CONFIRMATIONS.

Executive nominations confirmed by the Senate March 16, 1900.

APPOINTMENT IN MARINE-HOSPITAL SERVICE.

Baylis H. Earle, of South Carolina, to be an assistant surgeon in the Marine-Hospital Service of the United States.

APPOINTMENT IN THE ARMY.

PAY DEPARTMENT.

Capt. Francis L. Payson, assistant quartermaster, United States Volunteers, to be paymaster with the rank of major, March 5, 1900.

PROMOTION IN THE ARMY.

CAVALRY ARM.

Second Lieut. John P. Wade, Fifth Cavalry, to be first lieutenant, March 1, 1900.

APPOINTMENTS IN THE VOLUNTEER ARMY.

PUERTO RICO REGIMENT OF INFANTRY.

To be captains.

First Lieut. Jesse McI. Carter, Fifth United States Cavalry.
First Lieut. Christian Briand, adjutant, Puerto Rico Battalion.
First Lieut. James T. Ord, Puerto Rico Battalion.
William P. Butler, late major, First Illinois Volunteer Cavalry.

To be first lieutenants.

Orval P. Townshend, late captain, Ninth Illinois Volunteers.
Second Lieut. Harry L. Cooper, Puerto Rico Battalion.
Second Lieut. Jacob E. Wyke, Puerto Rico Battalion.

To be second lieutenants.

Walter F. Martin, late first lieutenant, Sixth Missouri Volunteers.
Eben Swift, jr., late second lieutenant, Seventh Illinois Volunteers.
First Sergt. Paul Wuttke, Company A, Puerto Rico Battalion.
Charles B. Kerney, late sergeant, Light Battery A, Missouri Volunteers.
Frederick W. Hawes, late private, Company M, First United States Volunteer Cavalry.

INDIAN AGENTS.

James H. Monteath, of Butte City, Mont., to be agent for the Indians of the Blackfeet Agency, in Montana.
George W. Hayzlett, of Arizona, to be agent for the Indians of the Navajo Agency, in New Mexico.
William R. Honnell, of Horton, Kans., to be agent for the Indians of the Pottawatomie and Great Nemaha Agency, in Kansas.

POSTMASTERS.

Sealy B. Moody, to be postmaster at La Grange, in the county of Cook and State of Illinois.
Charles Q. Whallon, to be postmaster at Newman, in the county of Douglas and State of Illinois.

RECIPROCITY CONVENTION WITH FRANCE.

Mr. DAVIS, from the Committee on Foreign Relations, presented certain documents relating to the reciprocity convention with France.

Resolved, That the injunction of secrecy be removed therefrom, and that they be printed.

HOUSE OF REPRESENTATIVES.

FRIDAY, *March 16, 1900.*

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of the proceedings of yesterday was read and approved.

EULOGIES ON THE LATE REPRESENTATIVE EPES.

Mr. HAY. Mr. Speaker, I ask unanimous consent that Saturday, March 24, beginning at 1 o'clock, be set apart for eulogies on the character of the late SYDNEY P. EPES, Representative from Virginia.

The SPEAKER. The gentleman from Virginia asks unanimous consent that Saturday, March 24, not later than 1 o'clock, be set apart for eulogies upon the life and character of the late Representative EPES, of Virginia. Is there objection? [After a pause.] The Chair hears none, and that order is made.

REPRINT OF A BILL.

Mr. BABCOCK. Mr. Speaker, I ask unanimous consent for the reprint of 2,000 copies of House bill 4618, the pure-food bill. I will say that the bill has been called for by various associations and wholesale grocers throughout the country, so that two reprints have already been exhausted.

Mr. CLARK of Missouri. Mr. Speaker, I want to know where the bills are to go for distribution. If they are to go out here in the document room, I object. If you send them to the folding room, I will not object. But somebody goes out to the document room and takes them out by the cartload, and the first man that gets there gets them all.

The SPEAKER. The Chair will state to the gentleman from Wisconsin that a reprint carries 625 copies, and unanimous consent is in order; but if the gentleman's request goes beyond a reprint, the proper form is a resolution.

Mr. BABCOCK. I will confine it, Mr. Speaker, for the present, to a reprint, the usual number at this time, and later I will bring in a resolution.

The SPEAKER. To go to the folding room or the document room?

Mr. BABCOCK. For this amount I think they had better go in the usual way. I will introduce a resolution for a large number to go to the folding room later.

Mr. CLARK of Missouri. I would like to know what is the reason these can not go to the folding room.

Mr. BABCOCK. There is no objection, only——

The SPEAKER. The Chair will state to the gentleman that the law expressly provides where bills must go under a reprint.

Mr. CLARK of Missouri. Where is that?

The SPEAKER. Bills under an order for reprint go to the document room.

Mr. CLARK of Missouri. Then I object.

The SPEAKER. Objection is made.

REMOVAL OF SNOW AND ICE IN DISTRICT OF COLUMBIA.

Mr. CANNON. Mr. Speaker, I ask unanimous consent for the present consideration of the following resolution, which I send to the Clerk's desk.

The SPEAKER. The gentleman from Illinois, chairman of the Committee on Appropriations, asks unanimous consent for the present consideration of the joint resolution which the Clerk will report.

The Clerk read as follows:

Joint resolution (H. J. Res. 204) to provide for the removal of snow and ice in the city of Washington, in the District of Columbia.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated out of any money in the Treasury not otherwise appropriated, namely:

For clearing snow and ice from the streets and avenues of the District of Columbia, $1,000; one half of said sum to be paid out of the revenues of the District of Columbia and the other half out of the Treasury of the United States.

For the removal of snow and ice, to be disbursed under the direction of the officer in charge of public buildings and grounds in and around Washington, D. C., $1,000.

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

Mr. RICHARDSON. Mr. Speaker, I would like to ask if it is not usual for money appropriated for this purpose to be expended under the authority of the District Commissioners, and not under the authority of the superintendent of public buildings and grounds?

Mr. CANNON. They are both included in the resolution. The removal of snow and ice on all public reservations is under the direction of the superintendent of public buildings and grounds, and the other under the direction of the District Commissioners. There is $1,000 to each.

Mr. RICHARDSON. I did not understand that there was any money to be expended under the supervision of the District Commissioners.

Mr. CANNON. Yes; $1,000.

Mr. TALBERT. Mr. Speaker, I would like to ask the gentleman a question. It is getting along in the spring, and the sun is very warm, and I want to know if he does not think the sun would remove the snow soon enough? If it was in the middle of the winter there might be some necessity for it.

Mr. CANNON. I will say to the gentleman from South Carolina that in February last these estimates came, and I said to myself and to some others, springtime is almost here; but with the appropriations exhausted and the prophets of the Weather Bureau having failed in their prediction, the amount of snow which fell yesterday is with us.

Mr. TALBERT. The gentleman is hardly ever mistaken a second time. He is generally right in his prophecies. He is a good prophet, and it does seem to me that it is unnecessary to make this appropriation. I want to suggest that to the gentleman.

Mr. CANNON. We have the snow with us now, and it seems to me that this appropriation is necessary.

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

There was no objection.

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

ANDREW J. DAVIS.

The SPEAKER laid before the House the bill (H. R. 524) granting an increase of pension to Andrew J. Davis, with Senate amendments thereto.

Mr. SULLOWAY. Mr. Speaker, I will say to the House that the Senate amendments to this bill and to several other bills which I understand are to follow immediately are all formal. The purpose is to produce uniformity so far as possible in all of these bills, so that the only variation shall be in the name of the beneficiary, the amount of the pension, and the statement of the service performed.

I move that the House concur in the Senate amendments.

The Senate amendments were concurred in.

HOUSE BILLS WITH SENATE AMENDMENTS.

The SPEAKER severally laid before the House the following House bills with Senate amendments. The Senate amendments were severally read, and, on motion of Mr. SULLOWAY, were severally concurred in:

H. R. 2749. An act granting a pension to Susan Garrison;

H. R. 5156. An act granting an increase of pension to Frances C. Kirby;

H. R. 6575. An act granting a pension to Matilda G. Higbee;

H. R. 2477. An act granting an increase of pension to George H. Pennington;

H. R. 854. An act granting an increase of pension to John J. McCormick;

H. R. 4416. An act to increase the pension of Henry Geesen;

H. R. 3072. An act to increase the pension of William W. Wharton;

H. R. 3071. An act granting an increase of pension to John F. Nelson;

H. R. 309. An act granting a pension to James M. Kercheval;

H. R. 5509. An act granting a pension to Malinda Jones; and

H. R. 3067. An act granting an increase of pension to Melvina Bottles.

PURE-FOOD BILL.

Mr. BABCOCK. I now renew my request for a reprint of the bill H. R. 4618.

The SPEAKER. The gentleman from Wisconsin [Mr. BABCOCK] renews his request for a reprint of the pure-food bill (H. R. 4618). Is there objection?

There was no objection, and it was so ordered.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. RIDGELY, indefinitely, on account of serious illness.

ORDER OF BUSINESS.

Mr. GRAFF. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House for the consideration of bills on the Private Calendar, subject to the resolution passed on Wednesday of this week.

The SPEAKER. The gentleman from Illinois moves that the House resolve itself into the Committee of the Whole House to consider bills on the Private Calendar, controlled by the order recently adopted by the House.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the Private Calendar, under the rule, with Mr. HEMENWAY in the chair.

The CHAIRMAN. The Clerk will report the first bill.

The Clerk read as follows:

A bill (H. R. 5196) for the relief of CLAUDE A. SWANSON.

Mr. PAYNE. Mr. Chairman, what becomes of the bill that was before the committee at the last session on private bill day?

The CHAIRMAN. That was a war-claim bill. The Chair understands that business reported from the Committee on Claims is in order to-day under this rule.

Mr. RAY of New York. Mr. Chairman, a parliamentary inquiry. On the last private bill day the bill (H. R. 6909) to pay $4,500 to the Eastern Extension, Australasia and China Telegraph Company was under consideration. I desire to inquire whether that is to be in order at any time to-day?

Mr. GRAFF. From what committee was that bill reported?

Mr. RAY of New York. From the committee of which the gentleman from Pennsylvania [Mr. MAHON] is chairman.

Mr. GRAFF. That is the Committee on War Claims, and in my judgment the bill would not be in order to-day under the rule.

Mr. RAY of New York. I merely desired to know the fact.

Mr. GRAFF. As I understand it, Mr. Chairman, that is a bill reported from the Committee on War Claims.

The CHAIRMAN. It was.

Mr. GRAFF. My interpretation of the rule which we passed on Wednesday morning of this week would exclude consideration of bills reported from the Committee on War Claims to-day.

The CHAIRMAN. The Clerk will report the rule under which we are proceeding to-day.

The Clerk read as follows:

Resolved, That on all Fridays for the remainder of this Congress, except the second and fourth of each month, it shall be the order, the House having proceeded to the consideration of private business according to the provisions of section 6 of Rule XXIV and section 1 of Rule XXVI, to take up, in the Committee of the Whole House, bills on the Private Calendar under the following conditions: On the next Friday which the House may devote to private business, and on every alternate Friday thereafter which may be devoted to private business, bills reported from the Committee on Claims shall have priority over those reported from the Committee on War Claims; and on the remaining alternate Fridays devoted to private bills, those reported from the Committee on War Claims shall have priority over those from the Committee on Claims. (Order made March 14.)

Mr. GRAFF. Mr. Chairman, I understand that in conformity to that rule war claims would not be in order unless we exhaust the business reported from the Committee on Claims, and there should then remain sufficient time for the consideration of bills reported from the Committee on War Claims.

The CHAIRMAN. Has the gentleman from New York [Mr. RAY] anything to say on this question?

Mr. RAY of New York. I wanted to call the attention of the Chair to the fact that House bill 6909, which, I am informed, is reported from the Committee on War Claims——

The CHAIRMAN. It does come from the Committee on War Claims.

Mr. RAY of New York (continuing). Is unfinished business. Now, it being the unfinished business and regularly in order to-day under the rules of the House, I wish to inquire, in order to ascertain in any proper way, whether the special order adopted the other day displaces the unfinished business already pending on that Calendar?

The CHAIRMAN. The Chair thinks that the general rule of the House is that it goes over to the particular day on which business of its class is in order. On the Friday set apart for the consideration of bills reported from the Committee on War Claims this would be the unfinished business and would be in order, and in the opinion of the Chair it is not in order to-day.

Mr. RAY of New York. It will not be in order at all to-day?

The CHAIRMAN. It will not be in order to-day.

Mr. RAY of New York. That is satisfactory. I only desired to know when it would be in order.

CLAUDE A. SWANSON.

The first business was the bill (H. R. 5196) for the relief of CLAUDE A. SWANSON.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to CLAUDE A. SWANSON the sum of $1,769.59, out of any money in the Treasury not otherwise appropriated, for expenses incurred in his contested-election case in the Fifty-fifth Congress.

Mr. GRAFF. Mr. Chairman, I ask that the report on this bill may be read for the information of members.

The CHAIRMAN. The Clerk will read the report.

The report (by Mr. BOUTELL of Illinois) was read, as follows:

The Committee on Claims, to whom was referred the bill (H. R. 5196) for the relief of CLAUDE A. SWANSON, have had the same under consideration, and, after investigation and examination of the accounts and vouchers submitted by him, report the bill back with the recommendation that it do pass.

Mr. SWANSON was elected to the Fifty-fifth Congress from the Fifth district of Virginia. His seat was contested by Mr. Brown, and the case was investigated by the Committee on Elections No. 3. A majority of this committee decided that Mr. SWANSON was entitled to his seat, and so reported to the House. By a yea-and-nay vote the House twice decided not to consider the case, thus leaving Mr. SWANSON in possession of his seat.

The record in this contested-election case was extremely voluminous, the evidence extending to the examination of several hundred witnesses. Mr. SWANSON submitted to the Committee on Elections a sworn statement showing that the expenses incurred by him in defending the contest amounted to the sum of $3,769.59, of which the sum of $2,533 was for counsel fees, and the sum of $1,236.59 for fees of witnesses, court costs, and printing.

The Committee on Elections unanimously reported to the Committee on Appropriations, recommending that Mr. SWANSON should be paid the full amount of his claim. In accordance with the existing law Mr. SWANSON received from the Government $2,000, leaving a balance of $1,769.59, the payment of which is provided for by this bill. Your committee has carefully examined the accounts submitted by Mr. SWANSON and believes that the charges therein contained are just and reasonable, and that he should be reimbursed for the above balance of $1,769.59.

There are numerous precedents for the payment to the parties to contested-election cases of the expenses incurred by them over and above the $2,000 authorized by the act of March 3, 1879. Since the passage of that act the following payments in excess of $2,000 have been allowed:

By act of July 7, 1884:	
To John S. Wise	$1,500.00
To John E. Massie	1,500.00
By act of March 3, 1891: To Philip S. Post	5,668.40
By act of March 2, 1895:	
To Robert A. Childs	2,500.00
To Thomas Settle	2,500.00
To A. H. A. Williams	2,500.00
By act of March 3, 1881:	
To A. G. Curtin	6,000.00
To S. H. Yokum	6,000.00
To N. A. Hull	1,500.00
To Ignatius Donnelly	1,500.00
To W. B. Washburn	1,500.00
To Joseph Mason	2,000.00
To Jesse J. Yeatts	250.00
To J. J. Martin	250.00

Mr. GRAFF. Mr. Chairman, I am disagreeing with the majority of the committee in the favorable report on this bill, and I deem it courteous to yield to the gentleman from Illinois [Mr. BOUTELL], my colleague on the committee who made the report, to present the reasons in support of it; and I should like to be recognized by the Chair when the gentleman from Illinois has concluded. I reserve my time.

Mr. BOUTELL of Illinois. Mr. Chairman, this bill was introduced by the gentleman from Virginia [Mr. OTEY], who, I think, is present in the House, and I yield to him for an explanation of the bill.

Mr. RICHARDSON. No one is objecting to the bill, and we may just as well vote on it.

Mr. BOUTELL of Illinois. The gentleman stated that he objected to the bill.

Mr. RICHARDSON. I did not understand that.

Mr. OTEY. Mr. Chairman, I understood objection was made by some gentleman to the bill; I do not know what his objection is. He did not state it, and the report here is as full an explanation as I can give of the bill, unless there is some special point on which the gentleman from Illinois desires light.

Mr. GRAFF. I am afraid no explanation would be satisfactory to me, because I am opposed to it on principle.

Mr. OTEY. I did not know that you were the gentleman who objected. I thought it was some other gentleman from Illinois.

Mr. Chairman, this is simply a question of the reimbursement of money to a contestee in an election case. The law or the rule provides that these expenses shall not exceed $2,000. Well, the contestee does not bring this thing on himself. He received notice of a contest, and he must meet all the points that the contestant chooses to raise; he gives notice of taking depositions all over the district, and of course the contestee must meet it; he has to employ counsel and is put to a great expense, and then when he comes here he finds that he has expended more money than the law or the rule permits.

In this case a very voluminous record required large expenditures for lawyers' fees, and they charged only what lawyers generally charge, $15, $20, and $25 a day—in fact, only $10 per day—for services rendered, and these charges are attested by vouchers which were presented to the Election Committee and that committee recommended that they should be paid; but when it reached the Committee on Appropriations they simply cut it down to the usual amount of $2,000. Mr. SWANSON had but one recourse, and that was to present his case to Congress. He did so, and he refers to a number of precedents, which are published in the report. If there was any reason for allowing such a claim at all in the past, there is certainly a good reason for allowing this.

Mr. TALBERT. Will the gentleman allow me to ask him a question there? There was so much confusion that I did not hear the reading of the report.

Mr. OTEY. Certainly.

Mr. TALBERT. Has the gentleman in this case drawn the maximum amount of $2,000? Did the committee allow him $2,000?

Mr. OTEY. Yes, sir.

Mr. TALBERT. And he wants another $1,000?

Mr. OTEY. He wants the balance of the expense, amounting to $1,760.

Mr. BROMWELL. Mr. Chairman, may I ask the gentleman a question?

Mr. OTEY. Certainly.

Mr. BROMWELL. The principal item in this amount asked for is for attorneys' fees, to the amount of $2,500, is it not?

Mr. OTEY. Yes, sir.

Mr. BROMWELL. How many attorneys were there employed in this case?

Mr. OTEY. Well, sir, I can not tell you without looking at the papers. There were a great many. There are a number of counties and a number of depositions. I do not remember, but that is stated in the papers of the case, which I suppose the chairman of the committee has on his desk, with the original vouchers, which will show.

Mr. BROMWELL. Does the gentleman know what was the largest amount claimed by any attorney as fees in this case?

Mr. RICHARDSON. Ten dollars a day, I will state, is all that is allowed.

Mr. BROMWELL. Is there a law that allows $10 a day?

Mr. RICHARDSON. Yes, sir; that is my understanding. There were eight or ten of them taking depositions at different places over a very large district, which made a large sum due to these attorneys.

Mr. BROMWELL. Does that cover only the fees, or does it include the expenses of traveling?

Mr. RICHARDSON. This is for fees at $10 a day, as I have been informed.

Mr. OTEY. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The CHAIRMAN. The gentleman from Illinois is entitled to recognition. Does the gentleman from Illinois [Mr. BOUTELL] yield the floor?

Mr. BOUTELL of Illinois. I reserve the balance of my time. If there are any objections to the bill, I would like to hear them stated.

Mr. GRAFF. Mr. Chairman, on March 3, 1879, there was enacted into law the following provision:

> That hereafter no contestee or contestant for a seat in the House of Representatives shall be paid exceeding $2,000 for expenses in an election contest.

I was surprised to find that prior to the enactment of that law in 1879 there was a law on the subject. Turning to the Revised Statutes of 1878, on page 21, section 130, I find this provision, which was law prior to that time:

> No payment shall be made by the House of Representatives out of the contingent fund or otherwise to either party in a contested-election case for expenses incurred in prosecuting or defending the same.

So that up to March, 1879, it was the law on the statute book that not simply should the parties be limited to recompense of $2,000, but absolutely any sum was prohibited by law being paid by the House of Representatives out of any funds for the purpose of recompensing either party to the contest for the expense of that contest. Now, it is a matter of some embarrassment to me, upon the consideration of the first bill from my own committee, to disagree with a majority of the committee on this proposition.

I consider that it is a matter involving an important principle. Some one says that the reason why we ought to distinguish the man who is contestant or contestee in a Congressional contested-election case from the man who is a candidate at an election and becomes involved in a contest over some other elective office is because the people have an interest in who shall be elected to Congress to represent them outside of the personal interests of the contesting parties. But there is no difference between a member of Congress and a contest between two parties claiming to be elected as a judge or a governor or any other officer elected by the people, because the books all recognize that when the courts come to pass upon that contest it is the courts' duty to look not only to the interets of the respective parties, but to see that the voice of the people has been obeyed and a correct judgment rendered upon that contest. So there is nothing in that contention.

But it is said there are precedents for this Congress allowing expenses in contested-election cases. In some State legislatures it has been the custom to recognize the contestee and the contestant in contested-election cases, but I know of none where there has not been an express limitation which has been adhered to.

So we must remember that in 1879 the statute law was changed by the action of both parties to this Congress out of generosity, giving the members of this body $2,000, and no more, to recompense them as the limit for expenses incurred in contested-election cases; that it was an act of generosity and benevolence, and not a matter of right. There is absolutely no difference in principle between parties when they go before the court for the purpose of sustaining themselves concerning the enjoyment of emoluments and privileges of any other elective office and parties contesting as to the right of a seat in this House.

Now, then, what have we here? We have what is cited in this report as a justification of our action, six or seven precedents. What does that mean? It means that in citing the precedents Congress has heretofore stepped aside from the general provisions of the law and exercised favoritism over and above the limit in voting to favor a few. It means that if we do it at this time we add another precedent for disregarding the general law. I tell you, gentlemen of this House, the secret of this whole business is that if you look over the lists of these men you will find no obscure names on the favored roll.

What was the next difficulty in regard to the matter? The utter impracticability of examining into the fees and expenses which a man has actually paid out. We all know that we have not the facilities that a judicial body has for the purpose of determining and discriminating between different items involved in a contest. We all know the elasticity of lawyers' fees. If the contestant or contestee goes into a contest and realizes the fact that there are precedents in this House to warrant him in believing that the House will pay back to him any sum he may see fit in his own interest to pay out for the purpose of advancing his case, how will he be moved in that transaction?

What incentive will there be to him to use economy? He will go over the district with a fine-tooth comb and employ lawyers without number, in the hope that, forsooth, an addition of one more may add a mite to his strength in this contest. I have not been able to examine into all the precedents cited in this report, but at least two or three of these recent precedents were cases where the parties did not succeed in having an original bill reported to this House from the Committee on Claims and passed on its merits, but the parties went over to the Senate side and succeeded in having it tacked onto an appropriation bill and succeeded in putting it through.

So at least, as to that many of these precedents cited, here are

three or four of them which can not be considered as precedents in this House. They were passed in a general appropriation bill, with practically no power in this House to consider them upon their merits. So, then, we see what wisdom there is in our first making a law in 1879 and yielding up of the general law which prohibited any recompense, and fixing a liberal maximum sum which would be allowed to both the parties.

I want to say to my Democratic friends on the other side of the Chamber that there has been no politics in the Committee on Claims in the consideration of any measure; and I oppose this claim with the utmost personal kindness to the claimant, Mr. SWANSON. I opposed it without reference to the merit of the contest between him and Mr. Brown, because I did not have the time to go into the merits of that controversy, and it is not involved here. I will say to him, however, that it can be fairly presumed that while he was incurring an expense of $2,600 Mr. Brown was also at least put to an equal amount of expense. And yet Mr. Brown gets no favorable report from this committee, and, in fact, seeks none.

It is true that after Mr. SWANSON'S claim had been favorably acted on by the committee some member of the House who was opposed to the principle of that bill, and for the purpose of accomplishing at least equity in injustice, introduced a bill for the purpose of allowing Mr. Brown, Mr. Aldrich, and three or four other individuals who are exactly in the same position as Mr. SWANSON equitably, but were not placed in the same fortunate position to enforce their claims, a similar allowance for expenses in excess of the sum fixed by the statute.

One other thing: I was present here in the House at the time when there was an attempt made to secure consideration of the contested-election case of Brown *vs.* Swanson. Now, it would seem to me that after a gentleman had fortified himself by the expenditure of this extra money which he had paid out to establish the fact that he was elected, he would have been anxious to show the fruits of his labor by having a hearing upon the question. But it must be remembered, my friends—and I state it most kindly—that when that contested-election case came up, instead of my distinguished friend upon the opposite side of the Chamber seeking to have an exhibition before the House of this legal ability which had been exercised in the preparation of his defense, he did not want to have a trial in this body—I suppose out of his extreme kindly and benevolent feeling toward Mr. Brown.

Mr. BROSIUS. May I ask the gentleman a question?

Mr. GRAFF. Yes, sir.

Mr. BROSIUS. What is the difference between the amount which you say the law allows to Mr. SWANSON and the amount claimed?

Mr. GRAFF. The law allows him $2,000 as a maximum sum, and Mr. SWANSON claims that he paid out about $3,600 in all, making an excess of some $1,600 or thereabouts, which he is now asking to have reimbursed to him by Congress.

Mr. BROSIUS. Was it made to appear before your committee that there was reasonable necessity for the expenditure of the additional sum?

Mr. GRAFF. I will say that my colleague from Illinois [Mr. BOUTELL], who reported this bill, was upon the Elections Committee which had in charge the case of Brown *vs.* Swanson; and I understand from him that it seemed to him that the items making up the $3,600 were fair and equitable.

But that is not the point. If in determining the claims of contestants and contestees for allowance of their expenses we propose to proceed upon the basis of what they have actually and necessarily paid out, then let us repeal the existing law which limits such allowances to the maximum amount of $2,000. Let us treat everybody alike.

I want my friends on both sides of this Chamber to consider the consequences of establishing this precedent. And I want to remind them that there has not been any precedent of this kind recently. A payment of this kind was made in 1891 and another (the last) in 1895; so that since the last payment of this kind there has elapsed a period of five years.

Now, it is entirely immaterial to me how the House may act upon this measure; but so far as I am concerned I have a little more delicacy in asserting my rights under the Constitution to pay out money for the benefit of myself and other members of the House than I have in exercising my right under the Constitution in paying out money for the benefit of people who do not enjoy the benefit of membership in this House.

It is true that the statutory law is no bar to our voting in this case the sum which is asked. It is true that we may, if we choose, maintain and enforce so much of the existing law as relates to procedure in election cases and ignore this other provision, a part of the same law, with regard to payment of contestants. We can relieve one, two, three, eight, or ten members from the effect of this last provision with regard to allowance of expenses in contested-election cases. Mr. Chairman, for the reasons I have given, I am opposed to the favorable reporting of this bill.

Mr. Chairman, how much time have I remaining?

The CHAIRMAN. Forty-five minutes.

Mr. GRAFF. I yield fifteen minutes to the gentleman from Indiana [Mr. CRUMPACKER] and reserve the balance of my time.

Mr. CRUMPACKER. Mr. Chairman, I can add comparatively little to the argument made by the chairman of the Committee on Claims [Mr. GRAFF] against the payment of this claim. There is no doubt that, if passed, this bill will establish a most troublesome precedent. The report of the committee shows several claims of a similar character to have been paid in former Congresses; but, as has been well said, those precedents ought not to be followed. It is against the rule of procedure throughout the country to pay out of the public money expenses of litigants, including attorneys' fees, incurred in contesting or defending rights, whether they be public or private. Only about twenty years ago was the statute passed authorizing the payment of a maximum sum of $2,000 to parties in contested-election cases to reimburse them for expenses incurred in prosecuting or defending contests. This was a departure from the custom in such cases. But I have no criticism to make of the law. I believe it to be a wise provision.

In this case, Mr. Chairman, the amount authorized by that provision of law has already been paid. The claim of seventeen hundred and odd dollars in addition to the amount already allowed, though recommended by the Committee on Claims, will be, if paid, a pure gratuity. The statement is made in the report that this bill was recommended and approved by the Committee on Elections that had this contest in charge. I happened to be a member of that committee, and am thoroughly familiar with the claims of contestants and contestees which were pending before that committee. I was a member of the subcommittee that examined into the items of this particular claim, and our committee certified to the Committee on Appropriations that the amount stated in the report upon this bill had been actually and reasonably expended in defending the case of the sitting member.

We gave the same kind of a certificate to each contestant and contestee, and some of those claims, Mr. Chairman, amounted to over $8,000. These were cases of men who occupied the same attitude before the House and in relation to the public funds as the gentleman who by force of this bill is asking the payment of $1,700.

Several weeks ago a bill was introduced asking that Congress make an appropriation to pay to other contestants and contestees who had cases in the last House the expenses incurred by them over and above the $2,000 authorized by law and paid to all. It involves an actual appropriation of nearly $18,000, and is pending to-day before the committee.

Mr. HILL. Is there any reason why those claims should not be paid if this is paid?

Mr. CRUMPACKER. None whatever. If the House decides to pay this claim, it should make up its mind to treat other claimants with equal magnanimity and pay the seventeen or eighteen thousand dollars of additional claims pending before the committee.

If we depart from the limits fixed by the statute and treat all parties to contested-election cases alike, it will involve the appropriation of many, many thousands of dollars.

I know that it is a very expensive luxury to have a contested-election case in this House, particularly from the State of Virginia under the peculiar election system that exists in that State. Such a proceeding costs a great deal of money. But I submit, sir, that the Congress of the United States has fixed a limit upon its generosity; and there is a grave doubt of the wisdom of paying any money in excess of that limitation to parties in contested-election cases. I know of gentlemen on the other side of the House who have been seeking an absolute repeal of this provision of the statutes because they say it encourages election contests. I am not in favor of its repeal; I believe it is a worthy and meritorious law. I am in favor of some such equitable provision until the election systems in the respective States of this country are such that the people and the country can have entire confidence in the results of an election.

Mr. Chairman, I do not know why an exception should be made of this case. As I said a moment ago, I was a member of the committee that had in charge this contest. I prepared the report, which was concurred in by only a minority of the committee. That report was submitted to the House with resolutions recommending the seating of John R. Brown, the contestant. Gentlemen of the last House well remember that the report remained upon the Calendar month after month and month after month. Mr. Brown had honestly made his contest; he had incurred expenses amounting to over $7,000, which were certified by the committee on the same basis as the expenses incurred by the contestee. Mr. Brown came here and begged the poor privilege of presenting to the members of the House his claim to the seat which was occupied by the contestee. And the friends of the contestee raised the question of consideration, and they succeeded in every instance

in denying the contestant the right even to be heard on the floor of the House.

I say, Mr. Chairman, I am against this bill because it opens wide the door, and if passed it ought to open wide the door, to the claim of every party to a contested-election case since 1879. If we pay this bill, we ought to pay every other bill that stands upon the same legal and equitable basis. I am against the payment of this claim because I think that parties who engage in these contests or who are defendants in contests of this character should be required to carry part of the burden, as litigants do in all civil and local matters.

The bill is dangerous in principle. It practically repeals or suspends for the benefit of a particular person a statute enacted twenty years ago after we had had a number of years of experience in relation to these matters, a statute enacted for the protection of litigants in contested-election cases and for the protection of the public Treasury as well.

I appeal to members of the House to vote down this claim; stand by the $2,000 limit; let parties who have honest contests before the House receive that amount and no more. But I submit that if this claim be granted, the law limiting the amount to be paid to parties in contested-election cases should be at once repealed, and every man who has a claim of this character should be notified to submit it to the Committee on Claims; and I have no doubt the sentiment of justice and fairness and equity that pervades that great committee will induce them to report in favor of these other claims as well.

I believe I have said all I care to say on this subject; but I do hope that this bill will be defeated and let the whole matter end there.

Mr. BOUTELL of Illinois. I yield ten minutes to the gentleman from Texas [Mr. BURKE].

Mr. BURKE of Texas. Mr. Chairman, as a member of Elections Committee No. 3 in the last Congress, I gave my approval to the entire amount of this bill, as I also did to the bill for the contestant, Mr. Brown. I did that because of the precedents of this House which had previously upon repeated occasions allowed to both contestant and contestee more than the statutory amount of $2,000. I believe this bill ought to pass the House this evening. I shall vote for its passage, and I will state to my friend from Indiana [Mr. CRUMPACKER] that so far as my vote goes I shall vote for the payment of every claim of this kind that he has referred to here as now undisposed of before this House. I would do it for the reason that I have already suggested, because of the policy which has been pursued here, and because of the precedents of this House allowing the payment of these sums in excess of the $2,000.

But I want to say, Mr. Chairman, that during the last Congress I prepared and introduced a bill to repeal in toto the law as it now stands allowing $2,000 as an absolute amount to be paid to contestants and contestees in every contested-election case before this House. I ask the members of this House, Do you know how many contested-election cases have been filed since the passage of the law allowing these sums? Do you know the amount appropriated by Congress to pay the parties in this large number of contested-election cases?

The Clerk of this House during the last session of Congress informed me that there had been 157 contested-election cases filed since the passage of the law, and in the Fifty-sixth Congress there have been 10 more, making an aggregate of 167 contested-election cases. Even at $4,000 apiece, under the law as it stands to-day, $2,000 to the contestant and $2,000 to the contestee, this Government has paid out nearly $700,000 to litigants in civil lawsuits before the House, for a contested-election case is a civil suit.

Mr. MANN. May I ask the gentleman a question?

Mr. BURKE of Texas. Yes.

Mr. MANN. Does the gentleman contend that under the present law each contestant and contestee are always required to be paid $2,000?

Mr. BURKE of Texas. I do not say that they are required to do it, but I say that they invariably do it, with but few exceptions, and the gentleman from Illinois can show very few exceptions where contestants and contestees have failed to avail themselves of the $2,000.

Mr. MANN. I can very easily show the gentleman several exceptions.

Mr. WILLIAMS of Mississippi. I had a case here once that cost $175, instead of $2,000.

Mr. BURKE of Texas. Yes; and I can show the gentleman from Illinois [Mr. MANN] cases in which Congress has paid over $4,500 to a contestee from the State of North Carolina.

Mr. MANN. That is the reason why this law was enacted.

Mr. BURKE of Texas. If you have stood by the law in the past always, I should say stand by the law to-day, but you have not done it.

Mr. DOLLIVER. How much extra does this call for?

Mr. BURKE of Texas. About $1,600.

Mr. DOLLIVER. Is there a showing made that the expenses were actually incurred?

Mr. BURKE of Texas. A perfect showing was presented to the Committee on Elections No. 3, and receipts for every dollar of it, and sworn to. There is no question or contention here but what this is a just claim, so far as the amount concerned is involved, the money having been actually expended beyond any question of doubt. Under the precedents of this House, I submit that we ought to refund to Mr. SWANSON, the claimant in this case, the money that he has paid out.

But, Mr. Chairman, I submit that whenever government furnishes to a litigant a tribunal in which he can litigate his claims—the issues involved in any controversy—government has discharged its full obligation to that citizen. The Government of the United States presents the House of Representatives as a tribunal into which any contestant in a contested-election case can come and present his case. I think, sir, that when Government has done that, it should stop and not pay the litigants for the privilege of going into the very tribunal that government has given them to hear and determine their cases. The Government has done enough for him, and, in my candid judgment, it has been a standing bid to certain men to prosecute contested-election cases before this House.

Mr. GRAFF. May I ask the gentleman a question?

Mr. BURKE of Texas. Yes.

Mr. GRAFF. Do you not think that a fine opportunity is presented here to give further encouragement to contestants to enter upon fruitless contests by adding strength to the few precedents that already exist?

Mr. BURKE of Texas. Stop your precedents that you have established heretofore and join hands with me to repeal the law in toto. That is the way to do it. Do not give a man a tribunal in which his case may be tried and then pay him for the privilege of coming there. The Government of the United States ought not to do it. It is unjust to the taxpayers of this country that we should do it.

Mr. DOLLIVER. In that case what would become of an honest contestant who had not the means to prosecute his case?

Mr. BURKE of Texas. What is to become of an honest litigant in the State of Iowa who has not the means to begin a lawsuit?

Mr. DOLLIVER. But this is a public matter.

Mr. BURKE of Texas. The State of Iowa gives the litigant a tribunal in which he can present his claim.

Mr. DOLLIVER. This is a public matter.

Mr. BURKE of Texas. No, Mr. Chairman, this is simply a contention and a lawsuit, so to speak, between two men over the possession, pay, and emoluments of a public office.

Mr. DOLLIVER. But my friend will admit that it is of more importance to the public at large that an election should be honestly held and returned than it is to either of the contestants.

Mr. BURKE of Texas. Well, I do not make that admission; but I want to suggest this further to the gentleman from Iowa [Mr. DOLLIVER]: I am not acquainted with the laws of his State, but I will venture the assertion here, and I call upon the gentleman to contradict me if I am not stating the fact, that the laws of Iowa do not permit the legislature of that State to pay the expenses of a contested-election case.

Mr. DOLLIVER. I am not advised about that, but I have no doubt they do.

Mr. BURKE of Texas. Well, if they do, that State is an exception to the rule of the States of this Union. I have never seen any exception to the general rule. I do not know of any State where the legislature comes up and pays the lawyer's fees of a man contesting a seat in the legislature.

Mr. DOLLIVER. But I will say to my friend that I doubt if there was ever a contest of that character, involving the honesty of the conduct of an election or the returns, in the legislature of Iowa.

Mr. BURKE of Texas. Perhaps you may differ from the most of the States in that matter. Many of the States have contested-election cases in both branches of the legislature, and I venture the assertion, and I believe I can say without fear of successful contradiction by any member of this House, that there is not a legislature of any State in this Union to-day that pays the lawyer's fees in a contested-election case in the legislature of any State. They do not do it, and it ought not to be done here. Will the gentleman from Ohio, the gentleman from Indiana, and others entertaining the views that they have expressed, join hands with me and others on the floor of this House and repeal in toto this law?

I thank the gentleman from Illinois [Mr. BOUTELL], and yield back such time as I may have of the ten minutes.

Mr. BOUTELL of Illinois. Mr. Chairman, I yield such time as he may desire to the gentleman from Tennessee [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, it seems to me that this is a case that we must try upon the facts presented, and not upon

any former precedents. The facts are that in the last Congress the gentleman from Virginia [Mr. SWANSON], the claimant here, had his right to a seat attacked. He was a defendant. He brought no action; he simply defended a just right to a seat. I submit, Mr. Chairman, whatever grounds there may be, and good grounds, for a law which limits the amount to be paid in election contests to $2,000, it ought not to be applied in a case like this when we have the discretion to change it.

Now, if a contestant comes without any right, and it is solemnly adjudged by this House that he had no right to bring his contest, he ought to be satisfied with the very reasonable amount that we give him, $2,000. He has brought an improper action, and his case is similar to that of a plaintiff in a lawsuit who loses his case. All the lawyers here, and I suppose all the other members, understand that if the plaintiff loses his case in an ordinary action at law, he must pay the costs. If he gets his judgment against the defendant, the defendant pays the cost, as a general rule. Now, here was a gentleman attacking the title, the indisputable title, of Mr. SWANSON to a seat in the last House. He did not go around and hunt up a lawsuit or a contest; he simply defended a right. In doing that it is conceded that he paid out about $1,600 more than the $2,000 allowed him by law. The money has actually been paid by him.

Mr. GRAFF. Will the gentleman yield to me?

The CHAIRMAN. Does the gentleman from Tennessee yield to the gentleman from Illinois?

Mr. RICHARDSON. Certainly.

Mr. GRAFF. The gentleman has cited general litigations as an example of the usual method where the defeated party is liable to pay the costs. I want to ask the gentleman whether it is usual to incorporate the attorney's fees as a part of the costs?

Mr. RICHARDSON. No; but Congress has been reasonable enough to do that, has seen fit to do it, and nobody has objected to it.

Mr. BURKE of Texas. In many States on promissory notes they allow a 10 per cent attorney's fee.

Mr. RICHARDSON. There are some cases where the attorney's fees are allowed, but it is not usual to do so in a bill of costs.

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

Mr. RICHARDSON. Yes.

Mr. MANN. I understand the gentleman to state that he thought a contestant ought not to be allowed any expense money unless he was successful.

Mr. RICHARDSON. No; I did not say that.

Mr. MANN. Then I misunderstood the gentleman.

Mr. RICHARDSON. I said there might be some ground for Congress to pass an act of that kind, but Congress has not done so. Congress has provided that contestants and contestees shall stand alike and each be allowed $2,000 and no more. I say this is liberal where a man loses his case, to allow him $2,000 for his expenses, but where a man defends his right to a seat and actually expends more than $2,000 in order to defend a just cause, we ought not to shut him off with the sum of $2,000. That is the position I take.

Mr. MANN. Another question. Take, for instance, the Aldrich case in the last Congress, where Mr. ALDRICH was successful in the House, and where he expended an amount a great deal over $2,000; would you be willing that he should be paid?

Mr. RICHARDSON. If it was a just claim——

Mr. MANN. Well, the House decided it was a just claim.

Mr. RICHARDSON. That would be all right; I would make no controversy with him; if he paid more than $2,000 I am inclined to think that Congress ought to allow it to him. I am not making the contention that it should not be allowed; I am trying to make the distinction between a just and an unjust claim.

Mr. GRAFF. May I ask the gentleman from Tennessee if I understand that he would allow an amount much exceeding the limit, and is not that tantamount to a repeal of the existing law?

Mr. RICHARDSON. It is not a repeal. It would repeal it pro tanto; it certainly would repeal it in this case and to the extent of this case; and that I am in favor of doing, because a distinction should be drawn between a man who brings an unjust complaint and one who simply defends his just title. We have got the discretion, and I say we ought to exercise it.

Mr. Chairman, no man controverts the justness of this claim; no man controverts the fact that Mr. SWANSON was put to this expense of $1,600 more than he got to defend a proper title to his seat. I do not want to make an argument ad hominem, but how easy it may be for some of us to have an unjust assault made upon the title to our seat; and when we have expended more than $2,000 in defending that we would not like to be held down to such a rule. We have made precedents in former cases; it seems to me we ought not now refuse to do by this gentleman what we have done in similar cases.

Mr. STEELE. Will the gentleman yield to me for a minute?

Mr. RICHARDSON. I would not like to yield to the gentleman for a minute to make a speech; I will yield to him to ask a question. He can get time if he wants it.

Mr. STEELE. I do not know whether I can get time or not.

Mr. RICHARDSON. Well, I yield, then.

Mr. STEELE. In the Forty-ninth Congress my seat was contested, and without my principal attorneys being added to it, the expense of that contest, every item of which was sworn to, amounted to over $4,700. When the case was brought to the committee every single member of that committee, after hearing it, decided that the contestant had no ground whatever for contesting. Not a member of that committee voted that he had any right to the contest; and the House sustained the verdict of the committee. Yet, when my itemized expenses were brought in, they only allowed me $2,000. First it was $1,000, and then, by an amendment in the Senate, another thousand was added.

Mr. RICHARDSON. What Congress was that?

Mr. STEELE. The Forty-ninth. Now, if I was allowed one cent, I should have been allowed the full amount of the expense, just as I think should be done in this case.

Mr. RICHARDSON. I agree with the gentleman. That proves the point I am trying to assert—that where a just claim to a seat is unjustly assailed, we should not make the man who is unjustly assailed pay the expense of defending his just claim.

Mr. Chairman, I do not want to take the time of the House. I find we have a number of precedents here. I wish to say, and I do assert here, that these precedents have not been made by any particular party. I do not think politics has heretofore entered into the decision of these cases.

I know in the case from North Carolina, the case of Mr. Settle, a Republican, it was a Democratic House. He defended his seat and was successful. He was allowed $2,500, as this report shows, over and above the $2,000. Now, one gentleman who argued on the other side said that these cases seemed to be peculiar to Virginia. I find a case from Illinois, the State of the gentleman [Mr. GRAFF], Philip S. Post, in which he was paid $5,686 over the $2,000. Here is a case from North Carolina. Mr. Williams; here is the case of Governor Curtin, from Pennsylvania; here is a case from Texas, Mr. Yokum; here is the case of Mr. Donnelly, from Wisconsin. But, Mr. Speaker, the point I want to emphasize is that the gentleman from Virginia [Mr. SWANSON] defended his seat in a Republican House—the last House—where the Republicans had a majority of about 60. His seat was unjustly attacked, and he made his defense to it. The proof is that every dollar of this $1,600 was honestly paid by him. Now, when he comes to Congress and asks that that $1,600 be refunded, we are met by the statement that there is a law which limits the amount to be paid to $2,000.

But we find in a dozen cases nearly this House has overruled that law and made an appropriation. There are cases similar to that cited by the gentleman from Indiana [Mr. STEELE] where the appropriations have not been sufficient to cover the additional amount expended by the contestees in defending their cases. But because Congress has not done it in all cases is no good reason why we will not do it in this case, when a claimant comes and asks to have it refunded. He is not asking anything irregular; nothing out of the ordinary course of events; he is not asking anything that any other gentleman ought not to ask and receive from Congress.

If there was any controversy or any criticism about one dollar entering into the sixteen hundred dollars, Mr. SWANSON would not have it. I am authorized and fully warranted in saying that if there was a criticism of the expenditure of 10 cents of this sixteen hundred dollars asked by him, he would not want it, although he has paid it. The proof shows that he has paid every dollar of it. Congress has decided that he paid it justly. Congress has decided that when there were 60 Republican majority on that side, and when a Republican contested his seat, he should not be turned out. With these facts, with precedents that have been cited here, Congress ought to pass this bill.

Now, then, on the question of making a precedent, if it establishes a precedent, why, all we have got to do will be to disregard it if we want to in some other case. If we do not do this, we disregard a precedent. It is an unfortunate appeal when you say you do not want to disregard precedents, because here are the precedents, and when you do not pay Mr. SWANSON you disregard the precedents. Why should you disregard it in his case? If such a case comes up here in the next Congress, or in this Congress at a future day, and you are asked to pay more than $2,000, all you have got to do is to inquire into it and ascertain whether the expenditure is proper, whether the money has been properly expended, and pay it. If it was not improvident, if you find the facts to be as they are in this case, we will follow the precedent we have established and make the payment. Mr. Chairman, that is about all I care to say in this matter.

Mr. GRAFF. Mr. Chairman, how much time have I remaining?

The CHAIRMAN. Thirty minutes.

Mr. GRAFF. I will now yield to the gentleman from Illinois [Mr. MANN].

Mr. MANN. Mr. Chairman, I take it that were it not for the genial presence and the whole-souled personality of the claimant, a member of this House, this claim would never have come before the Committee on Claims or before the House.

I suppose a majority of the House, out of pure kindness to the gentleman from Virginia, would be very glad now to vote him this sum, or even double the amount; but the question is whether we shall treat him and others fairly, and the still broader question, Mr. Chairman—and I call attention of the members on the other side of the House to the proposition—that the contests themselves depend largely upon the amount that is paid for contestants' fees.

In the last House there were twenty-one contests, nearly all of them against members on the other side of the floor. In the Committee on Elections No. 1, of which I have the misfortune to be a member, and was in the last Congress, we considered the claims presented by contestants and contestees in each of the seven cases referred to. I happened to be a member of the subcommittee that considered these claims, and under the practice of the House, when we had allowed a claim, the amount allowed was certified to the Committee on Appropriations.

In nearly every case that was presented to our committee the amount expended, both by the contestant and the contestee, was largely in excess of the $2,000. I have no doubt that some of the contests had been inaugurated for the very purpose of getting attorney's fees for some attorney belonging in the district in which the contestant lived.

I have no doubt there will be plenty of contests in this House from some of the districts where people are elected members of this House by two or three thousand votes—plenty of contests—if this House proposes to set up a precedent of paying four, five, six, or ten thousand dollars for expenses. We have before the committee at this time, in this Congress, a record from Virginia which nobody could produce and get up with attorneys' fees which cost less than eight or ten thousand dollars.

Does the House desire in this case to instruct the Committee on Elections and the Committee on Appropriations to recommend to the House the payment of all the expenses and attorney's fees in all these cases? Do the gentlemen on the other side of the aisle desire to serve notice upon some of the people in their districts that they want contests instituted against them? I have no doubt myself that if the contestant in this particular case in the last House had been paid a good round sum for his contestant's fees and attorneys' fees we would have had the same contest in this House.

Mr. RICHARDSON. Will the gentleman yield to me for a question?

Mr. MANN. Certainly.

Mr. RICHARDSON. I do not think he will make an argument that allowing more than $2,000 to a successful contestee will induce a contestant to bring a contest.

Mr. MANN. It has been the uniform practice in this House to treat the contestant and the contestee in precisely the same manner. If they allow to one, they allow to the other. If you make a rule that the contestant should only be allowed his expenses when successful, the same rule carried out would prevent the allowance to the contestee when unsuccessful; and if you allow this sum in this case to the claimant, then you ought to allow to every one of the claimants in the last House who were successful their fees, and you ought not to allow to anybody in this House who is unsuccessful his fees.

Would the gentleman claim, for instance, that in the ALDRICH-Robbins case, in which the House has just seated Mr. ALDRICH, Mr. Robbins having been declared by this House to have been fraudulently elected—would the gentleman claim that in that case Mr. Robbins ought not to be allowed anything? If you apply the rule in one case, let it work always; give no preference.

Mr. Chairman, while I appreciate the desire on the part of some gentlemen to give a gratuity to the gentleman from Virginia, while I would be very glad, indeed, to give him anything in the form of friendship or money, so far as my conscience and my sense of propriety would allow, I say that this House ought to preserve the law as it stands, and either allow all the expenses in all cases or else allow in each case only the expenses incurred up to $2,000.

The gentleman from Texas [Mr. BURKE] is in favor of allowing nothing; but if you allow anything, he wants to make the amount as large as possible.

Mr. BURKE of Texas. To the extent of every dollar actually paid out.

Mr. MANN. Now, Mr. Chairman, the trouble in these cases is that while this case may be perfectly fair and plain as to the amount paid out, the verification of the amounts paid in such cases depends upon the statements made in each instance. It is an easy matter to produce an attorney's bill receipted.

These cases depend very largely upon the statement of the claimant as to the amount paid out. It became the duty of the committee on which I served in the last Congress to cut down some of the bills of claimants. Why, Mr. Chairman, we had a bill presented to us from Alabama where one of the claimants had done nothing but serve notice of contest. Yet he insisted and swore that he had paid out $1,500 as attorneys' fees.

The committee did not allow it. But under the idea of the gentleman from Texas, if a claimant to a seat will institute a contest and then swear that he has employed attorneys and paid them retainer fees, the House must pay the bills.

Mr. BURKE of Texas. Not at all. Will the gentleman allow an interruption?

Mr. MANN. Certainly.

Mr. BURKE of Texas. I take it that such a claim would go to the appropriate committee and the matter would be passed upon by the committee, just as any other claim would be passed upon, and if the committee became satisfied by proof that the claim was fair and just they would allow it; otherwise they would disallow it, just as they would do in the case of any other claim.

Mr. MANN. Well, Mr. Chairman, there is absolutely no way to determine the correctness and justice of the expenditures except upon the statement of the claimant. I say that if you break down this rule, which was upheld by the last House, you will have a great number of election contests. In the last Congress there were 21 contests. We observed the rule; we served notice upon the contestants that we would not allow them an amount exceeding $2,000, and the result is that in this House there are only 10 contests.

Are gentlemen from the South on the other side of the aisle so anxious for their seats to be contested that they are urging contestants to come before this Congress and seek the payment of large bills for expenses? I should suppose that they, of all other members, would be most anxious to preserve the rule inviolable, that under no circumstances shall a man filing a contest be paid a sum exceeding $2,000.

For myself I am frank to say that I very much agree with the gentleman from Texas in the idea that we ought to allow no attorneys' fees whatever in these contested-election cases. I believe the law as it stands has already encouraged a great many contests which ought never to have been brought into this House.

But I know that if the law fixing a limitation upon these allowances be practically repealed by the action of this House, it will result in encouraging additional election contests in the South, and probably elsewhere. For these reasons, it seems to me that this claim ought not to be allowed.

Mr. GRAFF. I yield five minutes to the gentleman from Rhode Island [Mr. CAPRON].

Mr. CAPRON. Mr. Chairman, it is not my purpose to occupy even the entire five minutes allowed to me. But, Mr. Chairman, I think that more than this particular case is being considered to-day by the Committee of the Whole. It seems to me clear that if we are to allow each contestant to be the judge of the sum to be expended in election contests for himself, then, taking the contested-election cases which have been brought before this House during the last four Congresses—not going back further than that—there would not be one in which the contestant or contestee would not be willing to state—under oath, if necessary—that his case was equally good, equally strong and pertinent, had equal right and righteousness behind it, with the case now under consideration.

In the Fifty-third Congress there were nine contested-election cases. I desire to put a summary of those cases in the RECORD, that we may clearly see what we are running up against:

State of Alabama: Fifth district—Martin W. Whatley *vs.* James E. Cobb, three packages.

State of California: Third district—Warren B. English *vs.* Samuel G. Hilborn, two packages.

State of Georgia: Tenth district—Thomas E. Watson *vs.* James C. C. Black, two packages.

State of Illinois: Eighth district—Lewis Steward *vs.* Robert A. Childs, two packages.

State of Kansas: Second district—H. L. Moore *vs.* Edward H. Funston, five packages.

State of Missouri: Eleventh district—John J. O'Neill *vs.* Charles F. Joy, two packages.

State of North Carolina: Fifth district—A. H. A. Williams *vs.* Thomas Settle, two packages.

State of Tennessee: Eighth district—P. H. Thrasher *vs.* B. A. Enloe, three packages.

State of Virginia: Fourth district—J. T. Goode *vs.* J. F. Epes, three packages.

If we go to the extent of allowing in this case $1,600 more for expenses than is allowed by the statute, next week or next year some other case may, and probably will, be presented in which the excess will be $2,000 or $5,000, or an indefinite amount, when we fix a precedent of paying all the actual expenses incurred. In

the Fifty-fourth Congress there were 34 contested-election cases, as follows:

No.	Contestant.	Contestee.	District.
1	W. C. Robinson	George P. Harrison	Third Alabama.
2	W. F. Aldrich	Gaston A. Robbins	Fourth Alabama.
3	A. T. Goodwyn	James E. Cobb	Fifth Alabama.
4	T. H. Aldrich	Oscar W. Underwood	Ninth Alabama.
5	W. H. Felton	John W. Maddox	Seventh Georgia.
6	Hugh R. Belknap	Lawrence E. McGann	Third Illinois.
7	John I. Rinaker	Finis E. Downing	Sixteenth Illinois.
8	George Denny, jr	William C. Owens	Seventh Kentucky.
9	N. T. Hopkins	Joseph M. Kendall	Tenth Kentucky.
10	H. Dudley Coleman	Charles F. Buck	Second Louisiana.
11	Taylor Beattie	Andrew Price	Third Louisiana.
12	Alexis Benoit	Charles J. Boatner	Fifth Louisiana.
13	William S. Booze	Harry W. Rusk	Third Maryland.
14	Robert T. Van Horn	John C. Tarsney	Fifth Missouri.
15	J. Murray Mitchell	James J. Walsh	Eighth New York.
16	Timothy J. Campbell	Henry C. Miner	Ninth New York.
17	R. A. Cheesebrough	Geo. B. McClellan	Twelfth New York.
18	Henry P. Cheatham	Fred. A. Woodard	Second North Carolina
19	Cyrus W. Thompson	John G. Shaw	Third North Carolina.
20	Charles H. Martin	James A. Lockhart	Sixth North Carolina.
21	George W. Murray	William Elliott	First South Carolina.
22	Robert Moorman	Asbury C. Latimer	Third South Carolina.
23	Joshua E. Wilson	John L. McLaurin	Sixth South Carolina.
24	Thomas B. Johnston	J. William Stokes	Seventh South Carolina.
25	J. H. Davis	D. B. Culberson	Fourth Texas.
26	Jerome C. Kearby	Jo. Abbott	Sixth Texas.
27	A. J. Rosenthal	Miles Crowley	Tenth Texas.
28	R. T. Thorp	Wm. R. McKenney	Fourth Virginia.
29	George W. Cornett	Claude A. Swanson	Fifth Virginia.
30	J. Hampton Hoge	Peter J. Otey	Sixth Virginia.
31	Jacob Yost	H. St. Geo. Tucker	Tenth Virginia.
32	A. M. Newman	J. G. Spencer	Seventh Mississippi.
33	Thomas E. Watson	J. C. C. Black	Ninth Georgia.
*34	Beattie	Price	Eleventh Louisiana.

*Second case.

Now, I do not believe you could get any one of those 34 contestants to agree that he had not as good a case as is presented by the bill before the committee, and had not equally good grounds for claiming an additional allowance, if this claim be allowed.

In the Fifty-fifth Congress there were 11 contested-election cases, as follows:

State of Alabama: Second, Third, Fourth, Fifth, and Ninth districts.
State of Delaware: At large.
State of Kentucky: Third district.
State of Louisiana: First district.
State of Mississippi: Third district.
State of New York: Sixteenth and Thirty-first districts.
State of Oregon: First district.
State of Pennsylvania: Third district.
State of South Carolina: First, Second, and Seventh districts.
State of Tennessee: Tenth district.
State of Virginia: Second, Fourth, and Fifth districts.

In the Fifty-sixth Congress there are, or have been, six contests, as follows:

State of Alabama: Fourth district.
State of Kentucky: Fifth, Eighth, and Ninth districts.
State of Mississippi: Third district.
State of North Carolina: Sixth and Ninth districts.
State of South Carolina: Third district.
State of Virginia: Second and Eleventh districts.

Which I insert in the RECORD, that we may see what a tremendous consideration this precedent involves when we take these cases in the aggregate. If this thing goes on, I agree with the gentleman from Illinois that the United States Treasury will have to find some additional means of revenue and the contested-election cases will very soon aggregate an amount larger than the pension roll.

Mr. BURKE of Texas. I apprehend from the remarks of the gentleman from Rhode Island that he will join with me in an effort to repeal the law in toto.

Mr. CAPRON. Well, if the gentleman will bring in his bill, we will discuss that when it is presented; but upon present consideration I confess that I am very much of the opinion that I do agree with the gentleman from Texas.

Mr. FITZGERALD of New York. Will the gentleman allow me to ask him a question?

Mr. CAPRON. Yes.

Mr. FITZGERALD of New York. Does the gentleman know whether, in all these cases that he has cited, more than the statutory amount was expended?

Mr. CAPRON. I have been told by numerous contestants and contestees that their expenses ranged anywhere from four to eight and nine thousand dollars; and I have been told within three days of one gentleman who was seated during the last three days whose actual expenses amounted to more than seventy-five hundred dollars. Now, I will not agree to vote one cent beyond the $2,000 to either of the contestants who were admitted during the last week.

Mr. FITZGERALD of New York. The gentleman leaves the impression that in all these cases the amount exceeded the sum allowed by the statute.

Mr. CAPRON. I do not know whether that was so or not.

Mr. FITZGERALD of New York. It would be immaterial how many contestants there were unless the amount exceeded the statutory limit.

Mr. CAPRON. We have no knowledge of that, either one way or the other; but so far as it has ever come to my knowledge there has never been an election case where the contestee or the contestant has admitted that his expenses came within the $2,000 limit.

Now, in the Fifty-sixth Congress there are 10 contested-election cases. I wonder if any of the twenty parties to those 10 cases will agree that his case is less worthy and that his expenses ought not to be paid, if the gentleman from Virginia is allowed his entire expenditures under this bill.

I believe we should stop right here. I believe no man should ever get more than the $2,000 at present allowed by law; and this being one of those questions which we have no business to approach in a partisan way, I believe this House, without regard to party, ought to say that it will stand by the law, limiting the amount allowed to the parties to an election contest to $2,000, until that law is repealed.

Mr. GRAFF. I yield to the gentleman from Missouri [Mr. JOY.]

Mr. JOY. I only desire a very few minutes to say what I have to say upon this case.

It seems to me that we are going already too far in these election cases, not only in allowing the $2,000, which is at present allowed by law in such cases, but in allowing anything at all. It is true that in almost every case where an election contest is had, the expenses largely exceed the $2,000 allowed by the statute.

I speak with more or less feeling upon this subject, for I had a contested-election case myself in the Fifty-third Congress, in which Congress there was a majority of 100 on the other side of the Chamber. My expenses, as vouched for in every instance and for every item, amounted to more than $8,500. I was the contestee, and I was elected.

You may ask if I was not unseated. That is true; but in proof of the statement that I now make, I will cite gentlemen who sit upon the other side to-day and who sat in the Fifty-third Congress, and ask them to say whether I was not elected to the Fifty-third Congress. I will leave it to them to decide. That Congress, having a majority of 100 Democrats, would only allow the $2,000, the exact amount provided by statute, although the vouchers, all certified to by the persons to whom the money had been paid, showed that the expenses which I had necessarily incurred in defending my seat against the one who sought to wrest it from me were $8,500.

Now, why shall we open the door at this late day, why shall we go back to a preceding Congress—the Fifty-fifth—and allow expenses amounting to $1,700 more than the limit allowed by law? If you are going to do that, why not go back to the Fifty-third Congress and allow me $6,500 (which I shall not ask for) which I actually expended in a contest to defend a seat in that body. My friends, it is opening the door too wide. This does not extend back simply to the Fifty-fifth Congress, but it extends back indefinitely. There is no statute of limitation to run against claims of this kind. This Congress can do whatever it pleases with reference to the expenses of contestants and contestees in election cases. The rule has been broken, has been overstepped, in two or three instances, as I am informed; in one instance in the Fifty-third Congress, where an additional amount of $2,200 was allowed.

That case is quoted as a precedent to-day, and you will find that if this bill passes all the contestants and contestees, whether sitting or not, will come, and properly come, and ask that their expenses be borne by the Government of the United States. You gentlemen who are cheeseparing about expenses on that side of the House do not come with clean hands in asking that in this case, coming up from a former Congress, we shall pay out of the Treasury $1,700 for moneys expended by the gentleman from Virginia. I have no doubt the expense was incurred, and legitimately incurred, but the time came when the law was passed to stop all this business. I will agree with the gentleman from Texas [Mr. BURKE] that I will vote to cut off all expenses of contests on either side. That will stop half of the contests in this House of Representatives. My seat would not have been contested in the Fifty-third Congress if it had not been for the money that there was in it.

Now, my friends, I hope that there will be no party division upon this question. If I sat upon that side of the House, I would take the same position that I am going to take sitting upon this side. It is a question that will appeal to you. If, as some of you think, in the next Congress you shall have a majority of 50 or any majority in this body, and I come back and ask you to pay me sixty-five hundred dollars properly expended in the Fifty-third Congress in the interest of maintaining my seat, to which I was elected, will you wish to have me cite this precedent and ask that you refund out of the National Treasury and have charged up to

the Democratic party sixty-five hundred dollars expended in this regard? My friends, that is a question for you to consider.

I have no objection to the gentleman from Virginia [Mr. SWANSON] getting his money, but I ask you to remember that it establishes a precedent for this and succeeding Congresses.

Mr. GRAFF. Mr. Chairman, I will ask the gentleman from Illinois [Mr. BOUTELL] whether there is anyone else who desires to speak on that side? I see a gentleman on that side [Mr. KITCHIN] who rises and indicates his desire to speak.

Mr. BOUTELL of Illinois. I will ask the gentleman from Illinois [Mr. GRAFF] if there is anyone else who desires to speak in opposition to this measure?

Mr. GRAFF. I think not.

Mr. CANNON. When will you reach the amendable stage?

Mr. GRAFF. I suppose an amendment would be in order when the motion was made to report the bill back to the House favorably. My colleague [Mr. BOUTELL] had indicated to me that he proposed——

Mr. RICHARDSON. An amendment would be in order after the close of general debate on the bill.

Mr. GRAFF. That would be upon the motion to report the bill favorably.

Mr. RICHARDSON. No; after a request had been made to close general debate, then the bill would be open to amendment.

Mr. GRAFF. Does the gentleman from Illinois desire to use any more time?

Mr. BOUTELL of Illinois. Mr. Chairman, I thought we would close this as briefly as possible, if there was nothing more to be said in opposition. I yield five minutes to the gentleman from North Carolina [Mr. KITCHIN].

Mr. KITCHIN. Mr. Chairman, as I understood the argument of the gentleman from Illinois [Mr. MANN] just now, it was that this bill should be defeated in order to discourage contests. I believe that was the substance of his opposition. Now, it seems to me that in order to discourage contests successful contestees should be allowed their full cost and unsuccessful contestants should be limited in the cost which they recover.

Mr. MANN. May I ask the gentleman a question?

Mr. KITCHIN. Yes.

Mr. MANN. Do you think that unsuccessful contestees should not be allowed anything?

Mr. KITCHIN. No, sir, I do not. I think there is a difference in the positions of an unsuccessful contestee and an unsuccessful contestant, resulting from the nature of their cases and the expense required for their preparation. As the gentleman from Illinois well knows, frequently in these contested-election cases the evidence of only two or three witnesses may be sufficient to throw out the returns of an entire township upon some ground or other, and then the parties are put to the proof of the votes they received. If the contestant succeeds in throwing out a township, it is natural to presume that in that township there was a large majority for the contestee. Now, when it comes to the proof of the vote cast for him, the contestee must necessarily examine many more witnesses than the contestant, and his cost will of necessity be larger than that of the contestant.

Mr. MANN. Well, suppose the charge is that the contestee has been elected by fraud and the House shall so determine. Do you think that there is any more reason for paying the expenses of the contestee than for paying the expenses of the contestant when he is declared unsuccessful?

Mr. KITCHIN. I do, for this reason: I think there is a difference in principle, because the contestant, before he begins his contest, has good opportunity, of which he of course avails himself, of investigating the entire district, and he voluntarily brings the contest. Now, on the part of the contestee, he has a seat which he holds by a proper certificate of the governor of his State, the prima facie returns showing that he was elected, and it is his duty as a representative of the people to preserve their rights and to preserve his seat here. The contest is not of his choosing. He must defend, whether he would escape the contest or not.

Mr. MANN. If he is elected by fraud, of course it is of his choosing. That is the very issue that is presented; an issue from which the case can not be separated.

Mr. KITCHIN. I still think that when a contestant examines the district and finds there is fraud, and he successfully proves sufficient fraud and wins his contest, he should be paid his expenses, not exceeding the limit of the law; but if he has made a false charge of fraud upon the people of his district and he fails in his case, then I doubt whether he should be paid any of his expenses. But I believe that if the contestee repels that charge and preserves his seat he should be paid the full amount that it was necessary for him to incur to preserve the certificate that had been awarded him. That is a principle that is recognized in all the courts of the land now by statute, a principle that gives to the successful litigant the expenses necessary to properly conduct the prosecution or defense.

Mr. SNODGRASS. Do not they come out of the unsuccessful litigant? Why should we pay a claim upon the General Government for these expenses?

Mr. KITCHIN. I will come to the gentleman's point. I do not agree with the gentleman from Texas or the gentleman from Illinois who have just taken their seats, that this law should perhaps be repealed; because in the ordinary courts, I will say to the gentleman from Tennessee, private rights are being litigated, rights affecting only individuals. Now, here are rights involved affecting the Government itself. I stand here not as a representative of myself alone, but as the representative of the people of my district, to take a part in the Government of the United States for them; and so, it is right not only for this proper and necessary cost to come out of the Government, but that the attorneys' fees, which are not usually chargeable in the costs of a case in the State courts, properly incurred in the defense or prosecution of a just claim to a seat in this body, should be paid out of the General Treasury as a part of those necessary costs; otherwise you might have a good case, and yet would not dare to prosecute it for fear of the enormous cost.

A man might clearly think he was lawfully entitled to his seat in this Congress; but if the majority in this House are politically against him, and he knows that the burden of that contest will come out of his own pocket, he might not take the proper steps to defend the rights of the people. I think in such cases, when they succeed, it is right and proper that they should be allowed the necessary expenses, both as to lawyers' fees and as to witnesses. I do not think, if you will use discretion and shut out unsuccessful contestants, you will have much further trouble. They are the men that you ought to legislate against. It is the unsuccessful contestant that you ought to be rigid with in the enforcement of your ideas in the matter of saving cost against the Government. When a gentleman brings an unsuccessful case here, having carefully considered it, certainly he should be limited in the amount allowed him; and if gentlemen should see fit to propose a bill repealing the law that allows unsuccessful contestants to receive as much as $2,000 for expenses, I would certainly consider it very carefully before I would oppose its passage.

Mr. Chairman, I believe that is all I wish to say upon this matter. I think this bill can be justified in principle and in precedent.

Mr. BOUTELL of Illinois. Mr. Chairman, how much time have I remaining?

The CHAIRMAN. The gentleman has twenty-five minutes remaining.

Mr. BOUTELL of Illinois. Mr. Chairman, the discussion of this case has taken a wide range. The law applicable to this case is very simple, and the facts are equally simple. In the sundry civil bill of 1879 a provision was inserted that no contestant or contestee in an election case should be paid in excess of $2,000 for his expenses; that these expenses must be itemized and presented to the Committee on Elections; that no witness fees should be allowed except in accordance with section 128 of the Revised Statutes, giving a witness 75 cents a day and 5 cents a mile for mileage.

Now, I do not know that the repeal of this law or the enactment of any other law would prevent the bringing of similar claims into this House. My own impression is that if a law were framed which would give to the successful party to the contest his reasonable costs and attorneys' fees, it would tend to discourage unjust and ill-founded contests and at the same time would give compensation to a reasonable amount to the man who succeeded in the contest. In reference to the establishment of precedents, it does not seem to me that the passage of this bill will establish any precedent which will bind this House. My opinion of the prudence, the sagacity, and the wisdom of this body is not so slight that I think an act of justice on its part will ever be a precedent for an act of injustice, or that the passage of a wise and prudent measure will ever be a precedent for the passage of a foolish and ill-advised measure.

Now, the facts in this case are these: The gentleman from Virginia, the claimant, Mr. SWANSON, was duly elected to the Fifty-fifth Congress and received his certificate and acted as a member.

Mr. LACEY. May I ask the gentleman a question?

Mr. BOUTELL of Illinois. Certainly.

Mr. LACEY. Did the House adjudicate that question?

Mr. BOUTELL of Illinois. I am coming to that. A contest was brought for the seat. Now, Mr. Chairman, I risked my life in listening to the trial of this case in an underground chamber in one of the labyrinthian corridors beneath the Dome of this Capitol. I went through the record, which filled three voluminous books. I know the amount of testimony that was taken in the case. I have examined carefully all the items in this bill of expense. Something should be said in reference to the character of this district and the nature of the contest.

The district which the gentleman from Virginia represents includes seven rural and mountainous counties in southern central Virginia, the largest town being that of Danville, with a population not exceeding thirty or forty thousand inhabitants. Testimony

in this case was taken in a large number of precincts, necessitating the employment of counsel at various points, and the witnesses in all cases were brought from a long distance.

Now, the items in this account are as follows: The entire account of his expenses and costs were filed with the Committee on Elections and certified by them to the Appropriation Committee, and amounted to $3,769.59. Of this amount $2,523 was for attorneys' fees, and the balance, $1,236.50, was the ordinary cost and expenses of witnesses, in accordance with section 128 of the Revised Statutes.

Now, I submit to the consideration of the House that the taking of testimony and the employment of counsel, that if the same number of counsel that was employed in this case was employed in the city of New York, in the city of Boston, or in the city of Chicago, or in any other of our large cities, it would have cost five or six times the amount of this claim. In reference to attorneys' fees—the $2,533—you can easily see how that could be made up, and in no case is an attorney's fee included in this statement to a larger amount than at the rate of $10 per day.

Mr. LACEY. I would like to ask the gentleman a question.

Mr. BOUTELL of Illinois. I will yield to the gentleman.

Mr. LACEY. Would it not follow, if this had been a Chicago contest, that we should have to allow $12,000 for attorneys' fees?

Mr. BOUTELL of Illinois. If it was necessary and had been expended in the contested case. If it had been $12,000 in Chicago, which is not likely, it would have been double or treble that in the city of New York. I refer to this amount to show that the committee investigated this case carefully, and did not approve simply such attorneys' fees as might have been presented, but attorneys' fees in no case in excess of the rate of $10 a day for the taking of testimony; and of course it would only be in a rural district of that kind that attorneys could be employed at that rate to do this work.

Mr. GRAFF. Will the gentleman yield to me for a question?

Mr. BOUTELL of Illinois. Yes, sir.

Mr. GRAFF. Did the subcommittee of which the gentleman is a member reject any of the items which Mr. SWANSON had submitted in his account?

Mr. BOUTELL of Illinois. No.

Mr. GRAFF. The gentleman spoke of not taking into consideration any other services rendered than those necessary. He means that he took into consideration everything that Mr. SWANSON put into his bill and did not reduce it any.

Mr. BOUTELL of Illinois. Yes, the largest rate of charge being at the rate of $10 a day, and the record showing that the attorneys were present at all examinations.

Mr. GRAFF. How many attorneys did he have employed?

Mr. BOUTELL of Illinois. I should say nine or ten.

Mr. LACEY. How many days—what is the limit?

Mr. BOUTELL of Illinois. I think the limit was ninety days, and the testimony was taken in a large number of precincts. So I submit, Mr. Chairman, that the amount in this case is a reasonable amount, such an amount, surely, as this House would allow if there were no law like the statute of 1879. Of course all that can be said in reference to that law is that in doing what we think is substantial justice and equity in this House we enact special laws every week of our session; every pension bill that we pass in the House is in opposition to the statute law; every bill in reference to enabling aliens to make good title to land in this District is in opposition to the general statute law; and so it is in a number of other instances.

Mr. GRAFF. Will the gentleman mention any particular claims which this bill has for preference over any of the claims where the amount exceeds $2,000; is there anything about this case which peculiarly presents itself in a favorable light for special exception? If there is, I would like to have it.

Mr. BOUTELL of Illinois. I will say that the subcommittee simply had this bill under consideration, and the subcommittee simply passed upon this bill without taking thought of other bills referred to in the discussion which has taken place in this House. We had nothing else to base our opinion upon except the justice and equity of this special claim which I am arguing to the House. I submit that every measure of this kind or any other kind that comes before the House should stand solely upon its own merits.

Reference was made by the gentleman from Indiana to other bills or claims of similar nature pending before the Committee on Claims relating to cases which were before the Committee on Elections No. 3.

Now, there seemed to be some reason in referring to the fact that those claims were pending before the Committee on Claims. I drew the inference from the gentleman's remarks and also from the question of the gentleman from Illinois that there was some special favoritism in this case. I remember being present at the meeting of the Committee on Claims when the other bills were brought up; and if I recollect rightly, they were all introduced after this case had been reported; and if I remember correctly, they were all introduced by the gentleman from Indiana [Mr. CRUMPACKER], who now opposes this bill; and if my memory is not at fault, they have all been referred to a subcommittee of the Committee on Claims, which subcommittee, I dare say, has had them under careful consideration. So far as I know or recollect, there were no papers or statements filed with those bills, and I submit that the considerations connected with those bills should have no weight in determining the justice of this special case.

The gentleman from Indiana referred also to the fact that the claimant's attitude in this case was not as strong as it would have been if he had been allowed to retain his seat by a vote of the House, or had allowed the contestant to obtain a vote on his case. I remember, as of course the gentleman from Indiana does, that we had this case ready for a hearing; we had all our books and records and statutes piled up on our desks one morning, ready to proceed with the case, when it was continued, so far as I know, solely at the request of the contestant. On two other occasions the case was called up, and the House refused to consider it, the last time being toward the closing weeks of the last session.

Mr. CRUMPACKER. Will the gentleman allow me a question?

Mr. BOUTELL of Illinois. Certainly.

Mr. CRUMPACKER. Did not the gentleman vote against the consideration of this case?

Mr. BOUTELL of Illinois. I did not. I voted for the consideration.

Mr. CRUMPACKER. I desire to make a suggestion about the continuance to which the gentleman has referred. The case was continued by a mutual agreement between myself, representing the contestant, and my colleague from Indiana [Mr. MIERS], representing the contestee. The continuance was by mutual agreement, upon an understanding between both the parties to the case.

Mr. BOUTELL of Illinois. In reference to that I wish to say that all I heard about the case was from the contestant himself, who came to me and said he would prefer not to have the case heard until after the primary elections in his district; and it was continued, as the gentleman states.

These, Mr. Chairman, are the facts of this case, and the law as I have endeavored to state it briefly. I submit in conclusion that this is a case which should stand solely upon its merits. If we are ever to exercise our discretion under that statute and allow a reasonable sum to the successful party in a contested-election case, this certainly is a case where we would be justified in doing so, because all these expenses are on such a reasonable basis, considering the amount of work that was done, the length of the record, and the character of the contest.

Mr. LACEY. May I ask the gentleman a question?

Mr. BOUTELL of Illinois. Certainly.

Mr. LACEY. I understood the gentleman to speak just now of the gentleman from Virginia [Mr. SWANSON] as being a successful contestant.

Mr. BOUTELL of Illinois. Yes, sir.

Mr. LACEY. Does the gentleman think that principle applies where the success results simply from a failure to have the case considered in the House? Here is a case where there was no judgment, no determination, by the House. The report of the committee was in favor of the other man. They determined that Mr. SWANSON was not elected. If Mr. SWANSON or his friends succeeded in preventing the consideration of the question by the House, ought we not rather to adopt the presumption that the committee who examined the case was right, instead of assuming that because the case failed ever to have a hearing the contestee was entitled to the seat?

Mr. BOUTELL of Illinois. I would be very glad to rest on the presumption that the judgment of the committee was correct, for the majority of the committee decided in favor of Mr. SWANSON.

Mr. POWERS. Was this a unanimous report from the committee?

Mr. BOUTELL of Illinois. This report from the Committee on Claims?

Mr. POWERS. Yes, sir.

Mr. BOUTELL of Illinois. No, it is not unanimous; but there is no minority report. The chairman of the committee has spoken in opposition to this measure.

Mr. POWERS. A majority report has been filed in favor of the bill?

Mr. BOUTELL of Illinois. That is the only report before the Committee of the Whole.

Mr. CRUMPACKER. The report of the committee was in favor of the contestant. A majority of the members filed dissenting views. The parliamentary situation was very anomalous. The Speaker of the House recognized the report made by four members of the committee as the report of the committee, because it was brought in as such. Five members of the committee filed, as I have said, dissenting views; but the record shows that the report was in favor of the contestant, although only a minority made it.

Mr. BOUTELL of Illinois. The question what was the report and what were the views of the minority was never decided. A majority of the committee were in favor of the contestee. So, Mr. Chairman, I feel that this case, in so far as the law and the facts are concerned, has been submitted to the House. It is for the House to determine whether it will consider this case, along with other cases pending of a similar character, in accordance with general principles or whether it will consider this individual case. If the House is ever to exercise its own discretion and allow reasonable costs over and above the $2,000 fixed by statute, I submit that such amount should be allowed in this case.

Now, Mr. Chairman, I yield to the gentleman from Virginia [Mr. SWANSON].

Mr. SWANSON. Mr. Chairman, in the last House my seat was contested; and in defending my right to the seat against that contest I spent in money $3,759.69. The committee, by a majority of 5 to 4, after examining the case, determined the contest in my favor. As the gentleman from Indiana has correctly said, the case was never brought into the House. At that time we agreed to a continuance, at the request of Mr. Brown, General Walker being ill at that time.

When the question of paying contestants came before the House an effort was made to have the expenses incurred by all these gentlemen exceeding $2,000 included in the appropriation bill. A point of order being raised, the proposition was ruled out. I made no effort, I desired to make no effort, to have the provision put on in the Senate, because I always thought that an indirect and improper way to endeavor to use any influence that one might have in the Senate to coerce the House.

Since I have been a member here, my seat having been twice contested and each time my right to it sustained, I have always thought that to compel me to pay a large sum of money out of my own pocket to maintain my right to a seat to which I was entitled was an unreasonable and unjust burden. I knew no way to get this claim allowed except by presenting it to the Committee on Claims. It has been developed here to-day that there are other gentlemen situated precisely as I am—for instance, the gentleman from Missouri [Mr. JOY], the gentleman from Indiana [Mr. STEELE], and others. I presented this claim simply that this question might be determined as a precedent. I do not desire one dime allotted to me if the same allowance is refused to other gentlemen in the same situation with myself and having equally just claims.

I should be glad to have the law established as to whether it shall be confined to the $2,000 or not. It has been said that I presented this claim on account of personal popularity—on account of being personally liked in this House. I would scorn to accept a cent from this House, if there was one vote against it, if it was thought to be presented from any such motive or consideration as that.

Since it has been developed that there are some gentlemen who are situated precisely as I am, and since there seems to be an impression that I am trying to isolate myself from them, I desire to state here and now that if this bill should be passed by a large majority, I would not accept the money. I ask to have this bill withdrawn. If the House wants to confine payment in these cases to $2,000, I will submit to it. If the House thinks it is proper to allow the amount actually expended in other cases, I want what I expended, too. Now, I do not desire a dollar, a dime, or a cent, except what this House will give to other members similarly situated. Since some opposition has developed and some gentlemen seem to think I am trying to get what I am not willing to have other members get, I do not wish to press this claim, and I would not have it if five members of the House should vote against it.

I want to say here, in justice to myself, that in a Democratic House with over 125 majority the gentleman from North Carolina [Mr. Settle], who lives in the district adjoining mine, had a contest precisely like mine. His seat was contested. That case was never considered. The question of consideration was raised every time against it, and this House, Democratic by over 100 majority, allowed the gentleman from North Carolina, whose district adjoins mine, $2,500 in excess of the $2,000. I thought if, under similar conditions, with a less voluminous record than mine, the House thought that justice should be meted out to him, and it was done by a Democratic House, that I could come here and ask to have my actual expenses paid back to me also. I voted for the gentleman's claim because I thought it was right and honest. Since these gentlemen think I am trying to get what other members are not entitled to, I now ask to have this claim withdrawn, and I would not accept a dime or a nickel of it if any of the members of the House thought I was not entitled to it. [Applause.]

Mr. OTEY. Mr. Chairman, if it is in order, having introduced this bill, I desire to withdraw the bill for the relief of CLAUDE A. SWANSON.

The CHAIRMAN. A motion to lay the bill aside with the recommendation that it lie upon the table would be in order.

Mr. OTEY. Mr. Chairman, I make that motion.

Mr. GRAFF. Pending that, if the gentleman from Virginia [Mr. OTEY] will permit a remark, I should like the privilege of saying——

Mr. OTEY. All right; I yield to the gentleman.

Mr. GRAFF. I should like to say to the gentleman from Virginia [Mr. SWANSON] that if I said anything that anybody——

The CHAIRMAN. A motion is pending before the House which is not debatable.

Mr. HAY. Regular order!

The CHAIRMAN. Those in favor of the motion——

Mr. POWERS. Mr. Chairman, I should like to know what the motion is.

The CHAIRMAN. The motion before the House is that the bill be laid aside with a recommendation that it lie upon the table.

Mr. POWERS. The effect of that is to defeat the bill, as I understand it.

The motion was agreed to.

Accordingly the bill was ordered to be reported to the House with the recommendation that it lie on the table.

J. A. WARE.

The next business was the bill (H. R. 4686) for the relief of J. A. Ware.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to J. A. Ware the sum of $3,718.52, the same to be in full for all claims of said Ware for extra expenditures incurred by him in the construction of the Mound City National Cemetery roadway, under his contract with the Quartermaster's Department, dated October 14, 1896, said amount being found equitably due said Ware by the Quartermaster-General United States Army, as set forth in Senate Document No. 192, Fifty-fifth Congress, second session; and the amount necessary to make said payment is hereby appropriated, out of any money in the Treasury not otherwise appropriated.

Mr. GRAFF. Mr. Chairman, I call for the reading of the report. In connection with that I desire to say that the gentleman from Missouri [Mr. ROBB] reported the claim and if, after the reading of the report, he desires to say anything, I yield to him.

Mr. ROBB. I do not desire to make any statement further than is contained in the report, and will simply ask for the reading of the report and call the attention of members of the House to that. The passage of the bill is recommended by the Quartermaster-General.

The CHAIRMAN. The Clerk will read the report in the time of the gentleman from Missouri.

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

The Committee on Claims, to whom was referred the bill (H. R. 4686) for the relief of J. A. Ware, beg leave to report:

Your committee have inquired into the facts relating to said bill and find that the amount asked for in the same, $3,718.52, is justly due said claimant from the Government for and on account of extra expenditures incurred by him in the construction of the Mound City National Cemetery road under his contract with the Quartermaster's Department dated October 14, 1896.

Said extra work and extra expenditures were occasioned by a flood in the Mississippi River occurring after the grading was practically completed.

This claim was submitted to the Secretary of War, and examined and reported upon by Maj. C. F. Humphrey, deputy quartermaster-general in charge of the work, and by Gen. M. I. Ludington, the Quartermaster-General of the Army, both of whom found that said contractor, J. A. Ware, had an equitable claim for the amount asked for in the bill, to wit, $3,718.52, and on the 11th of March, 1898, the Secretary of War, in a communication addressed to Hon. Garret A. Hobart, Vice-President of the United States, commended the same to the favorable consideration of Congress. All of which is set forth in Senate Document No. 192, Fifty-fifth Congress, second session, which is hereto appended and made a part of this report.

Your committee therefore recommend that the bill do pass.

Mr. GRAFF. I move that the bill be laid aside to be reported to the House with a favorable recommendation.

Mr. CANNON. Before that is done I hope the gentleman will have read the letter contained on the last part of page 3 and the beginning of page 4. That seems to go into the question of the equity of the claim.

Mr. GRAFF. I coincide with that request.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

DEPOT QUARTERMASTER'S OFFICE,
Washington, D. C., March 4, 1898.

GENERAL: I have the honor to return herewith the papers in the matter of the claim of Mr. J. A. Ware in connection with the construction of the Mound City National Cemetery roadway, under his contract with this department dated October 14, 1896, referred to this office for report by indorsement of March 3, 1898, and respectfully submit report thereon as follows:

The road is about 1 mile in length, extending from the Cache River to Mound City National Cemetery. It is built in the alluvial bottom between the Ohio and Mississippi rivers, about 5 miles from Cairo. It is all embankment, from 8½ to 15 feet high, of the clayey "gumbo" soil of the bottom, with a surface of gravel of an average thickness of 10 inches.

Under the terms of the contract the work was to have been completed by March 2, 1897, but owing to unavoidable delays from frost and bad weather the time for its completion was extended to August 21, 1897.

In February, 1897, the grading of the road had been practically completed and 943 cubic yards of gravel had been furnished and placed on the road.

About March 1, 1897, a serious flood occurred in the Mississippi Valley, and by March 3, 1897, the water at Cairo was over the bottoms and continued to rise until on March 27, when it reached 53.73 feet above zero on the Cairo gauge, or within about 3 inches of the subgrade of the road. It then began to fall and continued to recede until April 26, at which time I caused a careful

survey of the work to be made, with a view to determining the exact extent of the damages thereto by the flood.

By this survey it was ascertained that 8,300 cubic yards of earthwork and 440 cubic yards of gravel would be required to repair the damages resulting from the flood.

At this time the engineer of the department was also directed to keep a detailed account of the working force of men and teams engaged in making good these damages.

On May 5 the contractor commenced to remove the logs and débris that had collected on the slopes and to drain the borrow pits, so that earth could be procured to make good the slides and shrinkage of the embankments caused by the water, which had for many days almost submerged the entire road.

It was not until May 20 that the actual work of restoration could be commenced, as the embankments were so thoroughly saturated with water that slides were continually taking place and it was necessary to allow them to dry out before putting the new material in place.

In fact, even after replacing the earthwork in these slides the sliding and settling continued from time to time, rendering it necessary in some cases to replace the same material several times. Upon final completion of the work it was found that in consequence of these continued slides and settlement 12,925 cubic yards of earth and 555 cubic yards of gravel had actually been used in making good the damages to the work.

The following is an account of the work done and expense incurred by the contractor in making good the damages resulting from the flood, viz:

Hire of foreman, 2 months, at $100	$200.00
Hire of assistant foreman, 80 days, at $2.50	200.00
Hire of laborers, 333½ days, at $1.50	500.25
Hire of teams and drivers (double), 602 days, at $3	1,806.00
555 cubic yards of gravel, at 95 cents	527.25
Add 15 per cent for use of tools, etc., and maintenance of teams and men when necessarily idle on account of flood	485.02
	3,718.52

The contractor had 25 double teams, with necessary men to take care of them, absolutely idle, in camp on the ground, during the period from about March 1 to May 20, during which time it was not possible to do any work.

He was obliged also to keep a general foreman or superintendent during that time.

The above items are based on the daily account kept by the engineer of the department charged with the supervision of the work and are very close—perhaps below actual cost.

I am of opinion, therefore, that the contractor's bill of $3,946.34, though $227.82 more than the foregoing in the aggregate, is not in excess of what may be justly claimed.

The work was done by the contractor in a most satisfactory manner and as expeditiously as the existing conditions would permit. For the delays in its execution he was in no way responsible.

With a full knowledge of all the facts and circumstances in the matter, I do not hesitate to recommend the favorable consideration of his claim to the amount of $3,946.34, as claimed.

Very respectfully, your obedient servant,

C. F. HUMPHREY,

Deputy Quartermaster-General, U. S. A., Depot Quartermaster.

THE QUARTERMASTER-GENERAL OF THE ARMY.

Mr. GRAFF. Mr. Chairman, I move that the bill be laid aside to be reported to the House with the recommendation that it do pass.

The motion was agreed to.

Accordingly, the bill was laid aside to be reported to the House with the recommendation that it do pass.

WILLIAM CRAMP & SONS.

Mr. GRAFF. Mr. Chairman, the next bill on the Calendar which is in order is the bill (H. R. 1605) for the relief of the William Cramp & Sons Ship and Engine Building Company, of Philadelphia. The gentleman from Pennsylvania, Mr. BINGHAM, who introduced the bill, is, I understand, sick and unable to be here, and under the circumstances I ask that the bill might be passed over without prejudice.

The CHAIRMAN. Unanimous consent is asked that the bill, Calendar, No. 42, H. R. 1605, be passed without prejudice.

Mr. ROBB. I understand that under that order the bill will not be called up again to-day.

Mr. GRAFF. Oh, no. I simply desire that it shall not lose its place on account of being passed over to-day.

The CHAIRMAN. Is there objection?

There was no objection.

JOSHUA BISHOP.

The next business was the bill (H. R. 2322) for the relief of Joshua Bishop.

The bill was read, as follows:

Be it enacted etc., That the claim of Joshua Bishop for alleged items of pay due and unpaid to him for services as a lieutenant-commander, United States Navy, between the dates of September 13, 1867, and March 9, 1871, be, and the same is hereby, referred to the Court of Claims. Jurisdiction is hereby conferred on said court to try said cause—the statute of limitations shall not apply thereto—and to render final judgment therein, subject to the right of appeal by either party.

Mr. GRAFF. Mr. Chairman, this bill provides that the claim of Joshua Bishop for pay alleged to be due and unpaid to him as a lieutenant-commander from February 19, 1868, to February 28, 1871, be referred to the Court of Claims. There is a favorable report by the Secretary of the Navy, Hilary A. Herbert, on March 10, 1896, addressed to the chairman of the Committee on Naval Affairs of the Senate, and also a favorable recommendation by the Secretary of the Navy, John D. Long, addressed to the same committee.

The only waiver affecting the legal right would be the waiver of the statute of limitations. I will therefore move that the bill be laid aside to be reported to the House with a favorable recommendation.

[Mr. CANNON addressed the committee. See Appendix.]

Mr. GRAFF. I desire to say that I am not in possession of the facts as to why Mr. Bishop did not present his claim before, except that on the face of the report, which shows that he was urging his claim during the past ten years. My colleague on the committee [Mr. RIXEY] made the report. It is impossible for me to give personal examination to every claim presented before the committee, but I may say this: There has been no claim passed by the committee except after full discussion in the committee after the report of the subcommittee thereon.

Now, I want to say further. This is one of those claims where there is no danger of injustice. We have a statute of limitations because the Government might find difficulty in putting in evidence in an old claim, but in this case the evidence is a matter of record as to whether this man is entitled to that pay or not; it is a question of law and fact. The facts are just as much within the reach of the Government in this case as they are within the reach of the claimant. The statute of limitations are for a large class of claims which involve facts which are peculiarly within the reach of the claimant and are hard to obtain by the Government, and in those cases it would be very unadvisable to waive the statute of limitations. But in this case, I think, the reasons presented by the gentleman from Missouri tend to show that there are special equities in this case. I should like to hear from the gentleman from Virginia [Mr. RIXEY].

Mr. RIXEY. Mr. Chairman, the only connection I have with this case is that this bill was referred to a subcommittee of which I was a member; and after the subcommittee had considered the case, they gave the bill to me to make the report. I want to say that the statement made by the gentleman from Missouri was practically correct. I do not know where the court-martial was held; but the fact is, a court-martial was ordered for the trial of Lieutenant-Commander Bishop, and in consequence of the finding of that court-martial he was dismissed or dropped from the rolls of the Navy Department. Afterwards he was either reinstated or recommissioned. He always claimed that the court-martial proceedings were irregular and illegal and that he was improperly dropped from the rolls.

The fact is that he again entered the Navy in 1871 and that he never received any pay from 1868 to to 1871. The further fact appears that for many years he has been at the doors of Congress asking an opportunity to establish the justice of his claim before the Court of Claims. It does seem to me that it comes with poor grace from Congress to say, "We will bar your right to prove your claim before the Court of Claims by pleading the statute of limitations." This man would not be allowed to plead the statute of limitations against the Government; and why should the Government assert the statute of limitations against him when he is willing and anxious to pay the costs of the proceeding in order to vindicate his character as well as his claim to this compensation?

I have very little use anyway for the statute of limitations. I do not believe it ought ever to be pleaded in the case of a man who is willing to go to court and pay the expenses of the suit. This man was dismissed from the Navy by reason of court-martial proceedings, and here is a statement showing that he always claimed those proceedings to have been illegal. He now simply asks the privilege of being permitted to present his case to the Court of Claims. He will pay the expenses. He asks nothing from the Government unless he shows a legal right to this money. He simply asks that the Government waive the statute of limitations.

This gentleman was, after the finding of the court-martial and the action thereon, reinstated in the Navy. And the Navy Department and the Government have done everything they could to correct the injustice that was done him. Now, I take it that it is as little as Congress can do to permit this man to go to the Court of Claims, the statute of limitations being waived. He does not come here, as many others do, asking an appropriation from the Treasury. He is simply anxious to maintain his case before the court at his own expense; and I think it but justice that he should be permitted to do so.

One other point. The gentleman from Illinois draws upon his imagination when he says that these claims are fostered and followed by claim agents. So far as this case is concerned no agent, no attorney, has ever appeared before the Committee on Claims. The bill was introduced by the gentleman from New Jersey [Mr. SALMON]. At his request it was considered by the Committee on Claims. The committee was unanimous in believing that the relief ought to be granted, and therefore a favorable report has been made. I would be glad to hear a statement from the gentleman from New Jersey who introduced the bill.

Mr. SALMON. Mr. Chairman, I shall be pleased to give all

the information I can to members of the House, and especially to my friend from Illinois, upon this case. Commander Bishop, as has been said, was court-martialed in 1868 and dismissed from the service. He was before that time an officer in the Navy of the United States. He had served valiantly as a young officer in the war of the rebellion; his service was commendable in a high degree.

I should like to say to my friend from Illinois [Mr. CANNON] that, through the instigation of the green-eyed monster that sometimes aids in these matters, this court-martial was brought about and he was dismissed from the service. It was not until 1871 that he was reinstated by an act of Congress, because under the law at this time an officer who was dismissed from the naval service could not be reinstated. He was reinstated by an act of Congress in 1871. He was put to duty, and from that time until about 1875 he was on the Pacific coast or on Pacific waters, so that when he returned to the East he found that his claim, which he had always insisted to be just, was barred by the statute of limitations. He has always insisted that his dismissal was illegal and wrong.

Now, from that day to the present time Commander Bishop has been trying to have himself placed in proper light before the world. He has now grown to be a man of years. He is in the evening of life. He is to-day lying at his home in Washington upon a sick bed, and what he desires is an opportunity to set himself right before the world and to reclaim that to which he is entitled, a clear and honest reputation, which he may leave to those who may follow him when he is gone. It is not so much the money; and this bill, which has been recommended, as the report here says, by several Congresses in the past, he asks now that it be passed by this Congress to give him an opportunity to go before the Court of Claims, the proper judicial tribunal, to decide upon the justice of his claim and to set him right.

I have here in my desk a great mass of evidence in this case. I have looked it over sufficiently to find these few principal points which I have stated, and I can say conscientiously to the members of this House that I believe this to be a just claim, and that when we permit Commander Bishop to go before the Court of Claims to set himself right we are only doing an act of justice to a fellow-man, what we would have others do to ourselves, and nothing more.

Mr. RIXEY. I should like to ask the gentleman whether this claim is being pushed by any claim agent?

Mr. SALMON. I want to say that it had escaped my mind, but I intended to mention the fact that there is no agent or attorney engaged in this matter. Commander Bishop is himself a man of intelligence, and, so far as I know, has prepared these matters and presented them time after time to Congress. The gentleman from Missouri [Mr. CLARK], who is familiar with this case, recalls the facts of it. It has come directly to the House without passing through the hands of any agent or attorney.

Mr. CANNON. Just a word. The members of the Committee of the Whole must necessarily follow the recommendations of the several committees touching the great mass of business, or on the fly, so to speak, disagree with the committee on any particular matter that may be considered. Ordinarily my practice is to follow the recommendation of a committee, because it is not in the power of any Representative to exhaust one-tenth of the business that comes before the House for consideration. Once in a while I read a report or a bill and come to a conclusion. Sometimes I am right. Most of the time I am right, I think, if I come to a conclusion. Sometimes I am wrong. From what the gentleman says, I think this is one of the times when I am wrong.

I came to the conclusion which I reached from what was not in the bill and what was not in the report. I would have almost staked ten to one that this was an effort by the wholesale to create a precedent, which, if successful, would set aside the construction of the law touching the pay of the whole Navy. That is what I inferred from what the bill indicated; and there is so much of that kind of thing that has come under my notice. If the report had set out what the gentleman states to be the fact, why, I, of course, would not have fallen into the error. This man claims that he was not properly convicted and that an injustice has been done him, and wants to go to the court to have that question tested. That being so, the case stands or falls by itself and does not constitute a precedent. With that explanation, so far as I am concerned, I have no objection to the passage of the bill,

Mr. GRAFF. I am free to say that the report in this case was not full enough to give the explanation which my colleague desired, and the point which the gentleman makes is well taken. It is difficult sometimes to set forth fully in a report all the information that comes before the committee. I move that the bill be laid aside to be reported to the House with a favorable recommendation.

The motion was agreed to.

Accordingly the bill was ordered to be laid aside to be reported to the House with a favorable recommendation.

LEGAL REPRESENTATIVES OF D. L. HUSKEY, DECEASED.

The next business was the bill (H. R. 5969) for the relief of the devisees and legal representatives of D. L. Huskey, deceased.

The bill was read, as follows:

Be it enacted, etc., That the sum of $139.19 be, and the same is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, to pay the devisees and legal representatives of D. L. Huskey, deceased, being the balance due D. L. Huskey, as shown by the records of the Post-Office Department, for services from July 1, 1861, to January 19, 1862, as contractor on route No. 10405, Missouri.

Mr. ROBB. Mr. Chairman, I made the report in that case, and I ask for the reading of it.

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

The Committee on Claims, to whom was referred the bill (H. R. 5969) for the relief of the devisees and legal representatives of D. L. Huskey, deceased, report that they have had the same under consideration and recommend that the same do pass.

Your committee report that the facts set forth in said bill are correct; that D. L. Huskey performed services as contractor on mail route No. 10405, Missouri, from July 1, 1861, to January 19, 1862, for which he was never paid; and that there is now due his legal representatives (the said D. L. Huskey being now deceased) for such services the sum of $139.19, as is fully shown by the records of the Post-Office Department.

In this connection your committee submits a letter from Hon. O. L. Spaulding, Acting Secretary of the Treasury, referring to a communication from the Auditor of the Post-Office Department relative to said claim, which is as follows:

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., February 14, 1898.

SIR: In reply to your letter requesting to be informed as to the status of the claim of D. L. Huskey, I have the honor to state that the Auditor for the Post-Office Department reports that "the records of this office show a balance of $139.19 due D. L. Huskey, late contractor on route No. 10405, Missouri, for service from July 1, 1861, to January 19, 1862. This claim was reported to the honorable Secretary of the Treasury January 6, 1883, for an appropriation, but no provision was made by Congress for its payment.

"The records of the Confederate States, now on file in this office, do not show that Mr. Huskey was paid for mail service under his contract with the United States."

The letter of F. R. Dearing is herewith returned.

Respectfully, yours,

O. L. SPAULDING, *Acting Secretary.*

Hon. EDWARD ROBB, M. C.,
House of Representatives.

From this it appears that the claim was reported to the honorable Secretary of the Treasury by the Post-Office Department for an appropriation January 6, 1883, but that no appropriation was made by Congress for its payment.

Your committee is fully satisfied that the claim is a just and valid one, and recommend that the bill appropriating the money to pay it, as amended, be passed.

Mr. ROBB. Mr. Chairman, I think the report shows the merits of this claim, and I do not think it is necessary for me to make any further statement. It is recommended by the Department. I suppose there will be no opposition to it, and I move, therefore, that it be laid aside to be reported to the House with a favorable recommendation.

Mr. HEPBURN. Where is this route in Missouri—between what towns?

Mr. ROBB. My understanding is that it is in Jefferson County, Mo.

Mr. HEPBURN. Between what points?

Mr. ROBB. I am not able to state that.

Mr. HEPBURN. In what portion of the State?

Mr. JOY. Jefferson County is the county next adjoining the city of St. Louis.

Mr. ROBB. It is a short distance below St. Louis.

The bill was laid aside to be reported to the House with a favorable recommendation.

WILLIAM L. ORR.

The next business was the bill (H. R. 1454) for the relief of William L. Orr.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay out of the Treasury of the United States, from any money not otherwise appropriated, sufficient to satisfy the claim of William L. Orr for services rendered the Government as second assistant engineer in the United States Navy from September, 1863, until March, 1865.

Mr. BOUTELL of Illinois. Mr. Chairman, this bill provides for the payment of Mr. William L. Orr for services rendered by him in the Navy from the fall of 1863 to the spring of 1865. He was living at Alton, Ill., in 1863, and was appointed acting assistant engineer, and his commission mailed to him. The commission never reached him. He received notice of his appointment, and was ordered to repair to St. Louis and there report, which he did, and served there until the spring of 1865.

According to the evidence, the commission miscarried in some way, and went to the Gulf Squadron. In 1865 a new commission was issued to him, referring to the old commission, which was canceled. Through his failure to be able to present his commission, or the evidence of his appointment, he never received compensation for the services from 1863 to 1865, although the Secretary of the Navy says that the records show that the service was rendered.

Mr. LOUD. I should like to ask the gentleman what proof there is that this officer was not paid?

Mr. BOUTELL of Illinois. The letter from the Secretary of the Treasury, which says that there has been no subsequent action on the claim and that it is still unpaid.

Mr. LOUD. Is that all the Secretary of the Treasury says? I should like to hear the whole report. I think we had better have the whole report read, Mr. Chairman. I can not understand how a man could serve as an officer for two or three years without getting any pay.

The report (by Mr. BOUTELL of Illinois) was read, as follows:

The Committee on Claims, to whom was referred the bill (H. R. 1454) for the relief of William L. Orr, late an acting second assistant engineer in the United States Navy, have had the same under consideration, and after a thorough investigation of the case report the bill back with the recommendation that it do pass.

The facts in this case clearly show that William L. Orr has a just and equitable claim against the Government for services rendered as acting second assistant engineer in the United States Navy from September 4, 1863, to March 21, 1865, at which time a new commission was issued to him in place of the commission that had been issued September 4, 1863, and miscarried.

The documentary evidence that is included in this report shows that William L. Orr, while at Alton, Ill., was notified that he had been commissioned as acting second assistant engineer in the Navy, and that said commission had been sent to St. Louis, Mo., and he was ordered to report for duty to Chief Engineer King, at St. Louis.

Through some oversight or clerical error Orr's commission, instead of being sent to St. Louis, was forwarded to the Gulf Squadron at New Orleans, and notwithstanding the great amount of correspondence passing between Orr and the Navy Department, the commission was never found.

In obedience to the orders of the Navy Department, Orr reported to Chief Engineer King at St. Louis, Mo., and served continuously and faithfully under the officer's orders in the capacity of acting second assistant engineer, and as such was employed in the construction of gunboats and placing of machinery therein till March 21, 1865. During all this time Orr's pay was withheld, and he was obliged to borrow money for the support of his family at home.

On March 21, 1865, a new commission was issued to Orr, revoking the former commission that had miscarried. The terms of the new commission explicitly refer to the former commission, and acknowledge the fact that such a commission had theretofore been issued.

The proof shows that Orr never received a cent of pay from the Government from September 4, 1863, to March 21, 1865.

Orr has repeatedly sought relief at the hands of the Government for the pay withheld, but has failed to secure it. During the service mentioned he was in constant communication with the Navy Department, and subsequently he endeavored to secure said withheld pay at the hands of the accounting officers of the Treasury Department; but in each instance his claim was disallowed, on the ground that no evidence had been furnished showing the authority under which he performed the service.

In proof of his claim that the service was actually rendered, Orr submits and appends hereto—

(1) A reference to the Official Navy Register of the United States, of January, 1864, page 176, from which it appears that W. L. Orr (the claimant) was appointed acting second assistant engineer, United States Navy, September 4, 1863, and reported for duty under Chief Engineer J. W. King, United States Navy, at St. Louis, Mo., to whom he (Orr) turned over his orders.

(2) Letter from the Assistant Secretary of the Navy showing his appointment and service.

(3) Orr's own statement as to the fact of his service.

(4) Copy of second commission, dated March 21, 1865, in which first commission is specifically referred to.

(5) Letter from the Auditor for the Navy Department to the Comptroller of the Treasury showing that the claim is still unpaid.

The relief claimed to be justly due William L. Orr is stated as follows:

Pay of his grade from September 4, 1863, to March 21, 1865, eighteen months and twenty-one days, at $1,000 per annum, $1,558.31.

A similar bill has been favorably reported in previous Congresses by committees of the Senate and House.

Mr. GRAFF. I move that the bill be laid aside to be reported to the House with a favorable recommendation.

Mr. LOUD. Mr. Chairman, the matter which the Clerk read did not include all of the documents which are contained in the report.

Mr. GRAFF. If the gentleman from California will yield——

Mr. LOUD. There was a portion of the report which I did not see.

Mr. GRAFF. The gentleman from California asked a little while ago whether this claimant had been paid. Outside of the facts shown by the correspondence contained in the report, if the gentleman will refer to the bill he will see that in the way the bill reads it would not procure any payment for him if it were true that he had been paid, because it leaves the adjudication of the matter and the amount to the Department. It says:

That the Secretary of the Treasuay be, and he is hereby, authorized and directed to pay out of the Treasury of the United States, from any money not otherwise appropriated, sufficient to satisfy the claim of William L. Orr for services rendered the Government as second assistant engineer in the United States Navy from September, 1863, until March, 1865.

Mr. LOUD. Well, I want to suggest to the gentleman that the bill, according to its language, appropriates a sufficient amount of money to satisfy the claim. The bill is a little awkwardly worded. Now, if this man served during this time, there is no reason in the world why he should not have his pay. It seems to me the language of the bill would give it to him whether he served or not. It appropriates a sufficient amount to satisfy his claim.

Mr. GRAFF. Is not the evidence of his service contained in the report?

Mr. LOUD. Well, I will say to the gentleman that there seems to be evidence that he served, according to the statement of the Assistant Secretary of the Navy; but I can not understand how the Secretary of the Navy can certify that a man served as an officer in the Navy and still be unable to certify that fact to the Auditor. If he can certify that to the Auditor, then this man will get his pay without coming to Congress. There is no doubt about that.

The fact is he can not furnish proof to the Assistant Secretary that he rendered the service. It is very emphatically stated in this report that this man did serve as such officer. The gentleman well knows if the records of the Department show that he did serve, then he has a claim that the Department would allow. But your bill is written in such language that you would give this claimant the amount of his claim.

Mr. GRAFF. I have no objection to adding an amendment to the bill "upon the proof of his having rendered the service during that time and that that was unpaid."

Mr. LOUD. I think the gentleman ought to amend his bill in that particular.

Mr. GRAFF. The gentleman from Illinois [Mr. BOUTELL] is really in charge of this matter.

Mr. LOUD. I think the reading of the bill is a little vague in that matter.

Mr. BOUTELL of Illinois. I do not know but what the bill is a little inartistically drawn upon its face, but it is a bill that has been reported to several Congresses, it has passed the House and the Senate, and it is one of those cases which might occur in a four-years war, where a man rendered the service and lost the commission. It is fully shown in the affidavits that this service was rendered; but I am perfectly willing to amend the bill.

Mr. LOUD. I will submit to the gentleman himself if he does not think that the bill ought to be drawn in such a shape as to say that this man shall be paid for such service if it be proved that he rendered such service, but not to pay the claim?

Mr. GRAFF. I suggest to the gentleman from Illinois that an amendment be offered after the word "sixty-five," "upon proper proof being filed before the Secretary of the Treasury of the claimant having rendered such service, and the same not having been paid." That certainly would cover the objection.

The CHAIRMAN. Does the gentleman offer that amendment?

Mr. GRAFF. I do not like to undertake to do that. I prefer that the gentleman from Illinois [Mr. BOUTELL] offer it.

Mr. BOUTELL of Illinois. It seems to me, Mr. Chairman, I will say to the gentleman from Illinois, that the bill might be changed, perhaps, to meet the views of the gentleman from California; but such an amendment as that would simply throw this poor man out where he has been for the last thirty years. His commission miscarried, and he could not produce it.

Mr. LOUD. It is hardly possible that a man should serve two or three years without any pay.

Mr. BOUTELL of Illinois. It was only about thirteen months.

Mr. LOUD. It was to March 16, 1865, and that is more than two years.

Mr. BOUTELL of Illinois. Then he got his commission, which referred to the old commission, and continued his service to December, 1865.

Mr. LOUD. It is hardly possible that a man could have served that long in the Army without pay. I submit to you, Mr. Chairman, or any fair-minded man, that he could not have served as assistant engineer in the Army for two years and seven months without receiving any pay.

Mr. BOUTELL of Illinois. It was not as long as that. It was from December, 1863, to March, 1865, a year and six months.

Mr. LOUD. I will subtract that month and make it two years and six months.

Mr. BOUTELL of Illinois. It was a year and six months.

Mr. LOUD. A man could not live that long without pay. He could not live six months.

Mr. HILL. Mr. Chairman, I think if the members will read on page 3 of the report, they will find an explanation of this case. It is apparent to me that this man received notice of appointment, but no commission was ever issued and no duties were performed; but he waited two years at home at St. Louis for the commission to be sent to him. The Auditor's statement, on the fourth page, is:

There is no evidence on the files of this office that the claimant performed the duties of an acting assistant engineer at any time during the period for which he claims the pay, or that he ever received an appointment as an acting assistant engineer prior to March 21, 1865.

It is apparent to me that he received notice that he would be appointed, but that he never actually had the appointment; that he never actually had a commission; that he never actually performed the duty, and that he never was commissioned until March, 1865.

That is the inference that I draw from his own statement made here subsequently before the committee and made part of this report—that he waited at St. Louis until March 21, 1865, when he did receive a commission. He simply received notice in September that he was to be appointed, but never was appointed.

Mr. BOUTELL of Illinois. If the gentleman from Connecticut

will read the report of the Assistant Secretary of the Navy, on the bottom of page 2 of the report, he will see that that is not so. The gentleman and I could certify that there was no evidence of certain things in our office. The letter from Mr. Brown, the Auditor, says there is no evidence on the files of this office. Of course there is none, but the Secretary of the Navy, on page 2, says that he was appointed and reported for duty, and that he served.

Mr. HILL. Yes, but his own statement, over his own signature, does not agree with that.

Mr. BOUTELL of Illinois. I think it does.

Mr. HILL. This report has not been read to the House, but his own letter says:

Was retained in St. Louis from October 1, 1863, until December, 1864, on waiting orders and performing special duties under instructions of Chief Engineer King, United States Navy, superintending construction of machinery on gunboat *Ozark*, etc.

He further says:

Chief Engineer King wrote several letters to the Department urging that my commission be forwarded with orders; that I was rendering special service and waiting orders. One reply stated that my commission had been forwarded to Admiral D. D. Porter, and would receive orders from him where to report. Nothing further was heard from it until March, 1865; I received a duplicate commission dated March 21, 1865, ordering me to report to Mound City naval station.

I can draw but one conclusion from the gentleman's own statement, and that is that he received notice from the Navy Department that he was to be appointed an assistant engineer, but he never was appointed until March, 1865, and that he never performed the duties of acting assistant engineer, as the Auditor of the Department reports. The Auditor says:

There is no evidence on the files of this office that the claimant performed the duties of an acting assistant engineer at any time during the period for which he claims the pay, or that he ever received an appointment as an acting assistant engineer prior to March 21, 1865.

Mr. BOUTELL of Illinois. Will the gentleman look at the letter of Secretary Welles, in which he refers to his former appointment in 1863?

Mr. HILL. Yes, I understand; I understand that a great many mistakes occurred at that time, but I have no doubt that he was notified that he was to be appointed, and I have no doubt that he was not appointed until March, 1865, and there is no record in the Navy Department of any duties that he ever performed up to that time.

Mr. BOUTELL of Illinois. Well, the gentleman has a perspicacity unequaled by any other member of the House if he can draw such inferences from a fair, candid reading of these letters.

Mr. HILL. I take it from his own statement.

Mr. BOUTELL of Illinois. The Assistant Secretary of the Navy says he was appointed and ordered for duty on the Mississippi Squadron. The letter of Mr. Welles, Secretary of the Navy, states that that appointment was canceled. The commission was lost. The affidavit shows the performance of service and also the record in the Navy Department. The Auditor naturally would not have any such records in his Department.

Mr. BROSIUS. What is the amount of the claim here?

Mr. BOUTELL of Illinois. About $1,500.

Mr. LOUD. Mr. Chairman, I want to state one thing further. I was in receipt a few days ago of a letter which is simply a sample of a great many that I have received since I have been in Congress. A B served as second lieutenant of a regiment and was promoted ultimately to captain.

He was off somewhere, he claims, upon active service, and did not receive that commission for three months and was not able to get it for three months after that time. Now, he comes and wants me to introduce a bill in Congress to pay him for that three months. I will venture to assert that there are many thousand cases of that kind where men want pay between the date of their appointment and the date of their commission.

Now, then, let me say in all candor to the gentleman that if this commission was ever executed, there is a record of it. The Assistant Secretary of the Navy says:

I have the honor to inform you that the records in this Department show that William L. Orr was appointed acting assistant engineer in the Navy September 4, 1863.

Are not the records accessible to the Auditor? I leave it to the gentleman himself if the Assistant Secretary of the Navy can find these facts upon the record why is it they are not accessible to the Auditor so that the claim can be audited? Of course, the record does not show it, and what the Assistant Secretary certifies to the records do not show.

Mr. BROSIUS. I would like to ask the gentleman, as this is a very stale claim, whether it has ever been before Congress and received consideration of either House?

Mr. BOUTELL of Illinois. I will say that this claim was first introduced by Hon. William R. Morrison, who knew the man personally. It has been favorably reported by several committees in both the House and the Senate, and, if I mistake not, has passed the Senate, and, I think, has passed the House. The bill was introduced once by my predecessor, Mr. Cook, and, I think, was favorably reported by the gentleman from Wisconsin [Mr. MINOR].

The bill was introduced in the Fifty-fifth Congress by Mr. Cook before his death, and I found the bill among his papers. I know the old man myself personally, and I know him to be a worthy and noble man, a man of good standing in the community. The bill was unanimously reported by the Committee on Claims at the last session, and, I think, by the gentleman from Wisconsin [Mr. MINOR]. The bill has received most careful consideration of our committee. We have written the Navy Department for all the facts, and there seems to be no dispute at all in the case.

The subcommittee and the Committee on Claims were unanimously in favor of reporting the bill. If there is any way in which, by the red tape of the Department, information can be in one branch of it that can not be had by another, and thereby deprive a man of what he is honestly entitled to, it seems to me that it is a matter for us to rectify here.

Mr. BROSIUS. Mr. Chairman, I think it is a great misfortune that Congress ever fell into the habit of considering claims of this character. They constitute a judicial rather than a legislative matter. But a great many of these very stale claims have been hanging on for a number of years. I happen to have in my hand a letter received a few days ago, which affords an illustration of the character of a great many of these claims which trouble Congress.

John Smith (and I call him John Smith because that is not his name) was collector of the port of Philadelphia in 1812. It is said that he advanced to the Government some money that was never repaid. It is also said that the matter was brought to the attention of Congress during the administration of Mr. Buchanan, and that Congress passed upon it favorably—whatever that may mean—but that since that time his heirs and representatives have heard nothing of it, and there is a desire now that Congress should take hold of this matter after the lapse of almost a hundred years. I do not know what the proof would show or what presumptions might arise from such proofs.

But I confess, recurring now to the present case, that when a man, after a lapse of thirty-five years, alleges that he has served the Government of the United States in the military branch of the service for that length of time and received no compensation—has received none for thirty-five years—there is established, I will not say an indisputable presumption, but certainly a very strong presumption, that there is something wrong about it.

Mr. BOUTELL of Illinois. I submit that the evidence here shows that the man has been trying for thirty-five years in every possible way to get this money. He has not slumbered on the claim.

Mr. BROSIUS. Well, then, does not the presumption arise—let me ask my friend—from that very fact does not the presumption arise that the matter has been considered and tested and found in some respect wanting?

Mr. BOUTELL of Illinois. If it did I should have reported unfavorably on the bill. I have no sympathy with any of these old claims. I have no sympathy with any claimant, I do not care who he is, that can not submit a good case from the record.

Mr. BROSIUS. I know that.

Mr. BOUTELL of Illinois. And the subcommittee to which I belong has absolutely refused to report any claim where evidence can not be furnished by the Department or where the Department has reported adversely.

Mr. NEVILLE. May I be allowed a suggestion?

Mr. BOUTELL of Illinois. Certainly.

Mr. NEVILLE. One of the objections raised to this bill was the proposition that this gentleman lived at St. Louis and made that his home after the proposed appointment, and that he probably never performed the service for which claim is made. I simply want to suggest that a large portion of the Mississippi Squadron was built at St. Louis——

Mr. BOUTELL of Illinois. That statement about this gentleman living at St. Louis was altogether incorrect. He lived at Albion.

Mr. NEVILLE. So I understand. He was notified to appear at St. Louis and did so.

Mr. BOUTELL of Illinois. And aided in the construction of these vessels.

Mr. Chairman, I move that the report be laid aside with a favorable recommendation.

The motion was agreed to.

HATTIE A. PHILLIPS.

The next business was the bill (H. R. 2098) for the relief of Hattie A. Phillips.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed, out of any money in the Treasury not otherwise appropriated, to pay to Hattie A. Phillips, widow of John Phillips, deceased, the sum of $5,000, as full compensation for the services rendered by the said

John Phillips in bearing dispatches from the commanding officer at Fort Phil Kearney to Fort Laramie from December 21 to December 26, 1866, after the massacre of the United States soldiers under Brevet Lieutenant-Colonel Fetterman by the Sioux Indians, and by whose services the garrison at Fort Phil Kearney, then surrounded by said Sioux Indians, was rescued and saved from annihilation, and as full payment of all claims against the United States for loss and destruction of property belonging to said John Phillips by Indians.

Mr. FITZGERALD of New York. Was there not an amendment adopted by the committee to this bill?

Mr. GRAFF. After the bill was considered in the committee the question was raised whether interest should be allowed upon the judgment of the Court of Claims or whether the bill should recommend the payment of a specific amount. An estimate was made of the interest, and it was ascertained that, including the interest, the amount would be the same as the sum named in the bill; there would be no difference.

Mr. LOUD. The gentleman assumes that there was a judgment in the Court of Claims.

Mr. GRAFF. I do not assume it; I know it.

Mr. LOUD. Why was not that judgment paid?

Mr. GRAFF. The reason it was not paid was because it was ascertained that this John Phillips was not naturalized and, being foreign born, not a citizen.

The gentleman from Wyoming [Mr. MONDELL] introduced the bill and is very familiar with the facts. He can give them more fully than I can, although the bill was discussed for an entire meeting of the committee and all the facts gone over.

After the claimant had recovered this judgment for $2,210, it was found that he was not a naturalized citizen, and that is the reason an appropriation was not reported by the Appropriations Committee to pay the claim.

Mr. LOUD. Why?

Mr. GRAFF. Because, as I understand, he would not have any standing in the Court of Claims.

Mr. LOUD. Why, then, did the Court of Claims entertain the suit and render a judgment if he had no standing in the court because of being an alien? Is it not a fact that what you call a judgment was simply a finding? Many members of Congress mix up the two.

Mr. GRAFF. I understand that it was a judgment, for the reason that it has been the practice of the House for many years, when a judgment was certified to it from the Court of Claims, to send that judgment to the Committee on Appropriations to be inserted in the general deficiency appropriation bill; but when the Court of Claims simply make findings of fact, they are certified back to the Committee on Claims, or whatever committee originally had the bill, and those findings of fact are simply advisory upon the committee, and they must report a bill, which must pass both Houses of Congress, treating it as an original matter; the effect of the findings of the Court of Claims being simply like any other thing which might operate to convince the committee.

Mr. LOUD. I will ask the gentleman what was the judgment?

Mr. GRAFF. The judgment was for $2,210.

Mr. LOUD. Has not the gentleman a copy of the judgment in his report?

Mr. GRAFF. No; I have not.

Mr. LOUD. Is not that one of the important factors in the case—the most important evidence there is?

Mr. GRAFF. Yes; but we are not supposed to put in all the evidence presented to the committee.

Mr. LOUD. Not the evidence, but the judgment of the court upon which you base this claim.

Mr. GRAFF. We are supposed to exercise some judgment ourselves in making the report of our conclusions to the House.

Mr. LOUD. Would you not assume that a copy of the judgment, which is not very long, would be the most important evidence that could be submitted in this case?

Mr. GRAFF. Well, without stopping to debate the question of the propriety of having it put into the report, it is sufficient to say that this claim has been reported for the last fifteen years, by committees of the House and Senate, and they have not heretofore put the judgment in the report. But I will say this, that when the matter came before the committee we discussed the nature of the claim and how it arose, and that brought up the fact that this man, John Phillips, by an act of heroism on his part, in traveling a long distance through a desolate, hostile country, in which a strong body of Indians were at war with the whites, had finally relieved and brought reenforcements, at great hardship and risk to himself, to a garrison surrounded at Fort Phil Kearney, and thus saved the garrison from certain massacre.

Afterwards these Indians bore a grudge against this man John Phillips for years, on account of his having delivered these people from them. The result was that they constantly harassed his cattle and committed depredations upon his property. Phillips was conducting a stock farm in that locality for years afterwards, and this claim grew out of that. It appeared that his having done this great service in the interest of humanity and in the interest of that surrounded garrison was the cause of these depredations being committed upon him by these Indians.

Mr. LOUD. Well, I suppose that is an assumption, at the best, after all these years, is it not?

Mr. GRAFF. Not at all. It is not an assumption.

Mr. LOUD. I should like to get at the facts about this judgment. I should like to ask the gentleman if he has ever seen it?

Mr. GRAFF. A question came up in regard to the date of the judgment, and I had a conversation with the gentleman from Wyoming [Mr. MONDELL], because the date of the judgment was pertinent as to whether we should make an appropriation in addition to the actual amount of the judgment, and the committee hesitated to do that. That is, they hesitated to make any appropriation on account of the man's heroism, but we thought that since the man had secured this judgment in his favor, and since he had been deprived of it since that time, and because he received these injuries on account of his having served the people out there, that he ought either to have an additional amount or to have interest from the time at which the judgment was rendered. So I had the gentleman from Wyoming [Mr. MONDELL] procure the exact date of the judgment, and I now yield to the gentleman from Wyoming for the purpose of making any statement he may desire to make.

Mr. MONDELL. I will say in regard to this case, Mr. Chairman, that the judgment was reported in House Executive Document No. 125, pages 82 and 83, Forty-ninth Congress, first session. Subsequent to the filing of the judgment in this case it transpired that John Phillips, a Portuguese, who had been an inhabitant of the Northwest for many years, had never taken out naturalization papers, and not being a citizen of the United States, the judgment was annulled.

Mr. LOUD. You say Congress could not pay the judgment?

Mr. MONDELL. I say that the judgment of the Court of Claims, under the law, was not properly rendered.

Mr. LOUD. Who determined that?

Mr. MONDELL. Well, I am not sure. I am not satisfied how that came about. The fact is that the Court of Claims, as I have already stated, transmitted to Congress this judgment among others. The record shows that it was not paid. Inquiry at the Court of Claims indicated that it was discovered that John Phillips was not a citizen of the United States, and therefore the claim was never paid. Now, if the House will allow me a moment, I will tell you something about John Phillips.

In 1866 Fort Phil Kearny, on the old Bozeman trail in Wyoming, was surrounded by 5,000 warriors of Red Cloud's band. On the afternoon of the 21st of December the garrison was attacked. Lieutenant-Colonel Fetterman, with 2 other officers and 78 men, went out to drive off Red Cloud's warriors. When 4 miles from the post they were surrounded by an overwhelming number of Indians and every man was killed. Encouraged by this massacre, the Indians came down and surrounded the post, which contained then less than 200 men and a number of women and children. Fort Laramie, the nearest garrison, was 250 miles distant. It was midwinter. The snow was from 2 to 3 feet deep on the ground.

Red Cloud's band numbered not less than 5,000 men and covered the entire country. It was absolutely necessary that somebody carry the news of the beleaguerment of the garrison to the forts on the Platte. Three different parties were sent out and their horses returned riderless. The third night after the massacre John Phillips volunteered to take the news of the beleaguerment and the imminent danger to Fort Laramie. He asked that he be given the colonel's thoroughbred horse on which to make the ride, and at dead of night he rode forth, the temperature 20° below zero and the country infested by a watchful savage foe. Secreting himself and horse by day, riding only at night, on three different occasions only escaping from bands of Indians by the fleetness of his horse, he finally reached Fort Laramie and told the story of the massacre and the deadly peril. The result was that a relieving column was sent and the garrison was saved.

For years afterwards this man was continuously harassed, his cattle killed, and his horses run off by the Indians. He suffered not only the $2,200 loss found in the judgment of the Court of Claims, but, as he claimed, nearly $6,000. When his claim was presented it was cut down to $2,200. The judgment was rendered and sent to this House. It then transpired that the man was not a citizen and the judgment was never paid. Ever since that time his friends have been before Congress endeavoring to get relief. Now, the committee ask that we pay simply the amount of the judgment and an additional amount equal to about the interest from the date it was rendered.

Mr. HILL. Who will get this money, in case it is paid?

Mr. MONDELL. His widow.

Mr. HILL. Is she living?

Mr. MONDELL. Yes.

Mr. HILL. When did he die?

Mr. MONDELL. He died some time ago. His ride for the relief of that garrison alone entitles him to more than this bill

carries. His act was one of the most thrilling and heroic acts in all the history of the Northwest.

Mr. GRAFF. Are these things not generally known in his State by hundreds of people?

Mr. MONDELL. Not only in my State, but known all over the Union. This story has been told and sung for twenty years. The story of the relief of the garrison there is known to everybody, and we simply ask that the widow of this man be paid the sum long due him.

Mr. BROSIUS. Has this man been figuring as the hero of that story for all these years?

Mr. MONDELL. Yes.

Mr. BROSIUS. Why has he not been paid long ago?

Mr. MONDELL. Because Congress has not seen fit to do its duty. The bill has twice passed the Senate, and has been favorably reported in this House twice.

Mr. LOUD. I want to get back, if the gentleman will allow me, to this judgment. Has the gentleman a copy of the judgment?

Mr. MONDELL. I have not. I have a copy of the record of the House transmitting the judgment, or I can get it in a moment.

Mr. LOUD. I should like to have it. It ought to be a matter of evidence in this case, it seems to me. I do not want to reflect upon the members of the committee, especially the chairman, and the gentleman from Illinois. I regard them both as most careful men.

Mr. MONDELL. What does the gentleman wish? It would be impossible, of course, to get the judgment of the Court of Claims to-day. I can get the gentleman the document of the House of Representatives that contains the record of the judgment.

Mr. LOUD. Have you a certified copy of the judgment?

Mr. MONDELL. A copy of the judgment I have not got.

Mr. LOUD. What have you got, then?

Mr. GRAFF. Do you mean a verbatim copy of the judgment, or a mere statement?

Mr. MONDELL. The House report gives the date of the judgment and the amount.

Mr. GRAFF. I will say we had present with the members of this committee when this matter was up for consideration the House document that contained the record of this judgment.

Mr. LOUD. Even careful members of this House are sometimes deceived. I had some experience on the Committee on Claims myself, and I have given my assent to a claim which I found afterwards had no foundation, and the worse the case was, as a rule, the stronger the evidence appeared to be.

Mr. MONDELL. We have the record of the judgment having been sent to this Congress, but have not a copy of it.

Mr. BROSIUS. You mean that the report contains the record of the judgment or a statement of the fact that a judgment was rendered?

Mr. MONDELL. It was a document transmitted from the Court of Claims to this House, containing the fact or record, with a good many other claims.

Mr. BROSIUS. You mean by the record a statement of fact that the court had rendered such a judgment.

Mr. MONDELL. That is it.

Mr. BROSIUS. Have you a copy of the judgment?

Mr. MONDELL. No, sir.

Mr. LOUD. That fact ought to be easily brought before the House.

Mr. MOODY of Massachusetts. Let me call the attention of the gentleman from California to the statement made in the report in 1896, which says this:

> This claim was passed upon by the Court of Claims and the evidence was overwhelming, including the evidence of Army officers, Indian agents, special examiners, and others, and the Court of Claims allowed and entered judgment for the sum of $2,210. (See H. R. Ex. Doc. 125, Forty-ninth Congress, first session.)

I have sent for that.

Mr. LOUD. It certainly should have been a part of the record.

Mr. BROSIUS. It is in the report.

Mr. GRAFF. We had that document and all the papers in the case before the committee; but after we make a report to the House we send the document and proof back to the index clerk. We are compelled to do that.

Mr. LOUD. Is it not customary to include in your report the statement that such a judgment was rendered?

Mr. GRAFF. We have stated that fact.

Mr. MONDELL. It is stated in both reports.

Mr. LOUD. It simply refers to it.

Mr. GRAFF. We state that it was rendered. We might have given a certified copy of the judgment.

Mr. LOUD. Why, then, do the gentlemen give $5,000, when the court rendered a judgment of $2,000, if a judgment was rendered?

Mr. MONDELL. The amount we propose to give now is the amount of the original judgment, with interest.

Mr. LOUD. Oh, well; I have never known Congress, in the limited time I have been a member, pay any interest on claims; and I hope they will not begin that practice now.

Mr. OTEY. You have on judgments, have you not?

Mr. MONDELL. Now, Mr. Chairman, in the first place, the judgment of the Court of Claims was for nothing like the amount that this man lost. His claim was for over $6,000 originally. The Court of Claims pared it down twenty-six years ago to $2,200. Twenty-six years ago! And all this time he has been waiting for the payment. He had served his country as a scout; he had been in the country for many years prior to the time of his loss, but like a great many other men who went into that region as young men, having no opportunity to take out naturalization papers, it was not done.

Mr. LOUD. Does not the gentleman know if he served in the regular United States Army that it would not have been necessary, or he would have had no great amount of trouble if it was necessary, to get them?

Mr. MONDELL. I know the Court of Claims holds that service in the United States Army does not necessarily constitute citizenship. I know he voted for years and years and performed all the duties of a citizen, but still he was not a citizen according to the Court of Claims.

Mr. BROSIUS. I do not see in the report how this loss was sustained.

Mr. MONDELL. The loss was a loss during a raid of the same tribe of Indians that surrounded the post at the time he carried the news out.

Mr. BROSIUS. How long after?

Mr. MONDELL. Well, I do not know just how long afterwards.

Mr. BROSIUS. What property was destroyed?

Mr. MONDELL. Horses and cattle.

Mr. BROSIUS. Taken by the Indians?

Mr. MONDELL. Yes, sir.

Mr. LOUD. Is John Phillips living now?

Mr. MONDELL. He died some years ago; his widow still lives.

Mr. BROSIUS. Let me make an inquiry. I do not know what the precedents are in these matters. This man continued to reside in that part of the country after the heroic instance that the gentleman has related?

Mr. MONDELL. Yes.

Mr. BROSIUS. Was he engaged in farming?

Mr. MONDELL. Yes.

Mr. BROSIUS. And some Indians came along and stole his property?

Mr. MONDELL. Yes.

Mr. BROSIUS. Does that create any liability against the Government of the United States?

Mr. MONDELL. Yes; under our law it creates a liability, and the liability was recognized.

Mr. BROSIUS. And the judgment of the Court of Claims was based upon that liability?

Mr. MONDELL. Entirely.

Mr. BROSIUS. I think the gentleman has fortified and reenforced the case very much, but I want to ask one further question. Do I understand the law to be that if I go into an Indian country to reside and conduct my operations and an Indian steals my horse, the Government of the United States is liable to pay for that horse?

Mr. MONDELL. Yes; providing the Indian who steals your horse does not belong to a tribe which is at war with the United States. If the tribe is at war with the United States, the Indian may steal your horse and destroy your property without the Government being liable.

Mr. BROSIUS. That is what I supposed. Were not these Indians at war with the United States?

Mr. MONDELL. As evidenced by the judgment of the Court of Claims, the tribe was not at war with the United States.

Mr. GRAFF. That was one of the conditions precedent that was proved.

Mr. MONDELL. Our country has been overrun time and time again with Indians at war, and we never got anything for the loss we sustained.

Mr. LOUD. I think, Mr. Chairman, the gentleman ought to withdraw the interest on this judgment, if there is a judgment, which is a little misty, but I will take the gentleman's word for that. If the gentleman gets a judgment after this twenty-six years, I think the woman is doing pretty well.

Mr. MONDELL. I do not think that is a very good argument, that because the Government failed to pay its debt for twenty-six years, therefore it is under no obligation to pay the interest.

Mr. LOUD. Let me say to the gentleman that during my experience in Congress I never have known the Committee on Appropriations to refuse to pay a judgment, and I think if he will get back to the time that this matter came before Congress, he will find some reason existing why none of this claim should be paid. Now, in view of the lapse of time, the lapse of conditions, I think if this woman can get the amount of this judgment she is doing mighty well.

Mr. MONDELL. I want to say, Mr. Chairman, that there is

no question at all relative to this judgment except the one of citizenship. That was the only question on which payment of the judgment was suspended.

Mr. LANDIS. A mere technicality.

Mr. MONDELL. Yes.

Mr. GRAFF. Mr. Chairman, I move that the bill be laid aside to be reported to the House with a favorable recommendation.

Mr. LOUD. Mr. Chairman, I want to make one further suggestion to the House. I do not think the gentleman ought to press the full amount of this judgment with interest.

Mr. GRAFF. I will say to the gentleman from California that it seems to me this claim is absolutely defensible from the standpoint of legality, and in addition to that it presents claims in the direction of heroism and from every other direction.

Mr. BROSIUS. Was the report of the committee unanimous?

Mr. MONDELL. Yes; and after a full discussion. We went into discussion especially about the services that the scout had rendered and with reference to the reasons why the destruction of the property occurred by the Indians. It was done by the same tribe, for the reason that there was a constant hostile feeling by the people of this tribe on account of the fact that John Philips had delivered the garrison out of their grasp.

Mr. LOUD. John Philips is dead, and you can not reward him.

Mr. MONDELL. The fact that John Philips died while the United States denied him justice is no good reason why we should not give his widow what belonged to him.

Mr. BROSIUS. I do not think that should cut any figure; if John Philips is entitled to it, I think his widow ought to have it. Besides, I think I will vote for it to encourage heroism. [Applause.]

Mr. LOUD. Let me say once more, Mr. Chairman, to the gentleman, I do not want to appear as the only obstructionist, and I have great faith in the judgment of the gentleman from Wyoming; but you are establishing a precedent here to-day in paying interest that you can not afford to stand by. Since I have been in Congress, I never yet voted to pay interest on a claim, and I do not think there is a gentleman here on the floor that can point to a case where Congress has allowed interest upon a claim, and I hope the gentleman will withdraw that part of it.

Mr. MONDELL. In reply to the gentleman from California, I desire to say that I would hesitate very much to recommend interest as interest. I think I would refuse to vote and refuse to support, on the recommendation of my committee, the allowance of interest, even on a judgment where it was found necessary to come before the Committee on Claims to secure relief, because the precedents are nearly all against it. But in this case there was something else besides a purely legal liability.

The story, by the correspondence here, by the Army officers who were upon the scene, giving it just exactly as it occurred, shows a very exceptional case of bravery, and with great results. There were helpless women in that beleagured fort surrounded by five or six thousand Indians, and this man volunteered his services, and how he ever escaped from those howling Indians surrounding that fort and got miles away for the purpose of getting to the nearest railway station to telegraph for assistance almost passes understanding, but he did it. He went out and risked his life that others might live; and I say that is the noblest thing a man can do.

Mr. LOUD. If he had stayed there his life would still have been at great risk. The question was between staying there and dying, and going out and perhaps living.

Mr. GRAFF. Well, that would be hoping against hope. I have too good an opinion of the gentleman from California to believe that he would seriously urge such a suggestion as that.

Mr. BROSIUS. Besides, I think the gentleman from California can be relieved by reference to this report. It does not seem to report in favor of any interest at all. It is simply a report in favor of the claim of $5,000.

Mr. GRAFF. The report recognizes the interest and also the element of heroism, and specifically draws the distinction, so that this case can not furnish a precedent.

Mr. BROSIUS. I infer, however, from the report, that while the interest was considered in arriving at a conclusion as to the amount which should be allowed, you did not find a certain sum and then compute interest on it?

Mr. GRAFF. No, sir; we did not allow interest.

Mr. BROSIUS. Because such a sum would be different from the sum you have reported. As a matter of fact, you have reported in favor of a given sum as due to this widow.

Mr. GRAFF. I will say to the gentleman from California that the gentleman from Massachusetts [Mr. MOODY] says that he has a copy of the judgment.

Mr. LOUD. I will not question that.

Mr. GRAFF. There may be some legal insufficiency about the form of the judgment to which my friend from California might object.

Mr. LOUD. After twenty-six years, I think we should view with a little suspicion a claim that was not paid when all the facts were fresh in the minds of the persons concerned.

Mr. FITZGERALD of New York. I should like to say to the gentleman from California that the reason this case was taken into consideration by the committee was that if the man had been a citizen the claim would have been paid under the judgment of the court. In view of his great heroism it was considered that he should not be allowed to suffer by reason of the fact that he was not a citizen; that he had won the rights of a citizen by his gallantry, by the loss of his blood.

Mr. LOUD. I am afraid that the alienism is a little bit smoky; but I quit. [Laughter.]

Mr. GRAFF. I move that the bill be laid aside to be reported favorably.

The motion was agreed to.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. DALZELL having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. PLATT, one of its clerks, announced that the Senate had passed bills of the following titles; in which the concurrence of the House of Representatives was requested:

S. 2612. An act to remove the charge of desertion against Frederick Schulte or Schuldt; and

S. 885. An act for the relief of Mary A. Coulson, executrix of Sewell Coulson, deceased.

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

Senate concurrent resolution 35:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, directed to have a survey made and submit a report and an estimate for deepening and properly improving the Mispillion River, Delaware, in accordance with recommendations heretofore made by the War Department.

Senate concurrent resolution 15:

Resolved by the Senate (the House of Representatives concurring), That there be printed 10,000 additional copies of the last annual report of the Commissioner of Pensions for the use of the Bureau of Pensions.

W. W. RILEY.

The committee resumed its sitting.

The next business was the bill (H. R. 1806) for the relief of W. W. Riley.

Mr. GRAFF. I think this bill has already passed the House. I believe it was taken up by unanimous consent.

The CHAIRMAN. Without objection, the bill will be passed over without prejudice until it is ascertained whether it has already been passed.

CLARE M. ASHBY.

The next business was the bill (H. R. 445) for the relief of Clare M. Ashby, widow of W. W. Ashby, late United States consul at Colon.

Mr. OTEY. This is a bill for the relief of the widow of W. W. Ashby, who was drowned while serving as consul at Colon. In the Fifty-fifth Congress a bill was presented for her relief; but in error it was presented for the full amount of the salary. This bill is for the balance of one year's salary. I do not know that it is necessary to read the whole report; but I can say it has been the custom in cases of this kind to pay the balance of the year's salary; and the balance in this case was $2,866.66. Allow me to cite some of the precedents:

By act of March 3, 1879, Mrs. Taylor, the widow of Bayard Taylor, who died while minister to Germany, was allowed the sum of $7,000, to compensate his estate for extraordinary expenses and losses incurred in consequence of his death.

By joint resolution approved July 28, 1882, Mrs. Hurlburt, widow of General Hurlburt, who died while minister to Peru, was allowed one year's salary and legal allowances, after making necessary deductions. This bill provides for paying to the widow of Mr. Ashby only the remainder of one year's salary.

Joint resolution approved July 28, 1882, gave Mrs. Kilpatrick, widow of General Kilpatrick, who died while minister to Chile, one year's salary and legal allowances after making proper deductions.

Joint resolution approved July 1, 1882, gave Mrs. Garnett, widow of Rev. H. H. Garnett, who died while minister to Liberia, one year's salary.

There are other precedents which it is hardly necessary for me to recite. This bill provides for paying only what is usual in these cases.

Mr. LOUD. Has the gentleman any reference to a case where Congress has ever made this allowance to the widow of a consul?

Mr. OTEY. No, sir; most of the precedents I have here are the cases of ministers.

Mr. LOUD. What are the others that are not among the "most?"

Mr. OTEY. I do not see any cases of consuls.

Mr. LOUD. I thought not.

Mr. OTEY. They are all ministers. I will read what the Third Assistant Secretary says in regard to it. I do not know that it makes any difference whether a man was a minister. This man was in the diplomatic service. Since the gentleman raises the question about consuls, I will say that I do not know that there are any precedents particularly stating that the beneficiary was a consul. I do not see any in this report. This is what Mr. Cridler, Third Assistant Secretary of State, says in his letter:

DEPARTMENT OF STATE,
Washington, January 27, 1899.

SIR: Referring to the Department's letter to you of January 21, 1898, and your recent visit to the Department in connection therewith, I have now, agreeably to your request, to acquaint you with the purport of a dispatch from the vice-consul of the United States at Colon, No. 2, of January 18, 1898, in regard to the drowning of William W. Ashby, late consul of the United States at that port. The facts are as follows:

On Sunday afternoon, January 16, Mr. Ashby, accompanied by Dr. F. W. Hafemann, German consul, and Mr. D. G. Mott, master mechanic of the Panama Railroad, left Colon in a small boat to visit Mr. Mott's cocoanut plantation, situated on what is known as Toro Point, across the bay from this point. The trip over was made all right, but in returning from the shore, near Point Toro, the boat was capsized and all the occupants were thrown out in the water. Although a moderate breeze was blowing at the time of the accident, the sea was rough and breaking very heavily on the jagged reefs which line the coast, and being unable to secure assistance at the time, all the occupants of the boat except the captain, who was thrown on the reef and badly hurt, were either drowned or killed by being thrown against the coral rocks. The accident was witnessed by one person only, the assistant keeper of the "Punta del Toro" light-house, who, at the time, was in the lamp room of the tower preparing to light the lamp. Being fully half a mile from the place where the accident occurred, and having no means of rendering assistance, he was forced by circumstances to see the occupants of the ill-fated boat drown.

I have the honor to be, sir, your obedient servant.

THOS. W. CRIDLER,
Third Assistant Secretary.

Mr. CANNON. Does the gentleman from Virginia think it is a safe precedent to pay the balance of a year's salary or a whole year's salary to the widow of a consul who dies in the service? There is no law for it, as the gentleman is aware. Otherwise there would be no necessity for the reporting of this bill.

Mr. OTEY. Nor is there any law for paying ministers, or there would be no necessity for special bills.

Mr. CANNON. That is true; but from the small number of cases that the gentleman refers to I take it that the practice of paying the widows of ministers is by no means universal. But is not the precedent one to be honored in the breach rather than in the observance? I am not speaking merely for the purpose of obstructing. I know it is perhaps ungracious, where a sum is to be devoted to somebody who needs it, to make objection, but after all I dislike very much to vote for the extension of precedents that it seems to me are not commendable. We have the precedent here with reference to the House and Senate. If one of our members dies, the rule is that the widow gets the balance of the salary, not exceeding $5,000. There is no law for it, but it is a practice that has grown up and continued for almost a century.

In the last ten years we have taken to extending it to employees of the House and Senate. If one of them dies, we bury him at the public expense and, if I recollect aright, give the widow six months' salary. With this great army of officeholders, two or three hundred thousand, more or less, throughout the country, where we all break our necks almost, figuratively speaking, to get the office and draw the salary while we live, I fear the results of the precedent of paying the salary after death.

Mr. OTEY. In reply to the gentleman's question, I can only answer in the language of the Third Assistant Secretary:

The Department does not recall a case where Congress has provided an allowance to the widow of a consul who died while in the public service.

If you will consult Senate Report No. 238, Forty-ninth Congress, first session, you will find a correct list, up to that date, of widows of deceased diplomatic agents who have received, upon Congressional sanction, various sums, representing either a year's salary or a portion thereof.

The Department knows of no sufficient reason why Mrs. Ashby should not share in the same equitable treatment.

And I know of none, why he should not so share. The committee found no other reason. The committee were unanimous in their report on this question. Mr. Ashby was drowned shortly after he went to his post of duty and he left a widow. It has been the custom to pay other diplomatic agents as high as a year's salary and allowances. The first bill introduced for Mr. Ashby's widow was that, but this bill provides only for paying the remainder of his year's salary. The Third Assistant Secretary, the official with whom we had dealings, stated in his letter that he saw no reason why this case should be barred from the same privileges.

Mr. CANNON. Would my friend vote for a general law paying the widows of consuls who die in the service and the widows of other Government officials a year's salary?

Mr. OTEY. All Goverment officials?

Mr. CANNON. Well, I will restrict it to consuls first.

Mr. OTEY. Yes; I would.

Mr. CANNON. Well, where would my friend draw the line? Would he say also the vice-consuls, secretaries of legations, clerks in foreign offices, and the consular clerks? all of them having quite as much duty to perform as the consul.

Mr. OTEY. I do not know exactly how far I would go, when you come to all of those.

Mr. LOUD. You would go far enough to include this case, would you not?

Mr. OTEY. I would go far enough to include this case, and I have no more personal interest in it than the gentleman has, if he means to imply anything of that sort.

Mr. LOUD. Oh, no; I do not intimate that you have any personal interest in it.

Mr. OTEY. I thought I would make that clear, in view of the gentleman's remark.

Yes; I would vote for it, because this case has been before our committee and they have considered it thoroughly and reported it unanimously, and if you will bring every single one of the cases before a committee and get a unanimous report in favor of it, letting each case stand on its merits, then I would not vote against the recommendation of the committee in such a case. I do not know that I would vote for a general law to pay Tom, Dick, and Harry—everybody who died in the service. This is a case which has some special features about it. The facts have been stated.

Mr. CANNON. I have nothing further to say about it. I only wanted to express my views about it.

Mr. OTEY. Did the gentlemen ever vote to pay the balance of a year's salary to the widow of anybody who died in the service?

Mr. CANNON. I have no recollection about that. I presume that I may have voted on the cases of these parties who were in the diplomatic service.

Mr. OTEY. Is there any reason why you should vote differently in the case of a minister and in a case of a consul?

Mr. CANNON. Oh, yes.

Mr. OTEY. Why?

Mr. CANNON. Those who are in the diplomatic service are charged with an entirely different class of duties. The consul is a mere business agent. He goes to the place for the salary. He is connected merely with business matters. He is in no wise in the diplomatic service, not so much so as our officers of the Army and Navy who are abroad.

Mr. OTEY. But he can not die any more than the other man.

Mr. CANNON. That is right.

Mr. OTEY. And both are in the service of the country.

Mr. CANNON. Certainly; but in the meantime the man who dies at home and does not have the good luck to be business agent for the Government, leaves a widow who does not get the pay, and she helps to pay the taxes to pay the other widow.

Mr. OTEY. This man did not die at home.

Mr. CANNON. I understand that. I will say to my friend that I care nothing about the amount involved in this bill, but I see no reason why, if this precedent is established, we should not go back and pay the widows of all consuls who have died in the service, and go forward and pay the widows of those who may die; and what I fear is that this constitutes a precedent that will open the door to such claims.

Mr. OTEY. I move that the bill be laid aside to be reported to the House with a favorable recommendation.

The motion was agreed to.

Accordingly the bill was laid aside to be reported to the House with a favorable recommendation.

And then, on motion of Mr. GRAFF, the committee rose; and the Speaker having resumed the chair, Mr. HEMENWAY, Chairman of the Committee of the Whole House, reported that that committee had had under consideration the bill H. R. 5196, and had directed him to report the same back to the House with the recommendation that it do lie on the table; also that the committee had had under consideration the bills H. R. 4686, H. R. 2322, H. R. 5969, H. R. 1454, H. R. 2098, and H. R. 445, and had directed him to report the same back to the House with the recommendation that they do pass.

The SPEAKER. The Clerk will report the first bill.

The Clerk read as follows:

A bill (H. R. 5196) for the relief of CLAUDE A. SWANSON.

Mr. GRAFF. Mr. Speaker, I move that that bill do lie upon the table.

The motion was agreed to.

The following bills, reported from the Committee of the Whole, were severally considered, ordered to be engrossed and read a third time, read the third time, and passed:

A bill (H. R. 4686) for the relief of J. A. Ware;

A bill (H. R. 2322) for the relief of Joshua Bishop;

A bill (H. R. 5969) for the relief of the devisees and legal representatives of D. L. Huskey, deceased;

A bill (H. R. 1454) for the relief of William L. Orr; and
A bill (H. R. 445) for the relief of Clare M. Ashby, widow of W. W. Ashby, late United States consul at Colon.

SENATE BILLS AND JOINT RESOLUTIONS REFERRED.

Under clause 2 of Rule XXIV, Senate bills and joint resolutions of the following titles were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. 2280. An act granting a pension to Horatio N. Cornell—to the Committee on Pensions.

S. 1619. An act granting an increase of pension to Ella Cotton Conrad—to the Committee on Pensions.

S. 950. An act granting a pension to Sarah Ann Fletcher—to the Committee on Invalid Pensions.

S. 1242. An act granting an increase of pension to Adele W. Elmer—to the Committee on Pensions.

S. 2020. An act granting a pension to Sarah E. Fortier—to the Committee on Pensions.

S. 2552. An act granting an increase of pension to Elizabeth Overby Williams—to the Committee on Pensions.

S. 1803. An act granting an increase of pension to Richard L. Titsworth—to the Committee on Invalid Pensions.

S. 259. An act granting a pension to Lizzie Breen—to the Committee on Pensions.

S. 1552. An act granting an increase of pension to Helen L. Dent—to the Committee on Invalid Pensions.

S. 2612. An act to remove the charge of desertion against Frederick Schulte or Schuldt—to the Committee on Naval Affairs.

S. 885. An act for the relief of Mary A. Coulson, executrix of Sewell Coulson, deceased—to the Committee on War Claims.

Senate concurrent resolution 35:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, directed to have a survey made and submit a report and an estimate for deepening and properly improving the Mispillion River, Delaware, in accordance with recommendations heretofore made by the War Department—

to the Committee on Rivers and Harbors.

Senate concurrent resolution 15:

Resolved by the Senate (the House of Representatives concurring), That there be printed 10,000 additional copies of the last annual report of the Commissioner of Pensions for the use of the Bureau of Pensions—

to the Committee on Printing.

ENROLLED BILLS SIGNED.

The SPEAKER announced his signature to enrolled bills and joint resolution of the following titles:

S. 2354. An act enlarging the powers of the Choctaw, Oklahoma and Gulf Railroad Company;

S. 2279. An act declaring Cuivre River to be a navigable stream; and

S. R. 91. Joint resolution authorizing the printing extra copies of the publications of the Office of Naval Intelligence, Navy Department.

HATTIE A. PHILLIPS.

The next business was the bill (H. R. 2098) for the relief of Hattie A. Phillips.

Mr. GRAFF. Mr. Speaker, I ask unanimous consent that the bill (S. 197) for the relief of Hattie A. Phillips, which is precisely like the House bill, and which has passed the Senate and come to our committee since we reported the House bill, be substituted for the House bill.

The SPEAKER. The gentleman from Illinois [Mr. GRAFF] asks unanimous consent that the Senate bill be substituted for the bill reported from the Committee of the Whole, it being identical. Is there objection?

There was no objection.

The bill (S. 197) for the relief of Hattie A. Phillips was ordered to a third reading; and it was accordingly read the third time, and passed.

The bill H. R. 2098 was ordered to lie on the table.

On motion of Mr. GRAFF, a motion to reconsider the votes by which the several bills were passed was laid on the table.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. REEDER, indefinitely, on account of important business.

To Mr. GAMBLE, indefinitely, on account of sickness.

And then, on motion of Mr. PAYNE (at 4 o'clock and 35 minutes p. m.), the House adjourned.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Acting Secretary of War, renewing recommendation for the passage of an act in relation to the publication of advertisements for contracts—to the Committee on Military Affairs, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a communication from the Commissioner of Internal Revenue relating to an appropriation for the purchase of books—to the Committee on Appropriations, and ordered to be printed.

A letter from the Secretary of State, transmitting further information in regard to the complaints of the German Government in relation to certain customs regulations of the United States Government—to the Committee on Ways and Means, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. BOREING, from the Committee on Printing, to which was referred the concurrent resolution of the House (H. C. Res. 16) for printing 10,000 copies of the work entitled The Louisiana Purchase, reported the same without amendment, accompanied by a report (No. 698); which said concurrent resolution and report were referred to the House Calendar.

He also, from the same committee, to which was referred the concurrent resolution of the Senate (S. Con. Res. No. 6) to print for the Bureau of the American Republics 2,500 copies of the Annual Report of the Director of the Bureau of the American Republics, reported the same without amendment, accompanied by a report (No. 699); which said concurrent resolution and report were referred to the Committee of the Whole House on the state of the Union.

Mr. CURTIS, from the Committee on Indian Affairs, to which was referred the bill of the House (H. R. 3369) to put in force in the Indian Territory certain provisions of the laws of Arkansas relating to corporations, and to make said provisions applicable to said Territory, reported the same with amendment, accompanied by a report (No. 700); which said bill and report were referred to the House Calendar.

Mr. RUSSELL, from the Committee on Ways and Means, to which was referred the bill of the Senate (S. 2114) to constitute South Manchester, Conn., a port of delivery, reported the same without amendment, accompanied by a report (No. 701); which said bill and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. LOUDENSLAGER, from the Committee on Pensions, to which was referred the bill of the Senate (S. 1905) granting an increase of pension to Lillian Capron, reported the same with amendment, accompanied by a report (No. 702); which said bill and report were referred to the Private Calendar.

Mr. BOREING, from the Committee on Pensions, to which was referred the bill of the House (H. R. 2331) granting an increase of pension to Festus Dickinson, reported the same with amendment, accompanied by a report (No. 703); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 7624) granting an increase of pension to Pleasant H. McBride, reported the same with amendment, accompanied by a report (No. 704); which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS INTRODUCED.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. LENTZ: A bill (H. R. 9632) to prevent robbing the mail, to provide a safer and easier method of sending money by mail, and to increase the postal revenues—to the Committee on the Post-Office and Post-Roads.

By Mr. WATERS: A bill (H. R. 9633) for the erection of a public building at Santa Barbara, Cal.—to the Committee on Public Buildings and Grounds.

By Mr. LACEY: A bill (H. R. 9634) to set apart certain lands in the Territory of Arizona as a public park, to be known as the

Petrified Forest National Park—to the Committee on the Public Lands.

By Mr. CUSHMAN: A bill (H. R. 9635) establishing lighthouse and fog signal in State of Washington—to the Committee on Interstate and Foreign Commerce.

By Mr. BENTON: A bill (H. R. 9636) to increase the limit of cost for the purchase of site and the erection of a public building at Joplin, Mo.—to the Committee on Public Buildings and Grounds.

By Mr. CLAYTON of Alabama: A bill (H. R. 9637) to amend an act entitled "An act to establish circuit courts of appeals and to define and regulate in certain cases the jurisdiction of the courts of the United States, and for other purposes," approved March 3, 1891—to the Committee on the Judiciary.

By Mr. STEPHENS of Texas: A bill (H. R. 9638) providing additional districts for the recording of all instruments required by law to be recorded in the Indian Territory—to the Committee on Indian Affairs.

By Mr. FITZGERALD of Massachusetts: A bill (H. R. 9639) making the 19th of April in each year a national holiday—to the Committee on the Judiciary.

By Mr. CUMMINGS: A bill (H. R. 9640) relating to compensation of fourth-class postmasters—to the Committee on the Post-Office and Post-Roads.

By Mr. LACEY: A bill (H. R. 9668) to recover to the United States the title to private holdings within forest reservations and certain national parks—to the Committee on the Public Lands.

By Mr. VAN VOORHIS: A bill (H. R. 9669) to increase the pay of the male laborers of the Government Printing Office—to the Committee on Printing.

By Mr. HAWLEY: A bill (H. R. 9676) classifying naval vessels of the United States—to the Committee on Naval Affairs.

By Mr. BROSIUS: A bill (H. R. 9677) for preventing the adulteration, misbranding, and imitation of foods, beverages, candies, drugs, and condiments in the District of Columbia and the Territories, and for regulating interstate traffic therein, and for other purposes—to the Committee on Interstate and Foreign Commerce.

By Mr. CANNON: A joint resolution (H. J. Res. 204) to provide for the removal of snow and ice in the city of Washington, D. C.—ordered to be printed.

By Mr. BOREING: A concurrent resolution (H. C. Res. 28) relative to the printing of 1,000 extra copies of the report of the Superintendent of Indian Schools for 1899—to the Committee on Printing.

PRIVATE BILLS AND RESOLUTIONS INTRODUCED.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. BELL: A bill (H. R. 9641) authorizing the Secretary of the Interior to set aside certain described lands in San Juan County, Colo., as a legal subdivision or lot, and authorizing the mayor of Silverton to enter said lands for cemetery purposes—to the Committee on the Public Lands.

By Mr. BOUTELL of Illinois: A bill (H. R. 9642) granting a pension to Carrie Wells—to the Committee on Invalid Pensions.

By Mr. BABCOCK: A bill (H. R. 9643) granting a pension to Ada E. Whaley—to the Committee on Invalid Pensions.

By Mr. BINGHAM: A bill (H. R. 9644) for the relief of Daniel Donovan—to the Committee on Claims.

By Mr. BURNETT: A bill (H. R. 9645) granting pensions to certain companies of scouts and guides who served in the Federal Army during the war of the rebellion—to the Committee on Invalid Pensions.

Also, a bill (H. R. 9646) granting an increase of pension to Samuel Shafer—to the Committee on Invalid Pensions.

By Mr. BRICK: A bill (H. R. 9647) to remove the charge of desertion from the military record of Albert B. Ketterman—to the Committee on Military Affairs.

Also, a bill (H. R. 9648) to remove charge of desertion from record of Godfrey Bestle—to the Committee on Military Affairs.

By Mr. BARTHOLDT: A bill (H. R. 9649) granting a pension to Martha A. Lowery—to the Committee on Invalid Pensions.

By Mr. CARMACK: A bill (H. R. 9650) for the relief of O. P. Newby, late of Shelby County, Tenn.—to the Committee on War Claims.

Also, a bill (H. R. 9651) for the relief of Thomas C. Jones—to the Committee on War Claims.

By Mr. CUSHMAN: A bill (H. R. 9652) for the relief of Daniel Weissinger—to the Committee on Military Affairs.

By Mr. EMERSON: A bill (H. R. 9653) for the relief of Nathan Davis, 2d, and others drafted into the service of the United States about March 21, 1865, from the Sixteenth district, State of New York—to the Committee on Military Affairs.

By Mr. FLEMING: A bill (H. R. 9654) for the relief of Eli Frasuer, of Wilkinson County, Ga.—to the Committee on War Claims.

By Mr. HEPBURN: A bill (H. R. 9655) to remove the charges of desertion from the records of the War Department against Albert S. Hughes—to the Committee on Military Affairs.

By Mr. HEMENWAY: A bill (H. R. 9656) granting a pension to Cynthia A. Corn, daughter of the late David Corn—to the Committee on Invalid Pensions.

By Mr. PHILLIPS: A bill (H. R. 9657) to remove the charge of desertion against Seymour Saxton—to the Committee on Military Affairs.

By Mr. POLK: A bill (H. R. 9658) to remove the charge of desertion from the military record of James Stewart, of Danville, Pa.—to the Committee on Military Affairs.

By Mr. RAY of New York: A bill (H. R. 9659) granting an increase of pension to Henry E. De Marse—to the Committee on Invalid Pensions.

Also, a bill (H. R. 9660) granting an increase of pension to Leonard W. Dunham—to the Committee on Invalid Pensions.

Also, a bill (H. R. 9661) granting an increase of pension to Enoch A. Rider—to the Committee on Invalid Pensions.

By Mr. SUTHERLAND: A bill (H. R. 9662) to correct the military record of Stephen Noland—to the Committee on Military Affairs.

By Mr. SALMON: A bill (H. R. 9663) granting a pension to Cornelia S. Ribble—to the Committee on Invalid Pensions.

By Mr. WHEELER of Kentucky: A bill (H. R. 9664) for the benefit of Mrs. Catherine Dudley—to the Committee on War Claims.

By Mr. ZIEGLER: A bill (H. R. 9665) granting an increase of pension to Chambers C. Mullin—to the Committee on Pensions.

By Mr. WANGER: A bill (H. R. 9666) granting an increase of pension to Charles A. Rittenhouse—to the Committee on Invalid Pensions.

Also, a bill (H. R. 9667) granting an increase of pension to Aaron Yarrell—to the Committee on Invalid Pensions.

By Mr. ATWATER (by request): A bill (H. R. 9670) for the relief of Samuel B. Thain, Johnston County, N. C.—to the Committee on War Claims.

Also (by request), a bill (H. R. 9671) for the relief of the estate of James Lee, late of Johnston County, N. C.—to the Committee on War Claims.

By Mr. BINGHAM: A bill (H. R. 9672) to increase the pension of Mrs. M. McGlensey, widow of Capt. John F. McGlensey, of the United States Navy—to the Committee on Pensions.

By Mr. BARTHOLDT: A bill (H. R. 9673) for the relief of Michael Connell, St. Louis, Mo.—to the Committee on War Claims.

By Mr. THAYER: A bill (H. R. 9674) for the relief of the estate of Stephen Barton—to the Committee on War Claims.

Also, a bill (H. R. 9675) for the relief of Samuel R. Barton—to the Committee on War 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 the SPEAKER: Petition of Lucia Nourse and 13 citizens of Fairbank, Iowa, against the passage of House bill No. 6071, relating to second-class mail matter—to the Committee on the Post-Office and Post-Roads.

By Mr. ADAMS: Petition of Charles H. Jones, of Philadelphia, in opposition to the passage of House bill No. 6071, relating to second-class mail matter—to the Committee on the Post-Office and Post-Roads.

By Mr. BABCOCK: Petition of the Woman's Club of Baraboo, Wis., favoring the passage of House bill No. 6879, relating to the employment of graduate women nurses in the hospital service of the United States Army—to the Committee on Military Affairs.

Also, petition of D. H. Beckwith and others, of Lone Rock, Wis., favoring the Grout bill relating to oleomargarine—to the Committee on Agriculture.

By Mr. BAKER: Petition of J. Guest King, of Annapolis, Md., against the passage of the Loud bill—to the Committee on the Post-Office and Post-Roads.

Also, petition of Admiral John Rodgers Post, No. 28, of Havre de Grace, Md., Grand Army of the Republic, in support of House bill No. 7094, to establish a Branch Soldiers' Home at Johnson City, Tenn.—to the Committee on Military Affairs.

Also, petition of the Woman's Suffrage Association of Maryland, favoring the sixteenth amendment to the Constitution, granting suffrage to women—to the Committee on the Judiciary.

By Mr. BARTHOLDT: Petition of the Bohemian Literary Society of St. Louis, Mo., against the passage of the Loud bill—to the Committee on the Post-Office and Post-Roads.

Also, petition of the Merchants' League Club of St. Louis, Mo.,

favoring the passage of House bill No. 6882, relating to hours of labor on public works, and House bill No. 5450, for the protection of free labor against prison labor—to the Committee on Labor.

Also, petition of Martha A. Lowery, for mother's pension—to the Committee on Invalid Pensions.

By Mr. BARTLETT: Protests of George A. Smith, George Ketchum, C. M. Wiley, D. Q. Abbott, G. S. Westcott, T. J. Carling, W. D. Nottingham, Bridget Smith, E. L. Martin, and 25 other citizens of Macon, Ga., and B. H. Hardy, Barnesville, Ga., against the passage of House bill No. 6071, known as the Loud bill—to the Committee on the Post-Office and Post-Roads.

By Mr. BENTON: Petition of E. B. Stanton, John F. Blakeney, and other post-office employees of Carthage and Joplin, Mo., favoring the passage of House bill No. 4351—to the Committee on the Post-Office and Post-Roads.

By Mr. BINGHAM: Petition of Jackson Post, No. 27, Grand Army of the Republic, of Philadelphia, Pa., in support of House bill No. 7094, to establish a Branch Soldiers' Home at Johnson City, Tenn.—to the Committee on Military Affairs.

Also, petition of W. A. Weber and 11 other retail merchants of Philadelphia, Pa., in favor of the Grout bill taxing oleomargarine—to the Committee on Ways and Means.

By Mr. BOUTELL of Illinois: Resolution of the First Cavalry, Illinois National Guard, of Chicago, Ill., favoring the passage of House bill No. 7936, increasing the appropriations for arming and equipping the military of the States and Territories—to the Committee on Military Affairs.

Also, petition of Mex. J. Johnson, of the Swedish Courier, Chicago, Ill., in opposition to the passage of House bill No. 6071, relating to second-class mail matter—to the Committee on the Post-Office and Post-Roads.

By Mr. BOWERSOCK: Petition of R. J. Wilkin and others, of Welda, Kans., in favor of Senate bill No. 1439, relating to an act to regulate commerce—to the Committee on Interstate and Foreign Commerce.

By Mr. BROMWELL: Resolution of Pork Packers and Provision Dealers' Association of Cincinnati, Ohio, favoring the passage of Senate bill No. 1439, to amend the act to regulate commerce—to the Committee on Interstate and Foreign Commerce.

By Mr. BROSIUS: Resolution of Post No. 405, Grand Army of the Republic, of Lancaster, Pa., favoring the establishment of a Branch Soldiers' Home for disabled soldiers at Johnson City, Tenn.—to the Committee on Military Affairs.

Also, petition of Mrs. O. B. Cake, of Lancaster County, Pa., in opposition to the passage of House bill No. 6071, relating to second-class mail matter—to the Committee on the Post-Office and Post-Roads.

By Mr. BURKE of South Dakota: Petition of the Firesteel Church, Badger township, Davis County, S. Dak., urging the enactment of a clause in the Hawaiian constitution forbidding the manufacture and sale of intoxicating liquors and a prohibition of gambling and the opium trade—to the Committee on the Territories.

By Mr. BURKETT: Resolution of Roberts Post, No. 104, Grand Army of the Republic, Department of Nebraska, in support of House bill No. 7094, to establish a Branch Soldiers' Home at Johnson City, Tenn.—to the Committee on Military Affairs.

Also, papers to accompany House bill No. 8881, for the removal of the charge of desertion from the record of Robert Ricketts—to the Committee on Military Affairs.

Also, papers to accompany House bill No. 8882, to remove the charge of desertion from the record of William H. Spradling—to the Committee on Military Affairs.

By Mr. CALDWELL: Petition of Anna G. Whipple and others, of Springfield, Ill., and publishers of the Riverton Enterprise, against the passage of House bill No. 6071, relating to second-class mail matter—to the Committee on the Post-Office and Post-Roads.

By Mr. CAPRON: Resolution of the Providence, R. I., Typographical Union, in favor of the passage of House bill No. 6872, to print the label of the Allied Printing Trades on all publications of the Government—to the Committee on Printing.

Also, resolution of Kickemint Grange, No. 24, of Warren, R. I., urging the passage of Senate bill No. 1439, known as the Cullom bill—to the Committee on Interstate and Foreign Commerce.

By Mr. CLARK of Missouri: Resolutions of Yeager Sharp Post, No. 82, Grand Army of the Republic, of Wellsville, Mo., in favor of House bill No. 7094, to establish a Branch Soldiers' Home at Johnson City, Tenn.—to the Committee on Military Affairs.

By Mr. CLARKE of New Hampshire: Protests of Miss Ida E. Dow, of Hollis, and D. S. Perkins, of Campton and vicinity, New Hampshire, against the passage of the Loud bill—to the Committee on the Post-Office and Post-Roads.

Also, petition of Marlow Post, No. 86, Grand Army of the Republic, in favor of House bill No. 7094, for the establishment of a Branch Soldiers' Home at Johnson City, Tenn.—to the Committee on Military Affairs.

By Mr. CONNELL: Petition of Preston Evans and other citizens of Lackawanna County, Pa., against the passage of House bill No. 6071, known as the Loud bill—to the Committee on the Post-Office and Post-Roads.

By Mr. CRUMP: Petition of W. H. Gilbert and others, of Bay City, Mich., to amend the present law in relation to the sale of oleomargarine—to the Committee on Agriculture.

Also, petitions of Samuel Currey and others, of Bay City, Mich.; George W. Babcock, Mrs. M. H. Ferrell, W. Laport, and others, in Luman, and Alpena, Mich., against the passage of House bill No. 6071, relating to second-class mail matter—to the Committee on the Post-Office and Post-Roads.

By Mr. DALZELL: Protest of Union Veteran Legion of Pittsburg, Pa., against legislation removing charges of desertion, etc.—to the Committee on Military Affairs.

By Mr. DOLLIVER: Petitions of W. H. Pruter and other citizens of West Side; Louis C. Peterson and others, of Woden; Chris. Morck and others, of Fallow; J. C. Nelson, and others, of Crystal Lake; S. S. Morrison and others, of Blairsburg, and C. Peterson and others, of Ruthven, Iowa, favoring the passage of the Grout oleomargarine bill—to the Committee on Agriculture.

By Mr. DOVENER: Petitions of E. N. Lancaster and other citizens of Vincen; Myrtle Steel and 12 other ladies of Clarksburg, W. Va., against the passage of House bill No. 6071, relating to second-class mail matter—to the Committee on the Post-Office and Post-Roads.

By Mr. EMERSON: Papers to accompany House bill for the relief of Nathan Davis, 2d, and others—to the Committee on Military Affairs.

Also, protest of Bert Lord and others, of Coopersville, N. Y., against the passage of House bill No. 6071, known as the Loud bill—to the Committee on the Post-Office and Post-Roads.

By Mr. ESCH: Petition of Adell Weaver and others, of Tunnel City, Wis., against the passage of House bill No. 6071—to the Committee on the Post-Office and Post-Roads.

Also, resolutions of the board of directors of the Chamber of Commerce of Milwaukee, Wis., praying for legislation to build up the merchant marine of the United States—to the Committee on the Merchant Marine and Fisheries.

By Mr. FARIS: Petition of the Woman's Christian Temperance Union of Martinsville, Ind., for the passage of a bill giving prohibition to Hawaii, and in relation to the government of our new possessions—to the Committee on the Territories.

By Mr. FITZGERALD of Massachusetts: Resolutions of the city council of Boston, Mass., for the construction of gunboats and cruisers in the Charlestown Navy-Yard—to the Committee on Naval Affairs.

By Mr. GORDON: Petition of Martin Courtney and others, of Lima, Ohio, in opposition to the passage of House bill No. 6071, relating to second-class mail matter—to the Committee on the Post-Office and Post-Roads.

Also, petition of Lewis Deninger and others, of Greenville, Ohio, in favor of the Grout bill taxing oleomargarine—to the Committee on Agriculture.

By Mr. GREEN of Pennsylvania: Petition of E. B. Young Post, No. 87, Grand Army of the Republic, of Allentown, Pa., in support of House bill No. 7094, to establish a Branch Soldiers' Home at Johnson City, Tenn.—to the Committee on Military Affairs.

By Mr. GRIFFITH: Papers to accompany House bill No. 1853, granting a pension to Mary McGowan—to the Committee on Invalid Pensions.

Also, resolutions of Speer Post, No. 189, Grand Army of the Republic, of Dillsboro, Ind., in favor of House bill No. 7094, for the establishment of a Branch Soldiers' Home at Johnson City, Tenn.—to the Committee on Military Affairs.

By Mr. GROUT: Petition of Rev. George H. Sisson and 24 citizens of Waterbury, Vt., urging a clause in the Hawaiian constitution forbidding the manufacture and sale of intoxicating liquors and a prohibition of gambling and the opium trade—to the Committee on the Judiciary.

Also, resolutions of the American Newspaper Publishers' Association, urging the passage of House bill No. 5765, known as the Russell bill, relating to the revenue tax on alcohol in manufactures, etc.—to the Committee on Ways and Means.

By Mr. HALL: Resolutions of J. O. Campbell Post, No. 272; C. E. Patton Post, No. 532; Eli Berlin Post, No. 629; Grove Brothers Post, No. 262; Lorimer Post, No. 179; Lookout Post, No. 425; and George Harleman Post, No. 302, Department of Pennsylvania, Grand Army of the Republic, in favor of House bill No. 7094, for the establishment of a Branch Soldiers' Home at or near Johnson City, Tenn.—to the Committee on Military Affairs.

By Mr. HEMENWAY: Petition of Elberfield Post, No. 484, Grand Army of the Republic, Department of Indiana, praying for the passage of House bill No. 7094—to the Committee on Military Affairs.

By Mr. HEPBURN: Petitions of the United Presbyterian

Church of Christ and Advent Christian churches of Shannon City, Iowa, urging a clause in the Hawaiian constitution forbidding the manufacture and sale of intoxicating liquors and a prohibition of gambling and the opium trade—to the Committee on the Territories.

Also, papers to accompany House bill for the relief of Albert S. Hughes—to the Committee on Military Affairs.

By Mr. HOPKINS: Petition of Fred Elfing and other citizens of McHenry County, Ill., favoring the Grout bill relating to dairy products—to the Committee on Agriculture.

Also, petition of R. W. Wood and others, of Elgin, Ill., against the passage of House bill No. 6071, relating to second-class mail matter—to the Committee on the Post-Office and Post-Roads.

By Mr. LACEY: Petition of George K. Hayes and others, of Searsboro, Iowa, against the passage of the Loud bill—to the Committee on the Post-Office and Post-Roads.

Also, petition of Charlton Post, Grand Army of the Republic, favoring the establishment of a Branch Soldiers' Home for disabled soldiers at Johnson City, Tenn.—to the Committee on Military Affairs.

By Mr. LITTAUER: Petition of Thomas & Co. and others, of Ketchums Corners, N. Y., in favor of the Grout bill taxing oleomargarine—to the Committee on Agriculture.

Also, protests of Elmer C. Finch and others, of West Stockholm, N. Y.; Mrs. A. D. Mills and others, of Winthrop, N. Y.; Milton Towne and others, of Hammond, N. Y., against the passage of House bill No. 6071, relating to second-class mail matter—to the Committee on the Post-Office and Post-Roads.

By Mr. LONG: Resolutions of Thomas M. Sweeney Post, No. 361; Eldred Post, No. 174, and Woodsdale Post, No. 449, Grand Army of the Republic, Department of Kansas, favoring the passage of a bill to establish a Branch Soldiers' Home near Johnson City, Tenn.—to the Committee on Military Affairs.

By Mr. LORIMER: Memorial of the trustees of the Sanitary District of Chicago, favoring the construction by the Government of the United States of a deep waterway from Lake Michigan via the Chicago sanitary and ship canal and the Desplaines and Illinois rivers to the Mississippi River—to the Committee on Rivers and Harbors.

By Mr. LYBRAND: Petition of J. H. Argo and 40 citizens of Logan County, Ohio, in favor of the Grout bill taxing oleomargarine—to the Committee on Agriculture.

By Mr. McPHERSON: Petitions of G. P. Russell and 41 citizens of Bayard, George A. Sterr and 39 citizens of Portsmouth, Charles M. Brooke and 40 citizens of Walnut, Iowa, favoring the passage of the Grout oleomargarine bill—to the Committee on Agriculture.

Also, petitions of Belden Post, No. 59, and Portsmouth Post, No. 494, Grand Army of the Republic, Department of Iowa, favoring the location of a Branch Soldiers' Home at Johnson City, Tenn.—to the Committee on Military Affairs.

By Mr. MANN: Resolution of the Chicago Real Estate Board, in favor of the extension of the pneumatic postal tube system to some of the Western cities—to the Committee on the Post-Office and Post-Roads.

Also, petition of O. Schmidt, of Chicago, Ill., for the repeal of the stamp tax on medicines, perfumery, and cosmetics—to the Committee on Ways and Means.

By Mr. MERCER: Petition of W. H. Jones and other citizens of Hastings and Omaha, Nebr., and resolutions of the Business Men's College of Lincoln, Nebr., against the Loud bill—to the Committee on the Post-Office and Post-Roads.

Also, petition of the Omaha Guards, Omaha, Nebr., urging the passage of a bill to improve the armament of the militia—to the Committee on the Militia.

By Mr. NEVILLE: Memorials of Hancock Post, No. 234, and Samuel Rice Post, No. 256, Grand Army of the Republic, of Nebraska, favoring the passage of a bill to establish a Branch Soldiers' Home near Johnson City, Tenn.—to the Committee on Military Affairs.

Also, petition of W. T. Owens and 4 other fourth-class postmasters of Sherman County, Nebr., in favor of the passage of House bills Nos. 4930 and 4931—to the Committee on the Post-Office and Post-Roads.

By Mr. O'GRADY: Petitions of Mrs. Mary Loomis, Bertha Lesso, and others, of Brockport, Union Hill, and Rochester, N. Y., against the passage of the Loud bill relating to second-class mail matter—to the Committee on the Post-Office and Post-Roads.

Also, petition of Lorenzo W. Hill and others, of Churchville, N. Y.; Megargel & Harrison and other citizens of Rochester, N. Y., against the passage of the Loud bill relating to second-class mail matter—to the Committee on the Post-Office and Post-Roads.

By Mr. OTEY: Petition of Blanche P. Pool, of Midway, Va., in opposition to the passage of House bill No. 6071, relating to second-class mail matter—to the Committee on the Post-Office and Post-Roads.

Also, protest of Leonard Cox, of Smithville, Va., against the passage of House bill No. 6071, relating to second-class mail matter—to the Committee on the Post-Office and Post-Roads.

By Mr. PHILLIPS: Papers to accompany House bill No. 9033, for the relief of Reed F. Clark—to the Committee on Invalid Pensions.

By Mr. POLK: Petition of Burnside Post, No. 92, Grand Army of the Republic, of Mount Carmel, Pa., in support of House bill No. 7094, to establish a Branch Soldiers' Home at Johnson City, Tenn.—to the Committee on Military Affairs.

Also, paper to accompany House bill for the relief of James Stewart, of Danville, Pa.—to the Committee on Military Affairs.

By Mr. POWERS: Petition of Grand Army of the Republic of Bristol, Vt., in favor of a bill locating a Branch Soldiers' Home near Johnson City, Tenn.—to the Committee on Military Affairs.

Also, petition of B. F. Billings and others, of Hubbardton and East Wallingford, Vt., in opposition to the passage of House bill No. 6071, relating to second-class mail matter—to the Committee on the Post-Office and Post-Roads.

By Mr. PRINCE: Petition of Trask & Talle and other business firms of New Boston, Ill., in opposition to House bill No. 8246, in relation to fishing in fresh waters of the United States—to the Committee on the Merchant Marine and Fisheries.

By Mr. RAY of New York: Petition of A. A. Chisholm and other citizens of Treadwell, N. Y., and citizens of Norwich, Smyrna, West Groton, Hobart, Rock Valley, and Binghamton, N. Y., in opposition to the passage of House bill No. 6071, relating to second-class mail matter—to the Committee on the Post-Office and Post-Roads.

By Mr. ROBINSON of Indiana: Resolutions of Grand Army of the Republic post of Waterloo, Ind., and of De Long Post, No. 67, of Auburn, Ind., Grand Army of the Republic, indorsing House bill No. 7094, for the location of a Branch Soldiers' Home at Johnson City, Tenn.—to the Committee on Military Affairs.

Also, petition of M. L. Hussey & Son, of Cromwell, Ind., in opposition to the passage of House bill No. 6071, relating to second-class mail matter—to the Committee on the Post-Office and Post-Roads.

Also, petition of F. E. Davenport and citizens of Auburn, Ind., for the repeal of the stamp tax on medicines, etc.—to the Committee on Ways and Means.

By Mr. RUSSELL: Petition of Mrs. Fannie A. Cragg and others, of Versailles, Conn., and other citizens of the State of Connecticut, against the passage of the Loud bill—to the Committee on the Post-Office and Post-Roads.

By Mr. RYAN of New York: Petition of Branch No. 3, National Association of Letter Carriers, Buffalo, N. Y., for the passage of a bill for the equalization of the salaries of letter carriers—to the Committee on the Post-Office and Post-Roads.

By Mr. SHERMAN: Protests of Margaret Kelly and others, of Sherrill, N. Y., and W. S. Westcott and others, of Oriskany Falls, N. Y., against the passage of the Loud bill—to the Committee on the Post-Office and Post-Roads.

By Mr. SMALL: Petition of R. B. Creecy and 71 citizens of Elizabeth, N. C., for a preliminary survey from a point on the Pasquotank River to Beaufort Inlet and the deepening of said inlet—to the Committee on Rivers and Harbors.

By Mr. SPALDING: Petition of Retail Grocers and General Merchants' Association of North Dakota, against the parcels-post bill—to the Committee on the Post-Office and Post-Roads.

Also, petition of Frank Wilder, of Mandan, N. Dak., and 14 citizens of Fort Ransom, N. Dak., against the passage of House bill No. 6071, relating to second-class mail matter—to the Committee on the Post-Office and Post-Roads.

Also, petition of Post No. 5, Department of North Dakota, Grand Army of the Republic, urging the passage of Senate bill No. 1716 and House bill No. 4742, for military instruction in public schools—to the Committee on Militia.

By Mr. SPRAGUE: Petition of Timothy Ingraham Post, No. 121, Grand Army of the Republic, Department of Massachusetts, in favor of House bill No. 7094, for the establishment of a Branch Soldiers' Home at Johnson City, Tenn.—to the Committee on Military Affairs.

Also, petition of the Bricklayers and Masons' International Union, in favor of woman suffrage in our new possessions—to the Committee on the Territories.

Also, petition of the publisher of the Boston Advance, against the passage of the Loud bill relating to second-class mail matter—to the Committee on the Post-Office and Post-Roads.

By Mr. SULLOWAY: Protest of Mrs. James H. Sterling and 8 other citizens of Dover, N. H., against the passage of House bill No. 6071—to the Committee on the Post-Office and Post-Roads.

Also, petition of James S. Hayward and 40 other citizens of Hancock, N. H., to amend the present law in relation to the sale of oleomargarine—to the Committee on Agriculture.

By Mr. SUTHERLAND: Protests of H. S. Dungan, of Hastings,

Nebr., and citizens of Holdrege and Adams counties, Nebr., against the passage of the Loud bill—to the Committee on the Post-Office and Post-Roads.

Also, petition of J. W. Winings and other members of Post No. 217, Grand Army of the Republic, of Benkelman, Nebr., favoring military instruction in public schools—to the Committee on Military Affairs.

Also, resolutions of Cambridge Post, No. 187; Garrett Post, No. 120; Edgar Post, No. 16; and Captain J. H. Frear Post, No. 163, Grand Army of the Republic, Department of Nebraska, indorsing the bill to establish a Branch Home for disabled soldiers at or near Johnson City, Tenn.—to the Committee on Military Affairs.

By Mr. THAYER: Resolutions of the city council of Boston, Mass., for the construction of gunboats and cruisers in the Charlestown Navy-Yard—to the Committee on Naval Affairs.

By Mr. THOMAS of North Carolina: Petition of Lee Maxwell and others, of Resaca and vicinity, North Carolina, in opposition to the passage of House bill No. 6071, relating to second-class mail matter—to the Committee on the Post-Office and Post-Roads.

By Mr. TONGUE: Petition of James Sullivan and other citizens of the State of Oregon, against public-land grants to any but actual settlers—to the Committee on the Public Lands.

By Mr. WANGER: Petition of Henry C. Moyer, of Blooming Glen, Pa., for the establishment of an international government for the promotion of civilization—to the Committee on Foreign Affairs.

By Mr. WEEKS: Petition of Silvina Walker and others, of Berville; also of citizens of Port Huron, Mich., in opposition to the passage of House bill No. 6071, relating to second-class mail matter—to the Committee on the Post-Office and Post-Roads.

By Mr. WRIGHT: Resolutions of Frank Hall Post; Lyon Post, No. 85; Hurst Post, No. 86, and Moody Post, No. 53, Grand Army of the Republic, Department of Pennsylvania, in favor of House bill No. 7094, for the establishment of a Branch Soldiers' Home at Johnson City, Tenn.—to the Committee on Military Affairs.

By Mr. ZIEGLER: Petition of Corporal Skelly Post, No. 9, of Gettysburg, Pa., in favor of House bill No. 7094, for the establishment of a Branch Soldiers' Home at Johnson City, Tenn.—to the Committee on Military Affairs.

HOUSE OF REPRESENTATIVES.

SATURDAY, *March 17, 1900.*

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

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

WITHDRAWAL OF PAPERS.

By unanimous consent, Mr. SLAYDEN obtained leave to withdraw from the files of the House, without leaving copies, the papers in the case of C. C. Cresson, Fifty-fifth Congress, no adverse report having been made thereon.

PURCHASE OF CERTAIN LANDS IN THE DISTRICT OF ALASKA.

Mr. KAHN. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 2757) to authorize the purchase of certain lands in the district of Alaska.

The bill was read, as follows:

Be it enacted, etc., That the Karluk Packing Company, claiming under amended survey No. 24, in the district of Alaska, or its successor in interest, may purchase the land embraced in said survey at $2.50 per acre, being the price fixed by section 10 of the act of Congress approved May 14, 1898, entitled "An act extending the homestead laws and providing for right of way for railroads in the district of Alaska, and for other purposes," and upon such payment patent shall issue as in other cases.

The SPEAKER. Is there objection?

Mr. MADDOX. Reserving the right to object, I would like to have the gentleman explain the bill.

Mr. KAHN. Mr. Speaker, the full import of this bill is very well set out in the report of the committee, which I send to the Clerk's desk and I ask that the Clerk read it.

The SPEAKER. The Clerk will read the report in the gentleman's time.

Mr. KAHN. I wish to say the report is unanimous.

The report (by Mr. BURKE of South Dakota) was read, as follows:

The Committee on the Public Lands, having had under consideration the bill (H. R. 2757) to authorize the purchase of certain lands in the district of Alaska, report the same favorably and recommend its passage.

From the evidence submitted to the committee it appears that the Karluk Packing Company, an association of citizens of the United States, and its predecessors in interest, have been in continuous occupation for more than twenty years of a portion of the narrow strip of land, from 70 to 350 feet in width, known as Karluk Spit, on Kodiak Island, and lying between the open waters of Shellikoff Straits and the Karluk River, and comprising a little less than 20 acres; that the company has erected extensive salmon canneries and necessary warehouses and other buildings thereon which were of the value of $250,000 at the time of the official survey of its claim in 1892, and before the year 1898 its plant had been enlarged and increased by additional canneries and buildings, involving an approximate total expenditure of about $500,000, such buildings and improvements occupying practically the whole of the ground embraced within its present claim, and all being used each season for canning and curing salmon.

The company engaged from season to season in canning and packing salmon, relying upon its title by possession in the absence of any legislation by Congress permitting the purchase of the fee until the passage of the act of March 3, 1891, which provided that citizens of the United States or corporations thereof "now or hereafter in possession of and occupying public lands in Alaska for the purpose of trade and manufacture, may purchase not exceeding 160 acres, to be taken, as near as practicable, in a square form of such land at $2.50 per acre."

The land is a long, narrow strip, and therefore can not be taken in a square form, and was occupied before the passage of the act of March 3, 1891.

Thereunder, and in November, 1891, due application was made by the company for the survey of its claim; such survey was made in the season of 1892, but developed conflicts with several other claimants, who thereafter conveyed their interests to the Karluk Packing Company, resulting in amended survey No. 24, of the Karluk Company's claim as now made, which was on May 2, 1893, approved by the United States surveyor-general of Alaska, and on May 14, 1895, by the Commissioner of the General Land Office. The Commissioner's letter of approval of that date to the United States surveyor-general states:

"This office, recognizing the Karluk Packing Company's possessory right to the land embraced within the lines of the amended survey No. 24, and their ownership of the improvements thereon, the conflicts having been eliminated as evidenced by the deeds of transfer and relinquishment before mentioned, and the Karluk Packing Company amended survey No. 24, now appearing as the only and sole applicants for the land, you are notified that the amended survey No. 24 is hereby accepted, and you are authorized to file the triplicate plat in the United States district land office. * * * You are directed to notify the parties in interest of the acceptance of this survey."

Under the act of 1891, upon notice of the Commissioner's approval of the survey, the claimant was required to publish newspaper notice for six weeks that on a day named therein proof of possession and application to purchase would be submitted before the United States local land officers at Sitka by named witnesses, and to post similar notice upon the land so claimed and in the local land office. Of such notice any adverse claimant was required to take cognizance. Owing to the shortness of the season (which extends in that latitude from about May to October) notice of the approval of its survey did not reach the Karluk Packing Company until too late to make such publication during the season of 1895. But in the season of 1896 such notices were so published and posted, but on the date named for taking its testimony at Sitka, in October of that year, its witnesses failed to then appear, solely because of the distance from its location on Karluk Spit to Sitka, being some 900 miles by sea, and there being no regular communication by steamer.

The witnesses did so reach the local office on November 13, 1896, and the final proof was then submitted but not accepted by the local officers, solely because of the delay, but the matter was submitted by them to the Commissioner for his action. That officer, on March 1, 1897, accepted the reason shown by the company for the delay, but required a new publication and posting of notices before allowing entry. This again compelled postponement of the giving of the required new publication of notice until the season of 1898, when, after due publication and posting of notices, final proof was again submitted before a United States commissioner on Kodiak Island (the law having been in meantime changed to so permit) and then mailed to the United States local land officers at Sitka, by whom it was never received, nor has it since come to light.

While the company was thus proceeding to complete title under its approved survey, and while the law of 1891 clearly recognized its claim as so surveyed and accepted by the commissioner, the final payment and entry was delayed by the circumstances stated, and which were beyond its control until, in the meantime, Congress passed the act of May 14, 1898, which for the first time restricted the area of claims then pending under the former act of 1891 to 160 rods of water front.

This limitation put the Karluk Packing Company in a hard situation. The extent of water front upon this narrow spit fronting the Shellikoff Straits exceeded this new statutory limitation by some 60 rods, and the frontage of its claim on the Karluk River was also about 160 rods. Its extensive improvements occupy almost the entire area of its claim, representing, as stated, an expenditure of some $500,000, and all made prior to the passage of the act of 1898, and any curtailment of its claim to the new limitation of 160 rods as the entire water front thereof would necessarily compel it to abandon some of its canneries, warehouses, and other improvements which it had placed thereon in entire good faith under the former law of 1891, which contained no such limitation, and leave them liable to appropriation by some newcomer who had not expended a dollar thereon.

In this situation the company has appealed to Congress for equitable relief and asks by pending bill to be permitted to purchase and receive patent for the ground embraced by its approved and accepted survey under the act of 1891, and known as amended survey No. 24.

In the opinion of your committee such relief should be accorded as asked. The equities of the case are plain. The company has had for over twenty years the prior and exclusive possession; is engaged in the meritorious business of producing an article of food supply extensively used in the United States and exported to other countries as well. It can not remove its valuable plant and improvements; it should not be asked to surrender any part thereof to strangers, and the area of its claim (20 acres) is far within the maximum of 160 acres allowed to be entered under the act of 1891. Right of entry to those in actual possession, and especially in protection to their improvements made in good faith, has been the uniform policy of land legislation since the earliest days and has express sanction in both the Alaska acts of 1891 and 1898. Recognition of the equities of present case is in entire accord with that uniform established legislative policy.

The wisdom of the general law in limiting the shore front of claims as expressed in the act of 1898 is undoubted. The present instance is, however, peculiar, and presents a case of extreme hardship under the general law which should be relieved when, as appears, the claim was initiated and has been maintained in good faith for over twenty years; was pressed for final adjustment under the act of 1891, which contained no such limitation; when the survey was approved by the Land Department at Washington as in full accord with that law, and when final entry thereunder was prevented only by a series of delays and mishaps which the company could not control.

The evidence submitted before the committee, and now upon its files, shows clearly that the Karluk River is not a navigable stream in any proper general sense, because accessible by reason of its shallow waters only to the use of rowboats and small flatboats in conveying the fish to the canneries, while the shore fronting the sea or the Shellikoff Straits can not be used for wharf purposes, because in times of northeast gales the waves are driven high upon the spit and sometimes even across it.

As the act of 1898 contains the limitation of shore frontage only upon navigable waters, it is manifest to the committee that the excess thereover found in present case is far more apparent than real in every practical sense.

It further appears that some 600 men are employed at these canneries in each season; that an expensive salmon fish hatchery, involving an original