 1895, and June 30, 1896, out of any money in the Treasury not otherwise appropriated.

SEC. 11. That the act to create boards of arbitration or commission for settling controversies and differences between railroad corporations and other common carriers engaged in interstate or territorial transportation of property or persons and their employees, approved October 1, 1888, and the provision contained in section 7 of an act approved June 13, 1888, "directing the Commissioner of Labor to investigate the causes of and facts relating to all controversies and disputes between employers and employees as they may occur, and which may interfere with the welfare of the people of the different States," are hereby repealed.

Mr. DOCKERY. I demand a second on the motion to suspend the rules.

Mr. ERDMAN. I ask unanimous consent that a second may be considered as ordered.

There being no objection, it was ordered accordingly.

The SPEAKER. There are now forty minutes for debate, of which the gentleman from Missouri [Mr. DOCKERY] will control twenty and the gentleman from Pennsylvania [Mr. ERDMAN] twenty.

Mr. ERDMAN. Mr. Speaker, this is a bill providing for the adjustment of labor difficulties arising between interstate carriers of commerce and their employees. It provides, in the first place, that it shall affect only those who are interested in carrying interstate commerce. It is a bill that passed the House in the Fifty-third Congress unanimously. It was agreed upon by the chiefs of the labor organizations and by representatives of railroad organizations, or persons who had supervised railroad organizations, and is understood to be satisfactory to all parties concerned. It is the same principle that is contained in the St. Louis and Chicago platforms.

It provides that in all difficulties between railroad carriers and their employees the Commissioner of Labor and the chairman of the Interstate Commerce Commission shall endeavor by mediation and conciliation to procure an adjustment, and if they can not do it, then it provides for the voluntary arbitration of the difference. The purpose is to have arbitration before violence, before a blow is struck. After that, it has been found usually too late to arbitrate. It provides that the railroad people may designate one arbitrator, and that the employees may designate the other, the third to be chosen by the two, and if they fail to agree, then by the Commissioner of Labor and the Chairman of the Interstate Commerce Commission. It provides that these arbitrators may hear and determine the dispute, and when they have submitted to this agreement, pending that, that the railroad company will not discharge, and that the railroad employees will not quit work. The purpose is to prevent strikes, and to have by mediation and conciliation at first, or in the event of the failure of that, then by arbitration, a determination of the dispute between them. It is not compulsory in any sense. It is not selling the freedom of the men, as some who have opposed the bill have thought.

The Commissioner of Labor, Mr. Carroll D. Wright, recently addressed a letter to a gentleman, in which he says of this bill:

Instead of contemplating involuntary servitude, the bill, it seems to me, places labor and capital on an equality as to the enforcement of contracts; and furthermore—and I am willing to admit that this is the chief reason for my liking the bill—it gives labor organizations an opportunity to dignify their bodies in ways that have not been open to them heretofore. It gives them the right to be heard in courts upon all questions affecting the conditions and terms of their employment through the officers and representatives of their associations, whether incorporated or unincorporated. It was upon this point that the Dallas matter turned. The judge did not follow the suggestions of the Attorney-General, however. The bill provides that no reduction of wages shall be made by receivers without the authority of the courts

therefor after due notice to such employees. Practically, this is a bill of rights that the workingmen, so far as railways are concerned, can not claim at present. The bill, further, is a new charter for workingmen, for it restrains employers subject to its provisions from requiring employees as a condition of employment to enter into obnoxious agreements, such as not to become members of labor associations or organizations. Nor can members of organizations be discriminated against because of their membership, and it leaves men to exercise their own free will as to charitable, social, or beneficial auxiliaries of railway corporations, and it furthermore restrains employers from attempting to injure employees through black lists. All these things, it seems to me, commend the bill, not only to the members of the great railway organizations, but to organized and unorganized labor everywhere, and instead of subjecting them to any kind of servitude, whether voluntary or involuntary, it gives them rights which are questioned, at least, at the present time.

I am, sincerely yours, CARROLL D. WRIGHT.

Mr. Speaker, I reserve the balance of my time.

Mr. DOCKERY. Mr. Speaker, I demanded a second on this bill in order that the gentleman in charge of it [Mr. ERDMAN] might make an explanation to the House. I know nothing myself as to the provisions of the bill. I now yield such time to the gentleman from California [Mr. MAGUIRE] as he may desire.

Mr. MAGUIRE. Mr. Speaker, I am opposed to this bill because I see in it the beginning of a most dangerous surrender of the individual liberty of all American laborers. To-day we invade the liberty of laborers employed or to be employed, either directly or indirectly, in interstate commerce. To-morrow the principle and the restriction will be applied to other classes, and so it will proceed by stages until all laborers will be included in judicial serfdom. This bill extends to other occupations the form of involuntary servitude now enforced in the occupation of seamanship. It extends the principle of industrial slavery now prevailing in the merchant marine to interstate (inland) commerce.

It is said by the author of the bill that arbitration under the bill is to be purely voluntary. So it is nominally, but the power exists in every railroad corporation in this country, immediately on the passage of this bill, to compel every man employed at manual labor, in connection with interstate commerce, to subject himself to a judgment such as is provided for in the bill and to the penalties provided for its disobedience.

Mr. ERDMAN. Will the gentleman permit an interruption?

Mr. MAGUIRE. Yes, sir.

Mr. ERDMAN. Will the gentleman point to one section of the bill that permits that?

Mr. MAGUIRE. There is no such provision in the bill. The provision for making the arbitration provided for universal and compulsory is not in the bill, but in the conditions that environ laborers of all classes, and which will enable employing corporations to force them to accept employment under the penalties and limitations of the arbitration law. The very conditions that drive these laborers to seek this legislation will drive them to slavery under its provisions.

I do not hope to prevent the passage of this bill, but in the utmost kindness and sincerity I warn the laborers who are urging its passage that it is dangerous legislation and will be a sad disappointment to them. A similar act applying to seamen engaged in the coastwise trade of this country, passed in 1890, was as voluntary in its letter as this is, but the shipowners determined that it was best that they should employ all their men under the provisions of that act, and they soon contrived by combination to compel every man whose necessities drove him to seek employment in that service to come in under the provisions of the act. So with this bill. Any railroad company in this country can, within twenty-four hours after the passage of this act, provoke a controversy with its men which will compel them either to enter upon the evils, wastefulness, and injury of a strike or to accept the temporary expedient of submitting to all the terms of this enslaving arbitration. When they submit to arbitration, the status quo, the condition prevailing just before the controversy, is to be maintained without limit of time until the arbitrators shall reach a decision—perhaps for two or three years. The men are bound to continue in the employment of employers whom, perhaps, they do not want to serve. They will be compelled to continue in an employment the conditions of which may have become distasteful and oppressive to them; but under the bill they must continue in that employment under conditions amounting to involuntary servitude.

When the award is made, they are bound again, pursuant to the award and regardless of their own wishes, to continue in the employment for another year. They are bound to remain in the employment of their judicially imposed masters, no matter how obnoxious the employment may have become, unless they have a right to seek discharge from the obligation upon grounds that are made exceptions by the terms of the bill.

Another thing. The individuality of the employee is lost under the bill. The bill provides that a majority of a railway laborers' organization may bind the others, not only to submit to arbitration, but to all the terms and penalties of the law. I very much doubt the constitutionality of that provision—nay, I know it is not constitutional.

It is my opinion and the opinion of the attorneys consulted by the representatives of the American Federation of Labor that the terms of the bill will apply to all mechanics and laborers engaged in the building and repairing of locomotives and cars, for they are incidentally employed in railroad operation, and may be held in certain cases to be employed in interstate commerce. A majority of any organization of laborers so employed can, under the provisions of this bill, compel the minority, without their consent or contract, against their will, against their protest, to submit to the arbitration and to the award. They are, equally with those who consent, to be compelled to submit to all the conditions of the law during the whole period of the arbitration and for a year afterwards. Some of the penalties, criminal penalties, that were originally provided for in the arbitration scheme and made part of the bill when first introduced have been stricken out; but I say to you that when the principle has been established, and the domination of railroad companies over their employees has been secured under this bill, the battle will then commence for extending the pains and penalties by which the partially enslaved laborers of this great department of human labor will be submerged and oppressed with all the severities that were originally proposed.

The gentleman says that all of the labor organizations, so far as he knows, favor this bill.

I am not authorized to speak for any labor organization in this matter. I speak only for my own principles, but I know that the American Federation of Labor regards this measure as a serious menace to the liberties and to the best interests of American laborers. It opposes the bill because it knows that the rights of labor are to be secured only through liberty and not through the permanent surrender of the liberties of the laborer for apparent temporary gain.

I yield back the remainder of my time to the gentleman from Missouri [Mr. DOCKERY].

Mr. ERDMAN. I yield five minutes to the gentleman from Iowa.

Mr. HEPBURN. The only purpose for which I desire time is to ask three or four questions of the gentleman in charge of the bill. Is it not true that the five great orders of railway employees are a unit through their properly constituted officers in asking for the passage of this bill?

Mr. ERDMAN. They ask for it; and they are here to-day pressing for it.

Mr. HEPBURN. These organizations are the organization of engineers, the organization of firemen, the organization of switchmen, and the organization of brakemen. These organizations are the ones affected by the bill.

Mr. ERDMAN. They are; and they are pressing for it here; and not a single member of the American Federation of Labor is affected by it. If the gentleman who has just concluded spoke for them, he spoke for some one who has no interest in it, not more than the snap of my finger; and he, I understand, can not afford to have the principle of arbitration in dispute go forward in this country. I yield two minutes to the gentleman from Connecticut.

Mr. HILL. Mr. Speaker, I have been detained from the House most of the day on matters of vital importance to my district. I returned but a short time ago and found that a vote on the international monetary conference had been taken during my enforced absence. My views on that subject are possibly known to some members of the House; but I feel it but right to state that if present I should have been compelled by conscience and duty to vote "nay."

Mr. ERDMAN. I yield one minute to my colleague [Mr. PHILLIPS].

Mr. PHILLIPS. Mr. Speaker, I simply wish to confirm what has been said by my colleague, Mr. ERDMAN, in regard to the various labor organizations connected with the railroad service, whose representative men have approved the measure. It has not been opposed by railroad owners or officials, but, so far as the Committee on Labor has been informed, it has met their approval.

This bill has been very carefully considered by the Committee on Labor. It has heard the representatives of labor fully, both in the last Congress and in this.

The importance of the railroad service to our people can not be overstated. Their daily needs are largely supplied by it, in fact; fuel, food, all the commodities of life. A strike which would involve our railroad systems would be appalling. This bill is designed to obviate such disaster by settling all disputes in a peaceful way. The principle of arbitration was indorsed by the Republican platform at St. Louis, and, in fact, by all political parties. It is in harmony with the most advanced thought of the age, and should obtain.

Of all bills before our committee this has had most careful and thorough consideration. It passed unanimously in the Fifty-third Congress, and I hope that a vote will be immediately taken and that the measure may pass this Congress.

Mr. ERDMAN. I yield one minute to the gentleman from Arkansas [Mr. TERRY].

Mr. TERRY. Mr. Speaker, for the information of the House I desire to state I am in receipt of a very short letter on the subject that I will read:

THREE BRANCH LODGE, No. 304,
BROTHERHOOD OF LOCOMOTIVE FIREMEN,
Argenta, Ark., February 18, 1897.

DEAR SIR: The inclosed circular will explain to you what is required, and is the unanimous voice of this lodge. You are respectfully requested to use your influence and utmost endeavors to have those bills passed.

Yours, for justice, JAMES McCARTHY, *Master.*
A. H. ANDREWS, *Secretary.*

Hon. WM. L. TERRY.

This is from the Brotherhood of Locomotive Firemen. Included in the list of bills is the Hill contempt bill, the Erdman arbitration bill, and the Phillips commission bill. This labor organization states that they are in favor of all these bills. [Cries of "Vote!" "Vote!"]

Mr. DOCKERY. Mr. Speaker, I demanded a second in order to get an explanation of the bill, and in the light of the discussion I shall support the measure.

The question was taken; and, in the opinion of the Speaker, two-thirds having voted in the affirmative, the rules were suspended and the bill was passed.

UNWHOLESOME TEAS, ETC.

Mr. PAYNE. Mr. Speaker, I move to suspend the rules and pass Senate bill No. 3725. The original bill is on the Speaker's table, and I wish the Clerk would read from the original Senate bill, as I think there are one or two minor amendments.

The bill was read, as follows:

Be it enacted, etc., That from and after May 1, 1897, it shall be unlawful for any person or persons or corporation to import or bring into the United States any merchandise as tea which is inferior in purity, quality, and fitness for consumption to the standards provided in section 3 of this act, and the importation of all such merchandise is hereby prohibited.

SEC. 2. That immediately after the passage of this act, and on or before February 15 of each year thereafter, the Secretary of the Treasury shall appoint a board, to consist of seven members, each of whom shall be an expert in teas, and who shall prepare and submit to him standard samples of tea; that the persons so appointed shall be at all times subject to removal by the said Secretary, and shall serve for the term of one year; that vacancies in the said board occurring by removal, death, resignation, or any other cause shall be forthwith filled by the Secretary of the Treasury by appointment, such appointee to hold for the unexpired term; that said board shall appoint a presiding officer, who shall be the medium of all communications to or from such board; that each member of said board shall receive as compensation the sum of $50 per annum, which, together with all necessary expenses while engaged upon the duty herein provided, shall be paid out of the appropriation for "expenses of collecting the revenue from customs."

SEC. 3. That the Secretary of the Treasury, upon the recommendation of the said board, shall fix and establish uniform standards of purity, quality, and fitness for consumption of all kinds of teas imported into the United States, and shall procure and deposit in the custom-houses of the ports of New York, Chicago, San Francisco, and such other ports as he may determine, duplicate samples of such standards; that said Secretary shall procure a sufficient number of other duplicate samples of such standards to supply the importers and dealers in tea at all ports desiring the same at cost. All teas, or merchandise described as tea, of inferior purity, quality, and fitness for consumption to such standards shall be deemed within the prohibition of the first section hereof.

SEC. 4. That on making entry at the custom-house of all teas, or merchandise described as tea, imported into the United States, the importer or consignee shall give a bond to the collector of the port that such merchandise shall not be removed from the warehouse until released by the collector, after it shall have been duly examined with reference to its purity, quality, and fitness for consumption; that for the purpose of such examination samples of each line in every invoice of tea shall be submitted by the importer or consignee to the examiner, together with the sworn statement of such importer or consignee that such samples represent the true quality of each and every part of the invoice and accord with the specifications therein contained; or in the discretion of the Secretary of the Treasury, such samples shall be obtained by the examiner and compared by him with the standards established by this act; and in cases where said tea, or merchandise described as tea, is entered at ports where there is no qualified examiner as provided in section 7, the consignee or importer shall in the manner aforesaid furnish under oath a sample of each line of tea to the collector or other revenue officer to whom is committed the collection of duties, and said officer shall also draw or cause to be drawn samples of each line in every invoice and shall forward the same to a duly qualified examiner as provided in section 7: *Provided, however*, That the bond above required shall also be conditioned for the payment of all custom-house charges which may attach to such merchandise prior to its being released or destroyed (as the case may be) under the provisions of this act.

SEC. 5. That if, after an examination as provided in section 4, the tea is found by the examiner to be equal in purity, quality, and fitness for consumption to the standards hereinbefore provided, and no reexamination shall be demanded by the collector as provided in section 6, a permit shall at once be granted to the importer or consignee declaring the tea free from the control of the customs authorities; but if on examination such tea, or merchandise described as tea, is found, in the opinion of the examiner, to be inferior in purity, quality, and fitness for consumption to the said standards the importer or consignee shall be immediately notified, and the tea, or merchandise described as tea, shall not be released by the custom-house unless on a reexamination called for by the importer or consignee the finding of the examiner shall be found to be erroneous: *Provided*, That should a portion of the invoice be passed by the examiner, a permit shall be granted for that portion and the remainder held for further examination, as provided in section 6.

SEC. 6. That in case the collector, importer, or consignee shall protest against the finding of the examiner, the matter in dispute shall be referred for decision to a board of three United States general appraisers, to be designated by the Secretary of the Treasury, and if such board shall, after due examination, find the tea in question to be equal in purity, quality, and fitness for consumption to the proper standards, a permit shall be issued by the collector for its release and delivery to the importer; but if upon such final reexamination by such board the tea shall be found to be inferior in purity, quality, and fitness for consumption to the said standards, the importer or consignee shall give a bond, with security satisfactory to the collector, to export said tea, or merchandise described as tea, out of the limits of the United States within a period of six months after such final reexamination; and if the same shall not have been exported within the time specified, the collector, at the expiration of that time, shall cause the same to be destroyed.

SEC. 7. That the examination herein provided for shall be made by a duly qualified examiner at a port where standard samples are established, and where the merchandise is entered at ports where there is no qualified examiner the examination shall be made at that one of said ports which is nearest the port of entry, and that for this purpose samples of the merchandise, obtained in the manner prescribed by section 4 of this act, shall be forwarded to the proper port by the collector or chief officer at the port of entry; that in all cases of examination or reexamination of teas, or merchandise described as tea, by examiners or boards of United States general appraisers under the provisions of this act, the purity, quality, and fitness for consumption of the same shall be tested according to the usages and customs of the tea trade, including the testing of an infusion of the same in boiling water, and, if necessary, chemical analysis.

SEC. 8. That in cases of reexamination of teas, or merchandise described as teas, by a board of United States general appraisers in pursuance of the provisions hereof, samples of the tea, or merchandise described as tea, in dispute, for transmission to such board for its decision, shall be put up and sealed by the examiner in the presence of the importer or consignee, if he so desires, and transmitted to such board, together with a copy of the finding of the examiner, setting forth the cause of condemnation and the claim or ground of the protest of the importer relating to the same, such samples, and the papers therewith, to be distinguished by such mark that the same may be identified; that the decision of such board shall be in writing, signed by them, and transmitted, together with the record and samples, within three days after the rendition thereof, to the collector, who shall forthwith furnish the examiner and the importer or consignee with a copy of said decision or finding. The board of United States general appraisers herein provided for shall be authorized to obtain the advice, when necessary, of persons skilled in the examination of teas, who shall each receive for his services in any particular case a compensation not exceeding $5.

SEC. 9. That no imported teas which have been rejected by a customs examiner or by a board of United States general appraisers, and exported under the provisions of this act, shall be reimported into the United States under the penalty of forfeiture for a violation of this prohibition.

SEC. 10. That the Secretary of the Treasury shall have the power to enforce the provisions of this act by appropriate regulations.

SEC. 11. That teas actually on shipboard for shipment to the United States at the time of the passage of this act shall not be subject to the prohibition hereof, but the provisions of the act entitled "An act to prevent the importation of adulterated and spurious teas," approved March 2, 1883, shall be applicable thereto.

SEC. 12. That the act entitled "An act to prevent the importation of adulterated and spurious teas," approved March 2, 1883, is hereby repealed, such repeal to take effect on the date on which this act goes into effect.

The SPEAKER. The question is on suspending the rules and passing the bill.

Mr. MILNES. Mr. Speaker, I demand a second. I would like to hear something about this bill.

Mr. PAYNE. I ask unanimous consent that a second be considered as ordered.

Mr. COX. I object.

The SPEAKER. Objection is made, and the gentleman from New York [Mr. PAYNE] and the gentleman from Michigan [Mr. MILNES] will act as tellers.

The House divided; and the tellers reported—ayes 80, noes 1.

So a second was ordered.

The SPEAKER. The gentleman from New York [Mr. PAYNE] and the gentleman from Michigan [Mr. MILNES] will control the time.

Mr. PAYNE. Mr. Speaker, in 1883 Congress passed an act to prevent the importation of impure and unwholesome tea, or tea harmful to health. We tried then to make as good a law as we knew how; but notwithstanding the stringency of that law, which provided for the reexportation of all teas which did not come up to the standard, we find that to-day more poor, unwholesome tea, more tea sweepings and drug teas, are thrown upon the American market than upon all the other markets of the world. Our people consume more bad tea than all other countries. This is a subject about which we have heard a good deal for several years past in the Committee on Ways and Means. People interested in the tea trade, and interested in having only pure, wholesome teas imported into the United States, have appeared before that committee and set forth their various grievances and the difficulty of enforcing the old law. That law provided for inspectors to be appointed from men who were importers. Of course it was only human nature for those merchants to favor each other sometimes, and to favor themselves always in their decisions, and there was no appeal except to this board of merchants. The consequence is that the importation of poor teas into this country has increased.

This bill is the result of the united efforts of the people engaged in the tea trade, the people anxious for wholesome food, the Treasury Department, the Senate of the United States, and the Committee on Ways and Means. A bill nearly identical in language and entirely identical in character was recommended by the Ways

and Means Committee some days ago, and reported unanimously from that committee to the House. This particular bill was introduced into the Senate, and referred to the Committee on Commerce there, was unanimously reported to the Senate by that committee, and was passed by the Senate and sent over here this morning. In brief, the bill provides that the Secretary of the Treasury shall appoint seven inspectors of tea in the United States, to be chosen from those who are experts in tea. These seven men are to receive each a salary of $50 a year, to be paid out of the moneys appropriated for customs expenses. They are to meet upon the passage of the bill, and every year thereafter——

Mr. COX. Did the gentleman say $50 a year?

Mr. PAYNE. Fifty dollars a year each. They are to meet every year and establish uniform standards of purity and fitness for consumption, which standards are to be embodied in samples. Those samples are to be duplicated. There will be one at New York, one at Chicago, one at San Francisco, and the others are to be at such other places of import as the Secretary of the Treasury shall designate, and with those samples all importations of teas are to be compared. If the importation comes up to the samples, it can come in free of duty for consumption in the United States. If the importation does not come up to the standard, it is to be reexported and excluded from consumption here.

Mr. LACEY. How is the comparison to be made?

Mr. PAYNE. It may be by pouring hot water on the tea and making drawings of it, and comparing it with the sample in that way, or it may be done by chemical analysis, if necessary. The provisions for making the comparison are ample.

Mr. LIVINGSTON. Does the gentleman expect to get an honest performance of duty on the part of these inspectors at a salary of $50 per annum each? I wish you would explain how that can be done.

Mr. PAYNE. In the first place, the bulk of the inspection will be made by the customs officers, and these special inspectors will be called upon only where it is found necessary. I do not think there will be any difficulty about it. The Secretary of the Treasury thought the salary was ample and that he could secure the best talent for that amount, and gentlemen familiar with the business give assurances to the same effect.

Mr. COX. Are these offices under the civil service? [Laughter.]

Mr. PAYNE. The bill does not extend the civil-service rules to these inspectors. [Laughter.]

Mr. STEELE. All the honest tea importers are in favor of this bill, and will cooperate with the custom-house officers.

Mr. PAYNE. Yes, every one of them in the United States.

Mr. MILNES. The gentleman says that this bill has been asked for by the tea dealers?

Mr. PAYNE. Yes, sir; by the tea trade.

Mr. MILNES. By the importers?

Mr. PAYNE. Yes; and by others engaged in the business.

Mr. MILNES. Has the bill been approved or asked for by the trade journals of the country?

Mr. PAYNE. I have not read the trade journals, and can not answer that question; but I know that some of those journals have advocated very earnestly the passage of this bill, or of a similar bill which was proposed some time ago.

Mr. MILNES. Have the medical journals made any complaint as to the impurity of the teas imported?

Mr. PAYNE. I am unable to say. I am not in the habit of reading the medical journals.

Mr. MILNES. I have asked these questions because I want to know the reasons for the passage of the bill. I want to find out whether anybody outside of the tea importers are asking for its passage. If the people of the country who consume tea are not complaining of its impurity, if the trade journals are making no complaint, and if the medical journals are not urging the passage of the bill as promotive of the public health, I can see no reason for its passage. It seems to me that if the importers are the only persons asking for it, they must have some object of their own in view, and I should like to know what it is.

Mr. PAYNE. Because I do not happen to know what may be in the trade journals or the medical journals, it does not follow that those journals are not in favor of this bill. I do know that there has been a universal demand from all classes for some legislation which will secure to the people pure tea. This demand has gone so far that there have been applications time and again to the Committee on Ways and Means to impose such a duty upon tea as will exclude all poor tea. Various modes of relief have been devised. Everyone interested has seemed to be anxious for the passage of some such bill as this.

Mr. CLARDY. Who are to be the judges whether the samples provided by these commissioners compare favorably with the samples imported? The custom-house officers?

Mr. PAYNE. First, the custom-house officers; and if they can not tell, then the inspectors themselves. The inspector can be sent for, or the samples can be sent to the inspector. In the meantime the tea is held in the custom-house. If the decision is that the article is not fit for consumption, then the owner must give bond and remove it from the United States within six months. From the action of the inspectors an appeal may be taken to a board of three appraisers designated by the Secretary of the Treasury from the general appraisers of the United States. These appraisers, in determining the appeal, can call in any expert on the subject of tea to aid them in the determination of the question.

Mr. NORTHWAY. If this bill be passed, and rigidly enforced, what will be the effect upon the price of tea?

Mr. PAYNE. I do not think it will affect the price of good tea at all. Nor do I think it will affect the price of poor tea, if it be genuine. The habit is to collect this spurious stuff—the sweepings, the tea dust, the old tea leaves that have been allowed to remain so long on the tea plant that a large amount of tannin has developed in the leaf—and to mix these with a small quantity of pure tea, and then sell this spurious article throughout the country by means of various devices, such as the offering of chromos and gifts of various kinds. So far as regards any decent article of tea, I do not think this measure can increase the price. The universal opinion of the tea trade is that it will give to the public a sound article of tea at the same retail price for which good tea is selling to-day.

Mr. QUIGG. Will my colleague allow the point to be enforced that there is no other machinery in the bill for carrying out its provisions, especially as to judging of the tea, than the ordinary machinery now in use in the case of all importations?

Mr. PAYNE. That is true except as to these seven inspectors at $50 a year each. That is the entire additional expense to be incurred.

Mr. QUIGG. The purpose that they serve is simply to provide samples?

Mr. PAYNE. Yes, sir.

Mr. MILNES. As I understand, probably 90 per cent or more of all the tea coming into the United States comes to the port of New York or San Francisco?

Mr. PAYNE. Well, there is Chicago.

Mr. MILNES. The Chicago teas, I presume, all come from San Francisco.

Mr. PAYNE. Oh, no. Chicago is a port of entry; much of the tea coming there never sees San Francisco at all.

Mr. MILNES. Then it comes to the port of New York originally, does it not?

Several MEMBERS. Oh, no.

Mr. MILNES. Does this demand for the passage of the bill come from importers in different sections of the country?

Mr. PAYNE. It does.

Mr. MILNES. It is not confined to importers at New York City?

Mr. PAYNE. It is not. The importers throughout the country are united upon the measure.

Mr. HOPKINS of Illinois. There is a general demand for it.

The question being taken on the motion of Mr. PAYNE to suspend the rules and pass the bill, it was agreed to, two-thirds voting in favor thereof.

ENROLLED BILLS SIGNED.

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

A bill (H. R. 5898) granting a pension to Amanda M. Way as army nurse;

A bill (H. R. 6792) granting a pension to Hannah R. Quint;

A bill (H. R. 3292) granting an honorable discharge to Seth Porter Church, alias Samuel Church;

A bill (H. R. 5473) concerning delivery of letters in towns, villages, and other places where no free delivery exists;

A bill (H. R. 1708) to amend an act entitled "An act authorizing the appointment of receivers of national banks, and for other purposes," approved June 30, 1876, as amended by an act approved August 3, 1892;

A bill (H. R. 9961) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1898;

A bill (H. R. 9638) making appropriations for the support of the Army for the fiscal year ending June 30, 1898;

A bill (H. R. 3842) to increase the pension of Edward Vunk;

A bill (H. R. 9709) to better define and regulate the rights of aliens to hold and own real estate in the Territories;

A bill (H. R. 8706) to correct the military record of Patrick Hamley; and

A bill (S. 3328) to amend an act entitled "An act to repeal the timber-culture laws, and for other purposes."

TEMPORARY BICYCLE MESSENGERS.

Mr. ALDRICH of Illinois. Mr. Speaker, I have an emergency resolution, a small matter.

The SPEAKER. The gentleman from Illinois [Mr. ALDRICH], chairman of the Committee on Accounts, presents a resolution.

Mr. ALDRICH of Illinois. I present it individually, and ask consent for its consideration, which I presume will be granted.

The SPEAKER. The Clerk will report the resolution.

The resolution was read, as follows:

Resolved, That the Clerk of the House of Representatives be authorized and empowered to employ for the remainder of the session two bicycle messengers for day and night service between the enrolling room of the Clerk's office and the Government Printing Office, to be paid each out of the contingent fund of the House of Representatives, at $5 per day.

Mr. DOCKERY. That is the usual resolution.

Mr. ALDRICH of Illinois. That is the usual resolution.

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

There was no objection.

The resolution was agreed to.

And then, on motion of Mr. PAYNE (at 5 o'clock and 24 minutes p. m.), the House adjourned.

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. WOOD, from the Committee on Invalid Pensions, to which was referred the veto message of the President of the United States on the bill of the House (H. R. 6902) entitled "An act granting a pension to Mrs. Mary A. Viel," reported the same, accompanied by a report (No. 3040); which said veto message, bill, and report were referred to the House Calendar.

Mr. DOOLITTLE, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 10272) to authorize the construction of a bridge across the Yazoo River at or near the city of Greenwood, in Leflore County, in the State of Mississippi, reported the same without amendment, accompanied by a report (No. 3042); which said bill and report were referred to the House Calendar.

Mr. CORLISS, from the Committee on the Election of President, Vice-President, and Representatives in Congress, to which was referred the bill of the House (H. R. 4979) to amend sections 140 and 145 and repealing sections 143 and 144 of the Revised Statutes of the United States, relating to Presidential elections, reported the same without amendment, accompanied by a report (No. 3044); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. BAKER of New Hampshire, from the Committee on the Judiciary, to which was referred the bill of the Senate (S. 3538) to authorize the Supreme Court of the United States to issue writs of certiorari to the court of appeals of the District of Columbia in the same cases and manner that it may do in respect of the circuit court of appeals, reported the same without amendment, accompanied by a report (No. 3045); which said bill and report were referred to the House Calendar.

Mr. ALDRICH of Illinois, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 10369) to forbid the transmission by mail or interstate commerce of any picture or description of any prize fight or any of its accessories, reported the same without amendment, accompanied by a report (No. 3046); which said bill and report were referred to the House Calendar.

Mr. BENNETT, from the Committee on Interstate and Foreign Commerce, to which was referred the joint resolution of the House (H. Res. 261) for the prevention of the introduction and spread of contagious and infectious diseases into the United States, reported the same without amendment, accompanied by a report (No. 3047); which said bill and report were referred to the House Calendar.

Mr. SHERMAN, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 10362) to amend an act entitled "An act to authorize the construction of a steel bridge over the St. Louis River between the States of Wisconsin and Minnesota," approved April 24, 1894, as amended by an act approved August 4, 1894, entitled "An act to amend an act to authorize the construction of a steel bridge over the St. Louis River between the States of Minnesota and Wisconsin," reported the same without amendment, accompanied by a report (No. 3048); which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 10367) to revive and reenact a law to authorize the Pittsburg, Monongahela and Wheeling Railroad Company to construct a bridge over the Monongahela River, reported the same without amendment, accompanied by a report (No. 3050); which said bill and report were referred to the House Calendar.

Mr. WHITE, from the Committee on Public Buildings and Grounds, to which was referred the bill of the House (H. R. 9845) to provide for the purchase of a site and the erection of a public building thereon at Streator, in the State of Illinois, reported the same without amendment, accompanied by a report (No. 3051); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. DENNY, from the Committee on Claims, submitted a supplemental report on House resolution No. 411, for the relief of Samuel Lee; which said supplemental report (No. 2999, part 2) was referred to the House Calendar.

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. MILES, from the Committee on the Judiciary: The bill (H. R. 568) for the relief of the International Cotton Press Company of New Orleans, La. (Report No. 3043.)

By Mr. MINOR of Wisconsin, from the Committee on Claims: The bill (H. R. 9132) for the relief of W. D. Catlett, of West Virginia. (Report No. 3052.)

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills; which were referred as follows:

Proof to accompany House bill No. 6079, for the relief of Jerry Sullivan—Committee on Invalid Pensions discharged, and referred to the Committee on Military Affairs.

Proof to accompany House bill No. 6733, for the relief of George W. Winters—Committee on Invalid Pensions discharged, and referred to the Committee on Military Affairs.

Statement to accompany House bill No. 6078, for the relief of William H. Lankford—Committee on Invalid Pensions discharged, and referred to the Committee on Military Affairs.

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. DALZELL: A bill (H. R. 10367) to revive and reenact a law to authorize the Pittsburg, Monongahela and Wheeling Railroad Company to construct a bridge over the Monongahela River—to the Committee on Interstate and Foreign Commerce.

By Mr. CUMMINGS: A bill (H. R. 10368) providing for the preservation of the petrified forest of Arizona—to the Committee on the Public Lands.

By Mr. ALDRICH of Illinois: A bill (H. R. 10369) to forbid the transmission by mail or interstate commerce of any picture or description of any prize fight or any of its accessories—to the Committee on Interstate and Foreign Commerce.

By Mr. PERKINS: A concurrent resolution (House Con. Res. No. 73) to print 5,000 copies of Commercial Relations for 1895 and 1896—to the Committee on Printing.

PRIVATE BILLS, ETC.

Under clause 1 of Rule XXII, private bills of the following titles were presented and referred as follows:

By Mr. CLARK of Missouri: A bill (H. R. 10370) granting a pension to Mary A. Panabaker—to the Committee on Invalid Pensions.

By Mr. WELLINGTON: A bill (H. R. 10371) to confer the rank of lieutenant-colonel upon E. Y. Goldsborough—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. ARNOLD of Rhode Island: Resolutions of the Rhode Island Historical Society, of Providence, R. I., in favor of the publication of the names of heads of families and other detailed information as shown by the First Federal Census—to the Committee on Printing.

By Mr. BAILEY: Petition of Henry Klappenbach and other citizens of Eagle Pass; Louis Garner and others, of Van Alstyne, and R. A. Gladish and others, of Hempstead, in the State of Texas, asking for the passage of the antirailroad ticket scalping bill

(H. R. 10090)—to the Committee on Interstate and Foreign Commerce.

By Mr. BAKER of New Hampshire: Petition of James S. Cowden and others, of Vienna, Va., in favor of House bill No. 9805, to promote aerial navigation—to the Committee on Military Affairs.

By Mr. BERRY: Petition of John S. Boylson and other citizens of Covington, Ky., favoring the passage of the Cullom and Sherman bill to prevent ticket brokerage—to the Committee on Interstate and Foreign Commerce.

Also, petition of S. C. De Garma and other citizens of Covington, Ky., praying for the passage of House bill No. 10108 and Senate bill No. 3589, relating to fraternal societies and orders—to the Committee on the District of Columbia.

By Mr. BULL: Resolution of the Rhode Island Historical Society, in favor of the passage of the Morrill resolution providing for the printing of the names of heads of families and other detailed information as shown by the First Federal census—to the Committee on Printing.

By Mr. FLETCHER: Petition of Henry Jajeski and other citizens of Minneapolis, Minn., asking for the favorable consideration of the antiscalpers bill—to the Committee on Interstate and Foreign Commerce.

By Mr. FOOTE: Petition of Sherman Williams, of Glens Falls, N. Y., favoring the enactment of legislation prohibiting the sale of railroad tickets by unauthorized persons—to the Committee on Interstate and Foreign Commerce.

By Mr. GILLETT of Massachusetts: Petition of Thomas Gibson and other citizens of Groton, Mass., in favor of extending the Government mail service—to the Committee on the Post-Office and Post-Roads.

By Mr. NEILL: Petition of B. F. Brown & Co. and 14 other citizens of Baldknob, Ark., praying for the passage of Senate bill No. 3545 and House bill No. 10090, abolishing ticket brokerage—to the Committee on Interstate and Foreign Commerce.

By Mr. ROBINSON of Pennsylvania: Petition of the Young Men's Christian Association, also of the Madison Street Methodist Episcopal Church, of Chester, Pa., favoring the passage of the Shannon bill (H. R. 9515) to raise the age of protection for girls to 18 years—to the Committee on the Judiciary.

Also, petition of the Woman's Christian Temperance Union of Westchester, Pa., for the enactment of laws for the better observance of the Sabbath in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of Union Star Council, No. 204, United American Mechanics, of Fernwood, Pa., praying for the passage of the Cameron resolution relative to Cuba, and for granting belligerent rights immediately—to the Committee on Foreign Affairs.

By Mr. SHERMAN: Sundry petitions of citizens of the State of New York, viz: J. Smith and 2 others, of Hyde Park; Louis McDonald and 5 others, F. L. Grandy and 9 others, of Owlshead; William Dunbar and 9 others, of Forestport; William H. McLoughlin and 18 others, of Rome; William McMullin and 18 others, of Delhi; V. H. Smythe and 15 others, of Clinton; E. H. Doody and 10 others, of Sylvan; M. L. Barry and 16 others, Hitchcock, Darling & Co. and 17 others, and Hoffman House Company and 17 others, of New York City; C. Waterman and 12 others, of Syracuse; M. Ditton and 15 others, of Buffalo; William Milander and W. E. Ford, of Rochester; Charles Horner and 8 others, of Saranac Lake; N. W. Mahar and 17 others, of Greenbush; Edward A. Spice and 9 others, of Canastota; H. C. Williamson and 12 others, of Watervliet; James Ryan and 20 others, of Greenbush; William Welch and 9 others, of Jordan; Ralph Stewart and 12 others, of Whiteplains; G. W. Elder and 10 others, of New York City and Brooklyn; also of T. B. McEvoy and 17 others, of Carbondale, Pa., and J. P. McEvoy and 16 others, of Throop, Pa., in favor of the bill prohibiting ticket scalping—to the Committee on Interstate and Foreign Commerce.

By Mr. STEPHENSON: Petition of citizens of Menominee, Mich., praying for the passage of House bill No. 10090 and Senate bill No. 3545, prohibiting the sale of railroad tickets by unauthorized persons—to the Committee on Interstate and Foreign Commerce.

By Mr. WASHINGTON: Petition of L. P. Lowrie and other citizens of Monteagle, Tenn., in favor of the Sherman bill to prevent ticket scalping—to the Committee on Interstate and Foreign Commerce.

By Mr. WELLINGTON: Petition of citizens of Baltimore, Md., asking for an appropriation to pay depositors who lost by the failure of the Freedman's Savings Bank—to the Committee on Appropriations.

Also, petition of Gideon Bussard, for payment of bill for stores and supplies furnished the United States Government during the late war—to the Committee on War Claims.

By Mr. WOOD: Petition of J. T. Spelman and other citizens of Clark County, Ill., praying for the enactment of legislation prohibiting the sale of railroad tickets by unauthorized persons—to the Committee on Interstate and Foreign Commerce.

SENATE.

SATURDAY, *February 27, 1897.*

The Senate met at 11 o'clock a. m.

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. QUAY, and by unanimous consent, the further reading was dispensed with.

SUPPLEMENTAL SCHEDULES OF CLAIMS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting, in response to a resolution of the 24th instant, supplemental schedules of claims amounting to $21,419.27, allowed by the several accounting officers of the Treasury Department under appropriations the balances of which have been exhausted, etc.; which, with the accompanying paper, was referred to the Committee on Appropriations, and ordered to be printed.

JUDGMENTS AGAINST THE DISTRICT OF COLUMBIA.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Commissioners of the District of Columbia, submitting estimates of appropriation of $484.25 to pay certain judgments against the District of Columbia; which, with the accompanying paper, was referred to the Committee on Appropriations, and ordered to be printed.

MARTIN T. M'MAHON.

The VICE-PRESIDENT laid before the Senate a communication from the Attorney-General, in response to a resolution of the 24th instant, calling for a list of judgments rendered against the United States by the circuit and district courts of the United States under the provisions of the act of March 3, 1887, to provide for the bringing of suits against the Government of the United States, transmitting an additional judgment in favor of Martin T. McMahon, for which an appropriation of $3,629.70 is required; which, with the accompanying papers, was referred to the Committee on Appropriations, and ordered to be printed.

JUDGMENTS IN INDIAN DEPREDATION CASES.

The VICE-PRESIDENT laid before the Senate a communication from the Attorney-General, transmitting, in response to a resolution of the 25th instant, a list of the judgments rendered by the Court of Claims in favor of claimants in Indian depredation cases not heretofore reported; which, with the accompanying paper, was referred to the Committee on Appropriations, and ordered to be printed.

WASHINGTON, ALEXANDRIA AND MOUNT VERNON RAILWAY.

The VICE-PRESIDENT laid before the Senate the annual report of the Washington, Alexandria and Mount Vernon Railway Company, of the District of Columbia; which was referred to the Committee on the District of Columbia, and ordered to be printed.

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. 3725) to prevent the importation of impure and unwholesome tea.

The message also announced that the House had passed the bill (S. 3547) to provide for the representation of the United States by commissioners at any international monetary conference hereafter to be called, with amendments in which it requested the concurrence of the Senate.

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

A bill (H. R. 268) concerning carriers engaged in interstate commerce and their employees; and

A bill (H. R. 10023) setting apart a plot of public ground in the city of Washington, in the District of Columbia, for memorial purposes, under the auspices of the National Society of the Daughters of the American Revolution.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the Vice-President:

A bill (H. R. 1708) to amend an act entitled "An act authorizing the appointment of receivers of national banks, and for other purposes," approved June 30, 1876, as amended by an act approved August 3, 1892;

A bill (H. R. 3292) granting an honorable discharge to Seth Porter Church, alias Samuel Church;

A bill (H. R. 5472) concerning delivery of letters in towns, villages, and other places where no free delivery exists;

A bill (H. R. 5898) granting a pension to Amanda M. Way as army nurse; and

A bill (H. R. 6792) granting a pension to Hannah R. Quint.