

By Mr. THOMPSON: The petition of James C. McKee, that the consummation of the crime against the country by the action of the electoral commission may be prevented by using all legal means, to the Committee on the Judiciary.

By Mr. WADDELL: Resolutions of the Legislature of North Carolina, favoring the construction of a Southern Pacific Railroad, to the Committee on the Pacific Railroad.

By Mr. WALDRON: Joint resolution of the Legislature of Michigan, for an appropriation to construct a light-house on the point of Little Traverse Harbor, Michigan, to the Committee on Commerce.

By Mr. W. B. WILLIAMS: Joint resolution of the Legislature of Michigan, of similar import, to the same committee.

IN SENATE.

FRIDAY, March 2, 1877.

The Senate met at twelve o'clock noon.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

On motion of Mr. CAMERON, of Pennsylvania, and by unanimous consent, the reading of the Journal of yesterday's proceedings was dispensed with.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Secretary of War, transmitting, for the information of the Committee on Military Affairs, a letter of the Adjutant-General of the 24th instant, touching the memorial of the General Assembly of Colorado asking for an appropriation for a military wagon-road from White River agency, Summit County, to Hot Sulphur Springs, Grand County, Colorado; which was referred to the Committee on Military Affairs, and ordered to be printed.

He also laid before the Senate a message from the President of the United States, transmitting, in response to a resolution of the 27th instant, a report of the Secretary of State relating to the payment of moneys claimed to be now due the Dominican government from the Government of the United States; which was referred to the Committee on Appropriations.

EDWARD A. LELAND—VETO MESSAGE.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States; which was read:

To the Senate of the United States:

I have the honor to return herewith, without my approval, Senate bill No. 691, entitled "An act for the relief of Edward A. Leland."

The reasons for withholding my approval may be found in the accompanying communications received from the Secretary of the Interior.

U. S. GRANT.

EXECUTIVE MANSION, February 28, 1877.

DEPARTMENT OF THE INTERIOR,
Washington, February 27, 1877.

SIR: I have the honor to return herewith the bill (S. 691) entitled "An act for the relief of Edward A. Leland," accompanied by copy of a letter from the Commissioner of Patents suggesting an objection to the bill in its present form, and to recommend that it be returned to Congress for amendment in accordance with the suggestions of the Commissioner.

I have the honor to be, very respectfully,

Z. CHANDLER,
Secretary.

The PRESIDENT.

DEPARTMENT OF THE INTERIOR, UNITED STATES PATENT OFFICE,
Washington, D. C., February 27, 1877.

SIR: In the matter of the enrolled bill (S. No. 691) extending letters-patent of Edward S. Leland, I have the honor to report that said letters-patent were granted for an improved paint-can, August 14, 1860, for the term of fourteen years, that they consequently expired on the 14th day of August, 1874, whereupon the invention became the property of the public.

The present act proposes to extend the term of the patent seven years from said 14th day of August, 1874, and give to them the same effect in law as if they had been originally granted for the term of twenty-one years.

It will be seen, therefore, that those who have innocently used and purchased the invention since the expiration of the letters-patent on the 14th of August, 1874, under the impression that the invention was the property of the public, will, by the retroactive terms of the bill, be liable for damages for such use upon suits for infringement.

This hardship is generally, if not always, provided against by a proviso to such bills, setting forth in terms "that no person shall be held liable for the infringement of said patent, if extended, for making use of said invention since the expiration of the original term of said patent and prior to the date of its extension."

Unless such a proviso is incorporated into the present bill the injustice alluded to may be done.

Very respectfully, your obedient servant,

ELLIS SPEAR,
Commissioner of Patents.

HON. Z. CHANDLER,
Secretary of the Interior.

Mr. MORRILL. As I do not see the chairman of the Committee on Patents in the Chamber, I move that the message be referred to the Committee on Patents.

The motion was agreed to.

CREDENTIALS.

Mr. KELLY presented the credentials of La Fayette Grover, elected by the Legislature of Oregon a Senator from that State for the term commencing March 4, 1877; which were read and ordered to be filed.

Mr. RANSOM presented the credentials of M. C. Butler, elected by the Legislature of South Carolina a Senator from that State for the term commencing March 4, 1877; which were read and ordered to be filed.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a petition of Robert S. Kennedy, John F. Henry, and many others, bankers and merchants of the city of New York, praying for the immediate completion of the count of the electoral vote; which was ordered to lie on the table.

He also presented a petition of E. T. Kendrick and 30 others, of Florida, praying for cheaper telegraphic facilities and that the telegraph business be transferred to the superintendence of the Post-Office Department; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a resolution of the Legislature of Michigan, in favor of the passage of a law providing for a survey of Portage Lake, Manistee County, Michigan, with a view to the construction of a harbor of refuge; which was referred to the Committee on Commerce.

He also presented a memorial of the Legislative Assembly of Montana Territory, in favor of the passage of a law providing for the sale of a portion of their school lands, the proceeds of which shall be used in maintaining their schools; which was referred to the Committee on Public Lands.

He also presented a memorial of the Legislative Assembly of Montana Territory, praying the passage of an act to so amend the organic act of that Territory as to permit and authorize the Legislative Assembly of that Territory to prescribe the mode and manner for the election of certain officers; which was referred to the Committee on Territories.

He also presented a memorial of the Legislative Assembly of Montana Territory, in favor of the establishment of a mail-route from Bozeman City, Montana Territory, to the city of Cheyenne, in the Territory of Wyoming; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of H. H. Porter and 130 others, praying an appropriation for the survey of the outlet to Portage Lake, Michigan; which was referred to the Committee on Appropriations.

He also presented a resolution of the Legislature of the State of Michigan in favor of an appropriation for a light-house at the entrance of Little Traverse Harbor, Michigan; which was referred to the Committee on Appropriations.

Mr. CAMERON, of Pennsylvania, presented two petitions of citizens of Pennsylvania, praying the repeal of the law imposing taxes on the deposits, circulation, and capital of all banks; which were referred to the Committee on Finance.

He also presented resolutions of the City Council of Philadelphia, asking the retention of the original draft of the Declaration of Independence in the exposition established in that city; which were referred to the Committee on the Library.

He also presented a resolution of the Franklin Institute of Pennsylvania, in favor of an appropriation for the establishment of a colony in the Arctic regions for the purpose of making explorations, &c., in the direction of the North Pole; which was referred to the Committee on Military Affairs.

He also presented a memorial of the Philadelphia Board of Trade, remonstrating against any change in the present tariff and internal revenue laws; which was referred to the Committee on Finance.

He also presented a petition of citizens of Pittsburgh, Pennsylvania, praying for the passage of House bill No. 4298, for the improvement of the Youghiogheny River in Pennsylvania; which was referred to the Committee on Commerce.

Mr. McCREERY presented the petition of A. Buford, of Midway, Kentucky, praying the removal of his political disabilities; which was referred to the Committee on the Judiciary.

Mr. CLAYTON presented the petition of Lewis Downing, James McDaniel, Paulina Jones, and others, praying for relief for military services rendered by them from March 25, 1863, to May 31, 1865; which was referred to the Committee on Military Affairs.

He also presented a petition of citizens of Sebastian and Franklin Counties, Arkansas, praying for the extension of a mail route from Charleston to Alma; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. KERNAN presented a memorial of head-men and warriors of the Seneca Nation of New York Indians, residing on the Alleghany Indian reservation, remonstrating against the passage of the bill to amend the act of February 19, 1875, in respect to leasing lands on said reservation; which was referred to the Committee on Indian Affairs.

REPORTS OF COMMITTEES.

Mr. MORRILL, from the Committee on Public Buildings and Grounds, to whom was referred the bill (H. R. No. 4112) directing the Secretary of the Treasury to report upon the necessity of a public building at Rochester, New York; reported adversely thereon, and the bill was postponed indefinitely.

He also, from the Committee on Finance, to whom was referred the bill (H. R. No. 3925) relating to the production of fruit brandy, and to punish frauds connected with the same, reported it with an amendment.

Mr. WRIGHT, from the Committee on Claims, to whom was referred the bill (H. R. No. 401) for the relief of Mrs. Flora A. Darling,

of New Hampshire, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the petition of Frances Lynch, of Cheraw, South Carolina, praying compensation for subsistence stores furnished the United States Army in 1865, asked to be discharged from its further consideration; which was agreed to.

He also, from the Committee on Claims, to whom was referred the bill (S. No. 858) for the relief of William C. Edmoustone, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 1038) for the relief of George E. Hosie, late inspector of tobacco, cigars, and snuff in and for the second internal-revenue collection district of the State of Mississippi, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the petition of Jesse Ward, praying compensation for property taken and appropriated by United States forces during the late war, submitted an adverse report thereon, which was ordered to be printed, and he moved that the claim be rejected; which motion was agreed to.

Mr. CRAGIN, from the Committee on Naval Affairs, to whom was referred the bill (S. No. 1173) for the relief of Frederick R. Smith, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. PADDOCK. I am instructed by the Committee on Agriculture to report back certain memorials referred to that committee relating to an appropriation to defray the expenses of a commission to investigate the grasshopper subject and recommend that the memorials be referred to the Committee on Appropriations, which has had that subject under consideration. I move that the memorials be referred to the Committee on Appropriations.

The motion was agreed to.

REPORT ON MINING STATISTICS.

Mr. ANTHONY. I am directed by the Committee on Printing, to whom was referred a resolution of the House of Representatives to print 4,000 copies of the report of R. W. Raymond on mining statistics, to report it without amendment, and I ask for its present consideration.

By unanimous consent the Senate proceeded to consider the resolution, as follows:

Resolved by the House of Representatives, (the Senate concurring.) That there be printed of the report of R. W. Raymond on mining statistics for 1873, with the accompanying engravings, 3,500 copies for the use of the House of Representatives, 1,000 for the Senate, and 500 for the Secretary of the Treasury and commissioners.

The resolution was agreed to.

REPORT ON OREGON ELECTORAL VOTE.

Mr. ANTHONY. I am directed by the same committee, to whom was referred a resolution to print five thousand copies of the report on the electoral vote in the Oregon case, to report it with an amendment striking out the words "and House" after "Senate," so as to read:

Resolved, That 5,000 additional copies of the evidence and report in the case of the Oregon electoral vote be printed for the use of the Senate.

I ask for the present consideration of the resolution.

Mr. WHYTE. I object to the consideration of the resolution at this time.

The PRESIDENT *pro tempore*. Objection being made, the resolution goes over.

VIRGINIA E. WHITE.

Mr. KERNAN. I am authorized by the Committee on Finance, to whom was referred the bill (H. R. No. 1016) for the relief of Virginia E. White, of Ohio County, West Virginia, to report it without amendment. There is a report of the House committee which states the facts, and that report is presented with the bill. I have been requested to ask that the bill be considered now. I would state that it returns \$1,250 of tax erroneously and improperly assessed on income.

By unanimous consent the Senate as in Committee of the Whole, proceeded to consider the bill. It authorizes the Secretary of the Treasury to pay to Virginia E. White, widow and executrix of Andrew White, deceased, who was administrator, with the will annexed, of Daniel Steenrod, deceased, \$1,250, being the amount of tax erroneously and improperly assessed on income on the estate of Daniel Steenrod, deceased, and paid by Andrew White as the administrator of the estate, and since his death recovered of Virginia E. White as the executrix of Andrew White by the residuary legatees of Daniel Steenrod.

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

HERMAN HULMAN.

Mr. COOPER. I am directed by the Committee on Finance, to whom was referred the bill (H. R. No. 256) for the relief of Herman Hulman, of Terre Haute, Indiana, to report it without amendment.

Mr. MORTON. I should be glad to have that little bill considered now, if there is no objection to it.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Commissioner of Internal Revenue to allow the amount of the claim filed by Herman Hulman, of Terre Haute, Indiana, for abatements in his office, for the sum of \$1,809.41, as the abatements asked for by him are right and proper, and he should not be required to pay that amount to the Government.

Mr. SAULSBURY. I think there ought to be some explanation made of the bill.

Mr. SHERMAN. The only objection I have to the bill is the reason given in the bill for its passage. I have no doubt the bill is just. It is the abatement of a forfeiture imposed on a distillery by an erroneous estimate of its capacity. I suppose it is all correct, but I do not like the phraseology of it, and if we are to amend it at all, the reason given in the bill for its passage ought to be stricken out. The Senator from Tennessee [Mr. COOPER] examined it carefully, I have no doubt.

Mr. MORTON. An amendment would necessitate sending the bill back to the House and endanger its passage. Although there may be objection to the phraseology of the bill, I prefer to have it passed as it is.

Mr. COOPER. I examined the bill once before for the committee, and reported under instruction from the committee in favor of its rejection. Upon a recommitment to the committee and an examination of the facts, the committee became satisfied that the Commissioner of Internal Revenue was mistaken himself in regard to the facts. After examining the facts thoroughly we became convinced that it is similar to a bill heretofore passed and that it is in strict accordance with law; that is, that Mr. Hulman should not in any way be held responsible for the mistake which was made by the assessor upon an application made out by the assessor, which failed to accomplish what Mr. Hulman intended and what the assessor supposed would be accomplished by the application. The bill is just. The phraseology certainly ought to be amended, but as an amendment to the bill would send it back to the House, and would be simply a change of phraseology, it had better be allowed to pass in its present form.

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

COLONEL FRANK L. WOOLFORD.

Mr. McCREERY. I rise to ask for the present consideration of a bill which I hold in my hand. I do not believe, if the Senate hear it read, that there will be any objection from any quarter.

The PRESIDENT *pro tempore*. Is there objection to the motion? The Chair hears none.

Mr. McCREERY. I move that the Senate proceed to the consideration of the bill (H. R. No. 4117) for the relief of Colonel Frank L. Woolford, late of the First Kentucky Cavalry Volunteers, of certain disabilities.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It relieves Colonel Frank L. Woolford, late of the First Kentucky Cavalry Volunteers, from all the penalties and effects of General Order No. 117, dated at Washington, March 24, 1864, signed E. D. Townsend, Assistant Adjutant-General, dishonorably dismissing him from the service of the United States, and restores him to all the rights and privileges he would be entitled to had said order not been issued and enforced.

Mr. CAMERON, of Pennsylvania. I trust that this bill will pass without any opposition. When at this moment, on this side of the House, we are in such good humor, and when I trust our friends on the other side are a little penitent, we ought to be magnanimous. This man was a good soldier on the Union side; but he had a frailty; he thought he was an orator; and upon one occasion he was a little too "handy with his tongue," to use an expression very common among the Scotch-Irish of Pennsylvania, and he made some very foolish remarks. After having fought and having been wounded, and having gone everywhere that duty called him, he was dismissed by the Secretary of War. I think it was a little cruel, and I trust this bill will be passed.

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

REPORT ON LOUISIANA INVESTIGATION.

Mr. HOWE. The Committee on Privileges and Elections has instructed the subcommittee designated to make inquiry in the State of Louisiana to make a partial report which I now send to the Chair and ask to have printed. Further report will be made from the same committee some days hence touching a portion of the State not included in this report.

Mr. SAULSBURY. The Senator from Indiana [Mr. McDONALD] and myself being unable to agree in our conclusions with the majority of the subcommittee on questions of law and fact I have been authorized by the Committee on Privileges and Elections to submit the views of the minority, which I shall be prepared to do to-day. I ask therefore that I may be allowed to place upon the file to-day the views of the minority in connection with the report which has been presented by the Senator from Wisconsin.

The PRESIDENT *pro tempore*. Is there objection to the submission of the views of the minority to accompany the report? The Chair hears none, and it is so ordered.

Mr. SAULSBURY. I desire that the same order in reference to printing may be taken in regard to the minority report that may be made with reference to the regular report.

The PRESIDENT *pro tempore*. That has been ordered.

PAPERS WITHDRAWN.

On motion of Mr. MITCHELL, it was

Ordered, That Mrs. Elizabeth Stevens, administratrix of Hazard Stevens, have leave to withdraw her petition and papers from the files of the Senate.

TROOPS IN THE MODOC COUNTRY.

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

Resolved, That the Secretary of War furnish for the use of the Senate a copy of the final report of the operations of the troops in the Modoc country by General Alvan Gillem, while under his command, which report is dated 1st June, 1874.

INAUGURATION CEREMONIES.

Mr. MORRILL. I offer the following resolution, which is customary, I believe:

Resolved, That a committee of three Senators be appointed by the President *pro tempore* to make the necessary arrangements for the inauguration of the President-elect of the United States on the 5th of March instant.

The resolution was agreed to.

The PRESIDENT *pro tempore* appointed Mr. MORRILL, Mr. HOWE, and Mr. McDONALD as the committee.

Subsequently Mr. McDONALD, being unable to serve, was excused from service and Mr. McCREERY appointed in his place.

AMENDMENTS TO AN APPROPRIATION BILL.

Mr. MORRILL. I am directed by the Committee on Public Buildings and Grounds to report an amendment intended to be proposed to the bill (H. R. No. 4680) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and for other purposes. I do not ask to have it printed, but merely referred to the Committee on Appropriations. I make that motion.

The motion was agreed to.

Mr. COOPER, Mr. McDONALD, and Mr. KELLY submitted amendments intended to be proposed by them to the bill (H. R. No. 4680) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and for other purposes; which were referred to the Committee on Appropriations.

DEFICIENCY APPROPRIATION BILL.

Mr. SARGENT submitted the following report; which was read:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4559) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1877, and for prior years, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 49, 58, 68, and 70.
That the House recede from its disagreement to the amendments numbered 1, 2, 3, 6, 7, 8, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 50, 51, 52, 53, 54, 55, 56, 57, 59, 60, 61, 63, 64, 65, 66, 69, 71, 72, 74, 75, 76, 77, 78, 79, and 80, and agree to the same.

That the House recede from its disagreement to the amendment numbered 4 and agree to the same, with an amendment, as follows: Strike out of said amendment these words "to H. F. Hutchinson, \$259.25," "to Andrew Carnes, \$147.60," "to Louis Delano, \$313.64," and strike out in lines 12 and 13 the words "nine hundred and thirteen dollars and sixty-eight," and insert in lieu thereof "one hundred and ninety-three dollars and seventy-nine;" and the Senate agree to the same.

That the Senate recede from its amendment numbered 5, with an amendment substituting the words "Treasury Department" for "Internal Revenue Office;" and the House agree to the same.

That the House recede from its disagreement to the amendment numbered 14, and agree to the same with an amendment as follows: In line 5 of said amendment strike out "three hundred and seventy" and insert "and fifty-three;" in lines 6 and 7 strike out "five hundred and twenty-four" and insert "two hundred and seven;" and add at the end of the amendment the following: "and no part of this sum shall be used for payment of postage or purchase of postage-stamps;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 15 and agree to the same, with an amendment as follows: Strike out from said amendment the word "four," and strike out on page 6, line 2, of the bill, the words "hundred thousand" and insert after the word "seven," in line 1, page 6, of the bill, the words "and for prior years;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 62, and agree to the same, with an amendment as follows:

In lieu of said amendment substitute the following:
"For defraying the expenses of the Supreme Court and circuit and district courts of the United States, including the District of Columbia, and also for jurors and witnesses and expenses of suits in which the United States are concerned, of prosecution for offenses committed against the United States, and for the safe keeping of prisoners, to be disbursed by the Attorney-General, being deficiencies for the fiscal year 1877 and prior years, \$300,000."

And the Senate agree to the same.
That the House recede from its disagreement to the amendment numbered 67, and agree to the same, with an amendment as follows: In lieu of "thirty-seven" insert "twenty-five;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 73, and agree to the same, with an amendment as follows: Insert before the word "seven" the words "one thousand;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 81, and agree to the same, with an amendment as follows: In line 11, page 9, of the bill strike out "the" and insert in lieu thereof "a;" and after the word "Digest," in the same line, insert "of the rules and practice of the House;" and the Senate agree to the same.

That the Senate recede from its amendment numbered 82, with an amendment as follows:

Insert: "for miscellaneous items, \$15,000," "for clerks to committees, \$4,527," "for pages, \$2,369.56," "for folding documents, \$3,000," "for stenographers to com-

mittees, \$780;" and in line 21, page 9, of the bill strike out "annum" and insert "session."

And the House agree to the same.

A. A. SARGENT,
WM. WINDOM,
R. E. WITHERS,
Managers on the part of the Senate.
J. D. C. ATKINS,
HENRY WALDRON,
ROB. HAMILTON,
Managers on the part of the House.

Mr. SARGENT. Mr. President, the two principal points of difference between the two Houses were the items relating to judicial deficiencies and the pay of the Navy. By the letters of the First Comptroller and of the Attorney-General, submitted to the Senate and also to the committee of conference, it was shown that to conduct the business of the Department of Justice for the remainder of the fiscal year, including the balance on hand, there would be required about \$1,200,000. The appropriations last year were less by some \$750,000 than the ordinary appropriations for carrying on the judicial system. I have no doubt that the expenditures during the present fiscal year have been considerably increased by the operation of the United States statute providing for the appointment of deputy marshals in cities of 20,000 inhabitants and upward to supervise elections, and the payment to them of \$5 a day for a period not exceeding ten days during the time so employed. But making all the allowance that could be paid for marshals, still there was much more of a reduction in the present year's appropriations than ordinarily suffices to run the courts of the United States.

This item was the last one on which we arrived at a conclusion in the committee of conference, and we were able to procure from the conferees of the House only \$300,000. Accepting the principle laid down very generally in the Senate last session, that if either House refused to appropriate more than a given sum, but while appropriating an insufficient sum did not insist upon a change of law, and merely left a deficiency, the other House after full and free conference would assent to that result and leave the deficiency thereafter to be provided for, the conferees on the part of the Senate concluded that it was better to accept this \$300,000, and leave to a future session of Congress the payment of the necessary deficiency which will be left.

Of course we appreciate the fact that all the courts of the United States may be closed up; that we may have no grand juries to inquire into crime; that we may have no petit juries to try crime; that witnesses may not be brought or may remain unpaid. It is an unfortunate circumstance that the two Houses are so far apart upon this deficiency; but we have done what we thought our duty in accepting the amount which the House would give, and therefore report the bill back with this item of deficiency at \$300,000.

I should like to say, however, that it is not possible to allege that the Department of Justice, even if it has appointed and paid these deputy marshals, has exceeded its authority, has done anything more than obey the plain provisions of law; and unquestionably Congress must, when there is time to consider the matter, do justice in this case. But to insist on it at the present time would be simply to sacrifice the bill, and therefore we have reported it in this shape.

The pay of the Navy stands somewhat in the same fix. The House made an indefinite appropriation which by careful figuring amounts to \$150,000, and in addition to that an appropriation of \$500,000, in all \$650,000, to bridge over a gap of \$1,650,000. This seemed to the Senate conferees to be a mere matter of arithmetic, and the elements of our calculation were not successfully assailed; in fact there was hardly an attempt to show that the Navy Register does not represent correctly the number of officers, the number of men, and the amount of pay allowed to each grade; and taking the average between sea pay, leave or waiting orders pay, and shore duty pay, that this average would prove that the amount which was asked by the Secretary of the Navy was correct.

In this connection the House assented to an addition of \$500,000 to the \$560,000, which they had before in the deficiency bill inserted, making, so far as I can see or the Senate conferees could understand, a probable deficiency of \$400,000 more at the end of the fiscal year. But acting upon the same principle which we adopted in regard to the judiciary item, we accepted this amount, which was the last figure that would be conceded. If there is a deficiency at the end of the year it will have to be made up in the future, because we have made no provision for reducing the number of officers or reducing their pay, and it is due to the House conferees to say that they did not make a proposition tending in that direction, and in fact expressed a disinclination to do so, appreciating as well as the Senate conferees that the service of the officers entitled them to the pay they are now receiving.

These are the two principal items of difference and they have been reconciled in this way. For the reasons I have given I recommend the adoption of the report.

The report was concurred in.

TAX ON GRAPE BRANDY.

Mr. SARGENT. Mr. President, I am compelled probably for the whole of the remainder of the session, certainly after a few moments shall have passed, to be out of the Senate upon the Committee on Appropriations. The Finance Committee this morning, by the Senator from Vermont, [Mr. MORRILL,] reported a very important bill

affecting the distillers of brandy from grapes, largely affecting my State. It has the sanction of the Department. I think it will take but a moment to pass it. It is in the shape of an amendment to a House bill intended to cover the same matter. The measure reported by the Committee on Finance is in harmony with the views of the Department, although they were not ready to assent to the bill as passed by the House. I should like to appeal to the Senator from Vermont to call up that bill and see if it cannot be passed in a moment while I can be in the Senate.

Mr. MORRILL. My impression is that the justice of the bill asked for on the part of the Senator from California will so recommend it that there will be no lengthy discussion upon it, that it will barely have to be read in order to be approved.

Mr. DAWES. What is it?

Mr. MORRILL. It provides merely that there shall be a credit given on grape brandy for the space of three years and that warehouses shall be established in different parts of the State of California.

I will say this, that the State of California is a large State, runs a great length upon the shore of the Pacific, and many of the valleys from top to bottom are covered with grape-vines. The committee have been informed that the capital invested in these grape-vines and the lands will be entirely lost to the large majority of the owners unless they can have a credit given for the time that it takes the brandy to ripen, which is three years.

The bill has been carefully prepared at the Department, providing all possible safeguards against any fraud or collusion by which the United States shall be defrauded of any portion of the revenue that may be due, but merely giving these men who are engaged in grape culture an opportunity to keep the brandy in Government warehouses until it shall become fit for sale.

Mr. DAWES. I should like to inquire of the Senator from Vermont if there is any danger of the Government being deceived about the character of the brandy, whether it can distinguish between the grape brandy and other brandy? That used to be the great difficulty in fixing these bills. There is the apple brandy, there is the peach brandy, and there are various kinds of brandy that might be manufactured and called grape brandy. If the bill is properly guarded—

Mr. SARGENT. It is identified by warehouse stamp.

Mr. DAWES. I know.

Mr. SARGENT. The bill, it seems to me, should cover brandy distilled from apples, grapes, or peaches.

Mr. DAWES. I know the Senator from California has always been anxious to have so broad a bill as that, but the difficulty of having so broad a bill as that is that it would substantially relieve all the Pacific coast from paying duties on that kind of liquor. If it does not cover any more than what the Senator from Vermont intends to cover by it, it is an excellent bill.

Mr. SARGENT. That is all it does.

Mr. MORRILL. My impression is that the bill has been submitted to the various members of the Committee on Finance for careful examination. There is also a provision left in the bill providing that the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may make all needful rules and regulations for carrying into effect the provisions of this act, and such regulations when made shall have the force and effect of law.

Mr. DAWES. I know nothing against the bill. Both Senators will excuse me for making inquiries about the bill. The matter had come up in another place so often that I was anxious to know whether they had succeeded in guarding that point in the bill.

Mr. MORRILL. I am also as familiar perhaps as the Senator from Massachusetts.

Mr. DAWES. And a great deal more so.

Mr. MORRILL. Now, familiar with the previous importunities for such a bill as this, I have consented to this with reluctance; and after examination and on conference with the officers of the Internal Revenue Department, I am satisfied that it will be productive of more good than evil. I therefore can support it.

Mr. MERRIMON. I beg to ask the Senator from Vermont if there is any substantial reason why the provisions of the bill might not be extended to other States? In my own State the grape culture is very considerable and increasing annually, and I am sure that its provisions would be as interesting to the people of North Carolina in proportion as to the people of California; and unless there is some special reason why this discrimination should be made, I cannot consent to the passage of such a bill.

Mr. MORRILL. Certainly the Senator from North Carolina will see that this is an experiment. There are other States more largely interested than North Carolina, outside of California. There are Missouri, Iowa, and Ohio; but the Committee on Finance chose to report a bill confined to this State, so as to try it for a year, and if it operates properly it may become a general law. I hope, therefore, the Senator from North Carolina will not ask to have this made a general law now, and thereby defeat it, because it is a real necessity for California, where they have so large an amount of land and capital invested in the grape culture.

Mr. DAWES. I did not understand the Senator. Is it confined to California for one year?

Mr. MORRILL. No; it is confined to California, but not for one year.

The Senate, as in Committee of the Whole, proceeded to consider the

bill (H. R. No. 3925) relating to the production of fruit brandy, and to punish frauds connected with the same.

Mr. COCKRELL. I suppose, as a matter of course, if it works well in California, this will be extended to all the other States. I think the law ought to operate upon Missouri. Certainly we are raising a great deal of wine there. We can supply the whole world with wine hereafter, and it is a production that ought to be encouraged.

Mr. MORRILL. This is not for wine culture. It is exclusively for grape culture devoted to grape brandy.

Mr. COCKRELL. We use that occasionally too. [Laughter.]

Mr. PADDOCK. If the statement of the Senator from Vermont is correct, it ought to be applied to Nebraska as well.

The amendment reported by the Committee on Finance was to strike out all after the enacting clause of the bill and in lieu thereof to insert the following:

That the Commissioner of Internal Revenue shall be, and hereby is, authorized, in his discretion, and upon the execution of such bonds as he may prescribe, to establish warehouses, to be known as special bonded warehouses, not exceeding ten in number in any one collection district, exclusively for the storage of brandy made from grapes, each of which warehouses shall be in the charge of a storekeeper, to be appointed, assigned, transferred, and paid in the same manner that storekeepers for distillery warehouses are now appointed, assigned, transferred, and paid. Every such warehouse shall be under the control of the collector of internal revenue of the district in which such warehouse is located, and shall be in the joint custody of the storekeeper and the proprietor thereof, and kept securely locked, and shall at no time be unlocked or opened or remain open except in the presence of such storekeeper or other person who may be designated to act for him, as provided in the case of distillery warehouses. And such warehouse shall be under such further regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe.

SEC. 2. That every distiller of brandy from grapes, upon rendering his monthly return of materials used and spirits produced by him, shall immediately pay the tax upon such spirits, or may, after they have been properly gauged, marked, and branded, under regulations to be prescribed by the Commissioner of Internal Revenue and approved by the Secretary of the Treasury, and also stamped as herein-after provided, cause them to be removed in bond from the place of manufacture to a special bonded warehouse, under such regulations, and after making such entries, and executing and filing with the collector of the district in which such spirits were manufactured such bonds and bills of lading, and giving such other additional security as may be prescribed by the Commissioner of Internal Revenue and approved by the Secretary of the Treasury.

SEC. 3. That all brandy intended for deposit in a special bonded warehouse, before being removed from the distillery, shall have affixed to each package an engraved stamp indicative of such intention, to be provided and furnished to the several collectors as in the case of other stamps, and to be charged to them and accounted for in the same manner; and for the expense attending providing, and affixing such stamps ten cents for each stamp shall be paid the collector on making the entry for such transportation.

SEC. 4. That any brandy made from grapes removed in bond according to law may, upon its arrival at a special bonded warehouse, be deposited therein upon making such entries, filing such bonds and other securities, and under such regulations as shall be prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury. It shall be one of the conditions of the warehousing bond covering such spirits that the principal named in said bond shall pay the tax on the spirits as specified in the entry or cause the same to be paid within three years from the date of the original gauging of the same, and before withdrawal, except as hereinafter provided.

SEC. 5. That any brandy made from grapes may be withdrawn once and no more from one special bonded warehouse for transportation to another special bonded warehouse; and such brandy shall, on its arrival at the second special bonded warehouse, be immediately entered therein, from which warehouse it shall be withdrawn only on payment of the tax or for immediate exportation. In case the brandy withdrawn is intended for deposit in another special bonded warehouse, an additional stamp, indicative of such intention, shall be affixed to each package withdrawn, as in the case of brandy withdrawn from a distillery intended to be so deposited. And in case the brandy is intended for exportation, an engraved stamp, indicative of such intention, shall be affixed to each package so removed, as in the case of spirits withdrawn from a distillery bonded warehouse for exportation, under the provisions of section 3330, Revised Statutes; all the provisions of which section not inconsistent with this act are hereby made applicable to such withdrawals. And all withdrawals authorized by law of grape brandy from any special bonded warehouse shall be upon making such withdrawal entries, and under such regulations, and unless the withdrawal is upon payment of tax, upon the execution of such bonds and bills of lading as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe. Export bonds given under the provisions of this act shall be canceled upon the production of such certificates of lading as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe, or upon proof of loss at sea satisfactory to the Commissioner of Internal Revenue. And the provisions of existing law relative to an allowance of loss by casualty in a distillery bonded warehouse are hereby made applicable to brandy stored in special bonded warehouses, in accordance with the provisions of this act.

SEC. 6. That the provisions of existing law in regard to the exportation of distilled spirits are hereby extended so as to permit the exportation from special bonded warehouses of grape brandy free of tax in any original cask containing not less than twenty gallons, and for the exportation of grape brandy upon which all taxes have been paid, with the privilege of drawback in quantities of not less than one hundred gallons, and in the distillers' original casks, containing not less than twenty wine gallons each.

SEC. 7. That whenever, in the opinion of the Commissioner of Internal Revenue, any special bonded warehouse is unsafe or unfit for use, or the merchandise therein is liable to loss or great wastage, he may discontinue such warehouse, and require the merchandise therein to be transferred to such other warehouse as he may designate, and within such time as he may prescribe; and all the provisions of section 3372 of the Revised Statutes of the United States relating to transfers of spirits from warehouses, including those imposing penalties, are hereby made applicable to transfers from special bonded warehouses.

SEC. 8. That the tax upon any brandy distilled from grapes, removed from the place where it was distilled, and in respect of which any requirement of this act is not complied with, shall, at any time, when knowledge of such fact is obtained by the Commissioner of Internal Revenue, be assessed by him upon the distiller of the same, and returned to the collector, who shall immediately demand payment of such tax, and, upon the neglect or refusal of payment by the distiller, shall proceed to collect the same by distraint. But this provision shall not exclude any other remedy or proceeding provided by law.

SEC. 9. That nothing in this act shall be construed as extending the time in which the tax on brandy made from grapes shall be paid beyond three years from the day on which the taxable quantity is ascertained by the gauger; and all brandy made from grapes, found elsewhere than in a distillery or special bonded warehouse, not hav-

ing been removed therefrom according to law, and all brandy on which the tax has not been paid within three years of the date of the original gauging shall be forfeited to the United States.

SEC. 10. That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may make all needful rules and regulations for carrying into effect the provisions of this act, and such regulations when made shall have all the force and effect of law.

SEC. 11. That in case any grape brandy removed from the distillery for deposit in a special warehouse shall fail to be deposited in such warehouse within ten days thereafter, or within the time specified in any bond given on such removal, or if any grape brandy deposited in any special warehouse shall be taken therefrom for deposit in another warehouse, or for export, or otherwise, without full compliance with the provisions of this act, and with the requirements of any regulations made thereunder, and with the terms of any bond given on such removal, then any person who shall be guilty of such failure, and any person who shall in any manner violate any provision of this act, or of the regulations made in pursuance thereof, shall be subject, on conviction, to a fine of not less than \$100 nor more than \$5,000, and to imprisonment for not less than three months nor more than three years, for every such failure or violation; and the spirits as to which such failure or violation shall take place shall be forfeited to the United States.

The amendment was agreed to.

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

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

The bill was read the third time, and passed.

P. J. QUATTLEBAUM.

Mr. STEVENSON. I am instructed by the Committee on the Judiciary to report a bill to remove the political disabilities of P. J. Quattlebaum, of Georgia. I ask for its present consideration.

By unanimous consent, the bill (S. No. 1288) to remove the political disabilities of P. J. Quattlebaum, of Georgia, was read three times.

The bill was passed, two-thirds of the Senators present voting in favor thereof.

POST-OFFICE APPROPRIATION BILL.

Mr. WEST. From the committee of conference on the bill (H. R. No. 4187) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1878, and for other purposes, I beg leave to report that the two committees have had under consideration the various differences existing between the two bodies, and have agreed upon all except such as I will now designate.

The Senate committee adheres to the proposition of the Senate amendment to increase the amount for transportation by railroad from \$9,000,000 to \$9,600,000, with the provision also that \$250,000 of that amount may be used by the Postmaster-General to obtain proper facilities on the great trunk lines of railroads, &c. The committee on the part of Senate would have been willing to modify the amount contained in that proposition, but they were not met with a corresponding disposition on the part of the House.

The committee also report back a disagreement as between the two bodies on the amendments of the Senate providing for \$500,000 to carry the mails between the United States and China and Japan, and for a similar sum to carry the mails from New Orleans to Rio de Janeiro, the Senate committee offering with respect to these two items to reduce the amounts to \$300,000 respectively. I am requested to ask that the Senate insist upon its amendments on those two items and ask for a further conference on the part of the House. I make that motion.

The PRESIDENT *pro tempore*. The Senator from Louisiana moves that the Senate insist on its amendments named and ask for a further conference.

The motion was agreed to.

By unanimous consent, the President *pro tempore* was authorized to appoint the committee.

JULIUS S. BOHRER.

The PRESIDENT *pro tempore*. The morning hour has expired, and the Chair calls up the unfinished business, which is the bill (S. No. 1010) for the relief of Julius S. Bohrer, master in the United States Navy. The question is on the amendment reported by the Committee on Naval Affairs, as amended, to strike out all after the enacting clause and insert:

That the Secretary of the Treasury be, and hereby is, authorized and directed to pay to Julius S. Bohrer, retired master, United States Navy, or his legal representatives, the pay and allowances of a retired master from the 30th day of December, 1865, to the 5th day of June, 1876, out of any moneys in the Treasury not otherwise appropriated.

The amendment was agreed to.

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

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

ACTS OF CONTINENTAL CONGRESS.

Mr. HOWE. I move to proceed to the consideration of Senate bill No. 1019.

The motion was agreed to; and the bill (S. No. 1019) to provide for the reprint of the resolves, ordinances, and acts passed by the Continental Congress and the Congress of the Confederation, was considered as in Committee of the Whole.

Mr. HOWE. There are some blanks to be filled. I move to fill the first blank with "five thousand."

The motion was agreed to.

Mr. HOWE. The next I move to fill with "fifteen hundred."

The motion was agreed to.

Mr. HOWE. The next with "three thousand."

The motion was agreed to.

Mr. HOWE. I move to insert in the next blank "five hundred."

The motion was agreed to.

The bill, as amended, reads as follows:

That there be printed at the Government Printing Office, for the use of Congress, 5,000 copies of the resolves, ordinances, and acts of the Continental Congress and the Congress of the Confederation of the United States, 1,500 copies for the use of the Senate, 3,000 copies for the use of the House of Representatives, and 500 copies for the use of the Executive Departments.

SEC. 2. That said resolves, ordinances, and acts shall be taken from the journals and printed with a proper index under the supervision of the Librarian of Congress.

SEC. 3. That the sum of \$1,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to defray the expense of making such work and index; the same to be disbursed under the direction of the Joint Committee on the Library.

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

SWAMP LANDS IN MISSOURI.

Mr. COCKRELL. I move that the Senate proceed to the consideration of House bill No. 1253, reported favorably from the Committee on Public Lands.

The motion was agreed to; and the bill (H. R. No. 1253) granting to the State of Missouri all lands therein selected as swamp and overflowed lands, was considered as in Committee of the Whole.

Mr. WRIGHT. I should like to inquire of the Senator from Missouri the necessity for this legislation.

Mr. COCKRELL. The necessity for this legislation is, that under the act of Congress, as determined by the Supreme Court of the United States and the supreme court of Missouri, swamp land was conveyed by the General Government to the State in fee, and it was conveyed by the State to the counties, but patents have never been issued. A large number of persons are living on these lands; they cannot get them, and they are delayed year after year before the investigations can be made in the Land Office. I have a letter from the Commissioner of the General Land Office, stating that there will be only a small amount of land actually affected by this bill. It affects a class of persons who have invested their all on this land, and they want to get some title. They are paying taxes on it, and still have not title.

Mr. WRIGHT. Is there not authority of law now to make a patent by the United States?

Mr. COCKRELL. It has to go through a mode of investigation and they have been at it so long that it takes years and years to settle it.

Mr. WRIGHT. Then what is the short-cut proposed by this bill?

Mr. COCKRELL. It is simply to vest the title and confirm it without waiting for action at the Land Office, which may take three or four years and at an expense which would be greater than the value of the land.

Mr. WRIGHT. Do I understand that these lands have been selected and it is known exactly what they are?

Mr. COCKRELL. Yes, sir. The bill says:

That all lands in the State of Missouri selected as swamp and overflowed lands, and regularly reported as such to the General Land Office, and now withheld from market as such, so far as the same remain vacant and unappropriated, and not interfered with by any pre-emption, homestead, or other claim, under any law of the United States.

It is only to expedite the business and give title. They have been at it now fifteen years and have not got through with it, and it is a very great expense and very little profit to anybody.

Mr. WRIGHT. I merely want to understand this bill. As I understand, under the law as it is at present, notwithstanding reports by the proper officers of the swampy character of this land, those reports have to be investigated by the superior officers and their swampy character in fact ascertained and settled. Now it is proposed by this bill that all lands which have been returned, without waiting for an investigation by the proper Department, shall vest at once in the State of Missouri—all that have been selected.

Mr. COCKRELL. All lands regularly "selected as swamp and overflowed lands and regularly reported as such" and "now withheld from market" on that account. There will not be in the State of Missouri probably three hundred acres or five hundred acres, according to the letter of the Commissioner of the General Land Office, about which there will be any controversy as to their swampy character.

Mr. WRIGHT. Then I understand this legislation has the approval of the Department.

Mr. COCKRELL. They make no objection to it. As a matter of course they do not recommend one way or another.

Mr. WRIGHT. Has the matter been referred to the Department?

Mr. COCKRELL. Yes, sir; and I have the letter of the Commissioner of the General Land Office here. I hope the bill will be passed. It is simply confirming title to a class of persons who are very needy and have expended large sums of money.

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

LANDS IN KLAMATH INDIAN RESERVATION.

Mr. KELLY. I move that the Senate proceed to the consideration of the bill (H. R. No. 1316) to adjust the claims of the owners of lands

within the limits of the Klamath Indian reservation, in the State of Oregon.

Mr. INGALLS. I am convinced that it will be impossible for that bill to pass the Senate without a very protracted discussion, that the present stage of business will hardly permit. I regret exceedingly to interpose an objection to any motion made by the Senator from Oregon, but I ask if his motion is open at this time to an amendment.

The PRESIDENT *pro tempore*. It cannot be amended.

Mr. INGALLS. Can I not move to amend his motion by proposing to proceed to the consideration of another bill?

The PRESIDENT *pro tempore*. That is not in order. The Senate can negative the motion, and then any Senator who obtains the floor can move the consideration of any other bill.

Mr. INGALLS. The subject has already been twice before the Senate.

Mr. KELLY. Four times.

Mr. INGALLS. Then certainly it has been twice. [Laughter.] That does not contradict my statement that the subject has already been twice before the Senate and has received a very considerable investigation; and the more I have examined it the deeper have become my convictions that it establishes an injurious and dangerous precedent, and that the bill ought not to pass. Of course, if the Senate see fit to take up the bill, I cannot prevent it; but I submit to the Senate whether it is advisable at this stage of the business to take up a bill that must lead to protracted discussion.

Mr. KELLY. It is well known that I have not had very much of the time of the Senate, but this bill has, as stated by the honorable Senator from Kansas, not only been considered twice, but four times. I do think every Senator knows its merits or its demerits, if it has any. It is the only favor I shall ask of the Senate, and I trust there will be no objection to it. I will not, so far as I am concerned, ask more than five minutes to explain it. It may be that I may have to answer objections that may be urged against it, but surely the discussion has been so elaborate that every Senator must have made up his mind. I ask as a favor now that the bill be taken up and voted on.

Mr. WRIGHT. I agree with the Senator from Kansas, from my knowledge of the bill and the information that has come to me since it was up before, that it cannot pass without very protracted discussion. There are questions involved in this bill of very great importance. I feel, just as he does, the very greatest reluctance to antagonize anything that the Senator from Oregon may want at this time, and I do not feel like standing here and objecting to taking up this bill; but the Senate must take it up with a full knowledge that if taken up it will lead to discussion, and possibly a discussion for the remainder of the day. That is the condition of it. I am very sure there are objections to the passage of this bill, and objections that the Senate will be called upon to consider, and that they will deliberate long and carefully upon before they pass this bill. In view of the state of the session now, and the very important matters that are pressing upon us, I cannot see any ground on which this bill can be pressed at this time.

The PRESIDENT *pro tempore*. The Senator from Oregon moves the present consideration of the bill named.

Mr. INGALLS. If the Senate decline to take up this bill, as I hope they will, it is my purpose to ask attention to House bill No. 2454, concerning which I presume every Senator on this floor has been importuned during the past session. It is the bill providing for the amending of the laws granting pensions to soldiers and sailors of the war of 1812 and their widows, and for other purposes, which involves the consideration of the question of reducing the period of limitation from sixty to ten days, and also removing the bar that was imposed by the resolutions of 1862 and 1867 from certain soldiers of that war who were upon the pension-roll, but who were supposed to have participated in some way in the acts of the southern confederacy. This subject is one of confessedly the very highest importance to a very large number of citizens of this country; and as it is of a character that applies to all sections of the country, and it has been urged upon the attention of the Senate so repeatedly and with so much strenuousness, I hope the Senate will decline to proceed with the consideration of a purely local bill that establishes a dangerous precedent, and allow me to call up House bill No. 2454.

Mr. KELLY. Just one word, Mr. President. I think it is hardly fair that this bill is to go over and go over for further consideration. I assented to it before so that Senators might have an opportunity to fully investigate it. Now, at the close of the session, objection is made that we cannot hear it. I am very certain that my friend from Iowa is mistaken when he supposes it will take any length of time. It has been so fully discussed by Senators that all know its merits, and if the Senator from Iowa has anything now to urge he can certainly do it in a brief space of time. I insist on my motion.

Mr. MITCHELL. Mr. President, I shall vote with my colleague to take up this bill. I think it ought to be taken up and disposed of. I cannot vote for the bill, however, myself when it is up; but I do not base my objections to the bill upon the same ground on which many Senators who have spoken have based their objections, namely, that these parties had no title to the lands included in the Klamath agency. My own opinion is that they have the title, and it is a controversy that ought to be settled; but I cannot give my consent to the settlement proposed in this bill. At the same time I am willing to vote

that the matter shall come up, that it may be considered and disposed of one way or the other.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Oregon, [Mr. KELLY.]

The question being put, the yeas were 8.

Mr. KELLY. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 24, nays 14; as follows:

YEAS—Messrs. Bayard, Bruce, Burnside, Chaffee, Cooper, Cragin, Ferry, Goldthwaite, Gordon, Hamlin, Johnston, Jones of Florida, Kelly, Kernan, McCreery, Mitchell, Norwood, Oglesby, Paddock, Randolph, Stevenson, West, Whyte, and Windom—24.

NAYS—Messrs. Anthony, Cameron of Wisconsin, Christiancy, Cockrell, Dawes, Howe, Ingalls, Logan, Morrill, Sharon, Sherman, Teller, Wadleigh, and Wright—14.

ABSENT—Messrs. Alcorn, Allison, Bailey, Barnum, Blaine, Bogy, Booth, Boutwell, Cameron of Pennsylvania, Clayton, Conkling, Conover, Davis, Dennis, Dorsey, Eaton, Edmunds, Frelinghuysen, Hamilton, Harvey, Hereford, Hitchcock, Jones of Nevada, McDonald, McMillan, Maxey, Merrimon, Morton, Patterson, Ransom, Robertson, Sargent, Saulsbury, Spencer, Thurman, Wallace, and Withers—37.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

Mr. MORRILL. I recollect a bill of something of this character years ago, and in looking upon the map where the road was surveyed it was quite obvious that the parties in locating the road had taken a route not the nearest one, but the one that would give them the most and the best land, going far greater distances than were required for the road from one point to another and going through the most valuable portions of the land. It seemed to me at that time that the bill was grossly unjust and unfair. I desire to ask the Senator from Oregon if this is that bill, the road referred to in which went, instead of a straight line, zig-zagging about through different portions of the country, in order, as was perfectly apparent, to obtain the greatest quantity and best of the lands.

Mr. KELLY. Shall I answer now?

Mr. MORRILL. Certainly.

Mr. KELLY. The honorable Senator from Vermont is very much mistaken. It is true the road is somewhat crooked, but if the Senator were only there he would see that it is the only possible way in which the road could be made unless it was to go over mountains sometimes averaging from five to ten thousand feet in height, rendering the road wholly valueless. The road was intended to bring into market the most valuable lands for settlement.

Mr. INGALLS. If I can have the attention of the Senator from Vermont a moment upon the subject to which he has referred, I should like to read to him a single paragraph of a communication from the United States Indian agent stationed at this agency, dated the 23d of September, 1874. It appears as an appendix to the report in the House of Representatives that was made by Mr. LAFAYETTE LANE at the first session of the present Congress. Mr. Dyar, the agent, says:

This road runs diagonally through the whole length of the Klamath reservation, a distance of sixty miles or more, traversing the very best portions of the same; in fact, is so located as to embrace within the limits of the six miles in breadth more than one-half of all the land upon the reserve suitable for cultivation or for winter grazing.

Mr. MORRILL. If this is the road to which I alluded, I am very sure that if Senators could see the line of the road upon the map there could be but a very small vote obtained in favor of a bill of this kind.

Mr. KELLY. Mr. President, I will refer to the act of Congress granting lands in the first instance—I do not wish to occupy the time of the Senate, however, in reading—but it is contained in the thirteenth volume of the Statutes at Large, page 355. The act was approved July 2, 1864, granting lands to the State of Oregon for the purpose of constructing a road from Eugene City, by way of Middle Fork of Willamette River, and the most feasible pass in Cascade range of mountains, near Diamond Peak. I call the attention of the honorable Senator from Vermont to this act. It was marked out in the act of Congress where the road should go:

The most feasible pass in Cascade range of mountains, near Diamond Peak, to the eastern boundary of the State, alternate sections of public lands, designated by odd numbers, for three sections in width on each side of said road.

Here the act of Congress granting to the State of Oregon certain lands prescribed where the road should go; it said it should go through the most feasible pass in the Cascade Mountains, and should go by Diamond Peak to the eastern boundary of the State of Oregon. The fault, if there be any, is with Congress in making the grant, but really there was none, because the object of Congress was to open up the public lands of the United States; the road was for the purpose of bringing the lands into market where they were most valuable. That was the reason why this grant was made. There was certainly no wrong in the company following the requirements of the law of Congress and going where Congress designated that the route of the road should be. Whether the agents of the State or the company that had in view the construction of the road intended before the law was passed to get the best lands I do not know, but such is the law of Congress which prescribes the direction and the route.

The State of Oregon granted these lands on the 24th of October, 1864, to the company for the purpose of constructing the road. They built the road at an expense of some \$300,000 more than they can sell the lands for at this day. It cost them more than they can get. The company, in fact, became insolvent and was compelled to transfer

these lands. They built the road, and it is now used by the United States in carrying goods to this very Klamath Indian reservation.

Not only that, but there was no reservation there at the time. The Indian reservation was located subsequently to the passage of the law of Congress making the grant, but I admit prior to the time when the lands were given by statute to the company. The treaty with the Klamath Indians was not ratified until the 2d of July, 1866, two years after the company had commenced the construction of this road and built it. Article 12 of that treaty is in these words:

This treaty shall bind the contracting parties whenever the same is ratified by the Senate and President of the United States.

And it was proclaimed in 1870, long after this road had been constructed and accepted. These lands had been earned by the company; they had been patented to the company; and after the road had been constructed and the lands selected, then the Indian agent chose to establish this reservation upon these lands. The same Indian agent from whose report my friend from Kansas has read in the strongest terms recommends that the United States grant to the company other lands in lieu of these, so that the Indians may remain where they are. I admit that these lands that they have given up are valuable; they are the most valuable there are in the grant; there is no doubt of that; and very reluctantly will they consent to take other lands for them; but the Indian agent and the United States authorities there, as well as the State authorities, have recommended that for the purpose of peace and quiet with the Indians they be allowed to take the lands now patented to the company, be permitted to keep them as their own, and that other lands in lieu of these which were earned by the company shall be granted to it, but only upon the condition that it shall reconvey all lands patented to it to the United States.

It is nothing but good faith, Mr. President, that this should be done. I do not care about it, and I will not consume the precious time of the Senate; because I admit that the few remaining hours are precious indeed, and I do not wish to take any more time than is barely necessary to state this case, which I know is just and right.

Mr. WRIGHT. I should like to ask the Senator from Oregon one or two questions. Will he be good enough to tell me how much land this company gets, or rather the capitalists who bought out the original road or company, how much they get outside the reservation and how much they already have?

Mr. KELLY. I cannot say; but I will say to my friend that all outside of the reservation is virtually of little account. It is through a mountainous region. A great portion of it in Southeast Oregon is sage-brush land, and a large portion of it is on the Cascade Mountains which is virtually worth nothing and will not be for many, many years to come, when it may possibly be valuable for the timber. In fact, the land granted outside of this reservation is comparatively worthless.

Mr. WRIGHT. Do they not get outside of this reservation 6,700,000 acres of land?

Mr. KELLY. I do not know. Perhaps they do.

Mr. WRIGHT. What is the length of the road built by them?

Mr. KELLY. I think it is four hundred and odd miles.

Mr. WRIGHT. Is the road now in use or is it out of repair?

Mr. KELLY. It is in use at this day. It is the road over which goods are taken to the Klamath Indian reservation; the very goods that the United States furnishes to the Indians, the annuity goods, are all transported over this road. It is the regular route through that section of the country and the only one.

Mr. WRIGHT. One other question. How much land in this reservation will they get by this bill?

Mr. KELLY. The amount within the reservation is 402,000 acres.

Mr. WRIGHT. What proportion of that do they get?

Mr. KELLY. Four hundred and sixty-one miles is the length of the road.

Mr. WRIGHT. How many acres will they get in the reservation?

Mr. KELLY. I cannot tell that; 102,000 acres, I think.

Mr. WRIGHT. Do they not get about 130,000 acres?

Mr. KELLY. No, sir; 102,313.09 acres is the exact amount, I find.

Mr. WRIGHT. This bill has been before the Senate several times, as has already been stated; objections have been pointed out to it; and those objections to my mind have never been removed. Now, I do not propose to discuss it, but I send to the Clerk's desk an article upon this subject taken from an Oregon paper which I ask to have read as a statement of the nature of this grant and the character of this bill, how it came that the men who are now trying to get these lands got the whole of this grant, how much they have paid for it, how much they have already got, and how much they will get by this proposed legislation, and also to show the condition of this grant at the time of the legislation under which they pretend to claim. I send it to the Clerk's desk that it may be read, being, as I believe and as I am advised, a correct statement of this entire transaction, and if it be true it is a better statement of it, a more thorough statement of it, and one that will be better understood than any that I could make. I may say that it has been handed to me by a gentleman in whom I have entire confidence, and it is said to present the exact character of this entire transaction.

The PRESIDING OFFICER. (Mr. CAMERON, of Wisconsin, in the chair.) The Clerk will read the paper.

The Chief Clerk read as follows, from the Oregon State Journal of April 1, 1876, published at Eugene City:

Mr. LANE, from the Committee on Public Lands, submitted a report strongly recommending the passage of his bill. In this report he says: "In February, 1870, a treaty with the Klamath Indians was ratified, which treaty set apart a large tract of land as the Klamath Indian reservation. Said reservation embraced within its limits 130,377 acres of land, which under the act of July 2, 1864, legally inured to the said road company. The particular section of road which runs through the reservation was accepted according to law by the governor of the State as early as 1866, four years prior to the ratification of the treaty referred to." Mr. Lane here makes a false statement. The particular section of the road above referred to was not approved by the governor in 1866. It was not constructed till the fall of 1869, and was accepted and approved by the governor on the 12th day of January, 1870.

Mr. LANE knew, by reference to volume 16, United States Statutes, page 707, (to which his attention had been called by a copy of a letter from Governor Grover to the Secretary of the Interior,) that a treaty was concluded October 14, 1864, between the United States and the Klamath and Modoc tribes and Yakoskin's band of the Snake Indians. Ratification, with amendments, was advised July 2, 1866; amendments assented to December 10, 1869, and proclaimed by the President February 17, 1870.

The amendments referred to had nothing whatever to do with the boundary of the reservation. It will be seen that this treaty was concluded October 14, 1864. The act of Congress granting lands to the State of Oregon for the purpose of constructing a road was approved July 2, 1864, and by the Legislature of the State of Oregon conferred upon the O. C. M. Road Company on the 24th October, 1864, ten days after the Klamath treaty was concluded. But by the terms of the act of Congress rights to particular lands did not attach till the State or company selected the route and made a survey of the same, and filed a map thereof with the Secretary of the Interior. This was not done till in 1865. The report of the superintendent of the road bears date of November 29, 1865. By reference to the report it will be seen that Mr. Pengra, the superintendent, spent several days with the superintendent of Indian affairs while in the Klamath country. Negotiations preliminary to treating for peace had been opened by Pauline, a chief of a band of Snake Indians. In mentioning this matter Mr. Pengra uses this language, under date of August 6, 1865, (for the report is made in the form of diary): "This chief, (Pauline) I was informed, had frequently expressed a desire to treat and be at peace and amity with the whites, * * * but finally agreed to meet the superintendent in Sprague's River Valley, some forty miles distant, (from Fort Klamath,) and near the eastern boundary of the country claimed by the Klamath Indians."

So Mr. Pengra, superintendent of the road company, knew at this time of the location of the Klamath reservation, before any road-line was settled. It requires no great knowledge of law to understand that the conclusion of this treaty specifying the metes and bounds of the reservation would be as valid in the matter of precedence as the filing of pre-emption or homestead claims, with this additional advantage in favor of the rights of the Indians: their title had been from time immemorial and was still in the Indians. The act of Congress of July 2, 1864, excludes from the operations of this grant all lands sold or otherwise reserved prior to the location of the road line. We have not a copy of the act before us, but give the substance from memory. Hence, by priority of rights the reservation lands are excluded from the operations of the grant.

The reserved rights of the Indians date by treaty from the 14th day of October, 1864, and no specific claim of the road company could attach prior to the adoption of the road-line by the company, made after the making of the superintendent's report of explorations and surveys, which bears date of November 29, 1865, more than a year after the treaty was concluded. Yet in view of these facts we find, upon examination of Mr. Lane's report and accompanying papers, that a studied effort has been made to mislead the members of Congress into a support of this measure. Governor Grover writes to the Secretary of the Interior under date of October 22, 1875, and says: "The line of the wagon-road passes through Klamath-Lake basin; and Klamath Indian reservation, as established subsequent to the listing of the wagon-road lands to the State for the use of said Wagon-Road Company, embraces 130,377 acres of said lands belonging to the Wagon-Road Company. * * *

* The Wagon-Road Company and their successors in interests have paid taxes upon said reservation lands from the time when they were segregated to said company."

The governor does not give us the dates of segregation as he might have done, since they are matters of record in his office, but the Commissioner of the General Land Office gives them as April 21 and December 8, 1871, and April 2, 1873. The governor further says: "The entire wagon-road grant has been transferred by sale to a number of prominent capitalists, chiefly of the State of California, as I understand, without notice that the Klamath Indians claimed to hold the lands," &c.—just as though the Government was under obligations to make good frauds perpetrated by the road company! But the facts are the "prominent capitalists" did know of the reservation claim, or their agents did who made the contract. Mr. Pengra, in writing to the Commissioner of Indian Affairs, in his zeal to promote the interests of "prominent capitalists," says "that the lands granted to the State of Oregon by the act July 2, 1864, were, by the Legislative Assembly of said State in September following, granted to the Oregon Military Road Company," when he knew very well that it was not till October 24, ten days after the Klamath treaty was concluded.

So it is, through Mr. Lane's report and accompanying papers, a studied effort to cover up material facts and give prominence to certain other facts, with a view to mislead Congress. The whole job is a swindle upon the Government. It is a case of "prominent capitalists" against the people; in which event persons are generally found ready to assist "capitalists." These "prominent capitalists" paid the road company \$125,000 for their land grant, containing between six hundred thousand and seven hundred thousand acres of land, exclusive of this on the reservation, and now it is proposed to take from the poor men seeking Government lands on which to make homes one hundred and thirty thousand acres more and give these "prominent capitalists." The road is out of repair and impassable across the Klamath Marsh, and no effort is being made to keep up repairs. In fact, neither the company nor "prominent capitalists" feel under any obligations to keep up repairs on the road. Road companies and swamp-land "angels" already hold a monopoly of the lands of our State, and now to give one hundred and thirty thousand acres more to "prominent capitalists" is about equivalent to publishing to the world: No immigrants wanted unless they have money to pay such prices as these monopolists see proper to charge.

It might be well enough for our next Legislature to investigate this land business, and see how much "prominent capitalists" have to do with it.

Mr. WRIGHT. I have nothing to add to that article. As I stated before, the article is vouched for to me by a gentleman in whom I have confidence. If the statements made in that article to any considerable extent are true, then there ought not to be a vote in the Senate for this bill. It is very manifest that the bill has passed the House on a misunderstanding and mistake as to the true condition of these lands and the condition of our legislation. I do not know how many Senators paid attention to the article just read, but so many have paid attention to it, it seems to me, must be satisfied at once that this would be most flagitious legislation. I trust that the bill

will not be pressed, under the circumstances, and if it is, I trust that it will be defeated.

Mr. KELLY. Some of the statements in the paper have a semblance of truth and others are destitute of truth. It says that the lands were not selected and patented, as I understand, until about 1869. That probably is the date when they were finally examined; that is, when the last portion of the lands was examined by the executive of the State of Oregon, then Governor Wood; but long before that certain other portions were examined, and the company received their lands and they were selected and patented. And here, by the way, I will correct an error that I made. I said that the whole amount in the reservation was 102,313 acres. That is the amount of lands that are patented to the company for which they have received patents from the United States. The whole amount is, as was stated by the Senator from Iowa, 130,000.

Mr. WRIGHT. That is to say they will get 130,000 acres in lieu of lands in this reservation if this bill passes?

Mr. KELLY. Yes, sir; and these are the only valuable lands they have. Again the writer of the article says they paid \$125,000. In fact they paid \$200,000 in gold and agreed to pay \$100,000 more toward the construction of a railroad from California to Oregon in case it was built that way; if not, they were to pay the \$200,000 in gold. That was the sum paid by the present owners. There is an error of only \$75,000 there. So far as the listing and patenting of the lands are concerned and so far as the dates when the Indian treaty went into operation are concerned there is no dispute. All that is matter of record. It is a matter of record that the treaty was proclaimed in 1870 on the 17th day of February. It is true it was ratified July 2, 1866; but two years before that the company had commenced to construct this road on the line prescribed by the act of Congress to the most feasible pass in the Cascade Mountains by Diamond Peak, following the line laid out for them by the act of Congress.

Mr. President, I have an opinion that was given by my colleague and his law partner when they examined the title to these lands. His firm gave an opinion, fortified by reason and authority, to show that this company was entitled to these lands, after examining all the questions of law and of fact. This company propose, in the interest of peace with the Indians, to give up all these valuable lands that they have earned and which have been patented to them, and to which they have in my judgment an unquestioned title. They are willing to give them all up for the sake of peace. If I had time I could read from the report made by the committee of the House, in which they refer to Hon. E. P. Smith's opinion, Commissioner of Indian Affairs, and that of Mr. Dyer, and that of the governor of Oregon. Two letters from Mr. Smith, the Commissioner, are here, all suggesting the propriety of this measure.

It may be said that if these gentlemen are the legal owners by patent from the United States, why do they not assert their rights in the courts? I have no doubt they could do so; and if they were to do that, it might produce trouble. The Indians are on the lands, and if the gentlemen concerned should assert the title they have, the result necessarily would be to produce disquiet. They do not want to do that. As they have earned the lands, I think it is but just that they should receive compensation for them by other lands in lieu. It is certainly not asking anything unreasonable after they have earned these lands and propose to give them up and transfer the title they have, to ask for other lands in lieu of them. The bill has heretofore been amended in several instances by the Senate and everything, it seems to me, is guarded for the interest of the Government.

Mr. OGLESBY. Mr. President, this bill passed the House of Representatives, came to the Senate, and was referred to the Committee on Public Lands. It is fair to say of this bill that it did receive very considerable attention in the committee. It has been a long time since it was before us, but it was, as I now remember, pretty thoroughly explained and discussed there. I also voted this morning to take up the bill for present consideration. As a member of the committee from which the bill is reported, I thought I owed that much to it; but I at no time saw my way clear to approve this bill. I felt obliged to oppose it in committee and I feel obliged to oppose it now. It did not commend itself to my approval; and I think, without going into any extensive argument to-day, that it ought not to pass. I have no earthly hostility toward the measure, but I could not see my way clear to give it my support.

In the first instance a large portion of this road was built over a desert country where it cost nothing to make it. Wagon tracks run through the sage-brush on the desert will make a highway.

Mr. KELLY. Will my honorable friend allow me—

Mr. OGLESBY. I will correct that. I will give you the full benefit of it. Certain parts of the road were constructed over difficult and extensive mountains and rocky hills; some rivers were crossed and bridges put up. There was considerable expenditure of money on portions of the road. That statement ought to be made because it is true. But the company that constructed this road has ceased to exist. There is no obligation that can be imposed by this Congress on any corporation or any body *in esse* to improve it and keep it in repair. There is not anybody responsible for it. The corporation that built the road is defunct and no covenant can be entered into with anybody to keep it in repair.

Another thing; it crosses over valuable Indian lands in an Indian

reservation, and I cannot make up my mind that the company had a prior right to those lands over the Indians. I think the proper construction would give the occupation of the land for Indian purposes in the reservation prior to the title in the company. I thought so at the time the bill was considered in committee; I think so yet. It is a valuable donation of land, and for a purpose that might be commendable enough if we were perfectly sure we understood ourselves in its operation. The road was built, a large portion of it, through desert country, where it cost nothing; another portion as I have stated was through a populous portion of Oregon, where it did cost considerable. Now, to give this land to the assignees of a company that has gone out of business, that has ceased to exist, I thought was carrying the matter further than I could go. I have no hostility toward the measure except to state to this body, as I ought as chairman of that committee, that the bill did not meet my approval and does not now meet it. I shall have to vote against it.

Mr. MITCHELL. My colleague [Mr. KELLY] has appealed to me in regard to the title to these lands. I have said before in the Senate when this matter was up, and I repeat now, that it has been my opinion and is my opinion still that, so far as the title is concerned, these parties have it. I had occasion, as stated by my colleague, to investigate the matter as a lawyer many years ago, before I had a seat here, and I then came to the conclusion that the company had the title to these lands. So far as that question is concerned, I have never had any difficulty in reference to this bill. So far as the settlement of this controversy is concerned, as to the propriety of a speedy settlement, I have never had any doubt, nor have the people of Oregon. They unite in saying that this controversy between these parties and the Indians ought to be speedily settled in some proper way, and in fact there are on the files of the Department and of the Senate long petitions and letters from the citizens of Oregon urging a speedy settlement of the controversy. But there is a difference of opinion in Oregon among the people as to whether or not the settlement proposed by this bill is a proper one or one that ought to meet the approval of Congress—a very wide difference of opinion.

I do not agree to all the statements contained in the newspaper article read at the desk. In so far as that article attacks the title of these parties, I cannot subscribe to it. That is not my opinion. But the trouble is here: this bill proposes to grant lieu lands to these parties, and that is to be a floating grant extending over the whole State of Oregon. There is where the objection comes in, as a matter of policy; and I myself have had considerable hesitation in regard to the matter. Feeling that I ought to vote for some measure that would speedily settle this controversy, I have not felt and I do not now feel that I can vote for this bill in its present shape.

If this grant was to be limited in some respects so that these parties would not be at liberty to go all over the State in the selection of the lieu lands, I might then feel justified in giving it my support. I do not know whether the amendment that I have in my hand would meet with the approval of my colleague or not. I do not know whether it would meet with the approval of the parties owning this land across the Indian reservation. I would be willing, however, to vote for the bill with the amendment which I now send to the desk and offer; but should the amendment not be adopted, I cannot vote for the bill.

The PRESIDENT *pro tempore*. The proposed amendment will be read.

The CHIEF CLERK. In line 11 after the word "mineral" it is proposed to insert:

Within a distance of six sections on each side of the line of the military road running from Eugene City to the eastern boundary of the State, and not included in the Klamath reservation.

Mr. OGLESBY. That amendment of course ought to made.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Oregon, [Mr. MITCHELL.]

Mr. INGALLS. Before that is adopted, I should like a word of explanation from the Senator from Oregon, as I am not sure that in the hurried reading by the Clerk I fully comprehended the terms of his amendment. Does he intend by his amendment to confine this selection of indemnity or lieu lands to that portion of the military road that lies outside of the Klamath reservation exclusively?

Mr. MITCHELL. No, sir; I intend to confine it to the whole line of the road; instead of permitting the grant to float all over the State, I confine it to within six sections on either side of the line of the road.

Mr. INGALLS. What is the present limit?

Mr. MITCHELL. Three sections.

The PRESIDENT *pro tempore*. The question is on the amendment. The amendment was agreed to.

Mr. INGALLS. Mr. President, if this were a purely local matter, it is unnecessary for me to say that I should interpose no objection to the passage of the bill. If the people of Oregon are contented to have their vacant lands all occupied by grants to corporations, it is, of course, personally to me a matter of no consequence. But there is underlying this whole question a principle that, if it is once admitted by the action of Congress, will involve the United States Government in an absolutely incalculable amount of expenditure upon matters arising under a condition almost precisely like this. In brief, this proposition is to allow a grant of lands to a wagon-road corporation, to take effect within the limits of an Indian reservation previously

established; and if that proposition is admitted, if this precedent is once established, then there is not a State in this Union through which subsidized or land-grant railroads run and within which there have been Indian reservations established that have been penetrated by these roads, in which the Government will not be called upon, without equivalent or compensation, to give either large quantities of lands to these corporations or make large payments of money to the Indians whose lands, by this bill, will have been held to have been improperly taken.

The facts in regard to this matter are briefly that, on the 2d day of July, 1864, Congress passed an act granting public lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State; and, in this connection, the dates are important, and I ask the attention of the Senate to them, because they establish the rights respectively of the corporation, the Government, and the Indians. By an act of the Legislative Assembly of the State of Oregon, which was approved on the 24th day of October, in the same year, 1864, this grant was conferred by the State upon the Oregon Central Military Road Company, which road was completed throughout its entire length according to the terms of the grant as established by data before the Department, the 12th day of January, 1870. The treaty with the Klamath Indians, establishing an Indian reservation in that tract of country through which this road runs, appears by the report of the Commissioner of Indian Affairs to have been made and recognized as valid on the 14th day of October, 1864. The Senator from Oregon states that it was not ratified until February 17, 1870.

Mr. KELLY. July 2, 1860, and proclaimed in 1870.

Mr. INGALLS. Proclaimed on the 17th of February, 1870.

Mr. COCKRELL. Will the Senator from Kansas permit me to ask him when those Indians were removed to that reservation?

Mr. INGALLS. They were on the reservation at the time when the treaty was made in October, 1864.

Mr. COCKRELL. Before this selection of land?

Mr. INGALLS. Long before the selection of the land.

Mr. KELLY. I beg to correct the Senator from Kansas. They were not on the reservation, as I understand, until after the treaty was ratified.

Mr. INGALLS. The selections of lands were as follows: On the 21st of April, 1871, 51,248.56 acres were selected and approved; on the 8th of December, 1871, 37,414.51 acres were approved; and on the 2d of April, 1873, 4,487.34 acres, making, according to the report of the Commissioner of the General Land Office, the then incumbent, S. S. Burdett a total aggregate of 93,150.41 acres within the limits of this reservation that had been selected and approved by the Department.

Now, the only question is whether or not by virtue of the act of July 2, 1864, the grant of lands to the State of Oregon attached to the Klamath Indian reservation, or whether they were at that period of time public lands within the meaning of the act by which this grant was made. The Supreme Court of the United States has had this whole subject before it within the past year, in the somewhat celebrated case of *The United States against The Leavenworth, Lawrence and Galveston, and The Missouri, Kansas and Texas Railroad Companies*, which run through the State of Kansas and intersect each other within an Indian reservation known as the Osage ceded lands. Those two railroads run through that tract diagonally, the tract itself comprising about a million acres; and the companies claimed that under and by virtue of the act which endowed them with portions of the public land, upon the extinction of the Indian title to the Osage ceded tract, their grant became operative, and that those lands then became public lands within the meaning of the terms of that act, and that they therefore took a grant within those limits. The settlers upon those lands took issue with this proposition. The Commissioner of the General Land Office and the Secretary of the Interior held that the claim of the railroad companies was correct; that their grant did inure within the limits of the Osage ceded tract. But a suit was instituted by the Attorney-General in the name of the United States, and after a protracted argument by eminent counsel, the court decided that the holding of the Commissioner of the General Land Office and the Secretary of the Interior was wrong; that under no sense whatever could the Indian lands ever be considered as public lands, either before or after the title was extinguished. The court say:

We held that they attached only to so much of our national domain as might be sold or otherwise disposed of, and that they did not embrace tracts reserved by competent authority for any purpose or in any manner, although no exception of them was made in the grants themselves. Our decision confirmed a grant of every alternate section of land to such whereto the complete title was absolutely vested in the United States.

They proceed to say further:

The words "public lands" are habitually used in our legislation to describe such as are subject to sale or other disposal under general laws. That they were so employed in this instance is evident from the fact that to them alone could, on the location of the road, the order withdrawing lands from pre-emption, private entry, and sale apply.

Now, sir, if you will apply the terms of that decision to the conditions named in this bill it is evident that the Klamath Indian reservation never was public land within the meaning of the term as employed in the act making a grant to the State of Oregon.

Mr. COCKRELL. In what volume is the decision of the Supreme Court you are reading from?

Mr. INGALLS. It is not published.

Mr. COCKRELL. Is it in pamphlet form?

Mr. INGALLS. It is in last year's reports, which are not yet published. I have sheets of it before me.

Mr. PADDOCK. I think it is perfectly apparent that this bill cannot be passed at this session, and it seems to me a consumption of time which might be well employed in the consideration of bills to which there will be no objection. I move, therefore, that the bill be postponed until the first Monday of December next.

Mr. KELLY. I hope the Senator will not make that motion.

Mr. PADDOCK. I dislike exceedingly to antagonize my friend from Oregon; but it seems to me impossible that this bill can pass, and it is a consumption of time that ought not to be tolerated.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Nebraska.

Mr. KELLY. I ask for the yeas and nays.

The yeas and nays were not ordered.

The PRESIDENT *pro tempore*. The question is on the motion to postpone.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 4306) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1878, and for other purposes.

ENROLLED BILLS SIGNED.

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

- A bill (H. R. No. 2847) granting a pension to Lucinda Starnes;
- A bill (H. R. No. 3730) to remove the political disabilities of Samuel V. Turner, of Virginia;
- A bill (H. R. No. 1347) granting a pension to Hattie D. McKain;
- A bill (H. R. No. 3636) to remove the political disabilities of Richard S. Kinney;
- A bill (H. R. No. 3791) to remove the political disabilities of William A. Webb, of Virginia;
- A bill (H. R. No. 3260) to remove the political disabilities of Lawrence S. Baker, of Tarborough, North Carolina;
- A bill (S. No. 915) to remove the political disabilities of D. H. Hill, of North Carolina;
- A bill (S. No. 1096) to remove the political disabilities of R. C. Gatlin, of Arkansas;
- A bill (S. No. 1136) to remove the political disabilities of Wade H. Gibbs, of South Carolina;
- A bill (S. No. 1203) to remove the political disabilities of M. L. Bonham, of South Carolina;
- A bill (S. No. 1277) to remove the political disabilities of Catesby ap R. Jones, of Alabama;
- A bill (S. No. 1278) to remove the political disabilities of John S. Marmaduke;
- A bill (S. No. 1285) to remove the political disabilities of J. L. M. Curry, of Virginia;
- A bill (S. No. 1272) to remove the political disabilities of William Butler, of South Carolina;
- A bill (S. No. 1273) to remove the political disabilities of William R. Jones, of Texas;
- A bill (S. No. 1274) to remove the political disabilities of S. P. Moore, M. D., a citizen of Virginia;
- A bill (S. No. 1276) to remove the political disabilities of W. F. Carrington, of Virginia;
- A bill (H. R. No. 197) granting a pension to Julia A. Schutt, widow of Martin Schutt, a deceased soldier; and
- A bill (H. R. No. 3280) granting a pension to James Johnson.

WESTERN AND ATLANTIC RAILROAD.

Mr. GORDON. I move to proceed to the consideration of Senate bill No. 177.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to the consideration of the bill (S. No. 177) to authorize the Secretary of War to adjust and settle claims of the State of Georgia against the Government on account of the Western and Atlantic Railroad.

The Committee on Military Affairs reported the bill with an amendment to strike out all after the enacting clause and insert the following:

That the Secretary of War is hereby authorized to re-open the settlement made by the United States Government with the Western and Atlantic Railroad, of the State of Georgia, and to adjust the same upon the basis and the plan of settlement which was adopted in the settlement made by the Secretary of War with the Nashville and Chattanooga Railroad Company, the East Tennessee and Georgia Railroad Company, and the Nashville and Decatur Railroad Company, under the authority of the act of Congress approved March 3, 1871.

Sec. 2. That when said claims have been adjusted in pursuance of the provisions of this act, the Secretary of War be, and he is hereby, authorized to issue his warrant on the Treasury of the United States to the governor of Georgia or his order for the amount of money it is found ought to be refunded to said railroad on account of said settlement.

Mr. CAMERON, of Wisconsin. I ask if there is a report in this case?

The PRESIDENT *pro tempore*. There is a report.

Mr. CAMERON, of Wisconsin. From what committee?

Mr. COCKRELL. The bill is reported from the Committee on Military Affairs.

Mr. CAMERON, of Wisconsin. I ask for the reading of the report.

The PRESIDENT *pro tempore*. The report will be read.

The Secretary read the following report submitted by Mr. GORDON April 3, 1876:

The Committee on Military Affairs, to whom was referred Senate bill No. 177, report the substitute which accompanies this report, and recommend that the substitute pass.

It is a bill to authorize the Secretary of War to open the settlement made by the United States Government with the Western and Atlantic Railroad, of Georgia, and to make a settlement upon the same basis which was adopted by the Government in its settlement with the railroads of Tennessee.

The committee make this recommendation for the following reasons:

First. The Western and Atlantic Railroad, of Georgia, was turned over to the owners about the same time, to wit, on the 21st day of August, 1865; that the said railroads of Tennessee, the Nashville and Chattanooga Railroad, the East Tennessee, Virginia and Georgia Railroad, and the Nashville and Decatur Railroad, were turned over to their owners, and under the same orders from the War Department, and by the order and under the direction of Major-General Thomas; that the United States Government turned over these roads to their owners, and sold to each of them the engines, rolling-stock, &c., owned by the Government and used upon these roads respectively; that the sale was made to each of these railroads of the said Government property upon an appraisal made at the time and at the same or like prices to each and to all.

Second. Because afterward, to wit, in the year 1871, the United States Government, through the Secretary of War, acting under act of Congress of March 3, 1871, proceeded to revise the prices and re-adjust the settlements formerly made with the said Tennessee railroads, and reduced the amounts due from those roads to the Government, for the reasons assigned by the Secretary of War in his letter to the Judiciary Committee of the House of Representatives, dated January 21, 1874, in which the Secretary says:

"The committee further ask what the basis or reasons of such deductions were; whether or not any allowance was made for damages claimed to have been done these roads during the war; and whether or not the War Department found the Government appraisals of the property purchased by said corporations to have been excessive.

"To which it is answered—

"First. That no allowance was made for damages of any kind.

"Second. That the appraisal of the property sold was regarded as excessive," &c. And because, although the excessive prices were paid by the Western and Atlantic Railroad, of Georgia, no deductions were or ever have been made in behalf of this last-mentioned road.

Third. Because the committee believe that, if the prices paid for the Government property were excessive in the case of the Tennessee railroads, the same prices were also excessive in the case of the Western and Atlantic Railroad, of Georgia, and that it is just and equitable that like deductions should be made to this road, and that the Government deal with all these creditors alike.

The committee, therefore, recommend that this substitute for the original bill pass, authorizing the Secretary of War to settle with the Western and Atlantic Railroad, of Georgia, upon the same basis which was adopted by the Government in the settlement with the Tennessee railroads.

Mr. BURNSIDE. This bill is simply for the relief of a railroad company that paid promptly the demands of the Government, while other railroads did not pay, and afterward settled with the Government upon a certain basis; and now this bill provides that settlement shall be made with this railroad upon the basis of settlement made with other railroads, particularly those in Tennessee. It is recommended unanimously by the Military Committee, and I am satisfied it is but just to this road that the bill should pass.

Mr. CAMERON, of Wisconsin. I should like to ask the Senator from Rhode Island a question, in order to understand this bill. Did this road make a settlement with the Government at any time?

Mr. BURNSIDE. As I understand, the road answered the demands of the Government. It was more a demand on the part of the Government than a settlement.

Mr. CAMERON, of Wisconsin. Did the Government afterward settle with other roads more favorably?

Mr. BURNSIDE. It afterward settled with other roads more favorably and now this road asks to be settled with on the same terms.

Mr. CAMERON, of Wisconsin. This road wants the settlement opened and wants to make a settlement on the same terms that the Government settled with these other roads; is that it?

Mr. GORDON. If the Senator from Wisconsin will allow me, the Tennessee roads to which this bill refers paid for their property precisely the same rates that were assessed upon the property purchased by the Georgia road. The appraisal of the property on all these roads was made by a board of officers appointed by the Government. This Georgia road paid its assessments. Afterward the Tennessee roads applied to the War Department to have these prices reduced on the ground that they were excessive. The Department, under act of Congress, appointed another board of officers who re-examined the property and reported that the prices were excessive to the extent of fully 25 per cent., and a deduction was made by the War Department. The Western and Atlantic Railroad of Georgia asks that the Secretary of War be authorized to make the same settlement with it as was made with the others. A number of roads have had similar deductions made since that time.

Mr. WRIGHT. I should like to make some inquiries about this bill. I have an impression that this bill was at one time before the Judiciary Committee of this body.

Mr. GORDON. The Senator is mistaken. It was never before any committee except the Committee on Military Affairs.

Mr. WRIGHT. I have an impression that legislation of some kind

was asked, and was before the Judiciary Committee, touching these roads. I should like to know how much is involved probably in this bill; that is to say, how much the Government will have to pay back if the bill should pass.

Mr. GORDON. I think about \$160,000 or \$175,000. I answered that question when the bill was discussed last session; but I have not the data now before me. The amount, however, cannot change the principle upon which the settlement is asked. I am willing for an amendment on the bill, fixing the percentage to be deducted at 25 per cent., if the Senator insists, although it is proper that this road should be placed upon the same basis with the Tennessee roads.

Mr. WRIGHT. I inquire why it is that the Department cannot arrange and settle this matter with this company, as it has settled with the others?

Mr. GORDON. Because a bill was passed to authorize the other settlements, and the Secretary of War did settle according to the recommendations of the board. I will read the names of the board if the Senator will allow me.

Mr. WRIGHT. My impression was, as I understood the Senator's statement just now, that application was made to the Department, and not to the Legislature, where they made the settlements heretofore. I understand now that it was based upon legislation touching these other roads. That is to say, those settlements were not made under the general power of the Department to adjust and settle these matters, but there was special legislation authorizing them to settle with these other roads on the basis named. Am I correct in that?

Mr. GORDON. Under a law passed March 3, 1871, the Secretary of War proceeded to revise the prices of these other roads, and a board—composed of Colonel R. B. Marcy, inspector-general; Colonel W. M. Dunn, assistant judge-advocate-general; and Major M. I. Ludington, quartermaster—proceeded to re-adjust those prices and to recommend the deduction on account of excessive charges by the Government. All this bill proposes to do is to allow the War Department to make the same deductions for the Western and Atlantic Railroad and for precisely the same reasons.

Mr. WRIGHT. Will the Senator allow me to ask why it was that this road was not included in the legislation at the same time?

Mr. GORDON. Simply because at that time the State of Georgia did not present her claim. This road belongs to the State. I endeavored to get a similar bill passed immediately upon my entrance into the Senate. I assure my friend from Iowa that it is an eminently just bill. It was discussed in committee, and received the unanimous sanction of the Committee on Military Affairs after the fullest investigation.

Mr. WRIGHT. Neither of the roads covered by the legislation of 1871 was in Georgia?

Mr. GORDON. No, sir; they were in Tennessee.

Mr. WRIGHT. Both of them?

Mr. GORDON. Yes, but connecting with this road at Chattanooga, Tennessee.

Mr. WRIGHT. There was no effort made at that time to include this road in that legislation?

Mr. GORDON. No, sir; there was no effort made.

Mr. WRIGHT. Then it was not excluded by the action or non-action of Congress, but merely because the matter was not pressed at that time? This road was not excluded by Congress?

Mr. GORDON. Not at all. There was nothing asked at that time for this road. There is no doubt the report is correct, and that the prices were excessive. The Government cannot desire to exact excessive prices of any of these roads. We only ask that the prices of the property sold be brought down to what it was justly worth at the time. That is the purpose of this bill.

Mr. CAMERON, of Wisconsin. That is right.

The PRESIDENT *pro tempore*. The question is on the amendment to strike out all after the enacting clause and insert what has been read.

The amendment was agreed to.

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

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

The title was amended so as to read: "A bill to authorize the Secretary of War to open and re-adjust the settlement made by the United States Government with the Western and Atlantic Railroad of Georgia."

WILLIAM WHEELER HUBBELL.

Mr. CRAGIN. I move that the Senate proceed to the consideration of the bill (S. No. 667) for the relief of William Wheeler Hubbell, and to make just compensation for the past making, or use, or vending of his patent explosive shells, fuses, and percussion exploders by the United States.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on Naval Affairs with an amendment to strike out all after the enacting clause and in lieu thereof to insert:

That the Secretary of the Treasury be, and is hereby, authorized and directed to pay to William Wheeler Hubbell, of Philadelphia, Pennsylvania, or his heirs or legal representatives, the sum of \$33,333.33, out of any general appropriation for judgments of the Court of Claims, in full satisfaction of the balance of his actual

loss and damage, ascertained by the Court of Claims, for the past use made by the United States of certain patents, the inventions of said Hubbell, mentioned in the preamble and reference of joint resolution approved June 3, 1864, said payment to be in full for all past use by the Government of his inventions of whatever name or nature; and the acceptance of the sum provided by this act shall be a full and complete transfer of his patents dated September 30, 1862, for concussion fuse; his patent dated July 8, 1862, for rifle projectiles; his patent dated October 31, 1863, for incendiary shell; and of all patents and inventions mentioned in said joint resolution to the United States.

Mr. CRAGIN. I move to amend the amendment in line 7, after the word "any," by striking out the words "general appropriation for judgments of the Court of Claims," and inserting: "out of any money in the Treasury not otherwise appropriated;" so as to read: "The sum of \$33,333.33, out of any money in the Treasury not otherwise appropriated, in full satisfaction," &c.

The amendment was agreed to.

The amendment, as amended, was agreed to.

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

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

The title was amended so as to read: "A bill to settle for the inventions and patents of William Wheeler Hubbell."

CHANCY J. POORE.

Mr. CHRISTIANCY. I move to proceed to the consideration of the bill (H. R. No. 2229) for the relief of Chancy J. Poore, late a private in Battery G, First New York Light Artillery. It is for the change of a single word in a soldier's discharge, in order to correct a mere clerical error.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of War to correct the entry made as the cause of the discharge from the service of the United States of Chancy J. Poore, late a private in Battery G, First New York Light Artillery, so as to show the cause of such discharge to have been "phlebitis" instead of "diabetes," as erroneously entered in the record.

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

THOMAS E. MALEY.

Mr. SPENCER. I move that the Senate proceed to the consideration of the bill (S. No. 1111) for the relief of Thomas E. Maley.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It relieves Thomas E. Maley, who was, on December 15, 1870, duly retired from the active service and placed upon the list of retired officers of the United States Army, with the full rank of lieutenant-colonel, on account of wounds received in battle while performing the duties of lieutenant-colonel in command of eight companies of his regiment, from the operation of the act of Congress entitled "An act for the relief of General Samuel W. Crawford, and to fix the rank and pay of retired officers of the Army," approved March 3, 1875, solely because the injuries received by him in battle are more severe, dangerous, and disabling and more fully incapacitate and disqualify him for any service than the loss of an arm or leg or the permanent disability of an arm or leg by resection; and he is restored upon the list of retired officers of the Army to the full rank of lieutenant-colonel, held by him from the date of his retirement up to March 3, 1875, with the pay of such rank from the date of the passage of this act, and shall hereafter hold and receive the rank and pay of lieutenant-colonel upon the list of retired officers of the Army.

Mr. COCKRELL. I ask that House bill No. 3483, which is a case precisely similar, go with this bill.

Mr. SPENCER. I do not object to that.

The PRESIDENT *pro tempore*. One bill only can be passed at a time.

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

GEORGE A. ARMES.

Mr. SPENCER. I move that the Senate proceed to the consideration of the bill (S. No. 407) to authorize the restoration of George A. Armes to the rank of captain.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. COCKRELL. To put the bill in a better form, I wish to offer a substitute.

Mr. SPENCER. I will accept the substitute presented by the Senator from Missouri.

Mr. INGALLS. Let us hear it read.

The CHIEF CLERK. It is proposed to strike out all after the enacting clause of the bill and to insert:

That the provisions of law regulating appointments in the Army by promotion in the line are hereby suspended for the purposes of this act, and only so far as they affect George A. Armes; and the President can, if he so desire, in the exercise of his own discretion and judgment, nominate, and, by and with the advice and consent of the Senate, appoint said George A. Armes, late captain in the Tenth United States Cavalry Regiment, to the same grade and rank of captain held by him on June 7, 1870, in any vacancy occurring: *Provided, however*, That no pay, compensation, or allowance whatever shall ever be given to said Armes for the time between June 7, 1870, and the date of appointment hereunder.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Missouri.

The amendment was agreed to.

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

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

ROSETTA HERT AND OTHER HALF-BREED INDIANS.

Mr. BOGY. I move to take up the bill (H. R. No. 534) for the relief of Rosetta Hert, (late Rosetta Scoville,) Charles C. Benoist, Emily Benoist, and Logan Fanfan, half-breed Indians.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on Private Land Claims, with an amendment in line 5, to strike out the words "money in the Treasury not otherwise appropriated" and insert:

Funds which may remain of the moneys arising from the sale of lands known as the Nemaha half-breed reserve, on the Missouri River, in Nebraska, under an act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations, approved February 28, 1859, upon these parties satisfying the Secretary of the Interior that they are entitled to the same.

Mr. PADDOCK. I should like to have the bill explained by the Senator who reported it.

Mr. BOGY. The report explains the bill very fully. It is to provide for the payment of a fund now remaining in the Treasury of fourteen or fifteen hundred dollars to half-breed Indians, whenever they make their proofs to the Secretary of the Interior. The money is to come out of the fund now remaining there for that purpose. It is a very small sum. The subject was examined by the Committee on Indian Affairs and the bill was reported unanimously.

Mr. CLAYTON. Let the bill be read.

Mr. BOGY. Let it be read as proposed to be amended.

The Chief Clerk read as follows:

That the proper accounting officers of the Treasury and Department of the Interior are hereby authorized and directed to pay, out of any funds which may remain of the moneys arising from the sale of lands known as the Nemaha half-breed reserve, on the Missouri River, in Nebraska, under an act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations, approved February 28, 1859, upon these parties satisfying the Secretary of the Interior that they are entitled to the same, to Mrs. Rosetta Hert, (late Rosetta Scoville,) Charles C. Benoist, Emily Benoist, and Logan Fanfan, each the sum of \$204.38, as their distributive shares of the moneys arising from the sale of the lands known as the Nemaha half-breed reserve on the Missouri River in Nebraska.

The amendment was agreed to.

Mr. WRIGHT. I wish to call the attention of the Senator from Missouri to one point. If I heard correctly the reading of the bill, the first two or three lines provide that there shall be paid by the Secretary of the Treasury and the Secretary of the Interior this money. Is that the case?

Mr. BOGY. There is a misprint there, I think.

Mr. WRIGHT. Does the bill provide that this money shall be paid by both the Secretary of the Treasury and the Secretary of the Interior?

Mr. BOGY. There is a misprint. How it got in the bill I do not know. The words "Department of the Interior" should be stricken out.

Mr. WRIGHT. That is what I supposed. Of course you do not want to have both named in the bill; but it must be one or the other.

Mr. BOGY. In the forty-third and fourth lines of the bill, after the word "Treasury," I move to strike out the words "and Department of the Interior;" so as to read:

That the proper accounting officers of the Treasury are hereby authorized and directed to pay, &c.

The amendment was agreed to.

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

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

REPORT OF SILVER COMMISSION.

Mr. JONES, of Nevada. I ask leave to submit the report of the joint monetary commission.

The PRESIDENT *pro tempore*. The report will be received and printed.

Mr. BOUTWELL. I submit a minority report, signed by Mr. Francis Bowen, a member of the commission, and also a report of my own, which I ask may be printed.

The PRESIDENT *pro tempore*. They will be printed.

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

Resolved by the Senate, (the House of Representatives concurring,) That 3,000 copies of the report of the monetary commission, created by the joint resolution of August 15, 1876, together with accompanying evidence and documents, be printed for the use of the Senate and 7,000 for the use of the House of Representatives.

WARREN MITCHELL.

Mr. JONES, of Florida. I move that the Senate proceed to the consideration of the bill (S. No. 1145) for the relief of Warren Mitchell.

Mr. CAMERON of Wisconsin. I object to the consideration of the bill.

The PRESIDENT *pro tempore*. The Chair will submit it to the Senate. The question is on the motion of the Senator from Florida to proceed to the consideration of this bill.

The question being put, it was declared that the noes appeared to prevail.

Mr. JONES of Florida. I ask for a division.

Mr. CONKLING. May I inquire from what committee the bill is reported?

Mr. JONES, of Florida. From the Committee on Claims.

Mr. CAMERON, of Wisconsin. Would it be proper for me to make a statement in regard to this bill?

The PRESIDENT *pro tempore*. It would be.

Mr. CAMERON, of Wisconsin. A bill for the relief of this claimant was referred to the Committee on Claims at the last session of the present Congress. It was considered by the committee during that session. It was referred to me for special examination. I made such examination and reported adversely. The report was concurred in by this committee and concurred in by the Senate, and the bill was indefinitely postponed. Subsequently the bill was recommitted to the committee. It was again considered by the Committee on Claims and a majority of the committee reported in favor of the bill. In examining another case referred to the Committee on Claims since that time, the committee have discovered some very important evidence bearing upon this claim. It was claimed that this claimant, Warren Mitchell, was loyal during the late civil war. In examining the case of Connor Brothers, we had occasion to look into certain testimony taken before the district court for the district of Kentucky; and it appears from that testimony that this same claimant, Warren Mitchell, was employed by the confederate government at Nashville, prior to the occupation of Nashville by the Federal forces, for the purpose of packing meat for the confederate government. He had a contract with the confederate government by which the live hog was furnished to him, he agreeing to slaughter the hog and return the hams, sides, and shoulders to the confederate government and retain the rest of the hog for his pay. Immediately before the occupation of Nashville by the Federal forces he left with the confederate army and went South. This testimony, I will state, was not before the Committee on Claims at the time the bill was reported from the committee.

Mr. JONES, of Florida. What case does the Senator refer to in which these facts were made to appear?

Mr. CAMERON, of Wisconsin. The case of Connor Brothers.

Mr. JONES, of Florida. Investigated by the committee of the Senate?

Mr. CAMERON, of Wisconsin. By the Committee on Claims of the Senate.

Mr. JONES, of Florida. Recently?

Mr. CAMERON, of Wisconsin. Quite recently. The Senator from Florida was not present.

Mr. JONES, of Florida. I ask for the reading of the report in this case.

The PRESIDENT *pro tempore*. The report will be read.

The Secretary read the following report submitted by Mr. JONES, of Florida, from the Committee on Claims, January 17, 1877:

The Committee on Claims, to whom was referred the memorial of Warren Mitchell, of the State of Kentucky, praying to be refunded the proceeds of seven hundred and thirty bales of cotton seized by officers of the United States at Savannah, Georgia, and covered into the Treasury, having considered the same, report as follows:

The petitioner, at the commencement of the late civil war, was a resident of the city of Louisville, in the State of Kentucky, where he was engaged in commercial business. The firms with which the petitioner was connected were largely indebted to the Bank of Kentucky and other banks in Louisville, and, in consequence of the large amount of debts due these firms in the South, their creditors became apprehensive that they would not be able to meet their liabilities, and the petitioner was advised to go South and endeavor to collect or secure the debts due said firms. This advice was given by Mr. V. McKnight, president of the State Bank of Kentucky, and others, and McKnight went with the petitioner to General Anderson, then in command at Louisville, introduced him to that officer, and procured a pass for him to go South for the purpose stated.

Under this pass, the petitioner went into the States in insurrection in the month of July, 1861, and remained there until the latter part of the year 1864. During this period he collected a large amount of debts due said firms, and purchased seven hundred and thirty-four bales of cotton, which were delivered to him, and then stored in the city of Savannah. The cotton was purchased in the months of November and December, 1864. When Savannah was captured by the United States Army under General Sherman, this, with a large amount of other cotton, was seized by the military authorities, turned over to the agents of the Treasury, and then sold. The net proceeds of the petitioner's cotton, after deducting all expenses of sale, shipment, &c., as appears from the books of the Treasury, amounts to the sum of \$123,692.22. On the 3d of July, 1865, the petitioner received a full pardon from the President of the United States for all offenses committed by him or arising from any participation in the rebellion. The petitioner instituted a suit in the Court of Claims to recover the proceeds of his cotton from the Government, but, that tribunal being equally divided in opinion touching the claimant's right to recover, his case was dismissed, and he appealed to the Supreme Court.

The opinion of the court in the case is to be found in 21 Wallace, 350. The ground upon which the court decided against the claimant is purely technical. They found that he had purchased the cotton; that it was captured; and that the proceeds were in the Treasury; but decided that his purchase gave him no title, because his domicile was in Louisville, in a loyal State, and that a contract made under such circumstances was void.

In arriving at this conclusion the court held that the permit given to the claimant by General Anderson conferred no rights upon him; but your committee are constrained to think, without questioning the law as laid down by the court, that no advantage ought to be retained by the Government which resulted from the void and illegal act of its own officer. Admitting to the fullest extent possible the unauthorized and illegal character of the pass given to the claimant by General Anderson, after a full disclosure of the object of the former's mission, is it not plain that Mr. Mitchell would not have gone to the South at all if the pass had not been given to him? The circumstances under which the application was made and the permit granted show most conclusively that the officer and claimant were both ignorant, the one of his power, the other of his duty. General Anderson represented the Government in a high military station. The claimant was a loyal citizen, anxious to save the bulk of his fortune, about to be lost, as he thought, by the civil war then commenced. The law of nations, which was applied by the court very rigorously in this case, is founded on wise and just principles. It prohibits all commercial in-

tercourse between the citizens or subjects of countries at war with each other, because it would tend to strengthen and increase the power of the public enemy, which it is ever the object of war to destroy. But in this case the real purpose of the citizen was to save from destruction what had been honestly earned and accumulated before hostilities began, and under the protection of the Government. Why is it that the most enlightened writers on the laws of war have praised the humane usage which permits the subjects of one nation to withdraw their property from another on the eve of hostile relations? And has it not always been an object of importance, on the conclusion of peace, to save to the subjects of the belligerent power their rights of property which were suspended during the flame of battle? We know, too, that when the private property of a subject is recaptured from an enemy by the forces or cruisers of that nation to which such subject belongs, that it is restored to him. The principles which uphold this practice spring from the reciprocal duties of allegiance and protection which constitute the most important relations in the State.

Had the claimant in this case entered the confederate territory for the purpose of uniting his fortunes with those in arms against the United States, his case would be different. But he was a man advanced in life, fifty-three years of age, and was not in sympathy with the secession movement. He did not act while at the South which was disloyal, unless it be claimed that the conversion of his credits into cotton was of that character. It must be conceded, under the decision of the Supreme Court, that if the petitioner had been domiciled in the State of Georgia, instead of the State of Kentucky, and had taken the most active part in the war against the United States, he would have recovered his property in the Court of Claims. It is only because his domicile was in a loyal State that he has been denied relief, while it might be claimed that the presence of the petitioner in the insurrectionary States and the investment of credits there in cotton was a technical violation of the laws of war, still the facts in the case show that there was no guilty intention, such as usually carries with it criminal consequences or forfeitures. The transactions of the claimant were not of a character to benefit the confederate authorities. They were all founded in debts due the claimant previous to the war, and which, if he had not collected, would under the laws of the States in rebellion, have been confiscated to the use of the confederate authorities. The Supreme Court held that his purchase, being against public policy, gave him no title. Did it confer any upon the Government? The proceeds of the cotton stand on the books of the Treasury in the name of the claimant. The money of course must follow the right of the thing which produced it. If the cotton was not Mitchell's, whose was it? It was seized as his, sold as his, and the fund arising from it the records of the Government admit to be his; he had actual possession of the cotton at the time of its seizure, and even if his title was defective, it is an elementary principle of law that such a possession is good against every one except the rightful owner. The law will not enforce a contract which arises out of an illegal consideration; neither will it disturb the rights of a party under such a contract after it is executed.

The whole right of the Government to hold this fund is derived from the fact that the claimant was, at the time he bought the cotton, a citizen of a loyal State. This establishes his loyalty, for it is in proof that he did not aid the confederacy, but, on the contrary, added to its burdens by becoming a consumer, while he did not increase its defenders.

Your committee are of opinion that the petitioner is entitled to the relief prayed for, and report a bill for his relief, authorizing the Secretary of the Treasury to pay him the sum of \$123,692.22, being the net proceeds of the cotton taken from his possession as hereinbefore stated.

Mr. STEVENSON. I never heard the testimony which has been suggested by the Senator from Wisconsin. I know this claimant well. He is one of the most respectable merchants in the city of Louisville. I am quite sure he took no part in the rebellion. He was a commission merchant, engaged in furnishing breadstuffs, pork, &c., to the South. When the war broke out, he being largely indebted to the banks of Louisville, and people in the South being indebted to him, and bearing a very high character, he was permitted by General Anderson under a military permit to go South. He there collected debts, was advanced some money, and invested it in cotton. This cotton was seized by the Government and sold, half of the amount of the proceeds used in costs and fees, and the other half is in the Treasury of the United States. This old man, after a life-time of usefulness and honor, finds himself bankrupt unless the Government chooses to relieve him. He was pardoned by the President. Even if what the Senator says be true, I understand the Supreme Court have settled again and again that a pardon even to the rankest rebel would give him the right to claim the proceeds of the cotton under the law.

It seems to me that this is a very just claim. I do not see how the Government, having absorbed more than half the property of this old man—his honest earnings, that which belonged to him, and that which now belongs to him—can rest satisfied, this man having been pardoned by the President, to hold on to this money; but it is with the Senate and not with me to decide it.

Mr. JONES, of Florida. It may be proper for me to say a few words in regard to the merits of this case, having made the report which has been read. I think it is a case of great merit and of the strongest equity. It so struck me from the first time the facts were presented to my mind, and nothing which the Senator from Wisconsin has stated has changed my convictions. Here was a citizen of the State of Kentucky. We know that his character followed the character of the State. Kentucky in the late unhappy war was regarded as a loyal State. This gentleman was a citizen of that Commonwealth, and for all legal purposes must be regarded as a loyal citizen. That was the view taken of this case, as I understand, by the Supreme Court when the case came before them. Without making any inquiry into the individual conduct of the person, the court fixed his character and status by the character and status of the State to which he belonged. He was a citizen of Kentucky at the time the permit was granted to him to enter the Southern States to collect his debts.

I have little to say about the power of the officer who granted this permit. Let it be admitted that he had no authority to grant it, what then? Is it to be insisted here that the Government shall take advantage of the wrong of its own officer? He had either authority to grant the permit to Mr. Mitchell or he had not. If he had authority to grant it, then the act was valid, and everything that was done

under it was valid also. If he had no authority to grant it, then he violated his public duty, and it was wrong; but can the Government come in and found any title upon a violation of duty on the part of General Anderson, who commanded in the district of Kentucky? The permit was given to this man to go South, and under it he passed the lines and went into the confederacy and collected the large part of his fortune. That was invested there. He put it into cotton and carried it to Savannah, and when that city was captured by General Sherman the accumulation of three years' energy and industry was seized and appropriated by the Government. The property was sold, the proceeds were paid into the Treasury, after deducting one-half of the same for expenses and commissions. The balance is there to his credit upon the books of the Government. This is the case in a nutshell.

When the case went before the Supreme Court that tribunal, in interpreting the law, decided that as this gentleman was a citizen of a State which was regarded as loyal he could not, under the law as it then existed, hold any intercourse or make any contracts with persons residing within the confederate lines; and upon that technical ground, and that alone, that judgment is founded. According to the reasoning of the court, if this man had been a confederate out and out, a resident of the State of Georgia, and had received his pardon, he could have gone on and asserted his claim before the Court of Claims to recover, as a number of other claimants did in like cases; but because he happened to be a citizen of a loyal State the court held that this rule of law must apply to him, and that he acquired no right by the contracts that he made while within the limits of the confederacy. It was not denied that the property which produced this fund was his. None of the facts was disputed. On this technical question of law the whole case was decided, and they held that he could not recover. He came before our committee. We had the right to look into the equity of this case, and we found, as far as the testimony before us went, that he was a loyal man, a citizen of a loyal State, and that this property was his. The books of the Treasury show precisely the amount that was due him. Should he be placed in a worse condition in consequence of his being a citizen of Kentucky than he would be if he had been a citizen of the State of Georgia, the State of Florida, or the State of South Carolina? That is the question.

I never before heard anything about the testimony to which the Senator from Wisconsin has alluded. It may be all true, but it appears from the testimony in this case that this man was pardoned, as was said by the Senator from Kentucky. That fact is made distinctly to appear in the report which is now before the Senate. He was pardoned. How, therefore, can the Government claim this fund? On what ground can it rest its right to claim it?

Mr. CAMERON, of Wisconsin. Will the Senator allow me to ask him a question?

Mr. JONES, of Florida. Certainly.

Mr. CAMERON, of Wisconsin. If he were a loyal man and had done no disloyal act, for what purpose did he obtain a pardon?

Mr. JONES, of Florida. I suppose the claimant could answer that question, if he were here, better than myself. The fact is here stated and the evidence shows that he obtained a pardon. I suppose he resorted to that as a mere matter of precaution. I know a number of individuals who did the same thing, who, in my judgment, had done nothing to call for the granting of a pardon. He had this controversy on hand with the Government, and it may be that as a matter of precaution before going into litigation in the Court of Claims and the Supreme Court he obtained a pardon, which I admit he did. Does it presuppose any iniquity? We are told by the decision of the court that if he had been a rebel this fact would have blotted out this technical objection and he would have come before the Senate with clean hands. The judgment of that court is to be regarded.

I think it a case of great merit, because there is no way in the world by which the Government can found any claim to this property, except upon the order of this officer alone, General Anderson, who permitted this man to pass his lines and transact this business within the confederacy; and after he had gone on under this order and acquired this property the Government is to turn around and say "we take advantage of this void order, confiscate your goods, and pocket the proceeds of the cotton."

Mr. CAMERON, of Wisconsin, rose.

The PRESIDENT *pro tempore*. The Chair now reminds Senators, as both sides have spoken, that Senators must not speak to the merits of the question on the motion to take up. The question is, Will the Senate proceed to the consideration of this bill.

Mr. STEVENSON. I ask for the yeas and nays.

Mr. CAMERON, of Wisconsin. Yes; let us have the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 24, nays 21, as follows:

YEAS—Messrs. Alcorn, Bailey, Barnum, Bayard, Boggs, Cooper, Dennis, Goldthwaite, Hereford, Johnston, Jones of Florida, Kelly, McCreery, McDonald, Maxey, Merrimon, Norwood, Randolph, Ransom, Robertson, Sainsbury, Spencer, Stevenson, and Whyte—24.

NAYS—Messrs. Booth, Boutwell, Bruce, Cameron of Wisconsin, Chaffee, Christianity, Conkling, Dawes, Ferry, Hamlin, Ingalls, Jones of Nevada, Logan, McMillan, Mitchell, Morrill, Oglesby, Paddock, Sharon, Teller, and Wright—21.

ABSENT—Messrs. Allison, Anthony, Blaine, Burnside, Cameron of Pennsylvania, Clayton, Cockrell, Conover, Cragin, Davis, Dorsey, Eaton, Edmunds, Frelinghuysen, Gordon, Hamilton, Harvey, Hitchcock, Howe, Kernan, Morton, Patterson, Sargent, Sherman, Thurman, Wadleigh, Wallace, West, Windom, and Withers—30.

So the motion was agreed to; and the bill (S. No. 1145) for the relief of Warren Mitchell was read the second time and considered as in Committee of the Whole. It authorizes the Secretary of the Treasury to pay to Warren Mitchell, out of any moneys in the Treasury derived from the proceeds of captured and abandoned property, \$128,692.22, being the proceeds of cotton taken from him at Savannah, Georgia, the proceeds of which have been paid into the Treasury.

Mr. INGALLS. The claim of Mr. Mitchell appears to have been very deliberately and exhaustively considered by the judicial tribunals of this country. I have the twenty-first volume of Wallace's Reports, and on page 350 is found the syllabus of the case of Mitchell *vs.* The United States. It seems that the action was originally brought before the Court of Claims, which was equally divided in opinion as to whether the claim of Mitchell should be sustained, and his petition was accordingly dismissed. The claimant then removed his case to the Supreme Court upon appeal, assigning for error that on the facts found the Court of Claims should not have dismissed the petition, but should have decided that he had acquired a valid title to the cotton. A brief statement of facts appears to show that he was a resident of Kentucky at the outbreak of the war, and that after the 17th day of July, 1861, he went under a military pass of a Federal officer into the rebel States, and in November and December, 1864, bought a quantity of cotton there, seven hundred and twenty-four bales, and never returned to the loyal States until just after that time and when the war was not far from its close. Upon this state of facts he was held, on a question whether he had been trading with the enemy, not to have lost his original domicile, and accordingly to have been so trading.

The case seems to have been elaborately argued by the attorney for the appellant, and also by the Attorney-General and assistant attorney-general for the United States. The point of law involved was whether the domicile that the claimant had acquired was changed, and it was held that it must be presumed to continue until it was shown affirmatively to have been changed. The court say:

"Where a change of domicile is alleged, the burden of proving it rests upon the person making the allegation."

When the claimant left Louisville, it would have been illegal to take up his abode in the territory whither he was going. Such a purpose is not to be presumed. The presumption is the other way. To be established, it must be proved. Among the circumstances usually relied upon to establish the *animus manendi* are: Declarations of the party, the exercise of political rights, the payment of personal taxes, a house of residence, and a place of business. All these *indicia* are wanting in the case of the claimant.

The rules of law applied to the affirmative facts, without the aid of the negative considerations to which we have adverted, are conclusive against him. His purchase of the cotton involved the same legal consequences as if it had been made by an agent whom he sent to make it.

The amount involved in this claim is very considerable, aggregating \$128,692.22, and as the claim has been submitted to the judicial tribunals of the country, has been fully argued and decided against the claimant, it seems to me there should certainly be a very conclusive amount of additional testimony advanced before Congress should be asked to overrule the final decision of the Supreme Court.

Mr. STEVENSON. I admit all that the Senator has said, that in point of law the Court of Claims, I believe, by a divided vote probably has decided against this claimant. The Supreme Court decided it purely upon a technicality as to domicile. The great question of *ex aquo et bono* which addressed itself to the court was all in favor of this claimant. He lost his cotton; the United States got it; they took half the proceeds, paying costs and damages on the other half, and although that cotton sold for, I think, in the neighborhood of \$300,000, (I will not undertake to be accurate,) all that he asks is \$128,000, which is the amount paid into the Treasury.

Mr. President, if everything that the Senator from Kansas said were true, this is an equitable appeal to Congress to relieve this claimant. Such relief has been granted a hundred times. It was done in the case which I referred to not long since, of *Harmony vs. Mitchell*, where General Doniphan directed certain goods of traders to be seized lest they might fall into the hands of the enemy. The Supreme Court decided that the order was illegal, but yet Congress relieved the claimants. Where a man acts under a void order or in the execution of a void command, and the Government itself becomes the beneficiary, the equitable power of Congress should be applied to grant equitable relief. Surely if ever there was a case in which the equity of any claimant addressed itself to the sound discretion of this body it is this case. This man devoted his whole life to merchandise in Louisville. He engaged in business without ever supposing there would be a war with the South, having his debts all there. When the war broke out, and when he had collected this cotton in payment of his debts, the United States seized the cotton, and because General Anderson's order, which allowed him to go South, turns out to be void, shall the United States hold that old man's property, and say, "We have you on a legal technicality, and we will turn a deaf ear to your complaint," and that, too, in the face of examples, almost *pari passu*, like this where relief was granted?

I do not think there can be a doubt in regard to this case. How inconsistent would it be to reject this claim! The Supreme Court say that if his arms and hands had been red in the blood of rebellion, he could have recovered; if he had been a rebel fighting from the beginning of the war to this time, he could have recovered; but he was an honest merchant engaged in his trade in Louisville, and went South

to save just debts to pay his creditors. Under such a state of the case as that, having already lost half, the Government having received it, can the Government consistently with a high sense of equity and in the view of past precedents undertake to hold on to it? I hope not, Mr. President.

Perhaps I shall never open my voice again in this Senate Chamber; but I shall go out believing that no utterances of mine were ever made in a case where relief was more demanded by all the stern requirements of a just and equitable policy.

Mr. CAMERON, of Wisconsin. Mr. President, it is true that this claimant was a merchant doing business in the city of Louisville prior to the breaking out of the recent civil war. I suppose it is true, although that is not proved by the statement of the claimant himself, that there were large, or at least considerable sums of money owing to him in the Southern States at the time of the breaking out of the war. It is shown that in July, I think, 1861, he went to General Anderson, who at that time commanded the military district of Kentucky, and obtained from General Anderson a sort of permit to go into the seceding States. General Anderson did not guarantee that that permit was a valid and legal authority for him to go into the Southern States. The Government did not guarantee that such a permit was a valid and legal authority for him to leave Kentucky to go into the seceding States. He took that paper for whatever it was worth, and it turns out by the judicial decision of the highest court of the country that it was worth nothing; worth no more than so much blank paper. He went into the seceding States early in 1861. He remained in the seceding States until late in 1864 or early in 1865. He remained there during four long years.

Mr. JONES, of Florida. Will the Senator permit me to ask him a question?

Mr. CAMERON, of Wisconsin. Certainly.

Mr. JONES, of Florida. What time does it appear he was dealing with the enemy at Nashville, according to the evidence to which the Senator referred a while ago?

Mr. CAMERON, of Wisconsin. Prior to the 24th day of March, 1862.

Mr. JONES, of Florida. At what time?

Mr. CAMERON, of Wisconsin. He was in Nashville immediately before Nashville was taken possession of by the Federal forces. It was taken possession of by the Federal forces, if my memory serves me right, on the 24th day of March, 1862.

I was remarking, Mr. President, that he remained in the seceding States during four years. He states in his petition that he was engaged during that time in collecting, or attempting to collect, the debts which were due to him in those States. He does not in his petition or in any of his proofs go into any particulars. He merely makes a general statement. He does not show in his petition, nor does he show in his proofs outside of the petition, where he was at any time during the four years that he remained in the seceding States, except that he was in Savannah at the time it was captured by General Sherman's forces. The Senator from Florida states in his report that it appears he was a loyal man. My recollection of the testimony submitted to the committee is that no evidence whatever was given upon the question of loyalty or disloyalty. I presume the Senator assumed that because his domicile was in a loyal State therefore he was a loyal man. The testimony to which I have alluded was examined by the Committee on Claims only a short time ago; I think about two weeks since. The Senator from Florida who is a member of that committee was not present at the time the testimony was taken by the committee; but I assert that the testimony taken by the committee in the case of Connor Brothers shows that Warren Mitchell was employed by the confederate government at Nashville prior to the capture of Nashville by the Federal forces in March, 1862, as a meat-packer for the confederate government; that he had a contract with the confederate government by which that government furnished him the live hog: he slaughtered the hog and returned to the government the hams, shoulders, and sides, cured, and he retained the rest of the animal for his pay.

Both the Senator from Florida and the Senator from Kentucky say that this question was decided by the Court of Claims and also by the Supreme Court on a mere technicality. I submit that it was not decided upon a technicality, but that the question upon which it was decided was a question of substance. The Senator says that if he were an inhabitant of a seceding State he could have recovered in this case. I suppose, according to the law of nations, when a citizen of the United States, not of one of the seceding States, went into the Confederate States and there assisted in any way the Confederate States in carrying on the war against the United States he ought to be deemed more guilty than an inhabitant of one of the seceding States.

When the Committee on Claims considered this case at the last session of the present Congress they were of the opinion that the equities of the case were not sufficiently strong to authorize the committee to go behind the decision of the Court of Claims and behind the decision of the Supreme Court, no matter what the character of this man is, no matter whether he is old or young. It is satisfactorily shown to us by the decision of the highest court in the land that he is not legally entitled to recover. Then he comes here, and as a matter of grace and favor asks Congress to pass a bill paying him this large sum of money. I submit, Mr. President, that the equities as they appear to the Senate are not sufficiently strong to authorize Con-

gress to go behind the decision of the court and to pay this large sum of money to the claimant.

Mr. STEVENSON. I am at least supported by a majority of the committee, of which the Senator who has just taken his seat is a minority. He does not represent this committee. What are standing committees for but to examine in such cases, first, the loyalty, then the equity, and then the justice? So that I say to the Senator so far as the equity is concerned my statements are upheld by a majority of his own committee. That is all I have to say on that point.

I say further that there have been a dozen cases that the Senator cannot controvert in which this identical principle has been settled, that, though an order was illegal, yet Congress when the court has decided against it has paid the claimant. No man will deny that principle; and why shall you make an exception in this man's case? Is it prejudice? Is it injustice? Is it the locality from which he comes? Then let every man take notice of his own claims. In Mitchell vs. Harmony this principle was recognized; and I say that this is a just claim. What is it? There is no doubt that the United States got this man's money; none that this was his cotton; but the allegation is that he should suffer for the illegal order of General Anderson, which allowed him to go to the South to collect his debts, an honest purpose, a just purpose, a loyal purpose. He applied to the military before he went, saying, "These men are indebted to me; give me permission to go there and save my property that I may pay my loyal creditors." General Anderson gave him permission; he went there; he took this cotton; it was sold; the Government has the proceeds, after taking half from him; and the Senator from Wisconsin says here is no equity. Great God, upon what standard does his idea of equity rest?

I have nothing more to say, Mr. President. I trust this case to the judgment of a majority of a standing committee of this House. I trust it to the sense of equity of the Senate, and hope that they will pass this bill.

Mr. CAMERON, of Wisconsin. Mr. President, it is true that at the present session of Congress the majority of the Committee on Claims reported in favor of the payment of this claimant; but at that time the positive evidence which was afterward brought before the committee of the disloyalty of the claimant was not before the committee. I am satisfied that if this claim were recommitted to the committee, and the testimony to which I have alluded with regard to his false claim of loyalty were brought to the attention of the committee, not a single member of the committee would vote in favor of this claim.

I do not think the Senator from Kentucky is entirely justified in questioning my motives in reference to the action I have taken in regard to this claim. It was submitted to me, as one of the members of that committee, for examination. I examined it, and reported against it; and the entire committee, so far as I now recollect, agreed with me in that report. It was subsequently, as I have stated, recommitted; and when considered during the present session of Congress, a majority of the committee, not having the evidence which subsequently came to our knowledge before them, reported in favor of the payment of the claim.

Now, the Senator from Kentucky asks whether the locality from which this claim comes influenced me or the committee to any extent. I do not think that the locality could influence the committee at all, because we all very well remember that Kentucky was neutral during the war. It is said that she sold mules to both parties, and grew rich while the remainder of the Southern States were growing poor. The locality, I assure the Senator, has nothing whatever to do with my action in regard to this claim.

Mr. ALCORN. Mr. President, it occurs to me that there is a misapprehension with regard to this claimant in one respect, and that the Senator from Wisconsin is not justified in asserting that the claimant here has represented himself as loyal to the Government. I may be mistaken, but it occurs to me that I heard read in the report that he had been pardoned by President Johnson. If he represented himself to President Johnson as loyal, that President certainly would not have undertaken to pardon him. It must have been upon his representation that he was disloyal that he was pardoned. Now, if the Senator from Wisconsin could convict this claimant of falsehood, I would for myself decide that that falsehood established against him would so taint his claim with fraud as to forbid that the Senate should give him any relief. But I do not understand that he has represented himself as loyal. Do not some of the papers which have been read state the fact that he was pardoned by President Johnson?

Mr. CAMERON, of Wisconsin. The papers do state that he was pardoned; but the claimant himself claims that he was loyal, and the Senator from Florida, who made the report which has been read in the presence and hearing of the Senate, stated that he was loyal.

Mr. JONES, of Florida. I stated in the report that from what I could learn he had no sympathy with the secession movement, but as a matter of precaution, after having remained for some years within the confederate lines, he asked for a pardon and obtained it.

Mr. ALCORN. In asking for a pardon and obtaining it he confessed himself disloyal. I do not understand that he has attempted by any proof or by any affidavit on his part to show that he was loyal. The Senator from Florida represents him as loyal from the fact that he is a citizen of a loyal State and so technically a loyal

man, but the claimant here has not represented himself as loyal and therefore he is entitled to the consideration of a disloyal man.

The proof shows that this claimant had a certain amount of property in the Southern States, and that that property was seized and sold. There has been no adjudication against him, no confiscation of that property.

The moneys arising from the sale of this cotton, the net proceeds, are now in the Treasury. To whom does the money belong? No proceeding has been had against him. It has not been declared to be the property of the Government of the United States; but the Government of the United States holds it in trust for the owner. It occurs to me that legally he is entitled to this money, though technically he did not recover before the Supreme Court. The cotton was his property. It has not been adjudicated the property of the Government; there has been no proceeding of confiscation of his property; and in equity I should hold for myself, the money being in the Treasury, there being no mistake whatever, the Government not having shown a title to this money by any proceeding against this claimant whereby confiscation could have been legally had, that he ought to have the proceeds of his cotton.

I repeat, if it can be shown that he has represented himself as loyal, and thereby been detected in falsehood, it would taint the whole case to a degree that should lead the Senate not to consider his equities at all.

Mr. WRIGHT. This claimant, as all claimants do who come to Congress knowing full well that they must establish their loyalty before they can have any standing before us, asserts in his petition and attempts to establish by his testimony that he was loyal to the Government during the war. If the committee had not been satisfied from the proof then before them of his loyalty, there would have been no member of the committee who would have voted in favor of reporting this bill; but as I remember, as the testimony then stood, a majority of the committee thought that point was sufficiently sustained by evidence, and therefore they reported this bill.

I repeat that this claimant knew perfectly well that he must not only assert his loyalty, but establish it; else he could have no standing before the committee or before the Senate. Hence, he did assert it, and he undertook to establish it by evidence.

I feel perfectly certain also in making another statement here. The Senator from Kentucky makes not a little claim in favor of the justice and equity of this demand, for the reason that a majority of the committee have reported in favor of it. That report was made under the circumstances that I have just alluded to, upon the evidence that was then before the committee; and I repeat that I do not believe there is a member of the committee who would have thought of reporting in favor of this bill if he had not been satisfied then of his loyalty.

I can say another thing, that no measure has been reported from that committee in favor of any claim at this session of Congress, nor, as far as I know, at any session of Congress since I have been here, unless there was affirmative evidence of loyalty. We have held that as a condition first to be established with reference to all these claims, that there must be proof of loyalty. Since this case was reported, in the examination of another case it turns out that there is the most conclusive evidence rebutting entirely the case made by the claimant in the first instance; and it is upon that testimony largely that the contest is now made against this bill, not forgetting, however, by any means the position which the claimant occupied as one asking relief here after the highest court in the land had decided against him. I understand that that decision was not upon a technicality, but it was upon this theory: That he was so engaged in trade at the time that it was contrary to public policy that such a person should be paid. That is to say, he was so engaged in trade with those who were at war with the Government that it was contrary to the very plainest principles of public policy and the well-settled principles of international law that he should be paid his claim. If he had not been thus engaged, being loyal, then I do not see how there would be much, if any, trouble in the Supreme Court, aside from the one of purest technicality; and that was that the law allowed only a certain class of persons to go into the Court of Claims for the purpose of having a return or a recompense for their cotton seized. That stood upon the language of the statute, which only allowed those who were residents of certain States to go into the Court of Claims and have compensation for their property seized, and not having been a resident of such State, it is said, could have no standing in court. But at the same time the point is made that his trade with the rebel government was contrary to public policy, and therefore he could have no claim upon the Government of the United States for his property.

In addition to that, the evidence establishes, since this case was reported, that he was not only engaged in such trade but that he was engaged in slaughtering pork or preparing pork for the rebel army, and under such circumstances and in such a condition that there never has been a report by our committee that could by any possibility recognize a claim of this character.

Under such circumstances, in view of this additional evidence, I think the claim should again go to the committee, and I therefore move that the bill be recommitted to the Committee on Claims. I do it for the reason, as I have already stated, largely that the evidence which has been developed since shows that this person occupies a very different position from what he did, as the committee regarded, at the time the claim was passed upon before.

Mr. JONES, of Florida. Mr. President, it will be remembered that a week or two ago a case not nearly as meritorious, in my opinion, as this one, not surpassing it at least in merit, came before the Senate; the case of a citizen of Georgia whose cotton was taken at or about the same time, who remained in the State of Georgia during the whole period of the war, who had been engaged in arms against the public authority of the United States, as disclosed by the testimony. That was thought to have been, and in my judgment was, a meritorious case; and I think that the Senator from Iowa voted for the bill for the relief of that claimant.

Mr. WRIGHT. No. My friend, the Senator from Florida, certainly does not want to do me an injustice. I reported against that bill from the Committee on the Judiciary, and contested the bill here to the very last moment; and finally a communication was sent from the Treasury Department, which stated that a substitute in a certain form could do no harm; and, upon the recommendation of the Department, I offered the substitute, and it was passed. But it was not for the payment of any certain amount, at all; it was referring it to the Treasury Department, because the Secretary said that the bill could not possibly do any harm, for there could be no allowance under it.

Mr. JONES, of Florida. There could be no allowance under it.

Mr. WRIGHT. Yes, sir, in the form of the substitute.

Mr. JONES, of Florida. Very well. This case has been well stated by the Senator from Kentucky, [Mr. STEVENSON.] It was decided upon a mere technicality in the Supreme Court. This man came from a loyal State, the State of Kentucky. In such cases, I understand, proof of loyalty has not been required. When a citizen comes before us from the State of Massachusetts, from the State of Indiana, or from any State in the Union which is known to have been loyal during the war, it has not been, as I understand, the practice to inquire closely into his status during the late war. The presumption of law is in his favor, that he is loyal. When he comes from a disloyal State, so called, then the presumption is against him and he must overcome that presumption by meeting the question in the outset and showing affirmatively his loyalty. That has been the practice before this committee, as I understand. This was a case of that description. Here was a man from the State of Kentucky, *prima facie* loyal, and there was nothing in his case to demand any proof of loyalty. He held the permit of the officer of the Government authorizing him to go from that loyal State into the Southern States upon business which was supposed at the time to have been legitimate. He went there under this order, and while there he acquired this cotton upon the faith of this officer of the Government, because I think it will not be denied by any man that if General Anderson had not granted the order Mitchell never would have gone into the confederacy. After he acquires the property what is the attitude of the Government? It turns around and repudiates the action of its own officer and says that he shall be placed in a worse condition than he would have been in if the order had never been granted. The order, say the Senators, was void. Grant that it was; but, as I said in my report, did that fact confer any rights upon the Government? All the rights that it now claims to this man's property are founded in that order; it can have none beyond it.

I ask, in all candor and seriousness, if this great Government can afford to set up a title to property acquired in that way? Can it afford to say that General Anderson deluded this man with the belief that he had authority to give him this permit, and after it is given, after he acts in good faith under it and acquires this property, then turn around and say, "We repudiate the act, we will take your property?" And without submitting the question to the decision of any lawful court, as was well said by the Senator from Mississippi, [Mr. ALCORN,] the whole thing is gobbled up and he is told that he has no rights because this order did not confer any authority upon him to pass the military lines.

Mr. WRIGHT. I only wish to add one thing to what I have said, that I think the whole of the Senator's argument is answered by just one suggestion. Assuming that the order of General Anderson was ever so valid to allow this party to go into the Confederate States and trade, to collect his debts, it did not give him any authority to go there and trade as he did and furnish aid and comfort and assistance to the enemy by furnishing them pork, as he did at Nashville. I think that is a complete answer.

Mr. JONES, of Florida. That, I will say, of course is matter that has since come up, not anything that has been before me.

Mr. WRIGHT. That is the reason I move to recommit the bill, because I feel very sure if that fact had been known at the time the Senator made his report he would not have concurred in the report himself.

Mr. JONES, of Florida. But behind all that, in support of the equity of this case, lies this: that if this man had furnished pork in Tennessee and in Georgia, had been engaged in active hostilities against the Government, and had been pardoned and had gone into the Court of Claims, under the law as it stood at the time the case was passed upon he could have recovered his property.

Mr. WRIGHT. May I ask the Senator a question? If that matter had been made known to him at the time he reported the bill, would he have prepared the report in favor of the allowance of this claim?

Mr. JONES, of Florida. That is another question. I decided the

question on the evidence before me. But I say that, under the law as it stood at the time this case was decided, if this man had been a citizen of Tennessee, and had furnished pork or any other thing to the army of the confederacy, and had engaged in armed hostility to the United States, and had been pardoned and had gone into the Court of Claims, under the law he would have been entitled to the property. But his case went off on the technical ground that he was a citizen of a loyal State, namely, the State of Kentucky.

The PRESIDENT *pro tempore*. The Senator from Iowa has moved to recommit the bill to the Committee on Claims.

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

The yeas and nays were ordered; and being taken, resulted—yeas 31, nays 29; as follows:

YEAS—Messrs. Allison, Anthony, Blaine, Booth, Boutwell, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Christiancy, Conkling, Cragin, Dawes, Dorsey, Ferry, Frelinghuysen, Harvey, Howe, Ingalls, Logan, McMillan, Mitchell, Morrill, Morton, Oglesby, Paddock, Sargent, Sharon, Teller, Wadleigh, Windom, and Wright—31.

NAYS—Messrs. Alcorn, Bailey, Barium, Bozoy, Conover, Cooper, Davis, Dennis, Eaton, Goldthwaite, Gordon, Hereford, Hitchcock, Johnston, Jones of Florida, Kelly, Kernan, McCreery, Maxey, Merrimon, Norwood, Randolph, Ransom, Robertson, Sanbury, Stevenson, Wallace, Whyte, and Withers—29.

ABSENT—Messrs. Bayard, Bruce, Burnside, Clayton, Cockrell, Edmunds, Hamilton, Hamlin, Jones of Nevada, McDonald, Patterson, Sherman, Spencer, Thurman, and West—15.

So the motion to recommit was agreed to.

TOWN SITES ON PUBLIC DOMAIN.

Mr. OGLESBY. I move that the Senate proceed to the consideration of the bill (H. R. No. 1765) respecting the limits of reservations for town sites upon the public domain. I will state in regard to this bill that it is one of very great interest to the people in Utah. It is of no local or personal interest to any Senator, but to those people it is of very great concern. The subject has been under consideration in Congress for two or three years and, at last, the Senate committee and the House committee have agreed upon a bill which has passed the House and is recommended by the Committee on Public Lands of the Senate. It will be a very excellent disposition of the question if the Senate will hear the four sections of the bill read and pass them. I do not want to take time to go into a lengthy explanation, unless some Senator should desire, about the merits of the bill. I move to take it up.

The motion was agreed to; and the bill was considered as in Committee of the Whole.

The first section declares that the existence or incorporation of any town upon the public lands of the United States shall not be held to exclude from pre-emption or homestead entry a greater quantity than twenty-five hundred and sixty acres of land, or the maximum area which may be entered as a town site under existing laws, unless the entire tract claimed or incorporated as such town site shall, including and in excess of the area specified, be actually settled upon, inhabited, improved, and used for business and municipal purposes.

Section 2 provides that where entries have been heretofore allowed upon lands afterward ascertained to have been embraced in the corporate limits of any town, but which entries are or shall be shown, to the satisfaction of the Commissioner of the General Land Office, to include only vacant unoccupied lands of the United States, not settled upon or used for municipal purposes, nor devoted to any public use of such town, the entries, if regular in all respects, shall be confirmed and may be carried into patent. This confirmation is not to operate to restrict the entry of any town site to a smaller area than the maximum quantity of land which, by reason of present population, it may be entitled to enter under section 2339 of the Revised Statutes.

Section 3 provides that whenever the corporate limits of any town upon the public domain are shown or alleged to include lands in excess of the maximum area specified in section 1, the Commissioner of the General Land Office may require the authorities of such town, and it shall be lawful for them, to elect what portion of these lands, in compact form and embracing the actual site of the municipal occupation and improvement, shall be withheld from pre-emption and homestead entry; and thereafter the residue of such lands shall be open to disposal under the homestead and pre-emption laws.

Section 4 declares that it shall be lawful for any town which has made, or may hereafter make, entry of less than the maximum quantity of land named in section 2339 of the Revised Statutes, to make such additional entry or entries of contiguous tracts, which may be occupied for town purposes, as, when added to the entry or entries therefore made will not exceed twenty-five hundred and sixty acres; but such additional entry shall not, together with all prior entries, be in excess of the area to which the town may be entitled at date of the additional entry by virtue of its population as prescribed in section 2339.

Mr. INGALLS. Is there a report in that case?

The PRESIDENT *pro tempore*. There is no printed report.

Mr. INGALLS. I should like to hear the bill explained.

Mr. OGLESBY. The bill relates to a subject, as I stated before, of great concern and great interest to the people in Utah. It does not embrace any land within the city of Salt Lake.

Mr. INGALLS. Is the bill intended to apply to a particular case?

Mr. OGLESBY. No, sir; the bill is intended to limit the boundaries of town sites under the statute law. If the Senator will remember, there are various instances in which a town can take twenty-five

hundred acres or six hundred acres, or so many hundred acres, according to the number of people in the incorporated village or town.

Mr. INGALLS. How then does this bill change the law?

Mr. OGLESBY. It limits the town sites to twenty-five hundred acres, unless the town is actually occupying more ground than that. If the boundaries of the city cover more ground than that actually, then the pre-emptors and homestead settlers cannot take it; but if, as is the case all over Utah where whole cities have grown up and taken up rich valleys, extending the limits indefinitely all over the valleys, when pre-emptors or homestead settlers have gone on and attempted to make improvements the gentiles, as they are called, wake up the last day to find that by some mysterious mode or other the corporate limits have been extended over their pre-emption and homestead claims. Corporate limits have been extended indefinitely in all directions around there until it is impossible to get a location; and yet the inhabitants of the town do not reach the land, do not come near it, do not touch it, but they simply shove these people off until a favorite comes along, and that favorite is regarded, and then the town site is moved a little so as to let him get a pre-emption or homestead. The corporate limits of the town are then modified so that the favorite can get his pre-emption or homestead. If he happens to be a gentile or an outside barbarian, or a gentleman of culture and refinement, he is cut off by the corporate limits held in abeyance and chaos over his rights. This bill simply defines the limits of these corporations, that they shall not hold the public domain unless between actual defined limits of a corporation exceeding twenty-five hundred acres; but if in fact they do cover more territory than twenty-five hundred acres by actual occupancy then that by this bill is prevented from being taken otherwise. It opens the public lands in those rich valleys—and they are not very numerous, you know—to actual settlement by pre-emptors and homestead settlers. It relieves from these corporations just that much of the public domain that is held there under claim of the statute law where the boundaries of the corporation or town reach around. This is to limit, restrain, and define that, to leave the public land open to the settler and pre-emptor. That is the substance of the bill.

Mr. INGALLS. Has the bill been submitted to the Secretary of the Interior?

Mr. OGLESBY. I suppose it was in the House. The bill has been before us for a year or two. The Senator from Minnesota [Mr. Windom] had it particularly in charge during my absence, seven or eight weeks. It has been thoroughly discussed in the House and in the Senate, and both committees have concluded that it is the best measure we can get on the subject, and it is a measure that absolutely ought to receive the attention of Congress, as we think. It is the best bill we can get on the subject.

Mr. PADDOCK. I understand it to have been approved by the Commissioner of the General Land Office.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

AMENDMENTS TO AN APPROPRIATION BILL.

Mr. BLAINE, Mr. INGALLS, and Mr. STEVENSON submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 4680) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1878, and for other purposes; which was referred to the Committee on Appropriations.

MOTION FOR A RECESS.

Mr. WINDOM. I wish to ask unanimous consent of the Senate that a recess be taken at five o'clock until half-past seven, or, if it be preferred that the Senate remain in continuous session, until we can report upon the sundry civil bill. The committee will have it ready to report in fifteen or twenty minutes, and I suggest the recess as perhaps being the most desirable.

Mr. SARGENT. Suppose you say from five to eight, which will give a chance to print the bill.

Mr. WINDOM. I do not believe it can be printed in that time.

Mr. SARGENT. I think it can. We are wearied out, and I think we had better have a recess from five to eight.

Several SENATORS. Five to eight.

Mr. WINDOM. Several Senators suggest that the recess be from five to eight o'clock. As that seems to be the general desire, I move that the Senate take a recess from five to eight o'clock this evening.

The motion was agreed to.

Mr. WINDOM. I wish to say one word to Senators present, that unless we can act upon the sundry civil bill to-night it will be impossible to get it through; and therefore I appeal to every Senator to be present, so that we may be sure to have a quorum.

NAVAL APPROPRIATION BILL.

Mr. SARGENT submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4616) making appropriations for the naval service for the year ending June 30, 1878, and for other purposes, having met, after full and free conference, report that they cannot agree.

A. A. SARGENT,

A. H. CRAGIN,

WM. A. WALLACE,

Managers on the part of the Senate.

J. H. BLOUNT,

EUGENE HALE,

W. C. WHITTHORNE,

Managers on the part of the House.

Mr. SARGENT. I move that the Senate further insist on its amendments and ask for another conference.

The motion was agreed to.

By unanimous consent, the President *pro tempore* was authorized to appoint the committee on the part of the Senate; and Mr. SARGENT, Mr. BOUTWELL, and Mr. WITHERS were appointed.

AGRICULTURAL REPORT.

Mr. PADDOCK. I move that the Senate proceed to the consideration of the concurrent resolution of the House of Representatives authorizing the printing of the Report of the Commissioner of Agriculture.

The motion was agreed to; and the Senate proceeded to consider the following resolution:

Resolved by the House of Representatives, (the Senate concurring.) That there be printed 300,000 copies of the Report of the Commissioner of Agriculture for 1876; 224,000 copies for the use of the House of Representatives, 56,000 copies for the use of the Senate, and 20,000 copies for the use of the Department of Agriculture.

Mr. ANTHONY. I move to amend that by reducing the number to 200,000; 35,000 for the Senate, 140,000 copies for the House, and 25,000 for the Commissioner.

Mr. PADDOCK. I hope the amendment of the Senator from Rhode Island will not prevail, because at this late hour if the resolution should be so amended it may be a question whether it can be passed at all at this session, and it certainly is an imperative demand on the part of the agricultural interests of this country that the resolution should pass. I hope the amendment will not prevail.

Mr. HARVEY. I hope the resolution will be passed without amendment. There is no document published by Congress that is in so much demand and none of so great use.

Mr. ANTHONY. This amendment gives seven hundred and fifty copies to each Senator and to each member of the House of Representatives of this book for gratuitous distribution.

Mr. PADDOCK. If there were seventeen hundred and fifty there would yet not be enough. It is a very easy matter here to appropriate a million of dollars in the interest of commerce, to remove a snag somewhere in the navigation off the coast of Rhode Island which may obstruct a clam-boat, but when it comes to the interest of agriculture, in which more than one-half of the people of this country are deeply concerned, it seems to be almost impossible to make any progress.

Mr. ANTHONY. We have not found it very easy to get appropriations to remove the obstructions from our navigation.

The PRESIDENT *pro tempore*. The question is upon the amendment of the Senator from Rhode Island.

Mr. CLAYTON. I hope the number will not be reduced.

The amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the resolution.

Mr. ANTHONY. Then I will introduce as a substitute a bill making an appropriation. This publication is to cost \$120,000. I offer this bill in lieu of the resolution.

Be it enacted, &c. That the Public Printer be, and he is hereby, directed to cause to be printed 300,000 copies of the report of the Commissioner of Agriculture for the year 1876; of which 224,000 copies shall be for the use of the House of Representatives, 56,000 copies shall be for the use of the Senate, and 20,000 copies shall be for the use of the Department of Agriculture; and that the sum of \$120,000, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated for the execution of the work.

Mr. PADDOCK. I hope this amendment will not prevail. It is practicable for my friend, if he wishes to make an appropriation to defray the expense of printing this report, to submit an amendment to the Appropriation Committee to be placed upon the sundry civil bill or some other bill under consideration by that committee; and for the reason that I have before assigned, that at this late hour of the session it would be unfortunate to make an amendment to the resolution lest it might fail absolutely, I object to the amendment. I hope it may be voted down.

Mr. ANTHONY. You cannot make any amendment that will prevent a bill passing by the vote of the Senate and House. In fact I feel much obliged to my friend from Nebraska that he had not introduced a bill for seventeen hundred and fifty copies instead of seven hundred and fifty copies for each Senator and Member. I think if we are going into this expensive work of printing we ought to face the music and make an appropriation when we make the order for printing.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Rhode Island as a substitute.

Mr. MORRILL. I would suggest to my friend from Nebraska that it would be of no importance to pass this resolution without the appropriation, for the reason that the Printing Department will not have the funds to print the books, and it will turn out as it did some years ago, that the books will not be printed for the reason that there is no fund provided. It seems to me that it is not at war with the purpose of getting the larger number printed to have it accompanied by an appropriation bill, so that if one passes the other should pass to make both effectual.

Mr. WEST. It occurs to me that probably an arrangement can be arrived at in regard to this matter that will suit the Printing Committee and also suit the friends of the measure for printing the agricultural report. The sundry civil bill will be in here to-night, and

if the Senate see proper it can make the requisite appropriation upon that bill, but do not hamper this measure by making an amendment upon it and thereby accomplishing its defeat.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Rhode Island, [Mr. ANTHONY.]

Mr. PADDOCK. I give notice to the Senate that if this amendment is voted down I shall offer an amendment to the sundry civil bill to provide for the expense of printing these reports; therefore I hope the amendment will be voted down. I think that will be agreeable to the chairman of the Committee on Printing.

Mr. MORRILL. The notice as given is all well enough, but it will not be in order. No committee has recommended it, and it will be an increase in the amount of the appropriations.

Mr. PADDOCK. I think the point of order suggested by the Senator from Vermont is not correct.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Rhode Island.

The question being put, there were, on a division—ayes 21, noes 14; no quorum voting.

Mr. PADDOCK called for the yeas and nays, and they were ordered.

Mr. MERRIMON. I beg to ask the chairman of the committee what amount is required?

Mr. ANTHONY. One hundred and twenty thousand dollars.

Mr. MERRIMON. How many copies?

Mr. ANTHONY. Three hundred thousand, at forty cents a copy.

Mr. HITCHCOCK. I hope the original resolution will prevail. I believe that of the hundreds of thousands of dollars appropriated for public printing there is no expenditure of a dollar more generally desired and more generally satisfactory to a large portion of the constituency of the great Northwest than this. I think this is economy that is rather unusual. I hope the resolution will not be amended, but will be passed as it is.

The PRESIDENT *pro tempore*. The question is on the amendment. The question being taken by yeas and nays, resulted—yeas 21, nays 29; as follows:

YEAS—Messrs. Anthony, Bogy, Booth, Boutwell, Bruce, Burnside, Cameron of Wisconsin, Cragin, Davis, Dawes, Howe, Kernan, Merrimon, Morrill, Norwood, Robertson, Sargent, Wadleigh, Wallace, Whyte, and Wright—21.

NAYS—Messrs. Allison, Bailey, Barnum, Chaffee, Christianity, Clayton, Cockrell, Cooper, Dennis, Ferry, Goldthwaite, Harvey, Hitchcock, Ingalls, Johnston Logan, McCreery, McMillan, Maxey, Mitchell, Paddock, Randolph, Ransom, Spencer, Stevenson, Teller, West, Windom, and Withers—29.

ABSENT—Messrs. Alcorn, Bayard, Blaine, Cameron of Pennsylvania, Conkling, Conover, Dorsey, Eaton, Edmunds, Frelighuysen, Gordon, Hamilton, Hamlin, Hereford, Jones of Florida, Jones of Nevada, Kelly, McDonald, Morton, Oglesby, Patterson, Saulsbury, Sharon, Sherman, and Thurman—25.

So the amendment was not agreed to.

The PRESIDENT *pro tempore*. The question is on concurring in the resolution as passed by the House of Representatives.

The resolution was concurred in.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 4559) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1877, and for prior years, and for other purposes.

CHANGE OF NAMES OF VESSELS.

Mr. CONKLING. I ask consent, as I am compelled to go out, to report two bills from the Committee on Commerce changing the names of vessels. I call the attention of the Senator from Massachusetts to the fact that these bills are reported. They concern his constituents; they are all regular; and although I may be out for a few moments myself, if he or his colleague will take an opportunity to call them up there will be no objection. The bills I report without amendment are the bill (H. R. No. 1611) authorizing the changing of the name of the sloop Addie Parker, of New Bedford, Massachusetts, and the bill (H. R. No. 1824) to change the name of the pleasure yacht Hiram B. to Iola.

Mr. DAWES. I hope these bills will be passed at once. There cannot be a particle of objection to them.

Mr. CONKLING. Nobody can object to them.

There being no objection, the bill (H. R. No. 1611) authorizing the changing of the name of the sloop Addie Parker, of New Bedford, Massachusetts, was considered as in Committee of the Whole.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

By unanimous consent the bill (H. R. No. 1824) to change the name of the pleasure yacht Hiram B. to Iola was considered as in Committee of the Whole.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

HEIRS OF ASBURY DICKINS.

Mr. McMILLAN. I move that the Senate proceed to the consideration of the bill (S. No. 129) for the relief of the heirs of Asbury Dickins. The subject of this bill is entirely familiar to the members of the Senate, and I apprehend it will require no time in discussion. I suppose upon the reading of the report in this case the facts will be drawn to the attention and memory of the Senate so that they can proceed without any further delay. This bill has been upon the Calendar

during the last session and this, and it is extremely desirable that the matter should be disposed of one way or the other, and if the Senate will consent to vote upon this subject it is all I desire. I wish to have the business of the Committee on Claims disposed of, so that the Calendar may be rid of it, and that the various parties concerned may have justice done them. I think this a just case calling for the action of the Senate.

Mr. WRIGHT. I just wish to say one word about this proposition of my friend from Minnesota. I do not propose to antagonize him at all, but I give him notice now that when the bill shall be taken up I shall expect that the two reports shall be read—the majority and the minority; and it will take just about one hour to read them. I want that understood.

Mr. WINDOM. That being the state of the case, I ask consent to make a report from the Committee on Appropriations.

Mr. McMILLAN. I think this matter had better be disposed of now. My motion is before the Senate, and I ask action upon it. I am under the impression that the reading of the reports will not occupy nearly so long as the Senator from Iowa supposes. I may be mistaken, however.

Mr. WINDOM. I fear if this motion is put it will take until five o'clock, and I shall not have an opportunity to report the sundry civil bill.

Mr. McMILLAN. I will yield for that report as soon as the bill is up.

Mr. COCKRELL. I do hope that this case of Asbury Dickens will not be taken up. I have a precisely two hours' speech to make on that case whenever it comes up in the Senate, and I am sure it will consume at least one day's time of the Senate. It has been upon the Calendar for the last twenty-five years. It is a claim that originated from 1832 to 1837, and it has been pending ever since, and it has been argued at length, and I do hope that the time of the Senate right at the heel of the session will not be consumed in useless debate. It cannot pass the House. It can do no party any good to take it up, and it is a consumption of time to no purpose.

Mr. McMILLAN. I do hope the Senate now will give the Senator from Missouri an opportunity to make such a speech, for I am sure it would secure the passage of the bill without any delay if the Senate would just take that course, and the only thing then is a matter of time. But, Mr. President, I think the circumstances of this case are such as to call—

Mr. WEST. I rise to a question of order, and I do it in justice to the Senate and the business before it, that it is out of order to discuss the merits of a bill on a motion to take it up.

Mr. McMILLAN. I am not aware that I have discussed the merits. The PRESIDENT *pro tempore*. The Senator from Minnesota had not discussed the merits.

Mr. WEST. I understood he was speaking of the peculiar circumstances of the case.

Mr. McMILLAN. But not referring to the merits of the bill.

Mr. WINDOM. I ask my colleague to yield until I can have a disposition of the sundry civil appropriation bill.

Mr. McMILLAN. I yield.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. WINDOM. I am instructed by the Committee on Appropriations to report back the bill (H. R. No. 4680) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and for other purposes, and to recommend its passage, with sundry amendments. I ask unanimous consent of the Senate to consider this bill to-night without printing. There are quite a large number of amendments, and I do not believe they can be printed with the bill until morning, and if we wait until morning I doubt very much if the bill can be passed. I submit that question to the Senate. If it cannot be printed before eight o'clock, I ask that it be considered without printing.

Mr. ANTHONY. O, no; there is time to have it printed, I think.

Mr. WINDOM. I am informed that there is time enough to print it, therefore I withdraw the request. The understanding is that the bill shall be proceeded with to-night.

Mr. McMILLAN. I will, under the circumstances, withdraw the motion I made, and will take some other opportunity during the session.

MILITARY ACADEMY APPROPRIATION BILL.

Mr. ALLISON submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4306) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1878, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 10, 12, 13, 14, 16, 21, and 22.

That the House recede from its disagreement to the amendments numbered 1, 2, 3, 4, 5, 6, 7, 9, 11, 15, 17, 18, 19, 20, and 23.

That the House recede from its disagreement to the amendment numbered 8 and agree to the same, with an amendment as follows: Strike out "eleven thousand" and insert in lieu thereof "eight thousand nine hundred and ninety-nine;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 24, and agree to the same, with an amendment as follows: Strike out of said amendment the words "nine hundred;" and the Senate agree to the same.

That the Senate recede from its amendment numbered 25 and agree to the clause proposed to be stricken out with an amendment as follows: After the word "and" insert "for the fiscal year ending June 30, 1878," and the House agree to the same.

That the Senate recede from its amendment numbered 26, with an amendment striking out all of the amended matter after the word "Army" in line 20, page 6 of the bill; and the House agree to the same.

W. B. ALLISON,
JOHN A. LOGAN,
WM. A. WALLACE,
Managers on the part of the Senate.
HIESTER CLYMER,
JAMES H. BLOUNT,
EUGENE HALE,
Managers on the part of the House.

The report was concurred in.

REPORT ON IMMIGRATION.

Mr. HARVEY. I offer the following resolution, and ask its reference, with the accompanying papers, to the Committee on Printing:

Resolved, That there be printed of the special report of the Chief of the Bureau of Statistics on immigration, from the stereotype plates, 1,000 copies in the English and 2,000 copies in the German language, for distribution by the Treasury Department in those countries in Europe where the languages are spoken.

The resolution, with the accompanying papers, was referred to the Committee on Printing.

MARSHAL P. THATCHER.

Mr. COCKRELL. I move to proceed to the consideration of the bill (H. R. No. 3574) for the relief of Marshal P. Thatcher, who had a horse lost in the service and who cannot get pay for him because he had not been mustered according to the regulations.

The motion was agreed to; and the bill was considered as in Committee of the Whole. It proposes to pay to Marshal P. Thatcher, late of the Second Michigan Cavalry, \$150, in full satisfaction for the loss of a horse, April 15, 1862, while in the military service of the United States.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

HENRY VOELTER.

Mr. WADLEIGH. I move to take up Senate bill No. 1255. It is the only thing the Committee on Patents have asked for.

The motion was agreed to; and the bill (S. No. 1255) for the relief of Henry Voelter was considered as in Committee of the Whole. It authorizes the Commissioner of Patents to hear and determine the application of Henry Voelter for the extension for the further term of seven years of the letters-patent for improvement in reducing wood to paper-pulp, granted to him August 10, 1858, antedated August 29, 1856, extended for seven years from August 29, 1870, and re-issued upon an amended specification June 6, 1871; the form of such application and the mode of proceeding under it to be in all respects the same as was provided by the act of Congress approved July 8, 1870, entitled "An act to revise, consolidate, and amend the statutes relating to patents and copyrights" for the extension of patents granted prior to March 2, 1861; and if upon such hearing the Commissioner shall be satisfied that Voelter, without neglect or fault on his part, has failed to obtain from the use or sale of his invention or discovery a reasonable remuneration for the time, ingenuity, and expense bestowed upon it and the introduction of it into use, and that it is just and proper, having due regard to the public interest, that the term of the patent should be so extended, the Commissioner shall make a certificate upon the re-issue patent, renewing and extending the same to Voelter, his executors, administrators, or assigns for the term of seven years from the 29th day of August, 1877, which certificate shall be recorded in the Patent Office, and thereupon the patent shall have the same effect in law as though it had been originally granted for twenty-eight years.

Mr. COCKRELL. Is there a report?

The PRESIDENT *pro tempore*. There is a report.

Mr. COCKRELL. Let it be read.

Mr. WADLEIGH. It is long.

Mr. COCKRELL. That committee ought to make short reports.

Mr. WEST. It is evident, in view of the reading of that report and the discussion that will follow on this bill, that it cannot pass before the hour at which we are to take a recess; and as there are a number of executive communications on the table from the President, I move that the Senate proceed to the consideration of executive business up to the hour of recess.

Mr. WADLEIGH. Let me say that the moment this bill is understood there would be no discussion upon it and no opposition to it. It is the case of an invention wholly new, of immense value to this country, where the inventor has lost \$33,000 as it stands to-day.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Louisiana that the Senate proceed to the consideration of executive business.

The motion was agreed to.

ELECTORAL COMMISSION RECORDS.

Mr. ANTHONY. While the galleries are clearing I will offer the following resolution from the Committee on Printing and ask for its present consideration:

Resolved, That 500 additional copies of the report of the proceedings of the electoral commission be printed to replace 500 copies taken from the bound edition of the CONGRESSIONAL RECORD for the use of the electoral commission.

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

EXECUTIVE SESSION.

The Senate proceeded to the consideration of executive business. After three minutes spent in executive session the doors were reopened; and (at five o'clock) the Senate took a recess until eight o'clock p. m.

EVENING SESSION.

The Senate re-assembled at eight o'clock p. m.

CLAIM OF DOMINICAN REPUBLIC.

Mr. WINDOM, from the Committee on Appropriations, to whom was referred the message of the President of the United States, communicating, in answer to a resolution of the Senate of February 27, 1877, information in relation to the demand for the payment of money claimed to be now due the Dominican government from the United States, asked to be discharged from its further consideration, and that it be referred to the Committee on Foreign Relations; which was agreed to.

Mr. CAMERON, of Pennsylvania. I am directed by the Committee on Foreign Relations to report to the Senate a provision to pay to the assignees of the Dominican Republic the sum of \$71,400.80 for the occupation of the bay of Samana, with accompanying documents; and I move that it be referred to the Committee on Appropriations, who may present it as an amendment to the sundry civil bill.

The motion was agreed to.

HENRY VOELTER.

Mr. WADLEIGH. I call for the unfinished business.

The PRESIDING OFFICER. (Mr. MITCHELL in the chair.) The unfinished business is the bill (S. No. 1255) for the relief of Henry Voelter. The question is on the motion of the Senator from New Hampshire, [Mr. WADLEIGH,] to proceed to the consideration of the bill. Is the Senate ready for the question?

Mr. DAVIS. Let the bill be read for information.

Mr. WADLEIGH. It is already before the Senate, as I understand.

The PRESIDING OFFICER. The bill will be reported for information.

The Chief Clerk read the bill.

The PRESIDING OFFICER. The question is on proceeding to the consideration of the bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

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

INFRINGEMENT OF PATENTS.

Mr. WADLEIGH. I move to proceed to the consideration of the bill (H. R. No. 3370) to amend the statutes in relation to damages for infringement of patents, and for other purposes, which was reported from the Committee on Patents with certain amendments.

Mr. BOUTWELL. I suggest to the Senator from New Hampshire that that is a bill of a good deal of importance, as I understand it. It ought to be fully considered, and in full Senate.

Mr. WADLEIGH. I will state for the information of the Senator from Massachusetts that the parties who desire the passage of this bill and the parties who oppose its passage had a long consultation, in which they agreed upon certain amendments to this bill which made the bill satisfactory to both sides.

Mr. BOUTWELL. Is it a bill relating to private rights?

Mr. WADLEIGH. It is a bill relating to private rights, to a certain extent.

Mr. BOUTWELL. Let it be read. I thought it was a bill for the alteration of public laws.

The PRESIDING OFFICER. The question is on the motion of the Senator from New Hampshire to proceed to the consideration of the bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. CONKLING. Mr. President, before we enter upon this bill, I wish to say that I have, now that I learn what the bill is, remonstrances by telegraph and otherwise from many people, who insist that this bill is not what it should be by any means; and I trust that we shall not at this hour of the night take up a bill which covers so much of doubtful territory as is covered by this bill. For one, I want an opportunity to look at it and I want an opportunity to be heard upon it if the allegations made to me by letter and by telegram, by lawyers, by inventors, and by manufacturers, have any considerable thing to rest upon, and certainly we cannot have that now at this hour of the night and with the evening belonging to the Committee on Appropriations.

Mr. CAMERON, of Pennsylvania. Mr. President—

Mr. WADLEIGH. One moment, if my friend pleases. If the Senator from New York had taken the trouble to ascertain what this bill as amended is I am sure he would interpose no objection to its passage. The bill as originally presented was the bill against which he received remonstrances, and numerous remonstrances against it came to the Committee on Patents, and a long hearing was had before that committee, on which eminent counsel appeared on both sides; and finally those counsel, comprising some of the most eminent patent lawyers in the country, upon both sides, agreed upon amendments to this bill, which made it satisfactory to all; and I venture to say that

from no source whatever has there come any remonstrance against the bill as it is with these amendments; and I hope it will be considered, as it remedies certain well-known evils in reference to patent law and practice.

Mr. CAMERON, of Pennsylvania. That bill cannot go through. I ask the indulgence of the Senate to take up a bill.

The PRESIDING OFFICER. The Chair will state to the Senator from Pennsylvania that this bill has already been taken up and is now in Committee of the Whole.

Mr. CAMERON, of Pennsylvania. I thought it was disposed of.

Mr. MORRILL. There is a report, I believe, that was not read in relation to this bill. I ask for the reading of the report.

The PRESIDING OFFICER. The Chair is informed by the Clerk that there is no report accompanying the bill. The bill is in Committee of the Whole, and upon the amendment.

Mr. CONKLING. Which bill?

The PRESIDING OFFICER. The bill which was taken up before the Senator from New York obtained the floor.

Mr. CONKLING. The patent bill?

The PRESIDING OFFICER. Yes, sir.

Mr. CONKLING. I want to be heard upon that. Mr. President, the Senator from New Hampshire expresses the opinion that no remonstrance has been made to this bill since it assumed the shape in which it now presents itself. As throwing some light upon the fact in that respect, I mention to the Senator from New Hampshire that yesterday when he presented a bill relating to the Patent Office, which is not this bill at all, and I interposed an inquiry, in consequence of which the bill went over, I received from those who supposed it was this bill as now reported messages, after the afternoon papers had been issued, thanking me for interposing and begging me to look at some of the features of the bill which, on reference to it, I found did not exist, but do exist in this bill. These dispatches came from people known to me in some instances, who are very apt to know what they are talking about; and opening this bill now at random, my eye falls upon the third section; and a few lines of that section I wish to read, to illustrate, if I can, to the Senate the sort of measure with which it is proposed now, at ten minutes after eight, to begin a change of the patent laws:

SEC. 3. That every patent, or any interest therein, shall be assignable in law by an instrument in writing; and the patentee, or his assigns or legal representatives, may, in like manner, grant and convey an exclusive right under the patent for the whole or any specified part of the United States, or may grant licenses under said patent, exclusive or otherwise, as the parties may agree. And when there are two or more joint owners, or owners in common, of any patent, a license from any one of said owners shall be good and valid in law, and shall vest in the licensee full right to the said invention, according to the terms of said license, unless the conveyance or other instrument creating such joint ownership, or ownership in common, shall provide that no license shall be valid unless executed by all of such owners, or a specified portion thereof in number or interest, or unless an agreement to that effect shall be made by said owners, and filed for record before the execution of said license.

Mr. CAMERON, of Pennsylvania. Let us take the question.

Mr. CONKLING. On what?

Mr. CAMERON, of Pennsylvania. I beg the Senator's pardon. I spoke in my seat without reflection.

Mr. CONKLING. But I did not hear my friend, and I am trying to hear him.

Mr. CAMERON, of Pennsylvania. I am very anxious to get up a little bill to pay but a few hundred dollars to a disabled soldier.

Mr. CONKLING. I am going to occupy the floor for but a moment, and I think in aid of the Senator's wish. Addressing myself to any Senator who listens and who has had any experience in the trial of patent causes and the settlement of patent law I was going to consider for a moment what this section proposes, what it proposes in reference to existing cases, what it proposes in reference to other cases. For example, the Supreme Court said long ago, and has often repeated, that no interest in an invention is assignable at all until it has been brought into complete and effectual existence. In the language of the court, an invention *in fieri* is not assignable at all. Will any lawyer tell me what effect upon that principle of law this section is to have (I do not know from reading it twice) either as to existing cases or to other cases? Can it be that without an opportunity to examine this bill and to understand it, we should take up a measure as radical in its operation as that, which we know is objected to, to which, speaking for one, my attention has been repeatedly and earnestly called for the last two or three months? I had no more idea that the consideration of the bill was to proceed now than I had that the Geneva award bill or any other important measure was to be taken up to-night, which I supposed was to be occupied by the Committee on Appropriations.

I beg to assure my friend from New Hampshire that the last thing I want to do is to interfere with his committee or the work of any committee of which I am not a member, and I would not interpose on this subject, if I had not received many letters from lawyers and others protesting against various provisions of this bill. Knowing what I do of the history of patent legislation for the last ten or fifteen years, and knowing something, as I do from others, of what occurs under the statutes as they stand now, in the courts and elsewhere, I do respectfully insist that a subject of this sort should be taken up when there is time to discuss it, time to understand it, and time to go sure-footed in attempting changes so radical as it seems to me are proposed by this bill.

I am with the Senator from Pennsylvania in getting up any bill which he wants to take up, and I shall be with the Senator from New Hampshire for taking up this bill whenever it can be taken up deliberately. Particularly if a little notice is given so that we may possess ourselves of it, I will assist him at any time in taking it up, but I hope the honorable Senator will not feel that he is bound, (although I know his desire is as that of every Senator ought to be to care for the measures which come from his committee,) to-night, with so thin a Senate, to summon us unexpectedly to take up a bill which I think every Senator ought to understand.

Mr. WADLEIGH. I will delay the Senate but a single moment. The Senator from New York has pointed out in this bill that portion of it to which he objects.

Mr. CONKLING. No, I beg the Senator's pardon. I opened the bill at random to read an illustration to show the character of the bill. I do not know that I do object to it, for I do not understand what the reasons are.

Mr. WADLEIGH. The bill simply provides that the owners of a patent right who own it as joint owners shall be partners therein, and that one of them may convey the rights of partners; and that is the rule now with reference to all species of personal property at common law. It introduces no new principle whatever, and so far as it applies to this subject it is correct and right. I will simply say that this bill has already passed the House as it was first introduced. Its passage at this session is demanded by a very large interest, and, as I said, numerous counsel appeared before the committee for the purpose of urging its passage. It attempts to remedy certain evils which if they continue to exist will render the patent law of no use to anybody, and so odious that it will fall of its own weight. I had hoped that this bill or some measure of relief would pass at this session. Of course if the Senate vote otherwise I cannot help it, but I should like to have the bill passed.

Mr. BOUTWELL. I should like to know from the Senator from New Hampshire in what particulars this bill would work changes in the existing laws?

Mr. WADLEIGH. The bill in the first place provides for a period of limitation within which suits may be brought after infringement. That period is four years. Now there is practically no limitation whatever, which is a great hardship to those who use patent rights.

Mr. CONKLING. Does the Senator say there is no limitation to the time in which damages for infringement may be recovered?

Mr. WADLEIGH. As I understand the latest decisions made within three months, and which were quoted to the committee, suits for infringement may be brought at any time within the life of the patent and within six years afterward, and perhaps forever afterward.

Mr. CONKLING. No doubt of it; but does the Senator say there is no period of limitation within which damages may be recovered?

Mr. WADLEIGH. That is not what I said.

Mr. CONKLING. But this bill limits that, if my friend will pardon me, as I read it:

Shall recover only for such damages for infringement as shall have occurred for and during the term of four years immediately preceding the commencement of such action or proceeding.

If my friend will pardon a further interruption, I beg to suggest to him that this bill makes two very important changes in the law. In the first place, the law is not now that there is no limitation of the period for which damages may be recovered. It changes that, but it makes two important changes. In the first place, it fixes four years as the whole term. It makes that four years the four years immediately antedating the suit. Suppose the person whose rights have been infringed is unable to obtain his evidence and his footing on which to commence his suit, and a period has intervened since the infringement. He is to recover only for the particular four years. I need not say to a patent lawyer as good as the Senator from New Hampshire that many cases occur, not in supposition merely but in practice, where virtually this would denude the party of his right altogether.

The PRESIDING OFFICER. The amendments reported from the Committee on Patents will be acted upon in their order. The first amendment of the committee will be reported.

The CHIEF CLERK. The first amendment of the committee is in section 1, commencing in line 7, to strike out the following words:

One year immediately preceding the notice of infringement and after such notice shall be given and until the date of the judgment: *Provided*, That where no other notice of infringement shall be given, the commencement of a suit for such infringement shall be construed as notice.

And in lieu thereof to insert—

Four years immediately preceding the commencement of such action or proceeding.

So that the first section of the bill will read:

That from and after the passage of this act, the plaintiff in any action at law or proceeding in equity, if found entitled in such proceeding or action to recover damages for infringement of any patent, shall recover only for such damages for infringement as shall have occurred for and during the term of four years immediately preceding the commencement of such action or proceeding.

Mr. CAMERON, of Pennsylvania. I move to postpone the bill indefinitely, or, if the Senator from New Hampshire prefers, I will move to postpone it for the present. I have had, I think, a hundred letters on the subject of this bill, all from people interested in manufactur-

ing and matters connected with patents in my State. I believe it would do them a great deal of wrong. I will move to postpone the bill until the first Monday in December, and for the reason that there is a great deal of interest taken in all these patent bills by everybody almost. Certainly there is not a township in all this country where there are not a great many people interested in everything that is pertaining to patents; and in all the letters to me on this subject it is said that this bill ought not to be passed. If it is not necessary, I shall not occupy more than a moment of time, because it is so near the end of the session, and I move now to postpone the bill until the first Monday in December.

The PRESIDING OFFICER. The question is on the motion of the Senator from Pennsylvania, to postpone the bill until the first Monday in December.

The motion was agreed to.

EDWIN MORGAN.

Mr. CAMERON, of Pennsylvania. I move, and I beg the Senate to indulge me while I make the motion, the immediate consideration of a bill reported from the Committee on Military Affairs with an amendment. I move that the Senate take up the bill (H. R. No. 2019) for the relief of Edwin Morgan, late captain of Company G, Seventy-seventh Regiment, Pennsylvania Volunteer Infantry. I hope it will be taken up now, because it will have to go to the other House on account of the amendments and be returned here. It is only a few hundred dollars.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Secretary of the Treasury to pay to Edwin Morgan, late captain of Company G, Seventy-seventh Regiment Pennsylvania Volunteer Infantry, the pay and allowances of a second lieutenant of infantry, in command of company, from the 19th day of June, 1864, to the 1st day of May, 1865, together with three months' pay proper, allowed to certain officers of the volunteer service under section 4 of act of Congress approved March 3, 1865, after deducting from the pay and allowances any sums of money heretofore paid him for his services for that time.

The bill was reported from the Committee on Military Affairs with an amendment in lines 8 and 9, to strike out "the 19th day of June" and insert "the 7th day of July."

The amendment was agreed to.

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

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

The bill was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 4691) making appropriations for the support of the Army for the fiscal year ending June 30, 1878, and for other purposes; and

A bill (H. R. No. 4433) making appropriations for the payment of claims reported allowed by the commissioners of claims under the act of Congress of March 3, 1871.

HOUSE BILLS REFERRED.

The bill (H. R. No. 4691) making appropriations for the support of the Army for the fiscal year ending June 30, 1878, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

Mr. SARGENT. I think, as the Committee on Appropriations have the sundry civil bill and several conferences on hand, they will hardly be able to take up the Army appropriation bill in committee before morning; and therefore I ask that it be printed.

The PRESIDING OFFICER. It will be so ordered, if there be no objection. The Chair hears none.

The bill (H. R. No. 4433) making appropriations for the payment of claims reported allowed by the commissioners of claims under the act of Congress of March 3, 1871, was read twice by its title, and referred to the Committee on Claims.

CATHERINE HARRIS.

Mr. SPENCER. I move that the Senate proceed to the consideration of the bill (H. R. No. 2606) for the relief of Catherine Harris.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Secretary of the Treasury to pay to Catherine Harris, widow of Matthias Harris, late a chaplain in the United States Army, the amount of pay and allowances due him as a chaplain of the Army from the 5th of February, 1864, to the 10th of October, 1864.

Mr. DAVIS. What is the amount involved?

Mr. SPENCER. It is about \$200.

Mr. DAVIS. Let us hear what the bill says. I ask the Clerk to read the bill again.

The Chief Clerk read the bill.

Mr. DAVIS. Is there a report with the bill?

Mr. SPENCER. There is a report.

Mr. DAVIS. Let it be read.

The PRESIDING OFFICER. The report will be read.

The Secretary read the following report, submitted by Mr. SPENCER from the Committee on Military Affairs January 23:

The Committee on Military Affairs, to whom was referred the bill (H. R. No. 2606) for the relief of Catherine Harris, respectfully report:

The following report accompanies the papers transmitted from the House, and is presumed to be the report of the House Committee on Military Affairs. It is a correct statement of the facts as shown by the proof, and warrants the recommendation that the act should pass. A critical examination, however, develops the fact that Chaplain Harris was never at any time during the period mentioned out of the service of the United States, nor could the order of the Secretary of War, Mr. Stanton, be legally construed so as to deprive him of his rank and pay. The order, however, having been revoked, no matter how arbitrarily it may have been construed or illegally interposed, the relief asked for is beyond question just and entitled to be granted. In fact, under the record herewith presented, the Pay Department was not justified in refusing to pay Chaplain Harris for the period provided for in the act. Your committee therefore recommend the passage of the act.

"Catherine Harris is the widow of the late Matthias Harris, who served over twenty years as a chaplain in the United States Army.

"In consequence of allegations that he gave utterance to disloyal sentiments in a sermon preached to the troops, the Adjutant-General of the Army, by letter, January 28, 1864, to Major-General Augur, commanding Department of Washington, informed him that 'The Secretary of War directs that you order the commanding officer at Fort Washington, Maryland, to discontinue the employment of Rev. M. Harris as chaplain at that post.' January 30, 1864, Major-General Augur, by letter, communicated this order to the commanding officer at Fort Washington, which was received and carried into effect February 5, 1864, on which date Chaplain Harris ceased his duties, and subsequently drew his pay as a chaplain in full to that date.

"It appears that the Secretary of War, (Hon. E. M. Stanton,) after personally investigating the matter, was satisfied that an injustice had been done, and by letter, October 8, 1864, he directed Major-General Augur 'that the order to discontinue the employment of Rev. M. Harris as chaplain at Fort Washington be revoked, and he will be assigned to duty at Fort Foote.'

"October 10, 1864, Major-General Augur communicated these orders, by letter, to the commanding officer at Fort Washington, and also inclosed to him the following order:

["Special Orders No. 253.]

"HEADQUARTERS DEPARTMENT OF WASHINGTON,

"TWENTY-SECOND ARMY CORPS,

"Washington, D. C., October 10, 1864."

"Chaplain Matthias Harris is hereby relieved from duty at Fort Washington, and will report to Brigadier-General Hardin, commanding division, for assignment to duty at Fort Foote.

"By command of Major-General Augur:

"C. H. RAYMOND,

"Assistant Adjutant-General."

"Chaplain Harris resumed his duties and drew his pay from October 10, 1864, until the time of his death. His widow claims that he was entitled to pay for the time between February 5, 1864, and October 10, 1864.

"From an examination of the official orders referred to, it is evident that their object, or at least their effect, was to place Chaplain Harris in the position of never having been relieved from duty. The letter of the Secretary of War, of October 8, 1864, was not to restore Chaplain Harris to duty, but it revoked the former order dismissing him. The effect of revocation was to place Chaplain Harris in the same position as if the original orders had never been written or issued. That such was the construction of Major-General Augur is evident from his Special Orders No. 253, which, before assigning Chaplain Harris to duty at Fort Foote, relieved him from duty at Fort Washington. If the purpose had been simply to restore Chaplain Harris to the Army, the original orders for his dismissal would not have been revoked; he would simply have been restored to duty and assigned to Fort Foote without the intervening formality of relieving him from duty at Fort Washington, which duty he could only be upon constructively. It would seem to have been the purpose of the Secretary of War to place Chaplain Harris in the position of never having been discontinued from service, and to obliterate from his record, so far as a revocation could do it, the fact.

"It appears, therefore, to your committee that Chaplain Harris must be considered as having been continuously an officer of the Army, and that, not having drawn his pay as such from February 5, 1864, to October 10, 1864, his widow is now justly entitled to the same.

"The committee report that the bill ought to pass."

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

ALMERON E. CALKINS.

Mr. CHRISTIANCY. I move that the Senate take up the bill (H. R. No. 559) for the relief of Almeron E. Calkins, late a second lieutenant in the Eighth Michigan Infantry.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Paymaster-General of the United States Army to pay Almeron E. Calkins, late a second lieutenant in the Eighth Regiment of Michigan Cavalry, the pay and allowances of a second lieutenant from the 22d of March, 1864, to the 23d of July, 1864, the date of his muster as such second lieutenant.

Mr. CHRISTIANCY. This bill has met the unanimous approval of the Committee on Military Affairs in the House and also of the corresponding committee in the Senate. The whole substance of the bill is this: This man Calkins was a lieutenant and actually commanded a company in Sherman's march to the sea; yet he never had an opportunity of being mustered in as an officer, and he has been unable to obtain his pay. That is the whole substance of the case.

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

JOHN S. MILLER.

Mr. BOUTWELL. I move that the Senate proceed to the consideration of the bill (S. No. 1130) for the relief of the executors of the estate of John S. Miller, deceased.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Commissioner of Internal Revenue to credit Barbara Miller, John S. Miller, and William H. Miller, executors of the estate of John S. Miller, deceased, with the amount of \$12,117.10, assessed against them for deficiency

in the production of spirits at their distillery at Sterling, Illinois, during the months of April, May, and June, 1876; but the Commissioner of Internal Revenue shall be satisfied that they have paid the legal tax upon all spirits produced at their distillery during those months.

Mr. COCKRELL. Is there a report in that case?

Mr. BOUTWELL. I can state the purpose of the bill in a moment. Mr. COCKRELL. Is there a written report with the bill?

Mr. BOUTWELL. There is no written report with it by the Senate committee; but there was a report made to the House, I think, in the last Congress. I can state the facts briefly, which will be better probably.

Mr. COCKRELL. I should like to hear the report read, if there is a report with the bill?

Mr. BOUTWELL. I am not sure whether there is a report with the bill or not.

The PRESIDING OFFICER. The Chair is informed that no report accompanies the bill.

Mr. BOUTWELL. But there was a report made in the House. This claim arose in this way: At a distillery in Illinois, as in every other distillery, the Department made an estimate of the capacity of the distillery at the rate of sixteen quarts, or four gallons, for every bushel of grain used in the distillery, fermentation being allowed for forty-eight hours. The law requires that such estimate shall be made, and that the distillery shall pay an amount of tax equal to 80 per cent. of that estimate, and shall pay also for whatever may be made in excess of the estimate. It turned out that during three months, the spring months of the year 1876, the estimate of the capacity of the distillery exceeded the actual product, so that the tax assessed was about \$12,000 in excess of what it should have been upon the quantity produced. The Commissioner of Internal Revenue recommends the allowance of this tax against the assessment already existing. The bill was examined by the Committee on Finance, and their opinion was unanimous that this allowance should be made. These are the facts, and upon these facts the Senate can judge.

Mr. COCKRELL. It was because I anticipated the very statement which is made by the Senator from Massachusetts that I asked for an explanation or for the reading of the report. Now it would seem to be gross injustice that one committee of this Senate should report upon a similar state of facts adversely and another committee should report favorably, when both cases are based upon the same facts and upon the same principle. If I am not very much mistaken, the Committee on Claims only the past week considered a case of the very same character and nature as the case described by the Senator from Massachusetts and now under consideration, and that committee report adversely. I think it would be doing great injustice to let this bill pass.

This was a distiller. He made his estimate of the amount of whisky which would be made month by month, and because he failed to make that amount he comes in now and claims a deduction. You establish that principle and every distiller in the United States will be appealing at the doors of Congress for abatements. They know the capacity of their stills and they ought to be governed by the assessments that are made at that time by the ascertainment of the amounts. There has been a bill of this kind under consideration in the Committee on Claims, and, as I understand it, that committee have reported adversely. I do not think it would be right that the Senate should pass this bill under the circumstances.

Mr. CAMERON, of Wisconsin. As the Senator from Missouri has remarked, a bill similar to this was referred to the Committee on Claims; the bill was referred by the Committee on Claims to the Treasury Department, and the Secretary of the Treasury, in response to an inquiry made of him, wrote us a lengthy communication in which he recommended that the bill do not pass, and we thought he made a very conclusive argument against it. Our own opinion agreeing with the opinion of the Secretary of the Treasury, we unanimously reported against the bill.

Mr. BOUTWELL. Well, Mr. President, I think the policy of the Government ought to be uniform in that respect, and under the circumstances I think that the passage of this bill ought not to be pressed. At some future time perhaps Congress will decide what should be done. I move that the further consideration of the bill be postponed until the first Monday of next December.

The motion was agreed to.

CLOTHING TO SOLDIERS.

Mr. CLAYTON. I move that the Senate proceed to the consideration of House joint resolution No. 175.

The motion was agreed to; and the joint resolution (H. R. No. 175) authorizing the issue of clothing to Company A, Second Regiment United States Cavalry, was considered as in Committee of the Whole. It is an authority to the Secretary of War to issue to fifty enlisted men of Company A, Second Regiment United States Cavalry, clothing in lieu of and equal in amount to that lost by them at the fire which occurred in the camp of Company A, Second Cavalry, on the 16th day of July, 1874, as shown and recommended in the report of the board of survey convened under Special Orders No. 138, headquarters Fort Laramie, Wyoming Territory, of date of July 17, 1874.

Mr. DAVIS. Let us hear this matter explained.

Mr. CLAYTON. It explains itself. I will state that the barracks

caught fire and the clothing of these soldiers was destroyed while they were trying to take care of Government property. It is based on a report of the Secretary of War. The bill is recommended by him. The ascertainment of the amount of clothing destroyed was the result of a board of survey called by the proper officers of the War Department. This resolution is to allow the War Department to re-issue clothing to these soldiers in lieu of what was destroyed while they were endeavoring to save the public property. There is no question whatever about it. It amounts to a very small matter anyhow.

Mr. DAVIS. The Senator says the resolution is based upon a recommendation of the Secretary of War. Let that be read.

The PRESIDING OFFICER. The recommendation of the Secretary of War will be read.

Mr. WINDOM. Before that is read I wish to explain the delay in calling up the sundry civil bill. We expected it here at eight o'clock, but the printers were unable to have it ready before nine, as we are informed.

The Secretary read the following letter of the Secretary of War:

WAR DEPARTMENT, January 6, 1876.

The Secretary of War has the honor to transmit to the House of Representatives copy of the proceedings of a board of survey convened at Fort Laramie, Wyoming Territory, to inquire into and report upon the circumstances attending a fire which occurred in the camp of Company A, Second Regiment of United States Cavalry, on the 16th day of July, 1874, with the recommendation that an act be passed (draught inclosed) authorizing the issue of clothing to the fifty enlisted men of Company A, Second Cavalry, as mentioned in the proceedings of the board of survey, equal in amount to and in lieu of that lost by them at the said fire.

WM. W. BELKNAP,

Secretary of War.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

FRANCIS HEGUER AND JOHN C. COLLINS.

Mr. CLAYTON. I have another joint resolution of similar character which I think had better be disposed of at once. I move to proceed to the consideration of House joint resolution No. 176.

The motion was agreed to, and the joint resolution (H. R. No. 176) authorizing the issue of clothing to private Francis Hegner, Company F, Seventh Cavalry, and private John C. Collins, Company G, Seventh Cavalry, was considered as in Committee on the Whole.

It authorizes the Secretary of War to issue to private Francis Hegner, Company F, Seventh United States Cavalry, and private John C. Collins, of Company G, Seventh United States Cavalry, clothing in lieu of and equal in amount to that lost by them respectively at the burning of the cavalry stable at Fort Abraham Lincoln, Dakota Territory, November 10, 1874, as shown and recommended in the report of the board of survey convened by Special Orders No. 213, headquarters Fort Abraham Lincoln, Dakota Territory, of the date November 11, 1874.

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

W. W. VAN ANTWERP.

Mr. COCKRELL. I ask leave to take up the bill (H. R. No. 2694) for the relief of W. W. Van Antwerp, late major of Fourth Michigan Cavalry. I move to take it up.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill, which provides for paying to—

W. W. Van Antwerp, a citizen of Jackson, Michigan, \$160, being the value of a private horse, lost in action while Van Antwerp was in the strict line of his duty as a soldier.

Mr. COCKRELL. The bill provides for paying him \$150 for a horse.

The Committee on Military Affairs reported the bill, with an amendment in line five, to strike out "sixty" and insert "fifty;" so as to read, "\$150."

The amendment was agreed to.

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

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

The bill was read the third time, and passed.

POST-OFFICE APPROPRIATION BILL.

Mr. WEST submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4187) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1878, and for other purposes; having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses, as follows:

The House recedes from its disagreement to the amendments of the Senate numbered 3, 4, 5, 8, 10, 20, 21, 22, 23, 24, 26, 28, 29, 30, and 31.

The Senate recedes from its amendments numbered 19 and 27.

The House recedes from its disagreement to amendment No. 1, and agrees to the same with an amendment making the amount \$135,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 2, and agrees to the same with an amendment making the amount \$125,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 6, and agrees to the same with an amendment making the amount \$3,340,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 7, and agrees to the same with an amendment making the amount \$1,825,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 9, and agrees to the same with an amendment making the amount \$400,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 11, and agrees to the same with an amendment making the amount \$800,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 14, and agrees to the same with an amendment making the amount \$1,225,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 15, and agrees to the same with an amendment making the amount \$1,000,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 16, and agrees to the same with an amendment making the amount \$150,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 17, and agrees to the same with an amendment making the amount \$110,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 18, and agrees to the same with an amendment making the amount \$670,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 25, and agrees to the same with an amendment making the amount \$14,150; and the Senate agree to the same.

Upon amendments Nos. 12, 13, 32, 33, 34, and 35 the conferees have been unable to agree; and so report to their respective Houses.

J. R. WEST,

H. HAMLIN,

L. V. BOGY,

Managers on the part of the Senate.

W. S. HOLMAN,

JAMES H. BLOUNT,

CHAS. FOSTER,

Managers on the part of the House.

Mr. WEST. I ask for the adoption of the report.

Mr. STEVENSON. I should like to hear an explanation of some of those items. Nobody can understand them by merely hearing the Clerk read the numbers. The Senator from Louisiana has charge of the bill, and I should be glad to hear from him.

Mr. WEST. The conferees have only agreed upon matters of detail, and arranged and accommodated the respective sums, leaving open the main questions contained in the bill.

The report was concurred in.

Mr. WEST. I now move that the Senate insist upon its amendments upon which the conferees have not been able to agree and ask for a further conference upon the part of the House.

The motion was agreed to; and by unanimous consent the President *pro tempore* being authorized to appoint the committee on the part of the Senate, Messrs. WEST, DORSEY, and BOGY were appointed.

LAND CEDED BY TREATY OF 1842.

Mr. McMILLAN. I move to proceed to the consideration of the bill (H. R. No. 186) to provide for compensation to the owners of certain lands ceded by the United States to Great Britain in and by the treaty of Washington of July 8, 1842.

The motion was agreed to; and the bill was considered as in Committee of the Whole. The preamble recites that the United States, in and by the treaty of Washington of July 9, 1842, by adopting a conventional line "from the monument at the source of the river Saint Croix, running north, following the exploring-line run and marked by the surveyors of the two governments in the years 1817 and 1818," instead of a true line, did cede to the British Crown a strip of land commencing at an angle at said monument, and increasing to nearly one mile in width at the river Saint John, certain portions of which, amounting to 10,718 acres and 137 square rods, had been granted to citizens of the United States by the States of Maine and Massachusetts while the same were within the lines of the United States, and for which the United States received compensation in equivalents and concessions from the British Crown; and that the United States have made compensation to the States of Maine and Massachusetts for so much of the territory as was owned by them, respectively, and all citizens owning lands on the west of the exploring-line, which vested in British subjects by operation of the treaty under the act of July 12, 1862, and other acts, and have hitherto failed to make compensation to those citizens owning lands upon the strip and tract east of the exploring-line, which passed either to British subjects or to the British Crown by virtue of the exploring-line being adopted as the treaty-line between the two countries at that point, whereby those citizens became entitled to compensation for said lands so appropriated to public use.

The bill therefore directs the Secretary of the Treasury to pay to the parties entitled thereto compensation for the land taken from the State of Maine by the conventional line and included in the province of New Brunswick, not exceeding 10,718 acres and 137 square rods, appropriated by the United States, its value in money at the date of the appropriation, and also for all timber cut therefrom by British subjects during the suspension of jurisdiction by the respective governments preceding the treaty; but the whole amount of compensation so made shall not exceed an average compensation of \$3 per acre, and the same shall be distributed and applied in proportion to the relative value of the lands when appropriated. All payments made under the act are to be in full of all compensation due by the United States for the lands so appropriated. In determining the amount and value of the land appropriated, and the amount of compensation to be made to any claimant, the Secretary of the Treasury may use any evidence heretofore taken in relation thereto by the Department of State or

by the States of Maine and Massachusetts, and any and all official documents and correspondence pertaining thereto to carry the act into effect.

Mr. WYTE. From what committee does this bill come? It is a very important bill.

The PRESIDING OFFICER. The Committee on Claims.

Mr. McMILLAN. It is reported from the Committee on Claims.

Mr. WYTE. Is there a report?

Mr. McMILLAN. There is a report accompanying the bill.

Mr. WYTE. I should like to hear it read.

The PRESIDING OFFICER. The report will be read.

Mr. McMILLAN. I call the attention of the Senate to the fact that the facts are stated in the preamble, which by the report are found to be true. I merely wish to call the attention of the Senate to that.

The Secretary read the following report submitted by Mr. WADLEIGH, from the Committee on Claims, on July 15, 1876:

The Committee on Claims, to whom was referred the bill (H. R. No. 186) to provide for compensation to owners of certain lands ceded by the United States to Great Britain in and by the treaty of Washington of July 9, 1842, submit the following report:

They find that the recitals of the preamble to the bill are true.

The subject-matter was before the Forty-third Congress, upon the petition of James A. Drew and others, and the careful report made thereon by Mr. DUNNELL, of the Committee on Claims, which accompanies House bill No. 2873, of the first session of that Congress, sets forth fully and concisely the facts and conclusions that establish the validity of the claim of the beneficiaries under this bill for the indemnity it provides.

Under the treaty of 1783, the division line between the United States and the province of New Brunswick on the east was agreed to be a line drawn due north from the source of the Saint Croix River to the high lands that divide the waters flowing into the Gulf of Saint Lawrence from those which flow into the Atlantic Ocean. A dispute arose afterward in regard to the location of these highlands, which was not adjusted until the convention of 1842, which composed this and other vexed controversies. In 1794, the two governments determined the spot to be regarded as the source of the Saint Croix, and identified it by a monument. No formal survey of this due-north line was ever made by the two governments in concert; but, by authority of the State of Massachusetts, the line was run from the monument by surveyors in 1804, and in 1840 by Major Graham, of the United States Topographical Engineers. That the line fixed by these explorations is the true treaty-line of 1783 was claimed as beyond question by our Government, and in effect conceded by Lord Ashburton in the negotiations that preceded the conclusion of the convention of 1842. Long prior to this latter convention, and before the territorial dispute arose, the State of Massachusetts made grants of lands, by townships, chiefly to educational institutions and soldiers distinguished for patriotic services, bounding easterly on this line. By the treaty of 1842, a new boundary was adopted, in place of the old, to meet commercial and political exigencies, for which the United States obtained valuable compensations in the settlement of other boundaries. As thus newly established, the boundary, commencing at the head of the Saint Croix, by the monument, was made to diverge some degrees westerly from due north. In consequence of this variation, and by operation of the treaty provisions, the title to an amount of land equal to ten thousand acres or more, lying between the two boundaries, was divested from the proprietors under the grants, and vested in British subjects; and it is to indemnify the proprietors for these lands taken by the sovereign power for a public use that the committee recommend the passage of the accompanying bill of relief.

In the year 1833, in consequence of the disagreement as to the boundary, it was arranged between the two governments, as appears from the diplomatic correspondence, that both governments should suspend the exercise of jurisdiction over the disputed territory (which included these lands) until a final adjustment of the controversy. This diplomatic understanding was adhered to until the convention of 1842 composed the troubles, with the exception that the authorities of Maine, in 1839, interfered by force to protect the valuable timber forests from depredations. During the period of suspended jurisdiction, principally from 1832 to 1839, and while the owners were powerless to protect their rights and interests, these lands were settled upon and the valuable growth of timber thereon removed by the subjects of Great Britain from the contiguous province. Under the operation of the fourth article of the treaty of 1842, these "squatters," who had been in actual possession for six years before the date of the treaty, were confirmed in their titles, to the exclusion of the proprietors, whose title was derived under their grants. Judicial determinations fully establish this construction, and give effect to it. (See *Little vs. Watson*, 32 Maine R., 214.)

The obligation of the Government to make this indemnity seems too clear for discussion, and is confessed by abundant precedent. In recognition of this obligation the Federal Government, by express provision of the treaty, allowed to the States of Maine and Massachusetts \$300,000 for their public lands within the territorial cession.

By the act of July 12, 1862, Congress admitted and satisfied claims made for lands of individuals owners which fell within the jurisdiction of the United States upon the reconstruction of boundaries, but which the proprietors were dispossessed of under the fourth article of the treaty, and the title thereto vested in British subjects. The lands specified in this bill constituted a portion of the townships granted by Massachusetts, which, at the date of the grants, were indisputably a part of her public domain. By the establishment of the conventional line of 1842, a section of these townships remained, as before, within the Federal jurisdiction, and a section was transferred to the British Crown. As to the whole, the American owners were dispossessed. For the part which fell within the jurisdiction, the Federal Government, acknowledging its liability, has made compensation. For the part which passed to the foreign jurisdiction, the bill under consideration proposes indemnity. The right to compensation in the two cases seems identical. It is pertinent to recall that a pecuniary compensation was made to the States of Maine and Massachusetts for their public lands so transferred to the British government; and of the lands so paid for by the Federal Government, a part occupied the same relative position as those covered by the provisions of this bill. Surely, the right of the private proprietor to compensation should not be held less than the right of the State.

Exhaustive reports upon the various claims of this class, arising out of the treaty of 1842, have been submitted by committees of both branches of Congress, in former years, with concurrent unanimity sustaining their justice and validity. We refer particularly to reports—

In the Senate:

By Mr. Wade, third session Thirty-fourth Congress, (Report No. 323.)

By Mr. Clark, first session Thirty-fifth Congress, (Report No. 168.)

In the House:

By Mr. Maynard, first session Thirty-fifth Congress, (Report No. 394.)

By Mr. Walton, second session Thirty-seventh Congress, (Report No. 72.)

By Mr. DUNNELL, first session Forty-third Congress, (Report No. 386.)

The bill reported favorably from the Committee of Claims of the last House of Representatives passed the House, but failed to secure action in the Senate.

The States of Maine and Massachusetts have each taken action in aid of the claimants, urging the justice of the claim upon the attention of the Government. The governor and council of Maine, in 1869, in execution of a resolution of the Legislature, investigated the subject, and found that the territory in question embraced 10,718 acres and 137 rods, and its average value \$3 an acre. The act of July 12, 1862, allowed compensation for contiguous lands of no greater value, inclusive of damage for timber removals while the exercise of jurisdiction was suspended, at the rate of \$4 per acre.

The amendments reported by the Committee on Claims were in line 14, after the word "made" to insert "for said land and timber;" in line 17, after the word "appropriated" to insert the words "and timber when taken;" in line 20, after the word "appropriated" to insert the words "and the timber so taken;" and in line 22, after the word "appropriated" to insert the words "and the timber taken."

The amendments were agreed to.

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

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

RICHMOND FEMALE INSTITUTE.

Mr. WITHERS. I move that the Senate proceed to the consideration of the bill for the relief of the Richmond Female Institute, of Richmond, Virginia.

The motion was agreed to; and the bill (S. No. 780) for the relief of the Richmond Female Institute, of Richmond, Virginia, was read the second time and considered as in Committee of the Whole. It proposes to pay to the treasurer of the Richmond Female Institute, of the city of Richmond, Virginia, \$4,933.33, in full payment and satisfaction for the rent, use, and occupation of its buildings by the Army of the United States from October 1, 1865, to October 10, 1866, all claims for injuries or damages being satisfied by the acceptance of this sum.

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

ACCOMMODATIONS FOR CONGRESSIONAL LIBRARY.

Mr. MORRILL. I am instructed by the Committee on Public Buildings and Grounds, to whom was referred the bill (S. No. 1235) to authorize the taking of certain parcels of land for the Congressional Library, and for other purposes, to report it back, and I ask for its present consideration.

The bill was read for information.

Mr. MORRILL. Mr. President, I should like to call the attention of the Senate to the provisions of this bill. It is a proposition to condemn land directly east of the Capitol, taking one tier of lots directly beyond the present limits of the Capitol. If Senators will look at the Congressional Directory they will see the boundaries of it are between B street north, B street south, and Second street east; that is to say, two whole squares on each side of East Capitol street, and the four triangular squares, with all the streets and avenues by which we would obtain more land in the avenues and streets than that which we shall be called upon to pay for in the several parcels or lots.

The bill is for the purpose of extending these grounds so as to furnish accommodation for the Congressional Library, and also at some future time for another large building, probably for the national museum. It will be obvious to any who have investigated the subject that this whole Capitol would not be more than sufficient to contain the books that will be accumulated in the Congressional Library in fifty or a hundred years hence, and it is almost indispensable that some action should be taken immediately for providing larger room for our national Congressional Library. I suppose there are at this moment not less than between fifty and sixty thousand volumes that are lying loose around on the floor and subject to great damage annually because it is not possible to have them shelved. I am aware that there is a diversity of opinion as to the location of the public library. It was suggested at one time that it should be moved down where the Botanic Garden now is, but upon investigation that is found to be a kind of foundation that would require to be piled. Whenever there is a large freshet the water runs into the doors of our conservatories there now, and it is a wholly unsuitable place for such a building. Besides, it would be destructive of the great park that now exists between here and the White House. Then, again, it has been suggested that it should be placed upon one side or the other of the Capitol; but any one can see at once, if it should be so placed, one end of the building would be three or four stories high, while the other would be but two or three. It would be like a Swiss cottage set upon the mountains, and therefore it would not be in that symmetry of form that is necessary for a public library.

Again, it has been suggested that the building should be upon Judiciary Square. The site where the present court-house is, is the finest one remaining in the hands of the United States at the present moment. It is a very beautiful site, but I hardly think that members of Congress of either House would be in favor of the removal of the library to so distant a spot, whereas if it is located where it has been proposed by the Committee on Public Buildings and Grounds it would be more accessible; and the rooms that we now have in the Capitol would also be maintained to preserve what might be called a working library, containing chiefly all the books that would be required by members of Congress and their families for immediate

use. If this building should be located at the point indicated, just beyond the present boundaries of the Capitol grounds, of course it would be connected with the Capitol by a pneumatic tube and a book could be obtained or returned in two or three minutes.

This bill does not propose to appropriate money for the purchase of these lands, but it proposes that they shall be condemned by the 1st of January, 1878, and a report thereon made to Congress, and then that an appropriation shall be made therefor. I may say that now is a most opportune time for condemning any lands in the city of Washington. Never, perhaps, have they been so depressed in price as at the present moment. I know of parties who own a considerable number of lots here who would sell them at an immense sacrifice in order to be rid of them. I am sure that we should promote the public interest by securing the condemnation of these lands now. They are inevitably to be taken by the United States, and there never can be a better moment to do it than at the present time. I know that it has been sometimes proposed that we should extend the front on the west side, but according to the opinions of all the architects and artists who have been consulted in relation to the matter that could not be extended more than thirty feet without great mutilation of the plan of the Capitol. Then it has been proposed that we should extend it on the east side; but a building extended upon the east side, of this Grecian style of architecture, would be wholly incongruous; it would be making a cross, which would be unsuitable for a Government building, and ruin the beautiful facade that now presents itself to the eyes of all observers. Besides destroying the beauty of this magnificent Capitol, it would utterly mutilate the Capitol grounds which we have recently taken so much pains, at so much cost, to extend and beautify.

I hope, therefore, that the bill will receive the approbation I could wish, the unanimous approbation of the Senate. I am told that such a bill as this can pass the House, but that a bill appropriating money cannot pass the House. I therefore urge it upon the attention of the Senate at this time.

Mr. DAVIS. I should like to ask the Senator who has just addressed the Senate if he has made an estimate as to the probable cost (I know it can only be the probable cost) of the grounds and buildings proposed to be purchased? I will inquire as to the grounds taken separately.

Mr. MORRILL. I have not ascertained, so far as this ground is concerned, what it would cost, and have been unable to ascertain, but I know that it can be obtained at a very low price. As I have already stated, the avenues and streets form a larger portion of the ground than what we should be compelled to buy. A building placed in the centre of the left-hand side for a library would not need to occupy all, but yet it would present a very fine site for that building, leaving enough for a national museum; and I have no doubt, whenever the treasures that we now have on hand shall be displayed, and that within five years, or ten at the outside, we shall be compelled to build a national museum that will compete with anything there is in the world.

Mr. WITHERS. I understand, then, that the bill only contemplates the condemnation of this land.

Mr. MORRILL. That is all.

Mr. WITHERS. Before any appropriation is to be made, the value of the land will have to be reported to the Senate, and Congress will have an opportunity to pass upon it before the condemnation can be confirmed.

Mr. MORRILL. Yes, sir; that is all there is in the bill.

Mr. DAVIS. I understand that the award that may be made must be reported to Congress for its action; but at the same time before we enter upon an enlarged expenditure it would be well to know the probable cost. The Senator speaks of a national museum. I believe within a day or two we passed a bill appropriating \$250,000 for a national museum, or something bordering on to that, to be attached to the Smithsonian Institution. I believe I am correct in that view.

Mr. MORRILL. Yes, sir.

Mr. DAVIS. Is it contemplated that both of these buildings will be necessary?

Mr. MORRILL. I will say to my friend from West Virginia that it is expected that the appropriation that we make now for the building on the Smithsonian grounds will last for some years; it will cover between two and three acres; but that is to be a very cheap building. Whenever we do build a national museum we shall have to build one that will be creditable to the Government, and of course it would cost somewhere probably between one and two million dollars or thereabouts.

Mr. DAVIS. I am disposed to be somewhat liberal in public buildings, especially where they are put up to last, and are not to be temporary. I do not want to do anything that would prevent a proper improvement around and about this city connected with public buildings. I believe this is always to be the capital of this country, and, believing that, I of course would feel a natural interest that whatever is done should be done on a scale that would be worthy of the country. Yet in entering upon an improvement I think we ought to have an approximation to the amount involved before we start. I regret somewhat that the Senator having charge of this bill cannot give some idea of the probable cost of the ground, for that is the first move, and we are now called upon to pass a bill to condemn ground for this purpose.

Mr. MORRILL. I can only say to the Senator from West Virginia that only a small part of this ground is covered by buildings. I agree with him that we ought to do whatever we do in a way that would be creditable to the Government. I will say that so far as the Committee on Public Buildings and Grounds are concerned they have been extremely watchful in relation to these matters. I am aware that the Treasury building is partly built of granite and partly of sandstone; so is the Patent Office. The Capitol is built partly of sandstone and partly of marble. Two buildings, the Interior Department and the Post Office Department, are absolutely ruined in point of good taste by having no grounds round about them, no proper site. The object of this bill is to guard in season and to obtain a proper site for the Library. I have no doubt that those who will come here after us will secure this land at whatever cost. I believe that it can be done now cheaper than it can ever be done again. It is for that purpose, and that only, and because of the immediate necessity of a public library, that the Committee on Public Buildings and Grounds have felt called upon to act in relation to this matter.

Mr. HOWE. Mr. President—

The PRESIDING OFFICER. The Chair reminds Senators that the discussion is a little premature. The question is on the motion of the Senator from Vermont, that the Senate proceed to the consideration of this bill.

Mr. HOWE. I only rise to second it.

Mr. SARGENT. Cannot the question be taken without debate?

Mr. HOWE. I only rose to second the motion.

Mr. WINDOM. I wish to notify the Senate that the sundry civil bill is here and we are ready to proceed with it.

Mr. HOWE. Let us take the vote.

Mr. WINDOM. If a vote can be had without debate, I will wait.

Mr. MORRILL. I think there is no disposition to have further debate.

The PRESIDING OFFICER. The question is on the motion of the Senator from Vermont, to proceed to the consideration of Senate bill No. 1235.

Mr. STEVENSON. I hope that will not be done. This bill must be discussed before it can be passed. I shall make my protest against Congress entering upon a blind contract for the purchase of grounds when the gentleman from Vermont cannot tell us even the estimated cost. If we passed the bill, these men would put up that ground to any price they pleased. Condemn it by the supreme court of the District, and you are compelled to take it. I protest against any such wild extravagant expenditure as that. This bill cannot get through without discussion, and I hope we shall go on with the regular business.

Mr. MORRILL. If the sundry civil bill is ready I feel bound not to be in the way. I withdraw my motion for the present.

The PRESIDING OFFICER. The motion to proceed to the consideration of the bill is withdrawn.

ARMY APPROPRIATION BILL.

Mr. BLAINE, from the Committee on Appropriations, to whom was referred the bill (H. R. No. 4691) making appropriations for the support of the Army for the fiscal year ending June 30, 1878, and for other purposes, reported it back with an amendment in the nature of a substitute for the entire bill.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. WINDOM. I move that the Senate proceed to the consideration of the bill (H. R. No. 4680) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and for other purposes.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. WINDOM. It has been utterly impossible since the bill has been prepared to make an abstract so as to present briefly the action of the Committee on Appropriations in their amendments, and the committee will endeavor to explain them as the bill progresses. I move the application of the five-minute rule to the bill.

The PRESIDING OFFICER, (Mr. MITCHELL in the chair.) The Senator from Minnesota moves that the five-minute rule apply in the consideration of this bill.

The motion was agreed to.

The PRESIDING OFFICER. If there is no objection, the Senate will consider the amendments in their order as reported from the Committee on Appropriations. The Clerk will report the first amendment.

The first amendment of the Committee on Appropriations was in line 28, after the word "dollars" to insert the words "for the supreme court of the District of Columbia, \$3,000;" in line 41, after the word "States" to strike out the words "or in the Court of Claims of the United States" and in line 46, after the word "shall" to strike out the word "not" and insert "only;" so as to read:

For printing and binding for the State Department, \$15,000; for the Treasury Department, \$180,000; for the War Department, \$72,000; for the Navy Department, \$39,000; for the Interior Department, \$135,000; for the Agricultural Department, \$9,000; for the Department of Justice, \$6,000; for the Post-Office, \$105,000; for the Congressional Library, \$15,000; for the Supreme Court of the United States, \$20,000; for the supreme court of the District of Columbia, \$3,000; for the Court of Claims, \$10,000; and for printing and binding for Congress, including the proceedings and debates of Congress, \$694,000; and of the sums hereby appropriated for the several Departments, the courts, and for printing and binding for Con-

gress, including the proceedings and debates of Congress, there shall only be used for the several purposes herein provided the sums specified, and the unexpended balances shall not be used for any other purposes; and there shall be taxed against the losing party in each and every cause pending in the Supreme Court of the United States the cost of printing the record in such case, which shall be collected, except when the judgment is against the United States, by the clerks of said courts respectively, and paid into the Treasury of the United States; but this shall only apply to records printed after the 1st of October next.

The amendment was agreed to.

The next amendment was after line 47 to insert:

For printing and binding for the Library of Congress, \$12,000; to be available immediately: *Provided*, That in the expenditure of the appropriations for public printing and binding herein made the Public Printer shall not pay any greater price than fifty-five cents per one thousand ems for composition, and forty-six cents per hour during a legal day's work to printers and binders.

The amendment was agreed to.

The next amendment was to strike out from line 54 to line 65, inclusive, in the following words:

That all public documents already printed or ordered to be printed by the present Congress shall be credited to the present members of said Congress and delegates, and subject to their order for the period of nine months after the expiration of their terms as members and delegates; and that public documents already printed or ordered to be printed may pass through the mails upon the frank of members and delegates of the present Congress, in compliance with laws now in force regarding transmission of public documents through the mails, during the said period of nine months after their terms as members and delegates.

And in lieu thereof to insert:

That all public documents already printed or which have been ordered to be printed by the present Congress shall be distributed among Senators in accordance with the usage of the Senate, and among the Representatives and Delegates of the said Congress, and subject to their respective orders, until the 1st day of January next; and that such of these documents as cannot under existing laws be transmitted through the mails free of postage may be so transmitted under the frank of such Senators, Representatives, and Delegates until the 1st day of January next, subject to such regulations as the Postmaster-General may prescribe; and all public documents which may be transmitted through the mails free of postage may be sent from the document and folding rooms of the two Houses of Congress, free of postage, to such Senators, Representatives, and Delegates until the 1st day of January next.

The amendment was agreed to.

The next amendment was under the head of "judiciary," in line 143, to increase the appropriation for defraying the expenses of the Supreme Court and circuit and district courts of the United States, including the District of Columbia, and also for jurors and witnesses' expenses, &c., from \$2,500,000 to \$2,800,000.

The amendment was agreed to.

The next amendment was in line 158, to increase the appropriation for payment of the necessary expenses incurred in defending suits against the Secretary of the Treasury or his agents for the seizure of captured or abandoned property, and for the examination of witnesses, &c., from \$25,000 to \$40,000.

The amendment was agreed to.

The next amendment was in line 193, after the word "seventy-five" to insert the words "and thereafter;" so as to read:

That the Secretary of the Treasury shall reserve of any of the revenues of the District of Columbia not required for the actual current expenses of schools, the police, and fire department, a sum sufficient to meet the interest accruing on the 3.65 bonds of the District during the fiscal year beginning July 1, 1877, and thereafter, and apply the same to that purpose; and in case there shall not be a sufficient sum of said revenues in the Treasury of the United States at such time as said interest may be due, then the Secretary of the Treasury is authorized and directed to advance, from any money in the Treasury not otherwise appropriated, a sum sufficient to pay said interest; and the same shall be re-imbursed to the Treasury of the United States from time to time as said revenues may be paid into said Treasury, until the full amount shall have been refunded.

The amendment was agreed to.

The next amendment was after line 202, to insert:

To pay on behalf of the United States, as a portion of the general expenses of the District of Columbia, to be expended by the commissioners of said District, to be drawn only as needed, for immediate use, \$500,000.

The amendment was agreed to.

The next amendment was after line 207, to insert:

That the Secretary of the Treasury be authorized and directed to advance to the commissioners of the District of Columbia \$75,000 for support of the public schools of the District, to be available immediately; and said commissioners shall refund the amount so advanced out of any revenues of the District for the current fiscal year not required for its actual expenses.

The amendment was agreed to.

The next amendment was after line 228, to insert:

To pay Selmar Seibert for report of Court of Claims, May 1, 1860, \$731.83.

Mr. SARGENT. Should not the word "for" be "per"?

Mr. WINDOM. It ought to be "per report of Court of Claims."

The PRESIDING OFFICER. The amendment will be so modified by unanimous consent.

The amendment, as modified, was agreed to.

The next amendment was to strike out the following clause after line 248:

That all sums herein appropriated, or that may be hereafter appropriated, for the support, in whole or in part, of any asylum, charitable or reformatory institution, or society in the District of Columbia, shall be expended under the authority and control of the commissioners of said District, who shall have power to make such regulations in respect thereto as they may deem expedient.

Mr. STEVENSON. I should like to ask why that is stricken out. Is there no head to direct these institutions? It seems to me the provision is a very proper one. Why should it be stricken out?

Mr. WINDOM. It was stricken out because the committee believed (and they wish to submit that question to the Senate) that it was inex-

pedient to place all these various benevolent institutions, such as the Deaf and Dumb Asylum and the Insane Asylum under the control of the local authorities of the District of Columbia. They are supported by the Government and should be under the control of the Government. Their accounts are settled by the accounting officers of the Government, and this is an innovation which the committee thought ought not to be made without more consideration than we were able to give it.

Mr. STEVENSON. Then the amendment ought to go a little further. Before that I see a provision that no indigent person can be received into one of these institutions, except upon executive order. What executive order? These commissioners, or who?

Mr. SARGENT. The Senator will observe that one-half the expense of indigent persons who may hereafter be admitted to the insane hospital from the District of Columbia, is to be paid from the treasury of the District, and as we require them to pay one-half, we also allow their authorities to have patients admitted; but the insane there are partly from the Army of United States, and from the naval service. The general purposes of the institution are quite broad; but we allow a certain number of indigent insane of the District to be admitted on executive order from the authorities of the District.

Mr. STEVENSON. It seems to me, if we have commissioners here whom we pay—gentlemen of high character, and whose business it is to supervise everything—that they ought to have some say in this matter. I think they ought to have control over all these institutions. I know of none of the States in which they have not some regular head to whom all such institutions look; and they have superintendents who report to him. I have great confidence in the gentlemen who are the commissioners of the District, and I cannot see why they should not have power in these matters. If there be any improper government in any of these institutions, to whom is appeal to be made except to these commissioners?

Mr. WINDOM. I will ask the Senator from Kentucky if he really believes that institutions which are supported almost exclusively by the Federal Government should be placed under the control of these local authorities?

Mr. STEVENSON. I do not think that giving them a supervising control would place them entirely under the control of the District authorities.

Mr. WINDOM. The clause which the committee have stricken out gives them omnipotent control over all these institutions:

Shall be expended under the authority and control of the commissioners of said District, who shall have power to make such regulations in respect thereto as they may deem expedient.

There is absolutely no limit to the power of the commissioners in the House bill.

Mr. DAWES. I should like to call the attention of the Senator from Kentucky to the Deaf and Dumb Asylum, which has directors appointed by the President of the Senate and the Speaker of the House, and all its funds are received from the Government here, and they account to the Secretary of the Interior, and the Secretary of the Interior reports to Congress. Why should the commissioners of the District have anything to do with controlling that?

Mr. STEVENSON. I did not mean that. I am very glad to hear the gentleman from Massachusetts give the explanation; it satisfies me entirely.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was under the head of "Columbia Institution for the Deaf and Dumb" in line 268, after the word "and" to strike out the word "forty-eight," and insert "fifty-eight;" so as to read:

For the support of the institution, including salaries and incidental expenses, the maintenance of the beneficiaries of the United States, and \$500 for the books and illustrative apparatus, \$48,000. And the accounting officers of the Treasury are hereby authorized, in the settlement of the accounts of the disbursing agent for the said institution, to give credit for voucher No. 5 in the first quarter of 1876, and for vouchers Nos. 41 and 42 in the second quarter of the same year; said vouchers being receipts for moneys paid for fuel for the use of said institution, if the said accounting officers shall find that said vouchers were for expenditures made for the benefit of said institution.

The amendment was agreed to.

The next amendment was in line 277, to increase the appropriation "for the completion of the work on the erection, furnishing, and fitting up the buildings of the institution in accordance with plans heretofore submitted, and for repairs," &c., from \$40,000 to \$69,524.62.

The amendment was agreed to.

The next amendment was after line 279 to insert:

For inclosure, improvement, and care of grounds, \$5,000.

Mr. STEVENSON. I desire to call for some explanation of this last amendment; and the reason I do it is, that I observe in the inclosures upon public grounds here great waste of public money. I do not know who is to blame for it, but I see that some of the finest iron inclosures that would last for ages, that have cost a great deal of money, have lately been taken down, and small chains and insignificant posts put in their places, over which stock can easily get, and by which trees and ornamental shrubs are liable to destruction. This I see daily; and I understand that further improvements of the same character are in contemplation. I enter my protest against such improvement as that; and I do hope that this committee will look thoroughly into that, and see who is to blame for it.

Mr. WITHERS. I will inform my friend that the committee are of

his opinion, and have made provision in this very bill prohibiting the further removal of fences.

Mr. STEVENSON. I am very glad to hear it, and thank the committee for one.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was under the head of "Columbia Hospital for Women and Lying-in Asylum," in line 285, to increase the appropriation for the support of the hospital from \$16,000 to \$19,500.

The amendment was agreed to.

The next amendment was in line 291, under the head of "Capitol extension," to increase the appropriation for "work on the Capitol and for general care and repair thereof," from \$40,000 to \$50,000.

The amendment was agreed to.

The next amendment was the following items, as lines 291 to 307:

For constructing terrace-wall on Capitol grounds, in accordance with the plans of Fred. Law Olmsted, \$100,000.
For walks in west park of the Capitol grounds, \$30,000.
For walks in east part of the Capitol grounds, \$10,000.
For coping, \$25,000.
For paving court east of the Capitol, \$64,000.
For paving East Capitol street, \$9,000.
For four new steam-boilers, waste-water pipes, and attachments, for the Senate wing of the Capitol, \$15,000.
For annual repairs of the court-house in the city of Washington, \$1,000.

Mr. MORRILL. I ask the chairman of the Committee on Appropriations to accept an amendment after line 302, in these words:

And all sums appropriated for the Capitol grounds shall be immediately available.

It will strike everybody at once that unless this is done, we shall lose the best working part of the season, May and June.

Mr. WINDOM. I think there is no objection to that.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Vermont to the amendment of the Committee on Appropriations.

The amendment to the amendment was agreed to.

Mr. MORRILL. After line 305, I move to insert the words:

And the Architect of the Capitol is hereby directed to dispose of the old boilers at public auction.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The next amendment of the Committee on Appropriations was in line 323, after the word "gas-fitters" to insert the words "superintendent of gas;" so as to read:

For lighting the Capitol, and grounds about the same, including Botanical Garden; for gas, pay of lamp-lighters, gas-fitters, superintendent of gas, plumbers and plumbing, lamps, lamp-posts, matches, materials for the electrical battery, and repairs of all kinds, \$30,000; to be expended under the direction of the Architect of the Capitol.

The amendment was agreed to.

The next amendment was in line 330, to increase the appropriation "for survey of the public lands and private land claims" from \$150,000 to \$450,000.

Mr. KERNAN. I should like to inquire as to that amendment changing \$150,000 to \$450,000 for the surveys of the public lands. That is a very large change.

Mr. WINDOM. It is a large change from the House bill and also a large change from former appropriations for that purpose. It is a large increase of the House bill and a very large reduction on the appropriations that have heretofore been made. In past years we have appropriated about six or seven hundred thousand dollars usually for that purpose. Last year the appropriation was \$325,000. The House bill now is \$150,000 and we make it \$450,000 by this amendment. It is still \$150,000 less than the usual amount, and less, a portion of the committee thought, than ought to be appropriated, but it was all we could hope to get at this time.

The amendment was agreed to.

Mr. CHAFFEE. I ask the chairman of the committee to allow an amendment in line 351, page 15, after the word "timbered" to insert "or mountainous."

The PRESIDING OFFICER. That will be in order after the amendments reported by the committee have been agreed to, but it is not in order now.

Mr. CHAFFEE. I ask the chairman to accept it.

Mr. WINDOM. It can be moved afterward.

The next amendment of the Committee on Appropriations was to strike out lines 353 to 369, in the following words:

That an accurate account shall be kept by each surveyor-general of the cost of surveying and platting every private land claim, to be reported to the General Land Office with the map of such claim; and that a patent shall not issue nor shall any copy of any such survey be furnished for any such private claim until the cost of survey and platting shall have been paid into the Treasury of the United States by the party or parties in interest in said grant, or by any other party: And provided further, That before any land granted to any railroad company by the United States shall be conveyed to such company, or any persons entitled thereto under any of the acts incorporating or relating to said company, unless such company is exempted by law from the payment of such cost, there shall first be paid into the Treasury of the United States the cost of surveying, selecting, and conveying the same by the said company or persons in interest.

Mr. STEVENSON. I should like the chairman of the committee to give me some explanation of that. I cannot very well conceive what practical objection can exist to having a regular account kept by each surveyor-general of the cost of surveying and platting every

private land claim, to be reported to the General Land Office, with a map of such claim.

Mr. WEST. I will explain to the Senator from Kentucky, as a member of the committee, that those are the exact words that were incorporated in the act of last session, and they are the law of the country at the present time. The committee deemed that there was no necessity for repeating the statute over again, and struck out the words with a view, if the committee of conference should give any explanation of the matter, that they might be re-instated. But it is the law now without re-enacting it.

Mr. STEVENSON. That is entirely satisfactory, if it is the law now.

Mr. WEST. That is so now.

Mr. WINDOM. That is as the committee understand it.

Mr. STEVENSON. I think there ought to be no mistake about it, and I reserve for myself the right if, on looking into the law I find it is not as here reported, to move to re-instate these words.

Mr. WINDOM. I think the Senator will find by reading the statute of last year that this is an exact copy of it.

Mr. STEVENSON. I do not pretend to doubt. I only want information.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was in line 372, to strike out after the word "the" the words "one hundred and fourth meridian of longitude west from Greenwich" and insert "twenty-seventh meridian of longitude west from Washington;" so as to read:

For survey of eastern boundary of Wyoming Territory, estimated length, one hundred and thirty-nine miles, being that part of the twenty-seventh meridian of longitude west from Washington lying between the forty-third and forty-fifth degrees of north latitude, and being the boundary between the Territories of Wyoming and Dakota, \$7,000.

The amendment was agreed to.

The next amendment was in line 397, to increase the appropriation "for rent of office of surveyor-general of California, fuel, books, stationery," &c., from \$2,000 to \$3,000.

The amendment was agreed to.

The next amendment was in line 429, after the word "at" to strike out the word "ninety-eight" and insert "ninety-nine;" and in line 430, after the word "and" to strike out the words "\$65,483.21" and insert "\$80,000;" so as to make the clause read:

For salaries and commissions of registers of land offices and receivers of public moneys at ninety-nine land offices, \$380,000.

The amendment was agreed to.

The next amendment was in line 436, to increase the appropriation "for expenses of depositing money received from the sale of public lands" from \$10,000 to \$13,000.

The amendment was agreed to.

The next amendment was in line 449, after the word "dollars" to insert:

And the unexpended balance, not exceeding \$6,000, of the appropriation made by the act for sundry civil expenses for the fiscal year 1876 for the national association for the relief of the colored women and children of the District of Columbia is hereby re-appropriated and made available for said purposes; and the accounting officers of the Treasury Department are hereby authorized to allow and credit the treasurer of the national association for the relief of the colored women and children of the District of Columbia the sum of \$535.75, paid for the purchase of land for the institution, and for recording a deed of the same, during the fiscal year ending June 30, 1875, and to allow and credit said treasurer for payments during the same year, for proper purchases of supplies made during the year preceding, for the support of said institution, the sum of \$855.12.

The amendment was agreed to.

Mr. DORSEY. I wish to reserve that amendment.

Mr. WINDOM. The amendment should include the striking out of the words "ten thousand dollars" in line 449. It is not designed to appropriate the two sums, but by an error in the print it does so.

The PRESIDING OFFICER. The amendment will be considered as modified in that form.

Mr. SARGENT. And the word "and" should be stricken out.

The PRESIDING OFFICER. It will be so modified.

Mr. MORRILL. So that it will read:

For the national association for the relief of the colored women and children of the District of Columbia, the unexpended balance, not exceeding \$6,000, &c.

The PRESIDING OFFICER. The amendment will so stand.

The next amendment of the Committee on Appropriations was after the word "subsistence," to strike out "\$18,000; salaries and compensation, as follows: Of surgeon, \$1,400; of one surgeon and dispensary clerk, \$1,000; of engineer, \$720; matron, \$216; nurses and cooks, \$1,800; fuel and light, \$3,000; clothing, \$3,500; rent of hospital buildings, \$2,000; medicines and medical supplies, \$2,500; and miscellaneous expenses, \$1,000: in all, \$35,636;" and in lieu thereof to insert "salaries and compensation, fuel and light, clothing, rent of hospital buildings, medicines and medical supplies, forage and transportation, and miscellaneous expenses, \$45,000;" so as to make the clause read:

For the Freedman's Hospital and Asylum in Washington, District of Columbia, namely: For subsistence, salaries, and compensation, fuel and light, clothing, rent of hospital buildings, medicines and medical supplies, forage and transportation, and miscellaneous expenses, \$45,000.

The amendment was agreed to.

The next amendment was in line 486, under the head of "Smithsonian Institution" to increase the appropriation "for preservation

and care of the collections of the national museum" from \$13,000 to \$25,000.

The amendment was agreed to.

The next amendment was after line 487 to insert:

For expenses of making up into sets for distribution to colleges and academies the duplicate ores, minerals, and objects of natural history now belonging to the United States or in the collections of the international exposition presented to it by foreign governments, \$5,000.

The amendment was agreed to.

The next amendment was after line 492 to insert:

For a fire-proof building for the use of the national museum, three hundred feet square, to be erected under the direction and supervision of the Regents of the Smithsonian Institution, in accordance with the plan of Maj. General M. C. Meigs, now on file with the Joint Committee of Public Buildings and Grounds, on the southwest corner of the grounds of the Smithsonian Institution, the sum of \$250,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated; said building to be placed west of the Smithsonian Institution, leaving a roadway between it and the latter of not less than thirty feet, with its north front on a line parallel with the north face of the buildings of the Agricultural Department and of the Smithsonian Institution; and all expenditures for the purposes herein mentioned, not including anything for architectural plans, shall be audited by the proper officers of the Treasury Department.

Mr. SARGENT. On line 500, after the word "dollars," I move to strike out the words "is hereby appropriated out of any money in the Treasury not otherwise appropriated."

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The next amendment was after line 516, to insert in the items of appropriation for the Botanic Garden:

For iron balcony in the interior of rotunda, \$950.

For plumbing, and repairs to heating-apparatus, \$600.

The amendment was agreed to.

The next amendment was after line 543, to insert for the sub-treasury and post-office at Boston:

For continuation of building, \$100,00.

Mr. DAWES. I desire to add an amendment there to make the sum immediately available.

Mr. WINDOM. There is no objection to that.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The next amendment was in line 546, to increase the appropriation for continuation of custom-house and post-office building at Cincinnati, Ohio, from \$400,000 to \$500,000.

The amendment was agreed to.

The next amendment was in line 554, to increase the appropriation for continuation of custom-house and subtreasury building at Chicago, Illinois, from \$400,000 to \$500,000.

The amendment was agreed to.

The next amendment was in line 562, to increase the appropriation for continuation of post-office and court-house building at Philadelphia from \$400,000 to \$500,000.

The amendment was agreed to.

The next amendment was after line 566 to insert:

Custom-house, New Orleans, Louisiana: For completion of the building, \$30,000.

The amendment was agreed to.

The next amendment was in line 570, to increase the appropriation for continuation of appraisers' stores building at San Francisco, California, from \$50,000 to \$100,000.

The amendment was agreed to.

The next amendment was in line 575, to increase the appropriation for continuation of court-house and post-office building at Saint Louis, Missouri, from \$400,000 to \$500,000.

The amendment was agreed to.

The next amendment was after line 576 to insert:

Court-house and post-office at Little Rock, Arkansas: For continuation of building, \$50,000.

The amendment was agreed to.

The next amendment was in line 581, to increase the appropriation for completion of court-house and post-office building at Parkersburg, West Virginia, from \$10,000 to \$15,000.

The amendment was agreed to.

The next amendment was after line 587 to insert:

Court-house, custom-house, and post-office, Memphis, Tennessee: For continuation of building, \$50,000.

The amendment was agreed to.

The next amendment was in line 593 to insert:

Court-house and post-office at Pensacola, Florida: For completion of repairs and for furniture, \$15,000.

The amendment was agreed to.

The next amendment was after line 601 to insert:

Jail in the District of Columbia: For finishing inside of cupola, painting ceiling over guard-room, constructing coal-vaults, and building stable and straw-house, \$8,000; to be paid out of the unexpended balance of the appropriation for said jail made by the act of March 3, 1875, which is hereby re-appropriated and made available for this purpose.

The amendment was agreed to.

The next amendment was after line 608 to insert:

For a suitable building, with fire-proof vault extending to each story, at Utica, New York, for the accommodation of the post-office, United States circuit and district courts, and internal-revenue offices, to be erected upon the site purchased by the United States under the act of May 31, 1873, the sum of \$100,000, to be expended under the direction of the Secretary of the Treasury, who shall cause proper plans

and estimates to be made, so that no expenditure shall be made or authorized for the full completion of said building beyond the sum of \$225,000.

Mr. WHYTE. I have made no objection to the increased appropriations proposed by the committee on the part of the Senate for the completion of public buildings now being erected; but I observe that this amendment and the two succeeding amendments contemplate the commencement of new buildings and therefore they are but wedges for new expenditures, and I hope the Senate will not agree to them. Any buildings that are now under or in the course of erection, I think it proper that the appropriation should be made to continue; but I do not think at this time we ought to commence new public buildings, and therefore I hope these amendments will not be agreed to.

Mr. MORRILL. I desire to say to the Senator from Maryland, as I think he was not present when this matter was considered in the Committee on Public Buildings and Grounds, that an expenditure has already been made at Utica in relation to this building of a considerable amount four years ago, and it is the same in relation to Topeka, only not so long ago. The site was authorized to be purchased, but there was no appropriation made for the building.

Mr. DAVIS. Do I understand the Senator from Vermont that the Committee on Public Buildings and Grounds recommend this appropriation?

Mr. MORRILL. They do.

Mr. CONKLING. Perhaps it is unnecessary, but I beg to say one word about this matter. I shall claim the support of the Senator from Maryland with some confidence after hearing me as I understand this amendment to be exactly in the line of his conviction in this regard.

A site was purchased for this building. There was an unexpended balance, which under the statute, with which the Senate is familiar, was covered back into the Treasury. The time has come when there is no post-office, no internal-revenue accommodation, no accommodation for the judges. I have here letters sent to me by the marshal of the district, appealing to me to know what he can do to get chambers for the United States circuit judge and circuit court, he being a resident there. The time has come when absolutely from necessity the Government must either rent here or there expensively, as will be the case, and at the same time lose the interest and the use of the site which has been purchased, or that site must be utilized. In other words, to state it briefly, this is a work of absolute necessity, to complete a building ordered long ago, and in a very clear case, which building has been in abeyance for the want of an appropriation although the site has been paid for, and the public service is absolutely suffering for lack of accommodations of any sort whatever.

The building now occupied as a post-office, for reasons which I will not detain the Senate by stating, is no longer available. The post-office must be moved; it must go somewhere. It is a very large and important office, this being the geographical center of the State. This is believed to be by everybody, I think, whose attention has been given to it, altogether the economical and judicious mode of carrying on the public service; and therefore, as the Senator from Maryland has said, under the principle which he lays down, it seems to me that this is one of the excepted cases.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was after line 620, to insert:

For a suitable building, with fire-proof vault extending to each story, at the city of Topeka, Kansas, for the accommodation of the United States circuit and district courts, post-office, pension agency, land offices, and other Government offices in said city, to be erected upon the site purchased by the United States under the act of March 3, 1875, the sum of \$50,000; to be expended under the direction of the Secretary of the Treasury, who shall cause proper plans and estimates to be made, so that no expenditure shall be made or authorized for the full completion of said building beyond the amount of \$225,000.

The amendment was agreed to.

The next amendment was after line 633, to insert:

For a suitable building, with fire-proof vault extending to each story, at the city of Harrisburgh, Pennsylvania, for the accommodation of the post-office and other Government offices in said city, to be erected upon the site purchased by the United States under the act of March 3, 1875, the sum of \$30,000; to be expended under the direction of the Secretary of the Treasury, who shall cause proper plans and estimates to be made, so that no expenditure shall be made or authorized for the full completion of said building beyond the amount of \$300,000.

The amendment was agreed to.

The next amendment was in line 675, to increase the appropriation for supplies of light-houses on the Atlantic, Gulf, Lake, and Pacific coasts from \$50,000 to \$80,000.

The amendment was agreed to.

The next amendment was in line 685, to increase the appropriation for maintenance of lights on the Mississippi, Ohio, and Missouri Rivers, and such buoys as may be necessary, from \$125,000 to \$150,000.

The amendment was agreed to.

The next amendment was in line 702, to increase the appropriation for commencing the construction of a light-house at Stannard's Rock, Lake Superior, Michigan, from \$25,000 to \$50,000.

The amendment was agreed to.

The next amendment was under the head of "Bureau of Engraving and Printing," in line 743, after the word "Department" to strike out the words "And provided further, That it can be done as cheaply, as perfectly, and as safely;" so as to read:

For labor and expenses of engraving and printing, namely: For labor, (by the day, piece, or contract,) including labor of workmen skilled in engraving, transferring, plate printing, and other specialties necessary for carrying on the work of

engraving and printing notes, bonds, and other securities of the United States, the pay for such labor to be fixed by the Secretary of the Treasury at rates not exceeding the rates usually paid for such work; and for other expenses of engraving and printing notes, bonds, and other securities of the United States; for paper for notes, bonds, and other securities of the United States, including mill expenses, boxing, and transportation; for materials other than paper required in the work of engraving and printing; for purchase of engravers' tools, dies, rolls, and plates, and for machinery and repairs of the same, and for expenses of operating macerating machines for the destruction of the United States notes, bonds, national bank notes, and other obligations of the United States authorized to be destroyed, \$800,000: *Provided*, The work be performed at the Treasury Department.

Mr. KERNAN. I should like to inquire why that clause is proposed to be stricken out. It seems to me it is a very reasonable provision that the work shall not be done in the Government establishment unless it can be done there as cheaply and as well as elsewhere.

Mr. WINDOM. The clause was stricken out for two reasons. One is that the words "provided that it can be done as cheaply, as perfectly, and as safely" seem to render the entire provision nugatory, leaving the discretion wholly to decide whether it can be done complying with all these conditions. The other reason is that in the judgment of the committee this work ought to be done in the Department. The question is submitted to the Senate. We have stricken out that clause in order that their attention may be called to it. We believe the work ought to be done in the Department, and if not, that there ought to be some provision better than that in order to give any authority or any direction by which it should go anywhere else, if that be desirable.

Mr. SARGENT. I should like to ask the chairman whether any contracts are now existing? There may be contracts now existing there which this would violate.

Mr. WINDOM. I am not aware of any; but if there were, the proviso which we strike out would not help it.

Mr. SARGENT. But ought we not to add words which would protect existing contracts if they exist?

Mr. WINDOM. I am not aware of any, but the words we strike out would not protect them.

Mr. SARGENT. I am aware of that; but as a matter of precaution, would it not be well to provide for the protection of any existing contracts?

Mr. WINDOM. I am informed by the Senator from Massachusetts, [Mr. BOUTWELL,] who knows better than any one of us about what the facts are, that probably there are no contracts without former appropriations to meet them.

Mr. WEST. If there are the subject is now within the jurisdiction of the committee of conference.

Mr. KERNAN. The Senator from Massachusetts has had experience, and I should like to inquire whether he believes we should keep building up larger and larger this printing bureau. It is becoming a very extraordinary Government business.

Mr. BOUTWELL. As I am appealed to, I will say that I have no doubt the work can be better done and more economically performed by the Government when you consider the quality of the work than it could be obtained of outside parties; but, on the other hand, the public may think that there is better security by having one imprint upon every security made by an outside party. As a matter of fact, there probably is no additional security obtained in that way. I should myself rather prefer to leave it with the Secretary of the Treasury to decide from time to time what portion, if any, of the work should be done by other parties and what done by the Government directly. My experience leads to the conclusion that the work done by the Government is better work, and that is all-important in engraving and printing the public securities.

Mr. BLAINE. I understand that some of this work has been contracted for. I do not know whether that is so or not, but it will do no harm to put in a proviso that all contracts made shall be carried out. I move that amendment.

Mr. WEST. Make it "except in cases where contracts exist."

Mr. BLAINE. I move this amendment:

Provided, further, That all contracts already made shall be faithfully carried out.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Maine to the amendment of the committee.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The next amendment of the Committee on Appropriations was to strike out lines 747 to 763 in the following words:

Survey of the Atlantic, Pacific, and Gulf coasts: For every purpose and object necessary for and incident to the continuation of the survey of the Atlantic and Gulf coasts and the western coast of the United States and the Mississippi River to the head of ship navigation, with soundings and observations of deep-sea temperatures in the Gulf Stream and the Gulf of Mexico, and observations of currents along the same coasts, the continuation of the survey of the Pacific coasts of the United States, with soundings and observations of deep-sea temperatures in the branch of the Japan Stream off, and observations of other currents along the same coasts, and the preparation, engraving, lithographing, and issuing of charts, the preparation and publication of the Coast Pilot and other results of the coast survey, the purchase of materials therefor, and including compensation of civilians engaged in the work, and pay and subsistence of engineers for the steamers engaged on those coasts, \$350,000.

And in lieu thereof to insert:

Survey of the Atlantic and Gulf coasts: For every purpose and object necessary for and incident to the continuation of the survey of the Atlantic and Gulf coasts of the United States, and the Mississippi River to the head of ship navigation, with soundings and observations of deep-sea temperatures in the Gulf Stream and the Gulf of Mexico, and observations of currents along the same coasts, and the preparation, engraving, lithographing, and issuing of charts, the preparation and

publication of the Coast Pilot and other results of the coast survey, the purchase of materials therefor, and including compensation of civilians engaged in the work, and pay and subsistence of engineers for the steamers engaged on those coasts, \$300,000.

Survey of the western coast: For every purpose and object necessary for and incident to the continuation of the survey of the Pacific coasts of the United States, with soundings and observations of deep sea temperatures in the branch of the Japan Stream off, and observations of other currents along the same coasts, and the preparation, engraving, lithographing, and issuing of charts, the preparation and publication of the Coast Pilot and other results of the coast survey, with the purchase of materials therefor, including compensation of civilians engaged in the work, and pay and subsistence of engineers for the steamers engaged on those coasts, \$200,000.

Geodetic surveying, Coast Survey: For every purpose and object necessary for and incident to the continuation of the triangulation of the Coast Survey to form a connection between the Atlantic and Pacific coasts of the United States, and furnishing points for State surveys, including compensation for civilians engaged in the work, \$50,000.

The amendment was agreed to.

The next amendment was in line 838, to increase the appropriation "for transportation of notes, bonds, and other securities of the United States," from \$25,000 to \$65,000.

The amendment was agreed to.

The next amendment was in line 845, to increase the appropriation "to enable the Secretary of the Treasury to have the records of captured and abandoned property examined and information furnished therefrom for the use and protection of the Government" from \$2,500 to \$5,000.

The amendment was agreed to.

The next amendment was to strike out the following proviso in lines 856, 857, 858, 859, and 860:

Provided, That the office of appraiser of merchandise at the port of Toledo, in the district of Miami and the State of Ohio, be, and the same is hereby, abolished; and the duties of the said office shall hereafter be performed by the collector of customs without additional compensation.

The amendment was agreed to.

The next amendment was in line 867, to increase the appropriation "for the introduction of shad into the waters of the Pacific and Atlantic States, the Gulf States, and of the Mississippi Valley, and of salmon, white-fish, and other useful food-fishes into the waters of the United States to which they are best adapted, and for continuing the inquiry into the causes of the decrease of food-fishes of the United States," from \$45,000 to \$52,500.

The amendment was agreed to.

The next amendment was after line 871, to insert the following proviso:

Provided, That of any appropriations for the service of the United States Fish Commission a sum not to exceed \$1,000 per annum be allowed for rent and other necessary office expenses, beginning with the 1st day of January, 1876.

The amendment was agreed to.

The next amendment was in line 889, to increase the appropriation "for heating, ventilating, and hoisting apparatus, and repairs of same, for all public buildings under control of the Treasury Department" from \$50,000 to \$100,000.

The amendment was agreed to.

The next amendment was in line 898, to increase the appropriation "for photographing, engraving, and printing plans for all public buildings under control of the Treasury Department" from \$1,000 to \$3,000.

The amendment was agreed to.

The next amendment was after line 948, to insert:

For experiments in testing iron, steel, and other metals, with a view to ascertain their strength and value and to determine their constitution and characteristics, \$40,000. And the board authorized by section 4 of the act "making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1876, and for other purposes," approved March 3, 1875, is hereby continued for this purpose for the next fiscal year.

Mr. STEVENSON. I should like to ask what use there is in that. I believe this has been done for a great many years. I have received a great many letters from my constituents asking for information, and I have been unable to furnish them with any relative to the results of such appropriations. I should like to have a little information for their benefit.

Mr. WINDOM. I think this board has not been in existence very many years.

Mr. STEVENSON. Three or four years, I think.

Mr. WINDOM. The last appropriation enabled them to prepare a very expensive machine for the purpose of testing iron and steel. That machine was only prepared very recently, and the tests have not been made. We suspended the appropriation about the time we got ready to make the tests. Certain inferior modes had been used. I will say to the Senator in reference to the advantages of this that we have very voluminous letters on the subject, from officers of the Army and various other interests not connected with or interested directly in this thing at all, showing that it is of very great value, especially to the iron and steel interests and all the interests growing out of the manufacture of these materials. The committee were thoroughly convinced of its value.

Mr. STEVENSON. Where is this test proposed to be made and how is it proposed to be made? That is to say, at what point and under what circumstances are these preparations for the testing of iron and steel?

Mr. WINDOM. At Watertown arsenal, in the State of New York, where the machine is prepared. I cannot tell the Senator how, for I

am not sufficiently scientific to understand just how the tests are made.

Mr. STEVENSON. My information is that there was an appropriation three or four years ago, and while in New York on one occasion I took upon myself some trouble, at the request of some iron-founders in Louisville, to try and ascertain what was being done. I was told that these parties had been then engaged in preparations, but had been delayed. Now, I should like to know from the chairman whether any report of a practical nature has ever been had from any appropriations like this, as to testing the strength and value of iron.

Mr. WINDOM. I am informed that there have been reports, but I have not been sufficiently interested in the subject myself to read them, and cannot speak of their merit.

Mr. STEVENSON. I hope the item will not be inserted.

Mr. ANTHONY. There has been a report, and a very valuable report. This commission is rendering very excellent service in informing the country and the world of the quality of different kinds of iron and of the kinds of strain it will bear, whether lateral or vertical.

Mr. STEVENSON. May I ask the Senator from Rhode Island when this report was made and where I can find it; because I am honestly seeking information in this line. I have been seeking it for some time but have never found it.

Mr. ANTHONY. I think the report was made at this session, communicated by the President of the United States.

Mr. STEVENSON. That may be. It has been more than a year since I inquired.

Mr. ANTHONY. The results of the investigations of this commission have been very valuable indeed in deciding upon the best qualities of iron for ships, for bridges, for supports, for cables, and for various forms in which iron is used. The iron that is best for cables is not the best for pillars or supports or for the bottoms of ships. Different kinds of work require different qualities of material, and this commission detects and makes public the peculiar qualities of the different kinds of iron adapted to peculiar uses.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was after line 957 to insert:

For retracing and conspicuously marking the boundary line between the State of Arkansas and the Indian Territory, at a rate not exceeding \$50 per linear mile, (estimated distance one hundred and ninety-eight miles,) in accordance with the act of March 3, 1875, \$9,900; and \$10 each for one hundred and ninety-eight iron boundary mile-posts, \$1,980; in all, \$11,880, or so much thereof as may be necessary.

The amendment was agreed to.

The next amendment was after line 967 to insert:

That the unexpended balance of the appropriation made by the act of June 11, 1874, for the survey of the boundary between the United States and the British possessions from the Lake of the Woods to the summit of the Rocky Mountains, being the sum of \$15,992.36, be, and the same is hereby, continued and made available, or such part thereof as may be required, for the printing and publication of the report of the commissioner of the United States, with the reports of the chief astronomer and his subordinates, with the necessary maps, drawings, and illustrations, under the direction of the Secretary of State.

The amendment was agreed to.

The next amendment was after line 979 to insert:

For five hundred copies of the latest edition of Lewis Heyl's work, entitled *United States Duties on Imports*, \$1,250: one copy for each Senator, Representative, and Delegate, and the residue for the use of the committees of the Senate and House of Representatives.

The amendment was agreed to.

The next amendment was after line 985 to insert:

To enable the Secretary of the Navy to grade and pave Hanover street bounding on the grounds of the United States Naval Academy, from Governor street to the harbor, or water's edge, Annapolis, Maryland, \$3,000.

The amendment was agreed to.

The next amendment was after line 990 to insert:

For printing and binding the codified laws of Dakota Territory, \$6,000.

The amendment was agreed to.

The next amendment was after line 992 to insert:

For the purchase of one thousand copies of Hickey's Constitution of the United States, five hundred copies of which shall be for the library and the committee-rooms of the Senate, and five hundred copies of which shall be for the library and the committee-rooms of the House of Representatives, at the rate of \$1.50 per volume, \$1,500.

The amendment was agreed to.

The next amendment was after line 999 to insert:

For the purchase from B. Lewis Blackford of one hundred sets of the *Annals and Debates of Congress from 1789 to 1824*, each set containing forty-two volumes, fifty sets for the library and the committee-rooms of the Senate and fifty sets for the library and the committee-rooms of the House of Representatives, at \$1 a volume, \$1,200.

The amendment was agreed to.

The next amendment was after line 1007 to insert:

To enable the Metropolitan police board of the District of Columbia to employ additional police force on inauguration day, \$1,000, or so much thereof as may be necessary.

The amendment was agreed to.

The next amendment was after line 1011 to insert:

For compensation of three commissioners, clerk, and stenographer, office expenses, surveying and drafting, labor, &c., as provided for in statute relating to the disposition of the Hot Springs reservation, approved —, 1877, \$27,500: *Provided*, That the sum above mentioned shall be repaid to the Treasury of the United States from the fund arising from the sale of the Hot Springs reservation.

Mr. DAVIS. I think I shall have to ask for an explanation of that. I do not see why this expenditure is to take place there. I think the Senator from Arkansas probably can explain more fully than the chairman of the committee.

Mr. WINDOM. The chairman is much obliged to the Senator from West Virginia, and is very glad to be excused.

Mr. DORSEY. We passed a bill a few days since providing for the appointment of three commissioners and requiring the commissioners to employ a clerk, and a stenographer, and engineers, and draughtsmen, to survey and lay out the Hot Springs reservation. That bill provides for the compensation of all the employes, and that that compensation and the expense of surveying is included in this item, and nothing more. It is all to be refunded from the money raised from the sale of the lands.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was after line 1020 to insert:

For Bartholdi's fountain, exhibited at the international exhibition in 1876, the sum of \$6,000.

Mr. STEVENSON. I should like to have the chairman explain to me about Bartholdi's fountain.

Mr. WINDOM. I think the same suggestion made by the Senator from West Virginia might apply very well to this case, for the Senator from Vermont [Mr. MORRILL] can make a better explanation than the chairman of the committee; and therefore it is referred to him.

Mr. STEVENSON. I am willing to get light from any quarter.

Mr. MORRILL. I will say to the Senator from Kentucky that Bartholdi's fountain was brought over here for exhibition at the centennial exhibition. It is a bronze fountain about thirty feet high, containing a great many figures, and is a very beautiful work of art, as I am informed. I have never seen it, but I have a picture of it here, and it appears to be a very beautiful thing. The author of the work brought it to this country after having had it made at an expense of about \$12,000. Rather than take it back to France he has offered to sell it to the Government for \$6,000; and those with whom I have consulted have advised that it is a very cheap article at that price, and one that the Government ought to avail itself of.

Mr. STEVENSON. It is for the purchase of the fountain, not for its exhibition?

Mr. MORRILL. No, sir.

Mr. WINDOM. I was appealed to, and I have one item of information that the Senator from Vermont has not. I have seen it, and it is a very beautiful fountain.

Mr. STEVENSON and Mr. SARGENT. Why not say "for the purchase of?"

Mr. MORRILL. It ought to say that.

Mr. WINDOM. I move to insert "for the purchase of" before "Bartholdi's."

Mr. STEVENSON. If those words had been in I should not have asked the question.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The next amendment of the Committee on Appropriations was after line 1023, to insert:

For the completion of the system of sewerage and necessary filling of Tiber Valley, in Washington, between L street and the Capitol, according to the estimate of R. L. Hoxie, engineer in charge, of date of February 20, 1877, or so much thereof as may be necessary, \$20,000.

The amendment was agreed to.

The next amendment was after line 1029, to insert:

To pay the amount due Hamilton G. Fant for rent or hire of quarters for troops and officers on military duty at Point Lookout, Maryland, being a deficiency for the fiscal year 1871 and prior years, and being for that amount certified on the 11th day of January, 1877, by the Third Auditor of the Treasury, as allowed by the Second Comptroller, and part of \$30,000, reported by the Secretary of the Treasury on the 6th of January, 1877, to Congress for payment, \$1,535.

The amendment was agreed to.

The next amendment was after line 1040, to insert:

To pay the expenses of a commission of five skilled entomologists, to be appointed by the Secretary of the Interior, to report upon the depredations of the Rocky Mountain locusts in the Western States and Territories, and the best practicable methods of preventing their recurrence, or guarding against their invasions, who may be attached to the United States Geological and Geographical Surveys of the Territories, \$25,000.

The amendment was agreed to.

The next amendment was after line 1048, to insert:

To pay W. A. Britton, late United States marshal, western district of Arkansas, \$2,000.74, amount expended by him in fitting up a building for the use of the United States court in said district.

The amendment was agreed to.

The next amendment was after line 1053, to insert:

To enable the Secretary to send a steam revenue vessel to the seal-islands of Alaska, and maintain the same in cruising in those waters, for the protection of the sea-otter hunting-grounds and the seal-fisheries of the United States, \$18,000.

The amendment was agreed to.

The next amendment was after line 1058, to insert:

To pay expenses incurred by the two voluntary committees in obtaining copies of evidence filed before the returning board of Louisiana, which has been printed by order of the Senate, \$2,400, or so much thereof as may be necessary.

The amendment was agreed to.

The next amendment was after line 1063, to insert:

For survey of the boundary-line between Colorado and Utah, being so much of the thirty-second meridian of longitude west from Washington Observatory as lies between the thirty-seventh and forty-first degrees of north latitude, at a rate not exceeding \$70 per mile, (estimated distance two hundred and eighty miles,) \$19,000; this appropriation to be available immediately.

Mr. ALLISON. I think this work ought to be done by a civil engineer, and I offer an amendment to cover that point, to be added to the amendment of the committee:

Provided, That the Commissioner of the General Land Office shall enter into a contract for the execution of said survey with a competent civil engineer only.

Mr. WITHERS. Why?

Mr. ALLISON. It is a very important work; the boundary lies between the State of Colorado and the Territory of Utah.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The next amendment of the Committee on Appropriations was after line 1071, to insert:

To pay the Morgan Envelope Company for stationery furnished the Post-Office Department for the fiscal year ending June 30, 1876, \$229.20.

The amendment was agreed to.

The next amendment was after line 1075, to insert:

For expenses necessarily incurred in the removal of the Bureau of Education, with its documents, library, and papers, and for preparing the new rooms for the reception and care of the same, and for the distribution of the reports and publications of the bureau, wrapping-paper, twine, wrapping and mailing the same, \$2,500.

The amendment was agreed to.

The next amendment was after line 1082, to insert:

For the necessary clerical force to enable the Commissioner of the General Land Office to carry into effect the act of Congress approved June 22, 1876, for bringing into market the public lands in the States of Arkansas, Louisiana, Mississippi, Alabama, and Florida, \$10,000; to be available from and after the passage of this act.

The amendment was agreed to.

The next amendment was after line 1089, to insert:

For the publication of proclamations relating to the sales of public lands in the different States and Territories, as authorized by section 2 of an act entitled "An act providing for the sale of saline lands," approved January 12, 1877, and an act entitled "An act to repeal section 2103 of the Revised Statutes of the United States, making restrictions in the disposition of the public lands in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida, and for other purposes, approved July 4, 1876, such sum is hereby appropriated as may be necessary to pay for the same.

The next amendment was in line 1112, to increase the appropriation "for an iron-working and finishing ship (shop G) for the arsenal at Rock Island, Illinois," from \$30,000 to \$30,000.

The amendment was agreed to.

The next amendment was in line 1119, to increase the appropriation "for general care, preservation, and improvement of sewers, new roads, care and preservation of water-power, of permanent buildings and bridges, including painting, building fences, and grading grounds, and repairs and extension of railroads, and for care and preservation of the Rock Island bridge, and expense of operating and maintaining the draw," from \$20,000 to \$25,000.

The amendment was agreed to.

The next amendment was in line 1129, to increase the appropriation for continuing surveys of Lakes Erie and Ontario; determination of points in aid of State surveys and construction of maps; continuation of triangulation south from Chicago and east to Lake Erie; survey of the Mississippi River, and miscellaneous, from \$90,000 to \$125,000.

The amendment was agreed to.

The next amendment was to strike out in lines 1141 to 1153 these words:

That upon the happening of the contingency prior to January 1, 1878, on which the Secretary of the Treasury is authorized to issue bonds of the United States in payment to James B. Eads on account of the improvement by a system of jetties at the mouth of the Mississippi River, under and by virtue of the provisions in the act of March 3, 1875, entitled "An act making appropriations for the repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes," the Secretary of the Treasury is hereby authorized to pay the sum that shall become due to the said James B. Eads in money instead of the issue of such bonds, and the sum necessary for said purpose is hereby appropriated.

And to insert in lieu thereof:

The requisite amount is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to pay all money that may hereafter become due and owing to James B. Eads and his associates, in accordance with the provisions of the act approved March 3, 1875.

The amendment was agreed to.

The next amendment was in line 1172, to increase the appropriation "for filling in and improving grounds south of Executive Mansion" from \$3,000 to \$5,000.

The amendment was agreed to.

The next amendment was in line 1175, to increase the appropriation "for ordinary care and extension of greenhouses at the nursery" from \$1,000 to \$2,000.

The amendment was agreed to.

The next amendment was in line 1181, to increase the appropriation "for manure and hauling of the same for the public grounds," from \$1,000 to \$3,000.

The amendment was agreed to.

The next amendment was in line 1185, to increase the appropriation "for purchase and repair of tools" from \$500 to \$1,000.

The amendment was agreed to.

The next amendment was in line 1187, to increase the appropriation "for trees, tree-stakes, lime, and whitewashing" from \$1,000 to \$3,000.

The amendment was agreed to.

The next amendment was in line 1195, after the word "reservations" to strike out "two" and insert "six;" in line 1193, after the word "any" to insert "iron," and in line 1199, after the word "fence" to strike out the words "or paling;" so that the clause will read:

For improving various reservations, \$6,000: *Provided*, That no sum of money herein appropriated shall be expended by the Commissioner of Public Buildings and Grounds to take down or remove any iron fence around any square or reservation in the city of Washington.

The amendment was agreed to.

The next amendment was in line 1220, to increase the appropriation "for repairs of the Executive Mansion, refurnishing the same, and fuel for the same, and for care and necessary repairs of the greenhouses" from \$17,000 to \$30,000.

The amendment was agreed to.

The next amendment was in line 1221, to insert after the words "Executive Mansion" the words "and public grounds;" so as to make the clause read:

For lighting the Executive Mansion and public grounds, namely, for gas, pay of lamp-lighters, gas-fitters, plumbers and plumbing, lamps, lamp-posts, matches, and repairs of all kinds, fuel for watchmen's lodges, and for greenhouses at the nursery, \$15,000.

The amendment was agreed to.

The next amendment was in line 1234, to increase the appropriation "for repairing and extending water-pipes, purchase of apparatus to clean them, and for cleaning the springs that supply the Capitol, Executive Mansion, and War and Navy Departments" from \$3,000 to \$5,000.

The amendment was agreed to.

The next amendment was in line 1253, to increase the appropriation "for expenses of the observation and report of storms by telegraph and signal for the benefit of commerce and agriculture throughout the United States; for manufacture, purchase, or repair of meteorological and other necessary instruments for telegraphing reports; for expenses of storm-signals, announcing probable approach and force of storms; for continuing the establishment and connection of stations at life-saving stations and light-houses; for instrument-shelters; for hire, furniture, and expenses of offices maintained for public use in cities or ports receiving reports; for river reports; for books, periodicals, newspapers and stationery, and for incidental expenses not otherwise provided for" from \$300,000 to \$350,000.

The next amendment was in line 1263, to increase the appropriation "for the construction and continuing the construction, maintenance, and use of military-telegraph lines on the Indian and Mexican frontiers, for the connection of military posts and stations, and for the better protection of immigration and the frontier settlements from depredations, especially in the State of Texas and the Territories of New Mexico and Arizona and the Indian Territory, under the provisions of the act approved March 3, 1875," from \$15,000 to \$30,000.

The amendment was agreed to.

The next amendment was in line 1263, to strike out from the clause "for geographical surveys of the territory west of the one hundredth meridian, and for preparing, engraving, and printing the cuts, charts, plates, and atlas-sheets for geographical surveys west of the one hundredth meridian, \$50,000, which shall be immediately available," the following proviso:

Provided, That no transportation shall be furnished by the War Department.

The amendment was agreed to.

The next amendment was in line 1275, to increase the appropriation "for collection and payment of bounty, prize-money, and other claims of colored soldiers and sailors; for salaries of agents and clerks; rent of offices, fuel, lights, stationery, and similar necessities; office furniture and repairs; transportation of officers and agents; telegraphing and postage" from \$10,000 to \$20,000.

The amendment was agreed to.

The next amendment was in line 1282, to increase the appropriation "for the publication of the official records of the rebellion, both of the Union and confederate armies," from \$10,000 to \$40,000.

The amendment was agreed to.

The next amendment was in line 1300, to strike out after the word "building" the words "and for working material for the north wing, \$350,000," and to insert in lieu thereof the words "\$300,000; and for preparing granite for the construction of the north wing, \$250,000;" so as to make the clause read:

State, War, and Navy Department building: For continuation of the east wing of the building, \$300,000, and for preparing granite for the construction of the north wing, \$250,000; which shall be immediately available, and expended under the direction of the Secretary of War.

The amendment was agreed to.

The next amendment was in line 1315, to insert after the word "thousand" the word "dollars;" so that the clause will read:

For preparation of illustrations to complete the second edition of the Medical and Surgical History of the War, part III, \$25,000.

The amendment was agreed to.

The next amendment was in line 1322, under the head of Department of Agriculture to increase the appropriation "for labor, manure, repairing concrete walks and laying new concrete walks, pur-

chase of trees for arboretum, and for tools and repairs of mowing-machines" from \$5,000 to \$3,500.

The amendment was agreed to.

The next amendment was in line 1330, to increase the appropriation "for continuing and completing the preparation of a report on forestry, as provided for by an act making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1877, and for other purposes, approved July 15, 1876," from \$2,000 to \$3,000.

The amendment was agreed to.

The next amendment was in line 1336, to change the name of "Broadstreet" to "Bradstreet."

The amendment was agreed to.

The next amendment was to strike out from line 1405 to line 1420, inclusive, in the following words:

*That the sum of \$375,000, or so much thereof as may be necessary, be appropriated to pay the amount due to mail contractors for mail service performed in the States of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, South Carolina, Texas, Tennessee, Virginia, and West Virginia, the years 1859, 1860, 1861, and before said States respectively engaged in war against the United States; and the provisions of section 3480 of the Revised Statutes of the United States shall not be applicable to the payments herein authorized: *Provided*, That any such claims which have been paid by the Confederate States Government shall not be again paid.

Mr. MAXEY. I hope the Senate will not agree to the amendment. The purpose of the provision as it came from the House was to pay mail contractors in the States named for services rendered anterior to the war under contract with the Post-Office Department. All these accounts are audited. Every contract for the payment of which appropriation is here made has been audited and approved by the Post-Office Department, and is only awaiting an appropriation. As I understand it the war suspended these claims but could not extinguish them. This is a debt for services performed for the United States under a contract, and it is just and fair and in my judgment it ought to be allowed. I trust the Senate will not agree to the amendment striking out this provision.

Mr. DAVIS. I fully agree with the Senator from Texas.

Mr. MAXEY. I will add, if the Senator will excuse me, what I was about to omit. Section 3480 of the Revised Statutes prohibits the officers of the Government from paying accounts which accrued prior to April 13, 1861, until the payment is authorized by a statute, and the purpose of the provision is to authorize the payment of these audited claims.

Mr. DAVIS. I fully concur with the Senator from Texas as to the justice of this claim. I take it there is no Senator here who will not acknowledge that the Government owes this money and that it is to be paid at some day, soon if not now. It ought to have been paid long since. Recollect that the labor was performed for which this money is to be appropriated sixteen or eighteen years ago, and these people have been waiting all this time without pay. I think there is no more just claim against the Government anywhere, and I hope there will be no objection to retaining the provision in the bill as it came from the House.

Mr. WINDOM. It struck me, Mr. President, and I think that was the impression of the committee, that this was quite too old a claim and quite too complicated in all its bearings to justify us in agreeing to the proposition of the House of Representatives on this subject. It contains in itself legislation which I think should be very carefully considered:

The provisions of 3480 of the Revised Statutes of the United States shall not be applicable to the payments herein authorized.

I will read the clause in the Revised Statutes which is suspended for the purpose of letting in this batch of old claims, which I have a distinct recollection have been before Congress during the last twelve or fifteen years I do not know how often.

Mr. NORWOOD. I should like to know from the Senator from Minnesota, when he thinks these claims will be any younger?

Mr. WINDOM. Before I vote for them they will be a good deal older. Section 3480 provides:

It shall be unlawful for any officer to pay any account, claim, or demand against the United States which accrued or existed prior to the 13th day of April, 1861, in favor of any person who promoted, encouraged, or in any manner sustained the late rebellion, or in favor of any person who during such rebellion was not known to be opposed thereto, and distinctly in favor of its suppression; and no pardon heretofore granted or hereafter to be granted shall authorize the payment of such account, claim, or demand, until this section is modified or repealed.

Now, Mr. President, we have recently in the history of this country heard a great deal about the intention to open up upon the Treasury the vast flood of claims that were supposed to be prevented by this section of the statutes. I regard this as simply lifting the curtain a little for the present, opening the door but a small way, a little crack to let this in; but let the door once be opened, let this act be suspended for this purpose, and I tell you, Mr. President, that the flood of claims which will pour in here was not exaggerated during the last six months by any body who spoke on the subject.

Mr. JONES, of Florida. I do not think the claims provided for in this section are of the dangerous class which has been mentioned by the Senator from Minnesota. These are claims founded in every instance upon an express contract with the Government. In nearly every case the contracts have been fulfilled. The honor of the Government is at stake. The men to whom this money is due have just

as good a right to look to the Government for the payment of it as the individual who holds the written promise of the Government. These claims grew out of contracts made with citizens of the South previous to the war. I ask the Senator from Minnesota what difference there is in law or in morals between a claim founded on contracts of this kind and that which arises out of the printed obligation of the Government, which may be in the hands of the same party? The services have been performed. The individuals spent their money in fulfilling these contracts. There is no pretense for saying that there have been any laches upon their part. It is true that the war intervened and prevented the fulfillment of them; but is that any plea to interpose against the payment even at this day? They are not like claims arising out of the ravages of war, as damages to property from the marching and countermarching of armies. Those are a class of claims which it is not the intention of anybody in the South to bring up here; but these claims, as I have said, arise out of express contracts with the Government; and the words proposed to be stricken out provide the money to enable the proper department of the Government to liquidate the sum due upon those contracts.

If a person in the South should hold a promissory note or the bond of the Government what would Senators say if he came here and demanded payment? Would it be pretended that because he happened to be a citizen of that section he should be refused payment, when he held the obligation of the Government? In this case he holds its contract. After having fulfilled it, years have elapsed, and no provision has been made for the payment of the money. If the claims are old, it is not the fault of those to whom the money is due. I do not think that these claims ought to be put upon the same footing with that large and dangerous class of claims to which the Senator from Minnesota has alluded.

Mr. WITHERS. I want to say a word or two in connection with this matter. It will be remembered that this provides for a class of claims which have been audited and allowed by the Government. The amount of money appropriated in this section stands to-day upon the books of the Treasury of the United States to the credit of these contractors. The service was rendered which they contracted to render; the amount of money is due them, and it is admitted to be due them by the Government. This or a similar provision has passed the Lower House three times, twice when that body was republican largely and once when it was democratic; but the payment has been stopped in the Senate. If the Senate of the United States choose to take the ground that they will repudiate the contracts of the Government and refuse to pay the amount justly due the contractors, as admitted by Government officials themselves, solely because at a period subsequent to the performance of the contracts the parties were engaged in rebellion, they have the power, I admit, to do so; but I respectfully submit that it would not be to the credit of this Government, that they would neither maintain its honor nor add to its estimation in the minds of honorable men, when this amount is due contractors for services rendered, if from any cause they refuse to pay those contractors. It makes no difference of what crime they may have been guilty subsequent to the performance of their contract, the Government is in duty bound to comply with this obligation and pay these contractors.

Mr. LOGAN. I should like to ask the Senator a question in reference to these contracts. I do not know very much about them, I am sure, but when he says the accounts were audited and these men were contractors, did they continue as contractors after that time?

Mr. WITHERS. Not that I am aware of.

Mr. STEVENSON. The services were performed before.

Mr. WITHERS. The services were performed before the war.

Mr. LOGAN. I understand that. I ask if they were in the service in which they were under contract with the Government at the time the war broke out?

Mr. WITHERS. I presume the contractors fulfilled their services for the conveyance of the mails for a certain limited time.

Mr. MAXEY. A proclamation was issued by the President preventing the carrying of the mails any further from a certain date.

Mr. LOGAN. But the Senators do not seem to understand the point, or if they do they do not answer my question. Were these contractors, whom it is proposed to pay, contractors of the Government at the time the war broke out? That is the question.

Mr. WITHERS. Some of them probably were and some of them were not.

Mr. LOGAN. The Senator says some were and some were not. Why not specify them so that we may know who is to be paid and who is not to be paid.

Mr. WITHERS. I suppose it makes very little difference as to what proportion, and I am unable to designate the exact number who had completed their contracts and those who had not at the time the war commenced; but the Postmaster-General directed that after a certain date no further contract should be recognized, and these allowances were made up to that time.

Mr. LOGAN. What I wanted to get at was this: If these men were contractors with the Government at the time, the war broke out and if they had their contracts audited prior to that time, what disposition did they make of the property of the Government at the time the rebellion began? Did they continue to keep it for the benefit of the Confederate States, or did they return it back to the Government?

Mr. WITHERS. What property did they have?

Mr. LOGAN. If they were contractors they had some property of the Government in their possession.

Mr. WITHERS. The contractors for carrying the mails use their own property; they have vehicles of their own and horses of their own.

Mr. LOGAN. I beg the Senator's pardon; they had pouches and locks and all that. Did they keep them?

Mr. JOHNSTON. The postmasters were responsible for those articles.

Mr. LOGAN. I beg the Senator's pardon; that is not the case.

Mr. WITHERS. I thought the Senator asked for information.

Mr. LOGAN. I think I understand this question as well as the Senator does. The contractors had certain property of the Government. The question is, did they return that property to the Government or did they turn it over to the confederacy.

Mr. NORWOOD. The Senator says they had property. What property did they have?

Mr. LOGAN. They had that character of property.

Mr. NORWOOD. The postmasters had possession of that.

Mr. LOGAN. The postmasters had possession of it to distribute the mails and hand back to the contractor. When he is filling his contract and has the carrying of the mails the contractor has it in his possession. Did they make any attempt to return to the Government either through the postmasters or in any other way that property? That is what I ask.

Mr. WITHERS. I presume, if the Senator will permit me, that if the Government had any claim upon these contractors for the property of the Government in their possession it certainly would have asserted that claim and deducted it from the amount due by it to the contractor.

Mr. LOGAN. Yes, they would have gone down there and asserted the claim of the Government very easily! It was a very easy thing to do! I have this to say in reference to these claims, the same as any other claims coming up from men of this character, every one of the contractors employed by the Government at that time, and the Senators know it if they know anything about the records of the Post-Office Department, continued to assist the confederacy and used whatever they had in their possession from the Government for the benefit of the confederacy. The contractors and postmasters robbed the Government of every mail-pouch, and every lock, and everything connected with the mails, for the purpose of carrying on the postal service of the Confederate States, and these are the gentlemen who come forward and ask for this payment. That was the question I wanted to put to the Senators. When gentlemen come to a government the same as they would go to their neighbor and ask for a thing of this kind, let them clean their hands first.

Mr. WITHERS. The gentleman will find the property of the Government as clean in the hands of these gentlemen as he will nearer home.

Mr. LOGAN. The Senator certainly understood me. I mean in this case where gentlemen take property of the Government and use it for purposes against the Government they have no right to make a claim against the Government. That is what I mean; hence I say they should clean their hands. If they intend that the Government should pay the amount due them they should have returned to the Government everything they had; and if they went into the rebellion they should have gone into it with clean hands. I cast no reflection upon the Senator or any of his constituents; and he certainly understood it, for he is a man of very fair understanding indeed.

Mr. CLAYTON. If I understood the provision which is proposed to be stricken out, I shall vote to retain it. These services were actually performed; and there is no proposition here to pay except for services actually performed.

Mr. WITHERS. None whatever.

Mr. CLAYTON. If these services were performed before the rebellion by these mail contractors under their contracts, and the money was due them for the service, I cannot see why it should be withheld. It seems to me to be indirectly fining those men for what they afterward did in going into the rebellion. If you are going to hold men responsible pecuniarily for the rebellion, we had better make a general provision to that effect.

So far as the argument made by the Senator from Illinois is concerned, if these contractors had Government property in their possession, there is no question but what it was charged to them. The Government always holds all its officials and contractors responsible for the property that is placed in their possession. If, as the Senator intimates, this property was used for some other purpose and was not turned over to the Government, I have no doubt the Government charged those men with the value of the property in every case. But whether that be so or not, even if it were true that they used this property afterward for some other purpose, I have no doubt that the Government charged them for the use of it. I cannot see, with the light that is before me, why we should withhold from these people moneys which were due them, which were theirs, which they had the right to demand. If we can do that, then we ought to go one step farther and equalize this thing by fining every one engaged in the rebellion, because to refuse this payment would be indirectly doing that.

Mr. ALCORN. I desire to state, Mr. President, that I think the Senator from Illinois was a little broad in his statement when he as-

serted that all these mail carriers appropriated to themselves or for the use of the confederate government the property of the United States that was in their possession. It happens that I am able to speak understandingly of one or two cases that came under my immediate observation, one in which the mail carrier was ejected on account of his want of loyalty to the confederate government, from his position as a mail carrier, and not permitted to carry the mail at all.

These persons performed the service under the direction of the Postmaster-General. There were attempts made in some of the Southern States to suspend the carrying of the mails in those States after the secession ordinances had been passed. While not now able to lay my hand upon that order I know very well that an order was issued to them stating the fact that the Government of the United States did not recognize the ordinances of secession and requiring of the mail contractors the regular delivery of the mails. They did go on and deliver the mails, where they were not interrupted and disturbed in doing so, up to the time of the proclamation of the Postmaster-General declaring that the time had ceased when the mail should be carried by them. The contractors have no property of the Government charged to them. If they did have anything charged to them, that stands to their charge, and the account is credited simply by the amount due, less the amount of public property charged to their account. The amount has already been audited on the books and stands there to the credit of these men for work, as has already been stated, that has been performed; and is the Government now to come here and undertake to plead that because these men afterward went into the rebellion they shall not be paid.

Many of them did not go into the rebellion; many of them were loyal people; and yet they are not paid. If a rebellion should be started in any portion of the Government to-day, with equal justice might you deny to the holder of the bonds of the United States the payment of that bond because he happened to be in the rebellion. I have in my pocket now, given me by a servant of the Government before the war, two warrants amounting to about \$500, that were issued but mislaid by some means and not presented; and because the time has expired, the man is denied any redress by the Government, although the paper properly certified with a seal attached is here ready to be presented.

The honorable Senator from Minnesota said that if we should now enact this provision the flood-gate would be opened and all the claims of which we have heard so much would be rushed into Congress, and the Government would be bankrupted. His idea is that there can be no just plea to the payment of the claims now because of the fear of what might be done hereafter. The honorable Senator stated that the apprehension of claims had not been magnified in the last canvass at all, that the amount had not been understated. My judgment is that in that the Senator is mistaken, and that the apprehensions of the people of the North with regard to the magnitude of the claims that might be presented by the South, even with the consent of the southern people, are greatly magnified.

The PRESIDING OFFICER. (Mr. WEST in the chair.) The time of the Senator has expired.

Mr. ALCORN. I move to strike out the word "and."

Mr. SPENCER. I will yield to the Senator from Mississippi five minutes of my time.

Mr. ALCORN. I only want two minutes and a half.

The PRESIDING OFFICER. The Chair accords to the Senator from Mississippi the time of the Senator from Alabama.

Mr. ALCORN. I am very much obliged to the Senator from Alabama.

Mr. President, do you suppose that you would find in the Southern States a majority of the people who, for example, would be willing to pay for the slaves that were liberated? I apprehend not. Would the 850,000 people in the State of Mississippi, for example, be ready to pay the 25,000 slaveholders in that State for the property that was emancipated by reason of the proclamation of the President and the amendment to the Constitution subsequent thereto? There were only 300,000 slaveholders in all the South; and it is well known to the people who resided there that there was some degree of jealousy always felt between the two classes. There was even an "irrepressible conflict" between those who held slaves and those who did not hold them. I undertake to say that if the question were left to the Southern States themselves, to the white people alone, there could not be found a tithe of the people who would be able, ready, or willing to vote for the payment of the emancipated slaves.

Then, again, with regard to the confederate debt. It was stated that the southern people would be in favor of paying the confederate debt. Really I have maintained, and I believe correctly, that even if the confederate government had succeeded, the people of the South would have repudiated that debt. I heard it stated, again and again, before the close of the war, that they never calculated on paying that debt, and I do not believe to-day that one-tenth portion of the population, confining it to the white people of the South, would be in favor of paying that debt, if you would submit a proposition of the kind to them.

I come back again to the mail contractors and to the subject that is under discussion. From these men I have received numerous letters stating the fact that they have always been loyal, that they hold the claims against the Government of the United States, and that

they never did go into the rebellion. Many of these contractors were old men, too old to go into the rebellion. Some of them continued to be loyal to the Government. I am told by my honorable friend to my right [Mr. CLAYTON] that he is acquainted with a number of cases of that character in the Southern States. I am acquainted with one or two myself. I am familiar with a case that came under my observation in which a mail contractor was stopped in his service, and the property of the Government wrested from him, because of the fact that he was himself disloyal to the confederate government; and yet he is not paid. He here is refused because of the fact that he is presumed to be disloyal, residing as it is said in a disloyal State.

Mr. BLAINE. I desire to emphasize the distinction between this claim and the large class of claims to which the Senator from Minnesota has referred. It has been alluded to by almost every gentleman who has spoken, and it ought to be kept clearly in view. It is that this has nothing whatever to do with the class of claims which has been the subject of political agitation. These are claims based upon services performed prior to the war. I suppose every Army officer and every Navy officer who went into the war on the side of the Confederate States was paid on his pay-roll up to the date of his resigning. By retaining this provision in the bill, we shall be treating the men who carried the mails precisely as officers of the Army and Navy were treated who went into the rebellion against the Government.

Mr. LOGAN. Will the Senator allow me to ask him if he can give any instance of an Army officer who went into the rebellion without having drawn his pay before he went, and who received any pay after that time?

Mr. BLAINE. I do not imagine any of them went into the rebellion without drawing their pay.

Mr. LOGAN. Some of them did.

Mr. BLAINE. I never heard of any one who made any reclamation after doing that.

Mr. SPENCER. They drew their pay up to the day when they resigned.

Mr. BLAINE. The statute quoted by the Senator from Minnesota is a very simple statute. It was founded on an apprehension as to what might be done by the Departments to keep them from going pell-mell into paying claims from the Southern States. It is no limitation upon the discretion of Congress whatever. Congress simply said, in effect, "until we pass upon these matters you shall not audit and pay them in the Departments;" that is all. Here this case is on its equities, and as I voted for it twice in another branch of Congress I do not see how very consistently I can refuse to vote for it here.

Mr. JOHNSTON. This claim does not stand on any different footing from the claims of marshals who took the census in the year 1860. The balance stood in their favor upon the books of the Treasury, and since the war, by a law of Congress, those census-takers or marshals have been paid. The claim for taking the census of 1860 stands exactly, according to my idea, upon the same footing as these mail contracts. But this is not a claim; it is a debt. It is not to be put in the category of unsettled claims which are to be adjudged and adjudicated.

Mr. WINDOM. I think I have a few minutes of my five minutes left, if I do not violate the rule. I do not wish to violate it.

The PRESIDING OFFICER. The present occupant of the Chair was not here when the Senator spoke last.

Mr. MORRILL. I will yield to the Senator from Minnesota two minutes of my time.

The PRESIDING OFFICER. That meets the case. The Chair will recognize the Senator from Minnesota.

Mr. WINDOM. I believe I am one of the most liberal, so far as these matters are concerned, in the Senate or anywhere else, but really I have heard so much of these claims in the last eight or ten years that I am not willing to act upon them at this late day in the session without some examination. The discussion which has taken place shows that there may be a very different claim on the part of some of these men to what exists on the part of others. The argument that it is just the same as the payment of a bond does not strike me as sound; it is specious. The same argument precisely which the Senator from Mississippi has made, and which was made by the Senator from Florida, would open up every one of these claims that I referred to in the remarks made a moment ago. It is said that this is a contract, and consequently we are just as much bound as if these parties held our bond. Therefore, if you took a man's horse or cow during the rebellion, you took his property, and you are just as much bound to pay for it as if you made a contract for it.

Mr. WITHERS. There would be no contract in that case.

Mr. CLAYTON. The comparison will not apply to property taken during the war.

Mr. WINDOM. You might pay the owner of the property on the same principle exactly that you would pay the other claim, in my judgment. These claims ought to be considered by the Department; they ought to be acted upon by a committee of this body, and not brought in, as they have been, when we have not time to consider them.

Mr. DAVIS. Mr. President—

The PRESIDING OFFICER. The Chair is under the impression that the Senator from West Virginia has already consumed his time on this subject.

Mr. DAVIS. I think the Chair is mistaken.

Several SENATORS. Let us vote.

Mr. WHYTE. So far from this act of Congress, section 3480 of the Revised Statutes, operating against the payment of this claim, it is really in favor of the payment of the claim. It is an act which merely suspended the claims until Congress should modify the statutes. It expressly provides, not that it is to be a repudiation of these claims, but that the claims are not to be paid by any officer of the Treasury until Congress modifies this provision of law, and it is perfectly proper, right, and honorable in Congress at this time to modify the law and pay these people their claims.

Mr. WITHERS. Before the vote is taken I wish to offer a slight amendment to meet the difficulty which has been suggested by some of our friends on the other side. I know it will satisfy their minds, and nobody will have any objection to it. I would add to the clause a proviso:

Provided, That in any case where these contractors were in possession of any property belonging to the Government it shall be deducted from the amounts due them under their contracts.

Mr. CHRISTIANCY. With that amendment I am unable to see the least objection to the provision as in the bill originally, and I shall support it and vote against the amendment of the committee.

Mr. LOGAN. I should like to make a suggestion to the Senate.

The PRESIDING OFFICER. The Senator from Illinois has already occupied the floor, the five-minute rule prevailing.

Mr. LOGAN. I do not think I occupied the floor five minutes.

Mr. CONKLING. I have not been heard on this amendment. Am I entitled to the floor?

The PRESIDING OFFICER. The Senator from Illinois says he has not consumed his time.

Mr. CONKLING. If I am entitled to the floor I should like to yield my time to the Senator from Illinois. That I believe I have the right to do.

The PRESIDING OFFICER. The Senator from Illinois will proceed.

Mr. LOGAN. The rule upon which I object to this payment seems to me to be a correct one, that persons in the condition these people were in, having in their possession means by which they could advance the interest of a contending party against the Government, forfeited what rights they had to their claims under their existing contracts. I put a case to the Senator from Michigan. He says if the Government will deduct the value of the property they may have had in their hands he sees no objection to the provision. Suppose I were a Government contractor, and had some explosive material in my hands belonging to the Government, and should blow up a ship and destroy the property of the Government with it, and when my contract would expire with the Government they should pay me less the value of this torpedo which I used against the Government. Is that the principle upon which the gentleman presumes these men are entitled to receive their pay? They had in their possession the property of the Government, and used it for the Confederate States. They became contractors under the Confederate States, and used that which the Government had furnished them, as did the postmasters, in order to facilitate the postal service in the Confederate States. That is the condition of these claims; and it is a different theory from any I ever heard before in reference to the payment of claims.

While I am up I wish to say one word in reference to the remarks of the Senator from Mississippi, [Mr. ALCORN.] The Senator from Mississippi, in his peculiar manner, which is of a very friendly character, suggested that you might accuse persons of claiming to recover for the loss of slaves. The question of payment for slaves has nothing to do with this proposition, nor has the confederate debt. I say to Senators now that the confederate debt and the question of the payment for slaves are not a bugaboo to the northern people or to any persons who represent them. They are not alarmed by any such talk as that; because we understand the amendments to the Constitution about as well as other Senators, and we know that those amendments preclude any such payment. It is not necessary to throw in that argument always when a question of this kind comes before the Senate.

But I object to the payment of these claims on another ground, that if they are legitimate and proper for the Government to pay, let them be examined. Let us pass a law giving the Court of Claims a right to examine them, if you desire to do so, and suspend the statute of limitations as applicable to them, or let them be examined by a commission or a committee, or by the Department officers, and let us have a report in reference to them. It certainly would be far better than to place them upon a bill of this kind for the purpose of forcing them through in order that the bill may be signed. If it were a separate bill, it might be vetoed; but on a bill of this character, it must be signed or else the appropriations will fall. This is the character of legislation that is inaugurated for the purpose of paying claim after claim; and I do not believe there is any law for it or any justice in it.

For those reasons, in what little time I shall remain in the Senate, which is very short, I shall not agree to pay any claims of this kind unless they have been properly investigated and properly reported to the Senate by an authority having examined them to see whether or not they are a character of claim that ought to be paid, and whether

each individual making his claim has a right under the law to make the claim.

Mr. SARGENT. I shall vote for the House provision for several reasons. In the first place, if I am not in error, these are audited accounts. These are accounts which the accounting officers of the Treasury have found to be due, and they would be paid if there were an appropriation, unless the provision of the Revised Statutes or the law upon which the contracts were based prevented them. They stand upon a very different basis from claims for mere destruction of property, or use of property, or damages arising from any cause. I shall vote for retaining the provision, for I think the time has come when we can well remove the obstruction to the payment of demands arising out of contracts. We are far enough removed from the war to be able to do it.

I shall vote for retaining the provision for a third reason—a reason which has a very powerful influence upon my mind. I recognize the fact that in the recent conflict through which we have passed during the last month a very considerable number of Senators and Members representing Southern States have not been carried away by passion or by prejudice and induced to violate the honor which was pledged at the time they cast their votes for the electoral tribunal, but that they stood with conservative men and with republicans from other portions of the Union in favor of carrying out in good faith the compact which at that time was made. I do not know that there is any extraordinary virtue in doing that. As a republican I should have felt bound by that law, and should have yielded a cheerful assent in case the tribunal had otherwise decided; and I believe that would have been done by all republicans. It would have been praiseworthy in the republicans to yield their assent to the consequences. I am willing to accord praise to those who have enabled the result which was there determined to be carried out. That consideration has a very powerful influence upon my mind, and I base my principal reason for voting to retain this provision upon that ground.

Mr. WITHERS. I withdraw my amendment for a reason suggested to me, and which was brought more clearly to my mind by the remarks of the gentleman who last spoke. These claims having been already audited, that is a settlement of the business. They are admitted by the Government; the accounts are due, and any charge that would probably go against these contractors has already been adjusted in the allowance of the claims.

Mr. WINDOM. Mr. President—

The PRESIDING OFFICER. Before assigning the floor to the Senator from Minnesota the Chair would suggest that he is violating his own rule.

Mr. WINDOM. I am not rising to debate the question, but simply to remark that it is very apparent from the course of Senators here that there was either a clerical or typographical error in striking out the provision in the House bill.

The PRESIDENT *pro tempore*. The question is on the amendment of the Committee on Appropriations striking out from line 1406 to line 1420.

Mr. CHRISTIANCY. I was asked a question a few minutes since by the Senator from Illinois, to which I did not reply. I wish to say here that this is a simple matter of debtor and creditor, and not a question of torpedoes; and that, while a war suspends the obligation of a contract during its continuance, it does not extinguish it. That is the only reply I wish to make.

Mr. MORRILL. At this time of night I do not propose to consume any time in the discussion of this amendment. I will only say that the only reluctance that I have to vote against this provision is because I do not know the precise amount of these claims that may be existing against the Government. The Committee on Finance have heretofore recognized the principle involved in the provision, and they have reported in favor of paying collectors of internal revenue where they could not take the test oath. That was reported year after year.

Mr. MAXEY. If the Senator will permit me, my information from members of the House is that this amount was made up from a letter of the Postmaster-General, stating officially the amount of claims audited, which amount is the amount named in the bill.

Mr. MORRILL. Therefore I regard the principle as having been settled here by the Senate and by the House years ago in favor of paying claims of this character. The deduction of the amount of property in the hands of these contractors must be very small; it cannot extend beyond the mail-bags that were used by the contractors in carrying the mail. If I were satisfied that this amount of \$375,000 would liquidate the whole of the claims I should very cheerfully vote for it.

The PRESIDING OFFICER. The question is on the amendment, striking out the clause.

The amendment was rejected.

Mr. WINDOM. I will not ask for a division, for I am afraid I shall not have any votes.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 4187) making appropriations for the service of the Post-Office Department for the fiscal year end-

ing June 30, 1878, and for other purposes; that it further insisted upon its disagreement to the amendments of the Senate to the said bill, numbered 12, 13, 32, 33, 34, and 35; that it agreed to the further conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that it had appointed Mr. WILLIAM S. HOLMAN of Indiana, Mr. HESTER CLYMER of Pennsylvania, and Mr. CHARLES FOSTER of Ohio managers at the conference on the part of the House.

ENROLLED BILLS SIGNED.

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

A bill (H. R. No. 256) for the relief of Herman Hulman, of Terre Haute, Indiana;

A bill (H. R. No. 1016) for the relief of Virginia E. White, of Ohio County, West Virginia;

A bill (H. R. No. 1253) granting to the State of Missouri all lands therein selected as swamp and overflowed lands;

A bill (H. R. No. 2229) for the relief of Chancy J. Poore, late a private in Battery G, First New York Light Artillery; and

A bill (H. R. No. 3117) for the relief of Colonel Frank L. Woolford, late of the First Kentucky Cavalry Volunteers, of certain disabilities.

SALE OF DESERT LANDS.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 4261) to provide for the sale of desert lands in certain States and Territories, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. JOHN K. LUTTRELL of California, Mr. LA FAYETTE LANE of Oregon, and Mr. LORENZO CROUNSE of Nebraska managers at the conference on its part.

Mr. SARGENT. I move that the Senate insist on its amendments and agree to the conference asked by the House.

The motion was agreed to.

By unanimous consent, the President *pro tempore* was authorized to appoint the committee on the part of the Senate; and Messrs. SARGENT, OGLESBY, and KELLY were appointed.

SUNDRY CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 4680) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and for other purposes.

The next amendment of the Committee on Appropriations was in line 1431, after the word "of," to strike out "this" and insert "the;" and after the word "House," to insert the words "of Representatives."

The amendment was agreed to.

The next amendment was to strike out lines 1442 to 1449, in the following words:

The accounting officers of the Treasury are hereby authorized to settle the accounts arising out of the appointment, on June 24, and July 14, 1875, by the Secretary of the Interior, of commissioners to investigate affairs at the Red Cloud agency; such accounts to be paid out of moneys appropriated for the Sioux Indians for the fiscal years ending June 30, 1876.

Mr. ALLISON. This is also a typographical error. I think this clause ought really to remain in the bill. When it was disagreed to it was disagreed to for the reason that the committee was not quite familiar with the effect of the provision.

The PRESIDING OFFICER. (Mr. WEST in the chair.) Does the Chair understand that the Senator from Iowa, from the Committee on Appropriations, withdraws the amendment?

Mr. ALLISON. I have no authority to withdraw the amendment on account of the Committee on Appropriations. I was endeavoring, in a very feeble way of course, to satisfy the Senate that this amendment ought to be disagreed to. The money provided for in this item has already been paid to the parties to whom it was due; the parties have already received the money; but the Treasury officers are not able to settle the accounts with the proper officers in the Indian Bureau; and this is more for the adjustment of the accounts. The whole matter was carefully considered by the Committee on Appropriations of the House, and the Committee on Indian Affairs of the Senate have full statements from the Secretary of the Interior in reference to it. I therefore ask that this amendment of the Committee on Appropriations be disagreed to.

The PRESIDING OFFICER. The question is on the amendment reported by the Committee on Appropriations.

The amendment was rejected.

The PRESIDING OFFICER. The amendments reported by the Committee on Appropriations are disposed of.

Mr. WINDOM. The committee have one or two amendments that are not printed with the bill. On page 46, after line 1102, I am instructed by the committee to offer the following:

To protect the piers at the draw of the bridge across the Mississippi River at Rock Island, Illinois, owned by the United States, by the erection of booms, to be expended under the direction of the Secretary of War, \$15,000.

The amendment was agreed to.

Mr. WINDOM. The Senator from Vermont [Mr. MORRILL] appeals to me to allow him to offer an amendment; I will yield.

Mr. MORRILL. There was an amendment sent to the Committee on Appropriations from the Committee on Public Buildings and Grounds, where the words "at Albany, New York" were accidentally

omitted, and therefore I offer the following amendment to supply the place, to come in on page 25, after line 590:

For the custom-house, post-office, United States circuit and district courts, and internal-revenue offices at Albany, New York, on the site purchased in 1872, \$100,000; and the limitation fixed by the law on this cost of the building is hereby amended and fixed at a sum not exceeding \$500,000.

I desire to say that the inhabitants of Albany have paid about as much as the Government has for the site. An appropriation was made and the limit of the cost of the building at Albany, the capital of the State of New York, a city of about one hundred thousand inhabitants, was fixed at \$350,000; and the act provided that it should be a fire-proof building. The Committee on Public Buildings and Grounds was informed by the Secretary of the Treasury, who obtains his information from the Architect, of course, that a fire-proof building there of the size required for a post-office, custom-house, United States circuit and district court-rooms and internal-revenue offices, cannot be made for \$350,000; therefore, the committee have recommended \$500,000, although the Architect desired to have it fixed at \$750,000. I think there will be no objection to the proposition.

The amendment was agreed to.

Mr. WINDOM. I am instructed by the Committee on Appropriations informally to offer the following, to come in after line 1102:

To pay to the assignee of the Dominican Republic the sum of \$71,486.62, rent for the occupation of the Bay and Peninsula of Samana until December 1871, by the United States as a coaling-station, pursuant to a convention between the United States and said Dominican Republic of 1869.

Mr. MORRILL. I should like to have some member of the committee explain this amendment. I have never understood that the Government of the United States were holden for this amount.

Mr. WINDOM. The Committee on Foreign Relations requested the Committee on Appropriations to act upon this matter, and believing it to be a claim that ought to be paid, the Committee on Appropriations, I believe unanimously, at least so far as they could be consulted, instructed me to report it. I think the Committee on Foreign Relations can make a more perfect explanation of it than I can, and if any of them are present I would ask them to do so. I had it explained to me to my entire satisfaction, but I have not had the papers. Perhaps the Senator from New York, who is a member of that committee, may be able to make the explanation.

Mr. CONKLING. This amendment is one which was considered very carefully and fully by the Committee on Foreign Relations, and reported favorably and referred to the Committee on Appropriations. The matter arises thus: The United States some years ago, in November 1869, by a convention with the Dominican Republic, entered into a lease of the Peninsula and Bay of Samana. I have before me the convention and the lease. I would read it, except that we are under the five minutes' rule. The Government undertook to pay for that peninsula and bay, as rent, \$150,000 a year. The occupation was for two years as a coaling-station. The rent of the first year was paid in the language of the letter which lies here from the Navy Department "out of moneys under control of the State Department." When the second payment came to be made, there was no fund deemed applicable to it; and here is—I would also be glad to read it if time permitted—a letter from the Comptroller of the Treasury and other officers stating how it was that under the statutes as they stood there was no fund applicable to paying this rent at that time and no fund applicable afterward to paying it when the circumstances which I will state arose; and the Comptroller of the Treasury, Dr. Brodhead, and others thought it was the appropriate subject of a specific appropriation by Congress.

Mr. BAYARD. Under treaty stipulation?

Mr. CONKLING. Under treaty stipulation. Pending this condition of things certain citizens came forward and advanced in payment upon this lease, to save it from falling, \$50,000 and something more, in gold; and before the committee were the papers authenticated by the Dominican Republic, a power of attorney, an assignment, an order, everything which they could execute to enable them at once to realize this money. It was paid by them.

In one sense this is a claim by the citizens who advanced the money upon the Government; but meanwhile these citizens said to the Dominican Republic "You must refund us." The Dominican Republic said "We would if we could. We will do everything we can to induce your Government, we having had the money, to reimburse you." Accordingly there was sent here an agent, an envoy of some sort—I do not know how to describe him although his name and title appear here—who came and made a formal demand of this money, and the amendment is in response to that demand, the money in equity being not due to the Dominican Republic but due to the citizens of this Republic who from motives of patriotism, upon learning of the condition of things and the importance of continuing this lease and making the payment at once advanced in gold the money which made the payment. As the Committee on Foreign Relations were advised and as far as I have ever been advised in the much that I have heard on this subject, there is no escape from the fact that this is a debt due in every sense of equity and law.

I have heard it said that the President of the United States, although authorized by and with the advice and consent of the Senate to negotiate treaties, could not by proposing a convention bind the United States as by an *assumpsit*. I assume for the sake of the argument that that is true; but the implied *assumpsit* is the diffi-

culty here. The Government of the United States occupied this bay and peninsula as a coaling station. Time after time reports came here which apprised both Houses of Congress of the fact. One of them is now in my hand. The facts were perfectly open and notorious that we were occupying all this property, and the reports stated how valuable it was. Owing to the condition of the appropriations at the time, it was deemed necessary to anticipate the ordinary time when an appropriation would be made applicable to this object. Thereupon, as volunteers in one sense, no doubt, these men stepped forward and parted with their money in gold and it paid this obligation of the Government. In technical language it was money paid for the use of the United States, and by its privity, and therefore, in legal language again, at the instance of the United States; and I can see no mode in which we who have been the tenants of this property under a treaty stipulation and a lease, and have occupied and enjoyed it, can turn around and say we will not pay the *quantum vaebat* or the sum nominated in the lease and in the treaty, there being as I understand no dispute whatever about the equity of the claim.

If I could say another word I would, but I do not wish to transgress the rule.

The PRESIDING OFFICER. The Senator's five minutes have expired.

Mr. WHYTE. I should like to ask the Senator from New York whether the gentlemen who paid this money and now expect to get it back from the Government of the United States were not engaged as a company and corporation in making a speculation on the Dominican government; and the Government of the United States not having entered into the contract, as they supposed it would, whether they are not now seeking to be refunded what they paid in a forlorn speculation?

Mr. CONKLING. My honorable friend is referring to persons who have no sort of connection with this amendment, and no opportunity to receive anything under it. This money was advanced by citizens who had no connection whatever with San Domingo, with the Bay of Samana, with any corporation or with anything else except that as patriotic citizens they most unwisely (as I thought at the time and as I ventured to advise although it was too late) listened to the suggestions made by the commissioners who had been sent to Samana and made by other persons still nearer to the Government and under circumstances susceptible to no suspicion, they came forward to execute the contract of the Government and to protect its honor and its interest, for in both forms it was put to them, and advanced this money which was paid upon the lease and extinguished the debt of the United States; and to this day the United States has never paid one farthing. Attempts have been made heretofore, not very well directed, usually in the last hours of the session, and being everybody's business it was nobody's business, and it has fallen through. At last it came before the Committee on Foreign Relations and that committee went over it very fully and could find no answer to the plain facts of the case.

So I can assure the Senator from Maryland that there is nothing in it suggestive of the idea which he presents, although I think I can name the parties to whom he possibly refers and they are not the parties directly or indirectly that have anything to do with this claim.

Mr. MORRILL. I would not offer the least obstruction to the payment of this sum if it were equitably due from the United States, although it is well known perhaps to most of the Senators that I was very decidedly opposed to the purchase or the lease of Samana Bay. I had an impression that the only forfeiture that the United States would be liable to under any possibility was the payment of the \$150,000 for the lease of that bay, and that when the treaty was not ratified by the United States we could not by any possibility become liable to any further sum. Although I have not refreshed my memory by the terms of the lease or of the treaty, that is my present impression.

Mr. CONKLING. Will my friend allow me one moment? Here is the lease specifying the terms: here is the letter from the Secretary of the Navy addressed to the President stating the precise length of occupation, the exact amount of money paid, and this deficit unquestionably exists as certified by all these papers.

The PRESIDING OFFICER. The question is on the amendment.

Mr. McCREERY. I call for the yeas and nays on this question. The President has the right, by and with the advice and consent of the Senate, to make treaties. What right he has to send commissioners to lease foreign bays and islands I do not understand.

Mr. CONKLING. The commissioners never leased it.

Mr. McCREERY. Who did lease it?

Mr. CONKLING. I will read, if my friend will allow me in his time:

Convention celebrated between the United States of America and the Dominican Republic for a lease of the bay and peninsula of Samana.

For this purpose the President of the United States has invested with full powers Mr. Raymond H. Perry, commercial agent of the United States to the Dominican Republic, and the President of the Dominican Republic has invested with full powers Mr. Manuel Maria Gantier, secretary of state of the Dominican Republic, who, after exchanging their said full powers, found in good and due form, have agreed upon, concluded, and signed the following articles:

ARTICLE I.

The Dominican Republic grants immediate possession and occupation, in the form of a lease, to the United States of America, of all the territory comprised in the peninsula and Bay of Samana, extending, &c.

I omit the boundary.

The United States shall possess and occupy the above described territory during a period of fifty years from this date, &c. * * *

ARTICLE II.

During the above-named term of occupation of the said territory the United States shall pay as an annual rent to the Dominican Republic, on the 1st day of January of each year, in Washington, D. C., or in the city of New York, the sum of \$50,000 in gold coin of the United States. The Dominican Republic hereby acknowledges to have received the sum of \$147,229.91 on account of the first payment under this convention.

Here are the letters from the Department showing that after the expiration of that year, for a series of months, to-wit: until December, or, exactly speaking, the last of November of that year, lacking one month of the full year, they continued to occupy and enjoy under this lease, and not until then was the possession surrendered.

Mr. BAYARD. This is the continued *pro rata* payment?

Mr. CONKLING. Yes, sir.

Mr. NORWOOD. I should like to ask the Senator from New York if the amount advanced was \$50,000 why the amount asked for now is \$71,000?

Mr. CONKLING. Being the exact amount paid, with simple interest at 7 per cent. uncompounded, although the agreement was originally that these men were to receive 10 per cent. It was thought we had no right except to allow the legal interest without rest and without compounding.

The PRESIDING OFFICER. Does the Senator from Kentucky insist on his demand for the yeas and nays?

Mr. McCREERY. I do.

The yeas and nays were ordered; and being taken, resulted—yeas 34, nays 7; as follows:

YEAS—Messrs. Allison, Anthony, Barnum, Bayard, Blaine, Booth, Bontwell, Chaffee, Christiancy, Clayton, Conkling, Conover, Dennis, Dorsey, Eaton, Gordon, Hamlin, Harvey, Howe, Ingalls, Jones of Florida, Jones of Nevada, Kelly, Logan, McDonald, Maxey, Norwood, Oglesby, Paddock, Sargent, Spencer, West, Windom, and Withers—34.

NAYS—Messrs. Bailey, Cooper, McCreery, Morrill, Ransom, Stevenson, and Whyte—7.

ABSENT—Messrs. Alcorn, Bogy, Bruce, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Cockrell, Cragin, Davis, Dawes, Edmunds, Ferry, Frelinghuysen, Goldthwaite, Hamilton, Hereford, Hitchcock, Johnston, Kernan, McMillan, Merrimon, Mitchell, Morton, Patterson, Randolph, Robertson, Saulsbury, Sharon, Sherman, Teller, Thurman, Wadleigh, Wallace, and Wright—34.

So the amendment was agreed to.

Mr. HITCHCOCK. On page 8, after line 172, I move the following amendment from the Committee on the District of Columbia:

For the purchase of the remainder of the Peters farm, \$10,000.

I desire to say that this is recommended by the Attorney-General, under whose supervision this institution, the Reform School, is; it has been favorably acted on by the Committee on the District of Columbia, and I believe it is a very meritorious and wise appropriation. I trust the Committee on Appropriations will not object to it.

Mr. WINDOM. The Committee on Appropriations had that matter referred to them and were of the opinion that it was not advisable to make the purchase now. I hope we may have a vote.

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

Mr. DAVIS. I make the point of order, if the yeas and nays are called for taking up time here—or perhaps I had better move to lay it on the table.

Mr. HITCHCOCK. The amendment is in order.

The PRESIDING OFFICER. The Senator from West Virginia withdraws the point of order and moves to lay the amendment on the table.

Mr. HITCHCOCK. I hope the Senator will not press that motion.

Mr. DAVIS. If the Senator wishes to speak I will not press the motion.

Mr. HITCHCOCK. I wish to say a word.

Mr. DAVIS. I withdraw the motion.

Mr. HITCHCOCK. I have been for six years a member of the District Committee, and I am somewhat familiar with the appropriations which have been made in the name of charity to this District; and I believe of all the appropriations made there are none that have produced more beneficent results from a small expenditure than the appropriations which we have annually made for the Reform School. They have out there to-day a farm of one hundred and fifty acres. There are about two hundred boys kept on that farm at a very small expense. They need more land. They need more land in order to employ the boys wisely and well. They need this land particularly for other reasons. They need it in order that they may get a front upon the East Branch, so that they may obtain ice. They need it to prevent neighbors, who will interfere with the welfare of the boys; getting possession of the land. This is an appropriation to buy one hundred acres of land at \$100 an acre only, a reasonable proposition; and it has been recommended for two successive years by the Department earnestly. I will read from the report of the Attorney-General on this subject very briefly. He says:

Second. Purchase of the remainder of the Peters farm. More land suitable for cultivation is necessary to enable the school to raise all the vegetables, grain, &c., required on the premises.

The greater part of the land now belonging to the school is not available for this purpose, being thin, poor, and not susceptible to much improvement through the agency of fertilizers, and therefore not suitable for the purpose of high cultivation. It is, however, available for the cultivation of fruit and grapes, and part of it for grass, which is being put down as fast as the force and means at our command will permit.

The remainder of the Peters farm adjoins the school, being part of the adjoining tract of which the school land is a part, and it is desirable to obtain it for several reasons: Because it lies adjacent to and adjoining the school, and it is desirable to prevent it from falling into the hands of persons who would not be desirable neighbors, and who might have a bad influence upon the boys; because it is well adapted to raising vegetables and the smaller fruits for the supply of the school and for sale, from which quite a revenue could be derived, besides giving the boys an opportunity of learning by experience the business of market gardening, which they could in after life follow as a useful and profitable occupation; because, if this land goes out from under the control of the trustees of the school, those who purchase it will have the right of way along the whole southern line of our present site, and if it should be occupied by persons whom it might be disadvantageous to have brought in contact with the boys, their close proximity and daily contact would be highly injurious to the good management and discipline which now obtain.

In view of these facts, we hope Congress will look favorably upon this estimate.

I believe the proposition of the amendment is meritorious, and I hope it will prevail.

The amendment was agreed to.

Mr. ALLISON. I move, from the Committee on Appropriations, to insert after line 942 the following:

To pay John R. Lynch, of Mississippi, expenses in contested-election case, \$500; and C. B. Darrall, of Louisiana, expenses in contested-election case, \$400.

These amounts were agreed to by the Committee on Appropriations, but in the hurry of the preparation of this bill were not inserted in the print. They are recommended by the Committee on Elections in the House of Representatives.

The amendment was agreed to.

Mr. HOWE. I move an amendment, to insert after line 513:

To enable the Librarian of Congress to employ sufficient help to complete the index to the debates and documents of Congress, \$2,500.

The amendment was agreed to.

Mr. McDONALD. I offer an amendment, to insert after line 990:

Six thousand and four dollars and forty-eight cents to pay John W. Dodd & Co. for grading, paving, and curbing the sidewalk bordering the gutters on the north side of Michigan street, from the west side of the United States arsenal grounds to the east line of said grounds in the city of Indianapolis and State of Indiana.

Mr. WINDOM. I must raise the point of order that this is a private claim and not appropriate on this bill.

Mr. McDONALD. This is for work already done upon an account approved by the officer in charge of the arsenal grounds.

The PRESIDING OFFICER. The Chair decides that the point of order made by the Senator from Minnesota is well taken and that the amendment is not admissible.

Mr. OGLESBY. I offer an amendment to come in after line 532.

Mr. WINDOM. Is that reported by the Committee on Public Lands?

Mr. OGLESBY. Yes, sir.

Mr. WINDOM. I cannot make the point of order, then, but I know what it is, and before it is read I desire to say that the Committee on Appropriations considered it and rejected it with a great many other propositions that might be meritorious if we had not already too much on the bill.

The PRESIDING OFFICER. The amendment will be read.

The CHIEF CLERK. On page 22, after line 532, it is proposed to insert:

For the erection of monuments at the geodetic points established by the geological and geographical survey of the Rocky Mountains region, which points may be used as starting points for the surveys of the public lands, \$25,000.

Mr. WHYTE. Unless we desire an extra session of Congress—I think that all these amendments are running in that direction—we had better not adopt them.

Mr. WINDOM. I think we have quite enough on the bill now.

Mr. WHYTE. There is no use in sending the bill to the other House with all these amendments.

Mr. OGLESBY. I thought I had the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. OGLESBY. I have been assisting the Committee on Appropriations all I could, and various other gentlemen, in getting various very proper amendments in this bill. I believe this is the first one I ever offered in the Senate in my life for an appropriation out of the national Treasury, and it is a subject that I think a good deal of. I do not know whether the Committee on Appropriations gave much attention to it or not; perhaps they did give some attention.

I have had a notion for some time that surveys continued over these desert lands are very expensive to the Government, and if they keep on from year to year the expense will continue for surveying desert lands. This amendment provides that the true meridian shall be ascertained west of the Observatory here by telegraph and by astronomical observation until the exact point is found a thousand miles or two thousand miles or any other distance west on the desert. When the exact point is found, another line is run from that, ten miles, and then by what is termed triangulation they establish points, and there put an iron monument which will stand for a thousand years, and then make another point from that without surveying. Having these prominent points over the desert, then from these iron monuments that are fixed and stand forever, if there be any timber land or mineral land or irrigable land, you can run to that land and make a survey as to that particular land without surveying the whole desert to get to it. That is all there is in it, and it is a very sensible amendment and ought to be adopted.

Mr. PADDOCK. And it is in the interest of economy.

Mr. OGLESBY. Certainly.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Illinois.

The amendment was rejected.

Mr. ANTHONY. I offer an amendment from the Committee on Printing which I presume the Committee on Appropriations will accept; it is to come in after line 47:

For printing the Agricultural Report for 1876, \$120,000.

The Senate ordered this work to be done against my advice and remonstrance, but if it is to be done we must have the money to do it with.

Mr. WINDOM. Of course we cannot resist that. If Congress has made the order we must pay for its execution.

The amendment was agreed to.

Mr. SPENCER. I move, on page 39, after line 48, to insert:

The above appropriations for contestants and contestees shall be immediately available.

Mr. WINDOM. This is simply making available the appropriation for the contestants and contestees of the House. There can be no objection to it.

The amendment was agreed to.

Mr. LOGAN. I offer House bill No. 58 as an additional section to this bill; it is what is known as the bounty bill.

The Chief Clerk proceeded to read the amendment, but was interrupted by—

Mr. WINDOM. I raise the point of order that that is legislation.

The PRESIDING OFFICER. The Chair decides—

Mr. LOGAN. Before the Chair decides I desire to appeal to my friend not to raise the point of order on this measure to-night. I notice that I was about the only one almost who refused to vote for an appropriation of \$375,000 to pay mail contractors on the ground that they had performed service for the Government as it was said; and even the patriotism of gentlemen was appealed to to vote for that. My honorable friend from California gave as a reason, which was sufficient for him as a matter of course, that he voted for that on the ground that some of our friends had been patriotic in the last few days. That is according to his notion.

Mr. SARGENT. One ground.

Mr. LOGAN. One ground.

Mr. PADDOCK. A pretty fair ground, too.

Mr. LOGAN. I am not objecting to the ground, if my honorable friend from Nebraska will allow me; but, inasmuch as you put it on the ground that other gentlemen voted as the Senator from California did, and, therefore, it was patriotism, I now ask the patriotism of this Senate to allow what is due to soldiers who have certainly performed service for this Government that no man and no person can deny, who have been deprived of that which the Government owes them under the law for over ten years. They only ask that which is honestly due them. It has passed through the House of Representatives five different times, and just that many times appeals have been made to the Senate. If mail contractors must be paid and other contractors must be paid because they have performed service for the country, in God's name, I ask, why it is that the soldiers of the country should not be permitted to have the little pittance which is due to them by the laws of this land? This is the only opportunity there will be to get a vote on this measure, and I hope the Senate will allow it to be attached, as an amendment, to this bill. It is just as legitimate as many other things that have been offered and have been adopted by the Senate.

Mr. WINDOM. I ask for the ruling.

The PRESIDING OFFICER. Under the exception taken by the Senator from Minnesota the Chair rules under Rule 29 that the amendment is not in order.

Mr. LOGAN. It is never in order for a soldier to get anything here!

Mr. CHAFFEE. I move, on page 15, line 351, after the word "timbered," to insert "or mountainous," so as to allow \$13 a mile for surveys in mountainous country the same as in timbered country. I also move to make the appropriations for the surveys of public lands available immediately.

The PRESIDING OFFICER. That is a distinct amendment, and the Senator will be kind enough to reserve that until the first amendment is acted on. The first amendment of the Senator from Colorado is to insert after "timbered," in line 351, the words "or mountainous."

The amendment was agreed to.

Mr. CHAFFEE. Now I offer the further amendment.

Mr. WINDOM. The motion made by the Senator from Colorado has reminded me that an error has occurred in printing the bill. The committee recommended the striking out of all after the words "private land claims" in line 345 to the end of line 352. It is a mistake in printing. I move that those words be stricken out.

The Chief Clerk read the words proposed to be stricken out, as follows:

The cost of such surveys shall not exceed \$10 per mile for standard lines, (and the starting point for said survey may be established by triangulation.) \$7 for township and \$6 for section lines, except that the Commissioner of the General Land Office may allow for the survey of standard lines in heavily timbered or mountainous land a sum not exceeding \$13 per mile.

The amendment was agreed to.

Mr. CHAFFEE. Now I move to make the appropriation for sur-

veys of public lands available immediately, because the summer is half over before surveys can be commenced.

Mr. WINDOM. I think there can be no objection to that.

Mr. DAVIS. Do we not make regular appropriations for surveys? Last year we made appropriations, and now this appropriation for next year is to be made available at once. It is just crowding two years into one. I hope the amendment will not be pressed. I think it wrong.

Mr. PADDOCK. I hope I may be allowed to say to the Senator from West Virginia that the idea is that if the appropriation is made available immediately these surveys may be made much earlier in the season, before the commencement of the next fiscal year, and be made much more economically to the Government and much more efficiently and effectively than if delayed.

Mr. DAVIS. And then next year there will be a deficiency. They will say it was used up this year, when it belonged to next year.

Mr. WINDOM. I speak only for myself, not for the committee; but it occurs to me that it is better to commence these surveys in the spring and that the appropriations should be made immediately available every year.

Mr. PADDOCK. The whole experience of the Government leads to that conclusion.

Mr. DAVIS. Then why have a fiscal year at all? Why not, when the bills pass, let the Departments go to work at once and spend the money? We know that we passed within a few days deficiency bills amounting to one-half as much as the original appropriations. This is a step in that direction. I withdraw my objection and submit if the chairman of the committee says it is right; but it is against my judgment.

Mr. WINDOM. I am willing to take the vote upon it.

Mr. CHAFFEE. I desire to state that no surveyor can get into the field before the month of July if this amendment be not made; and in a mountainous country like Colorado the snows become so deep by the 1st of December that the contractor cannot do the work well. My object is simply to allow the surveyors to go into the field a month or two earlier. That is all there is of it.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Colorado.

Mr. DAVIS. I know that the Senator from Colorado made the motion, but I submitted to the chairman of the committee, and now I submit again; if the chairman of the committee desires it, then I, of course, withdraw my objection; otherwise I cannot.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Colorado.

Mr. HARVEY. The amendment of the Senator from Colorado is certainly correct in this: as he stated, it is impossible for contractors to get ready and go into the field any earlier than the time he stated; and until this money is made available the surveyor-general cannot even make a contract, so that the contractors do not know who is to go into the field, and until after the 1st of July a contract cannot be made. It throws the surveys into the winter and imposes hardship upon the contractor and is of no benefit to the public.

Mr. DAVIS. I understand we pay so much a rod or mile and it does not make any difference to the Government whether it is winter or summer.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Colorado.

The amendment was agreed to.

Mr. BLAINE. I offer the following amendment, with the permission of the committee.

That the claimants against the Great and Little Osage Indians for the alleged balance that remains of a national debt of said Osages, as fixed and limited by resolution of their national councils, passed July 26, 1873, are hereby given the right to test the legality and equity of their claims by a suit in the Court of Claims against the United States as the trustee of the funds of said Osages: *Provided*, That nothing shall be paid under any judgment of said court until the assent thereafter, formally expressed, by the national councils of the said Osages.

Mr. WHYTE. This is legislation not appropriate to this bill.

Mr. BLAINE. It was referred, and the committee gave permission to offer it.

The PRESIDING OFFICER. The Chair would state to the Senator from Maryland that it is legislation relating to a special subject. The clause in the rule applies to general legislation.

Mr. WHYTE. That does not make any distinction, I presume, whether it is general or special legislation. The rule applies to legislation.

The PRESIDING OFFICER. The Chair will read the rule:

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

If the Senator from Maryland insists on his point the Chair will submit the question to the Senate.

Mr. WHYTE. It occurs to me that this legislation.

Mr. WRIGHT. I should like to know how this claim originated and what it is for; what services have been rendered and how it is that this claim originates that we should send it into the Court of Claims by a provision on this bill?

Mr. BLAINE. It is a matter that has been a good while in dispute, and has been vexing the committees of Congress and both branches of Congress, and it will continue to do it, and possibly if it is an improper claim it will slip through some time. Now it is proposed to

have it tested by the rules of evidence in the Court of Claims, and thereafter, if the Court of Claims shall give judgment in favor of it, that nothing shall be paid on it until the award is confirmed by the national council of the Indians. It is giving it two tests to run instead of having it put through Congress some time when it may not be noticed or may not be known. I do not think that any injustice can be done by this. The United States have their solicitor; the Interior Department have cognizance of it as trustee immediately for the Government; and how any harm can come of it I do not see. I think all claims that are worthy of any recognition at all ought to go there instead of pestering the halls of Congress, so that some sort of legal tests and the laws of evidence may be applied to them.

Mr. WRIGHT. Upon the same principle every single claim that is made against the Government, whether it has any foundation or not, ought to be sent to the Court of Claims. A man comes to Congress, and as soon as he gets here we should say "We will not take the trouble to look into it; just let it go to the Court of Claims and be done with it." That would be an easy way to get rid of them and put that course on the ground that the thing may some time slip through Congress.

Mr. BLAINE. I think it will be a very fortunate day when no claim shall be presented to Congress for passage. I hope to live to see the day when such a thing as a claim to be voted on by either branch of Congress will be unknown.

Mr. WRIGHT. I hope we shall watch and scrutinize every claim that gets to the Court of Claims. When claims get there they often get through the court by some means or other, and that is the end of them, because then the argument is, "Here is a judgment and the Government is bound to pay it." I should like to know something about this claim, what it is for, before I vote to send it to the Court of Claims. The language of the amendment is of such a character that I cannot tell what it is for, and I should like to have some explanation of it before I consent to have any claim go before the Court of Claims.

Mr. CONKLING. Can the Senator from Iowa tell me what would be the issue in the Court of Claims under that proposition?

Mr. WRIGHT. I do not see how we could make up any issue upon it.

Mr. BLAINE. It refers to the Osage resolution of a certain date. The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Maine.

Mr. CONKLING. On the amendment or on the question of order? The PRESIDING OFFICER. On the amendment. The Chair decides that it is in order.

Mr. CONKLING. In voting upon this amendment I cannot overlook a question suggested to me by the words midway the amendment as I caught them, that the Court of Claims shall ascertain whether the claim is legal or equitable, and I wish the Secretary to read those words again.

The Chief Clerk read as follows:

Are hereby given the right to contest the legality and equity of their claim by a suit in the Court of Claims against the United States as the trustee of the funds of said Osages.

Mr. CONKLING. Experience has taught us that when we refer a claim to the Court of Claims, that being a special tribunal which could have no jurisdiction except by an express enabling act, there goes with the reference what I think I may call a presumption or intendment that there is a claim and that the court is to proceed to see what it is and how much it is. I do not mean that the court never decides that there is no claim; I only mean that when Congress refers a specific matter to the court, the reference to it carries a certain presumption with it.

It has been thought therefore in the Senate important to guard these resolutions, the joint resolutions as they used to be, bills as more recently they have come to be, against any misapprehension on this point. It strikes me that this amendment is unusually open to the criticism heretofore made in this respect. The parties are authorized to test in the court whether legally or equitably there is a claim. It may very well be that these parties have no legal claim and yet under this the court may feel at liberty to say, "Why there is an equitable right here," and to base a judgment upon that finding. The claim in question is an old one; it has been before the committees of the Senate several times; I think once or twice before a committee of which I had the honor to be a member. My recollection is that there has never been a favorable report upon it in the Senate since I have been here. I dare not assert that positively because I am not full enough in my recollection about it, but that is my impression, and if the claim be the one which I think it is it is certainly questionable, to say the least.

As the Senator from Iowa has said, the amendment is somewhat vague in its statement, and, as I think it suggests, the Court of Claims might go pretty much at large without much regard to the rules of law and possibly without a great deal of regard to the rules of evidence if that tribunal was satisfied that equitably treated there was a claim between these parties. I suggest if it is to be done it should be made more definite in that respect. I think, as some Senators have suggested, that the concurrence of Congress specifically ought in a case of this sort to be required. Otherwise, as the Senator from Iowa says, the office of Congress in regard to it is merely perfunctory; a judgment comes here from the Court of Claims and

prima facie it is right and no attention is paid to it. If this is to be done, I think there ought expressly to be a reservation requiring Congress affirmatively to approve any judgment that may be rendered.

Mr. DAVIS. The Senator made some inquiry as to whether there had been favorable reports. I understand that the substance of this amendment has passed the House once, perhaps twice; and I read very recently a very favorable report made by the House committee on this subject. I understand further that it was submitted to Ex-Army-General Pierrepont, who reported in favor of it, and said it was a proper or legal claim. I understand further that it comes out of the Indians' money, and by their consent.

Mr. CONKLING. That is the very reason why we ought to be careful.

Mr. DAVIS. And at their request.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Maine.

Mr. COCKRELL. I move to add "and the Congress of the United States," so as to require the assent of Congress also.

Mr. BLAINE. Very well, I accept the modification.

The PRESIDING OFFICER. The amendment will be so modified.

Mr. BLAINE. The whole matter is now left in the hands of Congress.

The PRESIDING OFFICER. The question is on the amendment as modified.

A division was called for.

Mr. BLAINE. I fear it may defeat a quorum; and, if so, I will not insist on it.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. BLAINE. If there is any trouble to arise from disclosing the lack of a quorum, I should rather have it withdrawn. If in the judgment of the Chair there is a quorum present, I would rather have it voted on.

The PRESIDING OFFICER. The Chair is of opinion that there is a quorum present.

Mr. BLAINE. Then I ask for a vote.

The question being put, there were on a division—ayes 17, noes 16; no quorum voting.

Mr. BLAINE. I withdraw the amendment.

Mr. SARGENT. There will be a very great necessity for the committee of conference to unload this bill.

Mr. BLAINE. I have withdrawn the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. SARGENT. I do not think it can be withdrawn to prevent my making a speech. I say there will be great necessity—

The PRESIDING OFFICER. There is nothing before the Senate.

Mr. SARGENT. The amendment was before the Senate at the time I began to speak, and no one has the floor to withdraw it. I believe I understand my rights. I say, and now repeat again, that it will be the duty of the committee of conference, especially of the conferees on the part of the Senate, to unload a great deal on this bill. I believe the last straw has been piled on. Already the camel's back is broken. The bill is getting to be a public monstrosity, and there is no possibility of passing it and avoiding an extra session provided the conferees of the Senate insist on a title even of the amendments put upon it against the recommendation of the committee.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the bill (S. No. 628) for the relief of John J. Anderson, surviving copartner of the firm of Anderson & White.

The message also announced that the House had agreed to the amendment of the Senate to the bill (H. R. No. 2694) for the relief of W. W. Van Antwerp, late major of Fourth Michigan Cavalry.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 4476) to provide for the appointment of an official short-hand reporter for the United States courts in and for the district of California, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. GEORGE W. MCCRARY of Iowa, Mr. P. D. WIGGINTON of California, and Mr. BERNARD G. CAULFIELD of Illinois, managers at the conference on the part of the House.

The message also announced that the House further insisted on its disagreement to the amendments of the Senate to the bill (H. R. No. 4616) making appropriations for the naval service for the year ending June 30, 1878, and for other purposes, asked for a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. JAMES H. BLOUNT of Georgia, Mr. JOHN T. HARRIS of Virginia, and Mr. EUGENE HALE of Maine, managers at the conference on the part of the House.

The message further announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 4554) for the support of the government of the District of Columbia for the fiscal year ending June 30, 1878, and for other purposes.

ENROLLED BILLS SIGNED.

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

A bill (H. R. No. 559) for the relief of Almeron E. Calkins, late a second lieutenant in the Eighth Michigan Cavalry;

A bill (H. R. No. 1611) authorizing the changing of the name of the sloop Addie Parker, of New Bedford, Massachusetts;

A bill (H. R. No. 1765) respecting the limit of reservations for town sites upon the public domain;

A bill (H. R. No. 1824) to change the name of the pleasure-yacht Hiram B. to Iola;

A bill (H. R. No. 2606) for the relief of Catherine Harris;

A bill (H. R. No. 3574) for the relief of Marshal P. Thatcher;

A joint resolution (H. R. No. 175) authorizing the issue of clothing to Company A, Second Regiment United States Cavalry; and

A joint resolution (H. R. No. 176) authorizing the issue of clothing to private Francis Hegner, Company F, Seventh Cavalry, and private John C. Collins, Company G, Seventh Cavalry.

DISTRICT TAX BILL.

Mr. SPENCER submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 4554) for the support of the government of the District of Columbia for the fiscal year ending June 30, 1878, and for other purposes, having met, after a full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

The Senate recedes from its amendments numbered 2, 9, 10, 12, 13, 14, 17, and 19. The House recedes from its disagreement to the amendments numbered 3, 4, 5, 6, 7, 11, and 16; and agree to the same.

The Senate recedes from its amendment numbered 1, and agrees to the same with an amendment as follows:

On page 1, line 5 of the bill, strike out "\$1" and insert "\$1.25."

And the House agree to the same.

The Senate recedes from its amendment numbered 15, and agree to the same with an amendment as follows:

On page 8, line 18 of the bill, after the words "United States" strike out the words "other than those for the government of the District of Columbia."

And the House agree to the same.

The Senate recedes from its amendment numbered 18, and agrees to the same with an amendment as follows:

In line 10 of the said amendment strike out "five" and insert "four."

And the House agree to the same.

GEO. E. SPENCER,

S. W. DORSEY,

WM. H. BARNUM,

Managers on the part of the Senate.

LAWRENCE T. NEAL,

WM. W. CRAPO,

Managers on the part of the House.

The report was concurred in.

Mr. McMILLAN. Does the conference report leave a distinction between property in the city of Washington and property outside of it, a difference of twenty-five cents per \$100 in the taxation of lands?

Mr. SPENCER. I will explain to the Senator from Minnesota. The bill as it passed the House taxes the property in the county at 1 per cent., while it taxes the property in the city at $1\frac{1}{2}$ per cent. The Senate amended that so that it taxed property alike. The conference committee split the difference, so that city property is taxed at $1\frac{1}{2}$ per cent., and the county property is taxed at $1\frac{1}{2}$ per cent.

Mr. McMILLAN. I can see no reason for any distinction of that kind, and I shall not support the report of the conference committee.

The PRESIDING OFFICER. (Mr. WEST in the chair.) The Chair has announced that the report is adopted.

Mr. McMILLAN. I ask for a division on that question.

The PRESIDING OFFICER. The Senator can enter a motion to reconsider. The report is adopted.

Mr. McMILLAN. I withdraw the motion.

REPORTERS FOR UNITED STATES COURTS.

The PRESIDENT *pro tempore* laid before the Senate the action of the House of Representatives on the amendments of the Senate to the bill (H. R. No. 4476) to provide for the appointment of an official short-hand reporter for the United States courts in and for the district of California.

Mr. WRIGHT. I move that the Senate insist on its amendments, and agree to the conference asked by the House.

The motion was agreed to.

By unanimous consent the President *pro tempore* was authorized to appoint the committee on the part of the Senate; and Mr. WRIGHT, Mr. HOWE, and Mr. COOPER were appointed.

SUNDRY CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 4680) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and for other purposes.

Mr. DORSEY. I offer the following amendment to come in after line 917:

To pay W. W. Wilshire, contestee in the contest of Gunter vs. Wilshire, third district Arkansas, \$2,000.

Mr. WINDOM. That matter was before the Committee on Appropriations with several others of a similar character. The committee decided that they could not recommend appropriations for any contestants in the House where the committee of the House itself had not acted. There has been no action on the part of the committee of the House, and I think we ought not to assume to judge this matter for them.

Mr. DORSEY. I do not quite agree with the chairman of the com-

mittee that there were several other items of this sort. I only remember two others, and they have been put on the bill, being submitted by the Senator from Iowa. Now, the fact is that almost every case of this kind has been provided for in this bill. This is a just case. I know all the facts connected with it. The contestant who secured this seat was paid \$3,000 for expenses, and this man who was ousted after a contest of six months has not been paid a cent.

Mr. CLAYTON. I thought such a bill had passed at one time. It certainly passed one House. I ask my colleague if it did not.

Mr. DORSEY. I think that two years ago it passed the House but failed here.

Mr. CLAYTON. That is my recollection.

Mr. DAVIS. Then the amendment is clearly out of order, and I raise the point of order. We must get along.

The PRESIDING OFFICER. (Mr. WEST in the chair.) What is the point of order?

Mr. DAVIS. It is a private claim and does not come from any committee.

Mr. WITHERS. The committee reported adversely.

Mr. DORSEY. If this is a claim, here are four or five pages of the bill covered by just such claims.

Mr. DAVIS. They were recommended by the committee. The Senator is a member of the Appropriation Committee, and he knows very well that we must get on with the bill.

The PRESIDING OFFICER. The Chair will rule the point of order to be well taken.

Mr. CONOVER. I have a little amendment to offer which I think will occupy but a moment's time:

For an agent to protect the naval reserved timber lands in the State of Florida.

Mr. WINDOM. I regret to raise the point of order on my friend from Florida, but it is too late in the day or night to entertain such an amendment.

Mr. CONOVER. I think if the chairman of the committee will allow me to have this letter read he will withdraw his objection.

Mr. WINDOM. I cannot withdraw it. The amendment has not been reported by any committee.

The PRESIDING OFFICER. The Chair decides the point of order to be well taken. The amendment is out of order.

The bill was reported to the Senate as amended.

Mr. DAVIS. I want to reserve three amendments—perhaps an explanation of them can be given very readily—on pages 32 and 33.

The PRESIDING OFFICER. They will be considered as reserved.

Mr. ALLISON. What are they?

Mr. WITHERS. The Coast Survey amendments.

The PRESIDING OFFICER. The question will be on concurring in the amendments made as in Committee of the Whole except those reserved by the Senator from West Virginia.

The amendments not excepted were concurred in.

The PRESIDING OFFICER. The reserved amendments will be read.

Mr. DAVIS. It is not necessary to read them; I do not want to take time. I have no doubt the chairman of the committee can explain them.

Here are amendments appropriating, one \$300,000 and another \$200,000 for the Coast Survey, one on the Atlantic and the other on the Pacific. I was not in committee when they were considered. I happened to be out at the time. The amount is very large when it is borne in mind there are \$450,000 for the ordinary surveys elsewhere.

Mr. WINDOM. The amendment reported by the Committee on Appropriations striking out the provision of the House bill simply conformed to the appropriation for the current year, and the reason for changing the form is that if we do not make the appropriation in the form we have been accustomed to do, it changes the accounts and confuses the accounts at the Department, as we are informed. Hence, we have changed the form to make it as it has been heretofore. As to the amount, it is precisely the same as the current year, and the current year is a good deal of a reduction over former years. The House bill this session reduces the amount for the Coast Survey very much.

Mr. DAVIS. I think there is an advance, however, over the appropriation of the House of perhaps \$200,000.

Mr. WINDOM. The House omitted to make that appropriation which has been made heretofore. We simply conform to the present law, making the same appropriation that was made for this year.

The PRESIDING OFFICER. The question is on concurring in the reserved amendments made as in Committee of the Whole.

Mr. DAVIS. With the explanation I am satisfied.

The amendments were concurred in.

Mr. SARGENT. I move to strike out three words on page 21, line 499. I move to strike out the words "the sum of." They are unnecessary.

The PRESIDING OFFICER. That is a mere verbal correction, and will be made by the Clerk, if there be no objection. The Chair hears none.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. WINDOM. I ask consent that this bill may be printed as passed by the Senate, with the amendments numbered, so as to facilitate the conference committee.

The PRESIDING OFFICER. If there be no objection that order will be made.

TERRITORY OF BLACK HILLS.

Mr. HITCHCOCK. I move that the Senate proceed to the consideration of the bill (S. No. 1048) to establish the Territory of the Black Hills, and to provide a temporary government therefor.

Mr. DORSEY. I ask the Senator to withdraw the motion for a moment.

Mr. HITCHCOCK. It will take but a moment, I think.

Mr. WINDOM. I move that the Senate adjourn until eleven o'clock to-morrow.

The PRESIDING OFFICER. The Senator from Minnesota moves that the Senate adjourn until eleven o'clock to-morrow.

Mr. SPENCER. I want to make an inquiry. I want to inquire if this motion prevails whether the bill of the Senator from Nebraska will be the unfinished business to-morrow.

The PRESIDING OFFICER. The Chair will state not, unless it is taken up.

Mr. SPENCER. Let it be taken up so as to be the unfinished business. It is a matter of national importance.

Mr. McMILLAN. Is the motion to adjourn debatable?

Mr. SPENCER. I thought the motion was withdrawn.

The PRESIDING OFFICER. The motion was withdrawn, the Chair understood.

Mr. HITCHCOCK. I think at this period of the session it is perfectly clear that no extended debate can be had on this or any other bill. This is one of the simplest and shortest ordinary forms of bill for the organization of a new territorial government.

Mr. WINDOM. I have not withdrawn the motion to adjourn.

Mr. SPENCER. Well, do withdraw it.

Mr. HITCHCOCK. If I may be allowed a single moment, I wish to state that I think if we can reach a vote on the bill no Senator can particularly object to its passage through the Senate. It will gratify me exceedingly if it can be passed through the Senate at least, at the close of my term of service as a Senator. I do not suppose anybody will think it is in immediate danger of passing the House; but I believe it is a very important matter to the country, of great interest to the people of the Northwest, and I believe there is really an urgent necessity that the bill should pass at the present time. It will gratify me exceedingly at least if it can pass the Senate at the present session.

Mr. WINDOM. I renew my motion to adjourn until eleven o'clock to-morrow.

The motion was agreed to; and (at twelve o'clock and fifty-two minutes a. m., Friday, March 3) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, March 2, 1877.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. I. L. TOWNSEND.

READING OF THE JOURNAL.

Mr. WILSON, of Iowa. I understand that the journal clerk is ill and that the Journal is not wholly made up. I move to dispense with the reading of the Journal.

Mr. WALLING. I object.

Mr. WILSON, of Iowa. Then I will move to suspend the rules for that purpose.

Mr. WALLING. I raise the question of a quorum.

Mr. WILSON, of Iowa. I think we have certainly had enough of the gentleman from Ohio in that particular line. He should now allow us to finish the business of the House. There are bounds beyond which gentlemen should not go.

Mr. MORRISON. Gentlemen will judge of that for themselves.

Mr. WILSON, of Iowa. I judge for myself.

Mr. WALLING. I am the judge, sir, of my duty on this floor.

Mr. GLOVER. I desire to ask unanimous consent—

The SPEAKER. The Chair cannot now recognize a request for unanimous consent. The Journal will be read as far as made up.

The Clerk proceeded to read the Journal as far as made up. When the Clerk ceased reading,

Mr. WALLING said: Is the Journal concluded?

The SPEAKER. It is not.

Mr. WALLING. I demand that the Journal be completed, and read.

The SPEAKER. The journal clerk who makes up the Journal has been taken ill, and it is impossible for the Journal to be completed at present.

Mr. WILSON, of Iowa. I press my motion to suspend the rules so as to dispense with the further reading of the Journal.

Mr. WALLING. I demand a call of the House to ascertain whether there is a quorum here.

The SPEAKER. The vote on the motion of the gentleman from Iowa will develop whether there is a quorum. It answers the same purpose.

Mr. WALLING. I claim the right as a member on this floor to demand a call of the House.

Mr. WILSON, of Iowa. The gentleman has not that right while a motion to suspend the rules is pending.

The SPEAKER. The motion to suspend the rules does away with the rule under which the gentleman from Ohio claims his right.

The question being taken on the motion of Mr. WILSON, of Iowa, to suspend the rules, on a division by sound, the Speaker stated that in the opinion of the Chair the ayes had it.

Mr. WALLING. I call for a division.

The House divided; and there were—ayes 88, no 1.

Mr. WALLING. A quorum has not voted.

The SPEAKER. Is the question of a quorum raised?

Mr. WALLING. It is.

The SPEAKER. The Chair will order the Clerk to call the roll.

The Clerk proceeded to call the roll.

Mr. WALLING, (interrupting.) I will withdraw the call upon the assurance that the House shall proceed to the consideration of the pension bills.

Mr. RUSK. I ask that by unanimous consent the House proceed to the consideration of pension bills until there is a quorum present.

Mr. WALLING. I will not withdraw the call except on that assurance.

Mr. CLYMER. I rise to make a privileged report.

The SPEAKER. The gentleman from Ohio cannot make any such conditional arrangement as that.

Mr. WALLING. I understand that unanimous consent is not given to take up the pension bills. I therefore insist on the call being proceeded with.

The SPEAKER. The call of the roll will proceed.

The roll being called, the following members failed to answer to their names:

Messrs. Anderson, George A. Bagley, Banks, Bass, Beebe, Belford, Blair, Bland, Blount, Burleigh, Cabell, William P. Caldwell, Carr, Caswell, Caulfield, John B. Clarke of Kentucky, Crouse, Culberson, Davy, De Bolt, Durand, Faulkner, Fort, Gibson, Goodin, Hamilton, Hays, Henkle, Goldsmith W. Hewitt, Hoar, Hoge, Hoskins, Humphreys, Hunton, Hurlbut, Hyman, Jenks, Frank Jones, Thomas L. Jones, Kasson, King, Franklin Landers, Lane, Levy, Lewis, Lord, Mackey, Maish, Motcalf, Milliken, Moner, Monroe, Mutchler, Nash, Norton, Phelps, John F. Phillips, Piper, Plaisted, Poppleton, Powell, Parman, Rea, James B. Reilly, Rice, Sobieski Ross, Savage, Saylor, Seales, Sheakley, Simeckson, Slemmons, Sparks, Stephens, Stowell, Charles C. B. Walker, John W. Wallace, Warner, Watterson, G. Wiley Wells, Wheeler, Wilshire, Alan Wood, jr., Fernando Wood, Woodworth, and Yeates.

During the roll-call,

Mr. GOODE stated that his colleagues, Mr. HUNTON and Mr. CABELL, were detained from the House by sickness.

The SPEAKER. The calling of the roll has developed the presence of a quorum, two hundred and four gentlemen having answered to their names.

WILLIAM H. PENN.

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

Resolved, That William H. Penn, one of the assistant doorkeepers of this House, be paid out of the contingent fund of the House the sum of \$2 per day from the 11th day of January, 1877, to the 4th day of March ensuing.

LEAVE TO PRINT.

Mr. RIDDLE. I ask unanimous consent to have printed in the RECORD, some remarks on the presidential question.

There was no objection.

By unanimous consent, a similar permission was granted to Mr. WHITE, Mr. COX, Mr. LUTTRELL, Mr. MEADE, Mr. YOUNG, Mr. BANNING, Mr. HOLMAN, Mr. A. S. WILLIAMS, Mr. VANCE of North Carolina, Mr. HARDENBERGH, Mr. WILLIAMS of Alabama, and Mr. J. H. BAGLEY, jr.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed without amendments bills of the House of the following titles:

A bill (H. R. No. 256) for the relief of Herman Holman, of Terre Haute, Indiana;

A bill (H. R. No. 1016) for the relief of Virginia E. White, of Ohio County, West Virginia; and

A bill (H. R. No. 4117) for the relief of Colonel Frank L. Woolford, late of the First Kentucky Cavalry Volunteers, of certain disabilities.

The message further announced that the Senate had passed bills of the following titles; in which he was directed to ask the concurrence of the House:

A bill (S. No. 1243) to repeal the statute forbidding appointments and promotions in the staff of the Army; and

A bill (S. No. 1284) for the relief of William L. Hickman, of Missouri.

The message further announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 4559) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1877, and prior years, and for other purposes.

The message further announced that the Senate had concurred in the following resolutions of the House:

A resolution to print extra copies of the Report of the Commissioner of Fish and Fisheries for the years 1873, 1874, and 1875;

A resolution for printing extra copies of the Report of the Smithsonian Institution for the year 1876; and

A resolution for printing the report of R. W. Raymond on mining statistics for the year 1875.

PAY OF PAGES.

Mr. HANCOCK. I offer the following resolution:

Resolved by the House of Representatives, That the sum of \$1,300, or so much thereof as may be necessary, be paid out of the contingent fund of the House to pay the following pages not provided for who have served during this session, namely: William B. Hester, session; C. S. Henry, session; Frank Sobrinz, session; G. W. Webber, session; Joseph Callahan, session, and to George B. Wilton, F. M. Schultus, and Eden E. Finley for the time served by them; and the Committee of Accounts is hereby directed to audit the claims of said pages upon the facts of the service rendered by the aforesaid persons.

Mr. HOLMAN. I insist that it should go to the Committee of Accounts. We know nothing about this matter.

Mr. HANCOCK. I move that the rules be suspended and the resolution adopted.

Mr. WHITE. Is it in order to offer an amendment?

The SPEAKER. A motion to suspend the rules is not amendable.

Mr. HOLMAN. I insist that the resolution should go to the Committee of Accounts.

Mr. HANCOCK. Is debate in order?

The SPEAKER. It is not.

Mr. HANCOCK. If it were I would like to make a statement.

The question was taken on Mr. HANCOCK's motion to suspend the rules and pass the resolution; and on a division there were—ayes 100, noes 35.

Mr. HOLMAN. That is not a quorum, and this legislation is fearful, and we ought not to begin upon it.

Mr. HANCOCK. These boys have served all winter as pages and have not received one dollar.

Mr. ROBERTS. I desire to make a statement in regard to this matter.

The SPEAKER. Debate is not in order.

Mr. ROBERTS. I ask unanimous consent to make a statement. No objection was made.

Mr. HOLMAN. I insist that during the balance of this session the privilege of the floor ought to be confined to the members of the House and I ask that the rule in relation to the subject be read.

The SPEAKER. The Chair is not aware of the presence of anybody except such as have a right to the floor under the rule. If the gentleman will indicate anybody who has not the right the Chair will see that he is removed from the floor.

Mr. HOLMAN. There are a large number of persons on the floor.

The SPEAKER. The officers of the House will see that the lobbies are vacated by gentlemen who are not entitled to the privilege of the floor, but the Chair would suggest that there are quite a number of the members of the next Congress present, and that accounts for the large number upon the floor.

Mr. ROBERTS. I do not think that the House can in justice to itself make this allowance, in view of the fact that we have already under the rule twenty-eight pages and in addition thereto when the sundry civil bill was before the House a provision was made for six additional pages, making thirty-four in all. It is now proposed, as I understand by this resolution, to add five additional pages. I say that this is all wrong in every possible and conceivable aspect of the case and that this House cannot in justice to itself undertake to make this allowance. I only desire to make this statement because the Committee of Accounts, of which I am chairman, have given full consideration to this subject and have allowed all that should be allowed when we added six to the number provided for by the rules.

Mr. HOOKER. Allow me to say a single word. This amendment had its origin from the fact that one or two pages who were known to the gentleman from Texas, [Mr. HANCOCK,] as well as to myself, had been in constant attendance last session, having been borne on the rolls and regularly compensated last session. They came here at the beginning of this session and they have been here upon the floor discharging their duties. They have rendered the services. I speak in reference to two or three of them who have certainly rendered the services and not received a dollar of pay. They have been kept here the whole time and I think it would be false economy to deny to those boys pay for their services. I would say to the chairman of the Committee of Accounts that his committee will not be responsible for this. I trust the responsibility will be taken by the House and the House will declare that this act of justice shall be done to these boys.

Mr. ROBERTS. I do not desire to debate the question at all, but I do desire to say simply that if there be any more pages here upon this floor than the six additional ones allowed they were notified long since at my instance that they would be discharged.

Tellers were ordered on the motion of Mr. HANCOCK; and Mr. ROBERTS and Mr. HANCOCK were appointed.

Mr. HANCOCK. I would like to make a brief statement.

Mr. WALLING. I object to further debate upon this question.

The House divided; and the tellers reported that there were—ayes 121, noes 34.

Before the result of the vote was announced,

Mr. COCHRANE called for the yeas and nays.

Mr. MILLS. O, no; do not do that.

Mr. COCHRANE. I insist upon the yeas and nays.

The question was taken upon ordering the yeas and nays; and upon a division there were—ayes 19, noes 120.

Mr. COCHRANE. No quorum has voted, and I call for a further count.

Tellers were ordered; and Mr. HANCOCK and Mr. COCHRANE were appointed.

The House again divided; and the tellers reported that there were—ayes 16, noes 135.

So (one-fifth not voting in the affirmative) the yeas and nays were not ordered.

Accordingly (two-thirds voting in the affirmative) the rules were suspended and the resolution was adopted.

LOUISIANA RETURNING BOARD.

Mr. WADDELL. I move that the rules be suspended and the preamble and resolution passed which I send to the Clerk's desk.

The Clerk read as follows:

Whereas J. Madison Wells, L. M. Kenner, G. Casanave, and T. C. Anderson, now held in custody of the Sergeant-at-Arms of this House for contempt in refusing to answer questions and deliver books and papers, are in the judgment of this House the peers of the majority of the electoral commission, who have completed the work of said Wells, Kenner, Casanave, and Anderson with greater contempt for and defiance of this House and the public opinion of the country than was exhibited by them;

And whereas justice demands that each of the said returning boards should occupy the same position, and this House has no power to confine the majority of the electoral commission: Therefore,

Resolved, That the said Wells, Kenner, Casanave, and Anderson be forthwith discharged and set at liberty, in order that they may assist the said majority of the electoral commission in inaugurating the person whom they have jointly counted into the office of the President of the United States over the votes of a large majority of the legal voters of the country.

Mr. CONGER. I rise to a point of order. If it is necessary for members to exhibit such a specimen of their spite as this—

Mr. WADDELL. I call the previous question.

The SPEAKER. It is not necessary.

The question was taken upon suspending the rules and passing the preamble and resolution; and upon a division there were—ayes 75, noes 73.

Before the result of this vote was announced,

Mr. WALLING called for the yeas and nays.

The yeas and nays were ordered.

Mr. SAMPSON. Is it in order to ask for a division of the question and that a vote be taken upon the preamble separately?

The SPEAKER. It is not; the motion is to suspend the rules, including the one giving the right for a division of the question.

Mr. TUCKER. Would it be in order to offer a substitute for the resolution?

The SPEAKER. It would not.

Mr. ATKINS. Would it be in order for me to ask the gentleman who offered this resolution to allow it to be passed over for the present?

Mr. CONGER. I object to anything but to the call of the roll.

Mr. WELLS, of Missouri. I desire to state that the gentleman from Tennessee [Mr. ATKINS] is quite unwell and wishes to leave the House; but before doing so he wants to report the Army appropriation bill.

Cries of "Regular order!"

The SPEAKER. The regular order is the call of the roll.

The question was taken; and there were—yeas 21, nays 115, not voting 154; as follows:

YEAS—Messrs. Blackburn, Bliss, Boone, Carr, Cate, Cowan, Davis, Dibrell, Fuller, Andrew H. Hamilton, Franklin Landers, Lattrell, Odell, James B. Reilly, Rice, William M. Robbins, Miles Ross, Slemmons, Terry, John L. Vance, and Wadell—21.

NAYS—Messrs. Adams, Ainsworth, George A. Bagley, William H. Baker, Ballou, Banks, Blair, Bland, Bradley, William R. Brown, Horatio C. Burchard, Burling, Bantz, Candler, Caswell, Chapin, Chittenden, Conger, Crouse, Culberson, Cutler, Danford, Darrall, Davy, De Bolt, Denison, Dobbins, Dunnell, Eames, Egbert, Evans, Flye, Fort, Foster, Freeman, Frye, Hale, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, Henry R. Harris, Harrison, Hatcher, Hathorn, Hendee, Henderson, Abram S. Hewitt, Hoeg, Hopkins, Hoskins, Hubbell, Hyman, Joyce, Kehr, Kelley, Kimball, Lapham, Lawrence, Leavenworth, Lord, Lynch, Mackey, Magoon, McCarry, McDill, Monroe, New, Norton, Oliver, O'Neill, Page, Payne, William A. Phillips, Pierce, Platt, Powell, Pratt, Rainey, Reagan, Roberts, Robinson, Sobieski, Ross, Rusk, Sampson, Savage, Seelye, Simeonson, Smalls, A. Herr Smith, William E. Smith, Stevenson, Stowell, Strait, Swann, Tarbox, Thornburgh, Martin I. Townsend, Washington Townsend, Taft, Van Vorhes, Wait, Waldron, Alexander S. Wallace, John W. Wallace, Ward, White, Whitehouse, Willard, Andrew Williams, Charles G. Williams, James Williams, William B. Williams, Willis, James Wilson, and Fernando Wood—115.

NOT VOTING—Messrs. Abbott, Anderson, Ashe, Atkins, Bagby, John H. Bagley, Jr., John H. Baker, Banning, Bass, Beebe, Belford, Bell, Blount, Bradford, Bright, John Young Brown, Buckner, Samuel D. Burchard, Cabell, John H. Caldwell, William P. Caldwell, Campbell, Cannon, Cason, Caulfield, John B. Clarke of Kentucky, John B. Clark, Jr., of Missouri, Clymer, Cochrane, Collins, Cook, Cox, Crapo, Douglas, Durand, Durham, Eden, Ellis, Faulkner, Felton, Field, Finley, Forney, Franklin, Garfield, Gause, Gibson, Glover, Goode, Goodin, Gunter, Robert Hamilton, John T. Harris, Hartridge, Hartzell, Raymond, Hays, Henkle, Goldsmith W. Hewitt, Hill, Hoar, Holman, Hooker, House, Humphreys, Hunter, Hutton, Hurd, Harbut, Jenks, Frank Jones, Thomas L. Jones, Kasson, King, Knott, Lamar, George M. Landers, Lane, Le Moynes, Levy, Lewis, Lynde, Maish, MacDougall, McFarland, McMahon, Meade, Metcalfe, Miller, Milliken, Mills, Money, Morgan, Morrison, Mutchler, Nash, Neal, O'Brien, Packer, Phelps, John F. Phillips, Piper, Plaisted, Poppleton, Potter, Putnam, Rea, John Reilly, Riddle, John Robbins, Saylor, Scales, Schleicher, Schumaker, Sheakley, Singleton, Southard, Sparks, Springer, Stanton, Stenger, Stephens, Stone, Teese, Thomas, Thompson, Throckmorton, Tucker, Turney, Robert L. Vance, Charles C. B. Walker, Gilbert C. Walker, Walling, Walsh, Warner, Warren, Watterson, Erastus Wells, G. Wiley Wells, Wheeler, Whiting, Whitthorne, Wigginton, Wilke, Alpheus S. Williams, Jere N. Williams, Wilshire, Benjamin Wilson, Alan Wood, Jr., Woodburn, Woodworth, Yeates, and Young—154.

So (two-thirds not voting in favor thereof) the rules were not suspended.

At the conclusion of the roll-call,
Mr. HARRIS, of Virginia, asked unanimous consent that the reading of the names be dispensed with.

Mr. COCHRANE objected.

The Clerk read the list, and the result of the vote was then announced as above recorded.

DEFICIENCY APPROPRIATION BILL.

Mr. WALDRON submitted the following report; which was read by the Clerk:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4559) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1877, and for prior years, and for other purposes, having met after full and free conference have agreed to recommend, and do recommend to their respective Houses, as follows:

That the Senate recede from its amendments numbered 49, 53, 68, and 70.

That the House recede from its disagreement to the amendments numbered 1, 2, 3, 6, 7, 8, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 50, 51, 52, 53, 54, 55, 56, 57, 59, 60, 61, 63, 64, 65, 66, 69, 71, 72, 74, 75, 76, 77, 78, 79, and 80, and agree to the same.

That the House recede from its disagreement to the amendment numbered 4 and agree to the same, with an amendment as follows: Strike out of said amendment these words "to H. F. Hutcheson \$250.25," "to Andrew Carnes \$147.60," "to Louis Delano \$313.04," and strike out in lines 12 and 13, the words "nine hundred and thirteen dollars and sixty-eight," and insert in lieu thereof "one hundred and ninety-three dollars and seventy-nine;" and the Senate agree to the same.

That the Senate recede from its amendment numbered 5, with an amendment substituting the words "Treasury Department" for "Internal Revenue Office;" and the House agree to the same.

That the House recede from its disagreement to the amendment numbered 14, and agree to the same, with an amendment as follows: In line 5 of said amendment strike out "three hundred and seventy" and insert "and fifty-three;" in lines 6 and 7 strike out "five hundred and twenty-four" and insert "two hundred and seven;" and add at the end of the amendment the following, "and no part of this sum shall be used for payment of postage or purchase of postage stamps;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 15 and agree to the same, with an amendment as follows: Strike out from said amendment the word "four," and strike out on page 6, line 2, of the bill the words "hundred thousand" and insert after the word "seven" in line 1, page 6, of the bill, the words "and for prior years," and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 62, and agree to the same, with an amendment as follows:

In lieu of said amendment substitute the following:

"For defraying the expenses of the Supreme Court and circuit and district courts of the United States, including the District of Columbia, and also for jurors and witnesses and expenses of suits in which the United States are concerned, of prosecution for offenses committed against the United States, and for the safe keeping of prisoners, to be disbursed by the Attorney-General, being deficiencies for the fiscal year 1877 and prior years, \$300,000."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 67, and agree to the same, with an amendment as follows: In lieu of "thirty-seven" insert "twenty-five;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 73, and agree to the same, with an amendment as follows: Insert before the word "seven" the words "one thousand," and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 81, and agree to the same, with an amendment as follows: In line 11, page 9 of the bill strike out "the" and insert in lieu thereof "a;" and after the word "Digest," in the same line, insert "of the rules and practice of the House," and the Senate agree to the same.

That the Senate recede from its amendment numbered 82, with an amendment as follows:

Insert: "For miscellaneous items, \$15,000," "for clerks to committees, \$4,527," "for pages, \$2,369.56," "for folding documents, \$3,000," "for stenographers to committees, \$780; and in line 21, page 9 of the bill strike out "annum" and insert "session."

And the House agree to the same.

J. D. C. ATKINS,
HENRY WALDRON,
ROB. HAMILTON,
Managers on the part of the House.

A. A. SARGENT,
WM. WINDOM,
R. E. WITHERS,
Managers on the part of the Senate.

Mr. HOLMAN. I trust the gentleman from Michigan [Mr. WALDRON] will explain the principal concessions made in this bill.

Mr. WALDRON. The additions made by the Senate to this bill amounted to \$2,068,676. In the conference the Senate yields of that amount \$1,083,445, and the House recedes from its disagreement to \$1,152,576. The bill is therefore increased in the aggregate \$1,152,576 over and above the amount which it contained when it originally passed the House. Two items make up the bulk of this \$1,152,000. One is an item of \$500,000 for a deficiency in the pay of the Navy; and another an item of \$300,000 for deficiency in the Department of Justice for the current year and for prior years. The other amounts are made up of a number of small items—surveying the public lands, Indian deficiencies, &c., which I can explain if the House should desire it. If no gentleman wishes to discuss the matter I call for the previous question.

Mr. ATKINS. As a member of the committee of conference I wish to make only this remark: The large deficiency in the Navy is not for this year alone, but for this year and previous years.

The report was adopted.

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

The latter motion was agreed to.

MILITARY ACADEMY BILL.

Mr. CLYMER submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House No. 4306, making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1878, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 10, 12, 13, 14, 16, 21, and 22.
That the House recede from its disagreement to the amendments numbered 1, 2, 3, 4, 5, 6, 7, 9, 11, 15, 17, 18, 19, 21, and 23.

That the House recede from its disagreement to the amendment numbered 8 and agree to the same with an amendment as follows: Strike out "eleven thousand" and insert in lieu thereof "eight thousand nine hundred and ninety-nine;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 24, with an amendment as follows: Strike out of said amendment the words "nine hundred," and the Senate agree to the same.

That the Senate recede from its amendment numbered 25, and agree to the clause proposed to be stricken out, with an amendment as follows: After the word "than" insert "for the fiscal year ending June 30, 1878," and the House agree to the same.

That the Senate recede from its amendment numbered 26 with an amendment striking out all of the amended matter after the word "Army," in line 20, page 6, of the bill; and the House agree to the same.

HIESTER CLYMER,
JAMES H. BLOUNT,
EUGENE HALE,
Managers on the part of the House.
WILLIAM B. ALLISON,
JAMES A. LOGAN,
WILLIAM A. WALLACE,
Managers on the part of the Senate.

Mr. CLYMER. I demand the previous question.

Mr. WALLING. I ask for the reading of the bill as it will be if amended.

The SPEAKER. That is not in order.

Mr. CLYMER. The conference report alone is to be read.

Mr. WALLING. I ask you, sir, when a bill is demanded to be read on this floor where amendment is proposed, whether the House can proceed to business until that is done?

Mr. CLYMER. I desire to say—

Mr. WALLING. I raise that point of order.

Mr. CLYMER. The conference report alone is before the House, and the bill has been read as it heretofore passed the House.

Mr. WALLING. This is not the bill passed by the House.

Mr. CLYMER. The conference report alone is before the House. We have read in the conference report all that has not heretofore passed the House.

Mr. HOLMAN. The practice has been uniform that, by unanimous consent, any given amendment may be read in connection with the bill. Inasmuch as the bill has been passed, the conference report alone is now before the House. While, by unanimous consent, the practice always has been for gentlemen to ask the portion of the bill in connection with a given amendment may be read, so as to ascertain the sense of the proposition, I have never known in my experience any call upon the Speaker to have the bill read as it would be if amended. Ordinarily that would be impossible.

The SPEAKER. The Chair finds no rule which gives the right to a member to call for the reading of the bill. The conference report is the only business before the House.

The conference report was adopted.

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

The latter motion was agreed to.

REBEL RAID ON HENDERSON, TENNESSEE.

Mr. ATKINS obtained the floor.

Mr. EDEN. I ask the gentleman to yield to me.

Mr. WALLING. I demand the regular order of business, which is the morning hour.

The SPEAKER. The gentleman from Tennessee has been recognized.

Mr. ATKINS. I yield for a moment to the gentleman from Missouri to make a report.

Mr. GLOVER. Mr. Speaker, I am instructed by the Committee on Military Affairs, to whom was referred a resolution to inquire what assessments were made upon the citizens of Henderson, Tennessee, and its vicinity in reference to the rebel raid upon that place in 1862, what amount of money was collected, and what disposition made of it—which sum was intended to reimburse the citizens and Government for losses sustained, but which instead was turned over to the quartermaster and provost marshal of that department, and used for the Army to the extent of \$23,320—to submit a report and accompanying testimony; and I move they be laid upon the table and ordered to be printed.

Mr. WALLING. I ask for the reading of the report and testimony.

Mr. GLOVER. I hope not, as I only ask the report and accompanying testimony be laid upon the table and ordered to be printed.

The SPEAKER. If the gentleman demands the reading of the report, it will be read.

Mr. ATKINS. I hope the gentleman will not insist on that.

Mr. WALLING. I withdraw my demand for the reading of the report.

The SPEAKER. The reading of papers is a question to be submitted to the House.

Mr. WALLING. I have the right to demand the reading of the report.

The SPEAKER. Not as an individual right.

Mr. WALLING. I withdraw the demand.

The report and accompanying testimony were laid on the table, and ordered to be printed.

ENROLLED BILLS.

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

An act (H. R. No. 197) granting a pension to Julia A. Schutt, widow of Martin Schutt, a deceased soldier;

An act (H. R. No. 1347) granting a pension to Hattie D. McKain;

An act (H. R. No. 2847) granting a pension to Lucinda Starnes;

An act (H. R. No. 3260) to remove the disabilities of Lawrence S. Baker, of Tarborough, North Carolina;

An act (H. R. No. 3280) granting a pension to James Johnston;

An act (H. R. No. 3636) to remove the political disabilities of Richard S. Kinney;

An act (H. R. No. 3730) to remove the political disabilities of Samuel V. Turner, of Virginia;

An act (H. R. No. 3791) to remove the political disabilities of William A. Webb, of Virginia;

An act (S. No. 915) to remove the political disabilities of D. H. Hill, of North Carolina;

An act (S. No. 1096) to remove the political disabilities of R. C. Gatlin, of Arkansas;

An act (S. No. 1136) to remove the political disabilities of Wade H. Gibbs, of South Carolina;

An act (S. No. 1203) to remove the political disabilities M. L. Bonham, of South Carolina;

An act (S. No. 1272) to remove the political disabilities of William Butler, of South Carolina;

An act (S. No. 1273) to remove the political disabilities of William R. Jones, of Texas;

An act (S. No. 1274) to remove the political disabilities of S. P. Moore, M. D., a citizen of Virginia;

An act (S. No. 1277) to remove the political disabilities of Catesby ap R. Jones, of Alabama;

An act (S. No. 1278) to remove the political disabilities of John S. Marmaduke; and

An act (S. No. 1285) to remove the political disabilities of J. L. M. Curry, of Virginia.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

A bill (S. No. 1010) for the relief of Julius S. Bohrer, master in the United States Navy;

A bill (S. No. 1019) to provide for the reprint of the resolves, ordinances, and acts passed by the Continental Congress and the Congress of the Confederation; and

A bill (S. No. 1288) to remove the political disabilities of P. J. Quattlebaum.

The message further announced that the Senate had passed without amendment the bill (H. R. No. 1253) granting to the State of Missouri all lands therein selected as swamp and overflowed lands.

ARMY APPROPRIATION BILL.

Mr. ATKINS. I rise for the purpose of making a privileged motion, and ask the attention of the House.

The SPEAKER. The gentleman from Tennessee [Mr. ATKINS] calls up the Army appropriation bill.

Mr. ATKINS. Mr. Speaker, there are two inquiries which it becomes this House to make.

First. Do the revenue now coming in and the estimates based thereupon demand still further retrenchment?

Second. Whether the public service will bear any reductions in expenditures; and if so, what branches of the service will best warrant the reduction.

Our revenue, both of customs and internal revenue, for the last six months has been steadily diminishing.

The following will show the falling off of customs: The Treasury received from customs for the year ending 30th of June, 1876, \$148,071,987.61; and for the year ending June 30th, 1877, first quarter, \$37,554,728.53; estimate for three quarters, \$89,445,271.47; total, \$127,000,000, or a falling off of \$21,071,987.61 over last year.

And the following exhibits the decrease in internal revenue: The Government had received from internal revenue for the year ending June 30th, 1876, \$116,700,732.03; the first quarter of the year ending 30th June, 1877, the internal revenue was, \$28,813,336.37; the estimates for the remaining three quarters amount to \$91,511,663.63, or an increase of \$3,624,267.97 over last year; or a net falling off of revenue from both customs and internal revenue of \$17,447,716.64.

With this unfavorable exhibit, will any member of this House deny that there is necessity to cut down the expenditures of the whole service so as to accommodate our diminished and diminishing receipts? Or will they ask for the raising of taxes, or supply the deficiency by a Government loan? Now it is obvious that one of the three expedients must be resorted to.

We must either reduce below the present rate of expenditures, or borrow money by the sale of bonds, or raise taxes. Of the two latter propositions I frankly say I prefer the last one. I admit that the people are in no condition, at this perilous juncture of public affairs and in the midst of a great commercial crisis which like a maelstrom threatens to swallow up every interest in the land, to bear an increase of taxation. But would it not be the sounder policy in the long run to impose additional taxation rather than increase the national debt, thus postponing the evil to another day?

But is not either expedient less desirable than the reduction of expenditures?

John Stuart Mill says:

Honest public financing is neither more complex nor difficult than honest private management of debts and credits. The central motto which should govern both is, "live within your means." When this is adhered to, the rest is a very simple matter of keeping and collecting accounts, which duties may be performed by any competent clerk.

The inquiry then which presses itself upon the legislation of this hour is can we further reduce expenditures so as to meet our failing revenue? I am confident that it is within the power of Congress to bring our expenditures within the limits of the revenues of the Government.

Each year the expenditures should grow less instead of greater.

A comparison of the last fiscal year with this demonstrates that proposition. When the Committee on Appropriations, with the trenchant blade wielded by the late chairman, cut off nearly \$30,000,000, republican orators on this floor protested in the name of a crippled and ruined service, and declared that the deficiency bills of this session would be largely increased, thus asserting the reductions to be inopportune and inexpedient. But what is the fact to-day? The usual deficiencies under the lead of a democratic House and its officers prove to be less this first year of democratic rule than they have been for several years past. This fact attests the wisdom and sound economy of our action at the last session.

For instance, in 1874 the deficiency was \$4,083,914.26; in 1875 the deficiency was \$4,703,699.18; in 1876 it was \$2,908,171.09; while for 1877 the deficiencies are only \$682,315.07, being about one-fourth of last year and about one-eighth of former years. This speaks well for democratic economy or badly for republican extravagance. The lesson taught us by these facts is, that it is within the power of the heads of departments and bureaus, by a close scrutiny into their respective duties and by a sincere desire to co-operate with this House in every possible economy, to bring our annual budget within \$100,000,000 for the current ordinary expenditures. This most desirable result may be attained without the slightest injury to the machinery of Government, including the diplomatic, military, and naval service.

The want of this voluntary and cordial co-operation of cabinet officers and heads of bureaus with the friends of retrenchment in this House is a serious drawback to a successful result in that direction. With the most competent and economical chiefs in the departments the task of just and intelligent reduction and retrenchment is difficult and perplexing. But where extravagance seems to be the settled policy of executive and administrative officers the labor of the legislative bodies in ascertaining the simple requirements of the service becomes herculean, and well-nigh impossible of accomplishment.

In reviewing the work of the last session there are a few instances in which the knife was used perhaps too freely, while in many others it was not used enough and very frequently not at all, although it should have been.

If we expect to bring our net ordinary expenditures down below one hundred millions per annum the rule of reduction must be rigidly applied. The sum is made of parts, the whole of fractions, and many little items in the end amount to large reductions.

The principal saving proposed by this bill consists in the reduction of the number of enlisted men from 27,500 to 17,000. I will mention a few other small items of reduction. By allowing the Army, as proposed by this bill, to reduce by natural causes until it reaches 17,000 enlisted men, the item for recruiting, which is estimated at \$125,000, is left at \$20,000. In addition to that, a heavy saving may be made in transportation of the military forces by stationing the troops in defense of the frontier settlements, where they are most needed; and, as the General of the Army has suggested, and his opinion is supported by other high military authority, that infantry is more effective against the Indians than cavalry, a large reduction of expenditure might be made by adopting in the main the former instead of the latter arm of the service, as is provided in the bill.

An additional saving, as well as a great convenience, may be effected by repealing the act of February 13, 1870, which provides for the separation of the various items of appropriation, and allowing them, as formerly, to be made in bulk, thus saving large sums of interest on idle capital, clerical hire, and other expenses. This is especially recommended by the Quartermaster-General.

This bill does not touch the salaries of officers, with two exceptions, to wit, the General and Lieutenant-General. It reduces the salary of the General of the Army from \$13,500, with fuel, quarters, &c., amounting to \$5,000 more; making in all \$18,500. When the office was created the salary was \$4,800 and other allowances amounting to \$11,704 per annum in all. The Lieutenant-General is reduced from \$11,000 to \$9,000.

The proposed reduction of the Army from the basis of 25,000 enlisted men to 17,000 in the matter of economy is important. And further, the bill makes no appropriation for the additional and extra number of cavalry which was hurried through Congress to meet the threatening raids of the Sioux tribe of Indians, and about which there has been no little political scandal, and connected with which a dark and bloody tragedy has been enacted.

It will be remembered that the reduction made for the support of the Army at the last session were vigorously opposed by the Senate, and that the proposition for a joint committee of both Houses and the Secretary of War to draw up a plan for the re-organization of the Army was originated and urged as a substitute for the proposed reductions of the House of Representatives. That joint commission was to sit during the vacation, and was under the terms of the law to report to Congress by the first of last December. But it is now the close of the Forty-fourth Congress, and no report has been made.

The House, therefore, it seems to me, in the absence of the report for the re-organization of the Army promised us at the last session as a reason why our bill should not be urged at the time, is now fully justified in again submitting proportionate reductions proposed in the bill which passed that body last year. And I will add that in the main we have endeavored to conform the pending bill to that one.

In the appropriations for the Army, as in every other department of the Government, the expenditures for the present fiscal year are materially less than former years, while the next fiscal year promises still more flattering results to the friends of economy. As late as 1874 the amount appropriated for the Army was \$31,795,801.08, while the sum appropriated for this present fiscal year ending 30th of June, 1877, is \$25,987,167.90, being less than the appropriation of 1874 by \$5,808,633.18.

The estimates submitted to Congress by the War Department on the 1st of December last for the next fiscal year were \$31,984,975.90, exclusive of the Military Academy. This estimate was based upon a basis of 27,500 fighting men. Upon being requested by the Committee on Appropriations to furnish estimates upon the basis of 22,000 enlisted men, the sum was reduced to \$26,229,388.30, being \$4,555,587.90 less than the estimates of the 1st of last December. The sum proposed by this bill is \$22,139,000, which is \$9,845,975 less than the original estimate, owing in part to the large reduction in the force.

This House remembers the extraordinary efforts of the War Department at the last session of Congress, just about the beginning of the presidential campaign, to induce Congress—in which it finally succeeded, but not by my consent—to increase the Army by providing for the recruiting of twenty-five hundred cavalry, avowedly to be employed in what was grandiloquently styled the Sioux war, but which no doubt were intended to supply the places of infantry troops which were withdrawn from the Territories and sent into the Southern States to control elections. Gentlemen also remember that so soon as the Army was increased the savage Sioux army, which but yesterday, as it were, was reported by semi-authentic sources to number ten thousand strong, dwindled into flying detachments of plundering robbers, and scattered over the broad expanse of the uninhabited plains and mountains of the outlying Territories. And that was the end of the organized Sioux war. But the Government still retains the increased force in the field, and desires its continuance at least for the balance of the year, to hunt those marauding bands of savages; that is, the Sioux war is still raging and peace is not declared, and hence the Army must be kept up to the full standard of 27,500 enlisted men.

The time has come when this Government should get on a business footing. It has been on a grand tourney of extravagant display long enough. The time has come when all supernumeraries should be dispensed with, and all superfluous and unnecessary offices and bureaus and expenses and unnecessary commissions should be left off; and let the Representatives of the people, who are charged with the duty of levying and collecting taxes off of the people, and paying them out to an Army, both military and civil, see to it, that these extraneous and unnecessary avenues of the public expenditures are closed up. Let us simplify the machinery of Government, and trust the people to govern themselves, remembering that the worst form of government is that which governs too much. Let us have less routine and less red tape, fewer and more competent and more honest officers; let the Government and the people come nearer together; let the Government spend less, and thereby let the people have more of their own earnings. In other words, let us have a frugal Government, and a well-to-do people, instead of a splendid rich Government and a spoiled poor people. Let the reforms so happily inaugurated by the majority in the House be continued until this auspicious result is attained. Then shall we deserve and receive the plaudits of a patriotic, enlightened, and relieved constituency.

There is a practical moral and political benefit in the reduction of the force, in the assertion of the principle which is thereby set up and maintained, which is that the Army as an adjunct of civil government is wholly unnecessary and actually hurtful.

This leads me to the consideration of the necessity and use of a large standing army in this country.

Why should we have a large standing army? The physical impregnability of the United States against foreign invasion renders a standing army for that purpose entirely useless. Every war in which as a nation we have been engaged, from the revolution of 1776 to the

present time, demonstrates the practical feasibility of relying upon citizen soldiery for all purposes of defense.

When we look upon the map of this country and see that our territory is bounded on the north principally by the great lakes, and on all other sides by ocean fronts, we take in at a glance how impregnable against foreign assault nature has made our frontiers. In Europe, where the territorial limits are separated from their neighboring nations by mere imaginary lines and where the population is much more compact and greater to the square mile; where a much larger proportion of the people are living within the limits of great cities, and are more dependent and under greater need of physical restraint, it is considered necessary that large standing armies be kept up to overawe the people and preserve order and maintain the supremacy of the laws. Another incentive stimulates European governments to maintain large standing armies: to keep their people in subjection to hated forms of government, built upon the broken hearts and crushed hopes of the toiling millions, for the benefit and support in royal magnificence and splendor of crowned princes and their long retinue of courtiers and dependents. But the greatest necessity now seems to exist to maintain large standing armies, with the most expensive armaments, by all of the first-class and many of the second-class powers of Europe, for self-defense. Each nation is jealous and distrustful of the power and good faith of all the rest; hence, for centuries Europe has been little better than a grand military camp.

The amount of money which has been spent in the life-time of this republic by European powers to carry on their wars, and maintain their armies in time of peace up to the standard of a war footing, had it been properly and equally distributed, would have educated every child born as their subject, and abolished every almshouse within their borders, and placed every one within the reach of a competency. Instead of that pleasing picture of European society, continued wars and standing armies have wasted the resources of the common people, diverted the minds of the masses from habits of frugal economy, blinded the youth with the glare and pomp of military adventure, made the masses tenants at the will of a bonded and landed aristocracy upheld by standing armies made insolent and tyrannical through pampering and the lavish expenditure of gold. Who can fathom the depths of human woe, calculate the losses, morally and materially, inflicted upon society, or properly estimate the repressive influence upon the world's general progress, which are the resultant forces of large standing armies, whether of invasion or occupation, or even of defense?

The idea is un-American and antirepublican; it is of European and monarchical growth. The structure of their forms of government—based upon force instead of upon the consent of the governed, as in this country—the maintenance of order, and the preservation of peace and the execution of the laws are only compelled by the presence of the army. Even the very police duty of those countries is performed by detachments from the army, while in this country, under our admirable dual system of Federal and State governments, each moving in concentric circles, always paralled yet never conflicting, the regulation of public order is left to home government or local authority, all based upon the consent of the people. At least such is our theory, and for long, long years such was our practice. And if we have wandered away from that sensible, just, and economical mode of government and fallen into the European idea of preserving public order by the army, the sooner it is abandoned the better. If there has ever been since the first few months following upon the close of the late war between the States any necessity for the intervention of the Army to secure the execution of the laws made in pursuance of the Constitution of the States and of the United States, I have yet to learn of the instance. Had the people been allowed without Federal coercion to manage their own affairs since the war, they would have done so much more justly to all concerned and with far greater satisfaction to a very large majority of the people even of the Northern States. The disrupted condition of society which the war left among other evils as a heritage to the South, and which almost always follows civil wars from necessity, afforded a pretext for the use of the Army in those States. And as the dominant party determined to tear down the old State governments and also the new ones which were set up by President Johnson and enter upon its famous and ill-advised reconstruction policy—and I only speak of it now for the purpose of a historical illustration—and to do this were compelled to inaugurate the rotten borough or carpet-bag system of representation and government, which required, or they supposed it did, the presence of the Army to make it successful, time, partial success, and habit have rendered the use of the Army in the Southern States a seeming necessity to the ruling authorities at Washington. It is to this use of the Army that I object. It is degrading to the dignity of an American soldier to make a policeman of him; it is insulting to his chivalry and patriotism, it is dwarfing his noble profession to the ignoble level of a Turkish Janizary, who never tasted the sweet waters of liberty, but was born and bred beneath the frowning shadows of despotism and thinks it an honor to lick the hand of his master or but touch the hem of his garment or die for his defense.

American soldiers policemen! Insult if true, and slander if pretended to cover up the tyrannical and unconstitutional use of the Army by protecting and keeping in power tyrants whom the people have not elected; and but for Federal military protection their governments would fall at the first breath of popular expression. The

hollow insincerity and circumlocution which have attended every step of the unconstitutional use of the United States Army deserve the scorching denunciation of every true soldier and of every lover of his country and of its Constitution.

The process has been to first stifle the lawful will of the people and set up in power these minions of despotism. This has been done by driving at the point of the bayonet the legally elected legislators and officers of those States from power. United States district judges have been invoked to violate the law and issue orders wholly illegal and unconstitutional, under which pretended judicial authority these unpardonable outrages upon civil liberty have been committed. In this manner these pretenders becoming the *de facto* governments, the President then virtuously and patriotically responds to their call for troops to protect them in their infamous assumption of authority. When this point is reached the law-abiding Executive, full of devotion to the Constitution and with a heart always yearning for peace, panoplied with magisterial power, recurs to the fourth section of the fourth article of the Constitution with infinite satisfaction, and forthwith military aid is afforded the men whom he, in violation of the Constitution, first created with his own usurping hand. Such has been the process.

The last section of this bill seems to me to be a very salutary one. It provides that no part of the money appropriated by it shall be used in any State to maintain the political power of any State government, but to leave the people of a State perfectly free to regulate their own affairs in their own way, subject to the Constitution of the United States.

The Federal Constitution provides that the United States shall guarantee to every State a republican form of government. The language is that the United States shall guarantee, &c., not that the President shall do so. Is the President considered the United States? Or does the political power reside in Congress, restricted by the limitations of the Constitution? Now, I grant that the President is made by the Constitution the Commander-in-Chief of the land and naval forces of the United States, but he is subject to laws and regulations made by Congress.

Congress alone has power to raise and equip armies and to provide laws and regulations for their government.

Congress in its discretion can refuse to vote supplies to the Army and can actually repeal all laws authorizing its existence. It can disband the Army. Congress alone has the right to declare war; that is, to say whether the Army shall fight or remain idle. If Congress has the power to refuse to allow the Army to enter into active hostilities with a public or foreign enemy, surely it has the right to say that it shall not be used to destroy the sovereignty of a State, to bind it hand and foot, and hand it over to the torture of the oppressor.

If Congress has the right and power alone to appropriate money for the support of the Army, it surely can impose a condition or regulations upon the particular use that the money is applied to. Because if it has not that power, then, sir, has the Executive the power over both the purse and the sword.

Gentlemen have not forgotten surely that such a restriction was placed upon the Army appropriation bill in the Thirty-fourth Congress in reference to the use of the Army in the Territory of Kansas; that it was introduced by Mr. Barbour, of Illinois, a republican, and was voted for by the whole party in the House, and sustained by all of the republican Senators. We are then in this country not without a precedent in this respect. I may add, too, that similar instances are cited in English history in the contests for liberty between the Commons and the Crown. But in free America, as gentlemen on this floor often boast, the doctrine that the people through Congress should control the purse and sword is heretical, I suppose.

The effect of the unlawful use of the Army in the States to overturn one State government and set up another has progressed to such an extent as seriously to alarm the friends of constitutional government of all parties.

When the President of the United States undertook to overturn the present State government of Arkansas, and in a brief and soldier-like message to Congress, and which has no parallel in American history, announced that intention, no further blow was needed, had he executed his threat, to have effectually destroyed and eliminated from our system the principle of self-government by the States as members of the American Union. When I look back two brief years and remember how narrowly that splendid State escaped the hand of the political executioner, and contemplate the ruin which would surely have overtaken the other States of the South and eventually of the whole sisterhood, I wonder that such acts should longer meet the approval of the masses of the people in the North, or even be tolerated by them. But yet we see this potent agency, the Army, scattered throughout the Southern States in a presidential election year with the evident approval of the majority of the people of the northern States. We see, too, within less than two months a corporal of the guard of the Army seating and unseating the legislators of a State. We see the halls of legislation of one of the original thirteen States—the home of the revolutionary heroes Marion and Sumter—barricaded by usurpers, and they protected by the mailed hand of the central Government.

The events which have been for the last three months and are now transpiring within this Capitol, to my mind furnish a strong argument for the decrease of the Army.

Within this time the country has witnessed the remarkable spectacle of two defeated pretenders claiming the governorship of two States which had repudiated them at the ballot-box and elected others, being upheld and protected in their forcible usurpation of the State-house of each Commonwealth by the military arm of the General Government directed by the Executive. Coupled with that outrage upon popular liberty, the voice of the people of two States in their choice of President has been smothered by self-perpetuating and corrupt returning boards, ready to sell the rights of the people for gold; and when the majority of this House was beginning to despair of a fair adjustment in counting the electoral vote for President, and gave indications that it intended to make an election, which it surely would have done, regardless of personal consequences, should the Senate arbitrarily attempt the same without its co-operation—under these interesting circumstances and grave responsibilities we all remember the Executive threat came floating around and into this very Hall to arrest the democratic members of this House and imprison them in Fort Monroe by the military which had been gathering here for weeks from remote sections of the country. This Executive threat appeared day after day in the columns of the republican newspaper of Washington, the accredited organ of the President and his Cabinet, and never was rebuked or denied.

The advantage and power of an army of twenty-five thousand men, even in a great country like this, is not to be despised when brought against the people, however righteous their cause, wholly unorganized and without equipments and armaments. But suppose we had had an army of one hundred thousand men? Would the soldier at the head of the Government, who is said to have made these threats, and which have not been authoritatively denied and cannot be in my opinion, and who no doubt, as did his courtiers and confidants, dream in daylight of the necessity being forced upon him of cutting the Gordian knot of our political troubles and holding over in the teeth of the Constitution—would the difference between an army of twenty-five thousand and one hundred thousand men have added anything to his boldness or increased the temptation to wrest power from the people by either inaugurating the defeated candidate of "his own party," or seizing the helmet of state himself by a *coup d'état* after the style of Louis Napoleon? Instead of detachments of the Army hovering around this Capitol to be held in readiness for the butchery of liberty, if they are not needed to defend the frontiers let them be disbanded and return to civil pursuits at once, and the burden of their support, which is not less than \$1,000 for each soldier, on an average, be taken off the public Treasury.

The plea which a usurping Executive offers for these flagrant outrages of quartering troops upon the people in time of peace is that of preserving the peace within the States. It will not bear the test of examination and of criticism. Where did the Executive derive his authority to send troops to Arkansas after that people had recognized their government and elected a new set of State officers? Neither Governor Garland or the Legislature applied for military reinforcements to suppress insurrection or repel invasion. And it was only the minion of Federal power, and not the legally elected governor or Legislature, that asked for troops to be sent to Louisiana. Nor did the "Old Dominion," where repose the ashes of four of the most renowned Ex-Presidents, including the Father of his Country and the immortal author of the Declaration of American Independence and the chief patron of the Constitution itself, ask for troops, when only last year a company was arbitrarily quartered in the city of Petersburg as a menace to the citizens of that Commonwealth of the Revolution.

Now, sir, as one of the untrammelled Representatives upon this floor, I declare here to-day, and now, that it is time the American Congress should stamp the seal of condemnation upon this unlawful use of the American Army lest it be accepted hereafter by some ambitious and wicked President as a precedent. It is time that the iron hand of the soldier was taken from the throat of the prostrate and bleeding form of liberty. If we have no further and better use for the Army let it be disbanded at once and the civilization of the age will rejoice for the deliverance; the desolated form of constitutional freedom will again rise up in those downtrodden States and smile upon a contented people, trained in the arts of government, liberty, and law.

Every argument has been made to induce the republican party to change its policy of vengeance and remorseless hate toward the conquered South. In vain have the people South borne uncomplainingly the overthrow of their rights of self-government, submitted to military governments, succeeded by the still more rotten borough system of carpet-bag rule, which has eaten up their substance and prostrated every industrial interest, swelled the lists of tax assessments and collections upon realty to the point of confiscation, and bankrupted both government and people. Every argument suggested either by human reason or human sympathy has been exhausted, and yet no relief has been granted. Our people have witnessed the flagrant infractions upon the Constitution with scarcely a murmur, while a cry of denunciation in the North has rung out even in notes of warning. We have cultivated the sentiment of patriotism and nationality, no matter whatever indignation and oppressions have been heaped upon us by an unforgiving party, until really that virtue shines more resplendently in southern than in northern hearts; for it is not an infrequent event that the Government falls under the bitter animadversion of northern speakers and writers; those times when never a word escaped the lips or slipped the pen of

a southerner. Even now many northern writers and statesmen laugh at the Constitution, and deride the Union which admits to its embrace the Southern States. And yet more than half of the northern people either regard us, or affect to regard us, with suspicion.

Rumor floats to-day about this Hall that the Executive will or has recognized the Nicholls government in Louisiana. Why not recognize Governor Hampton as well? Has he still a hope of keeping South Carolina in the republican fold, and therefore declines to recognize that gallant and patriotic southern leader, while he despairs longer of holding Louisiana in the radical camp? Or does he think that Louisiana, or rather Wells and his villainous returning board, have done enough for that State in being the instrument of grabbing the presidential office? Are these rumors true? I hope they are. But why do gentlemen this morning, since I came into this Hall, so bitterly protest against this restrictive clause in this bill prohibiting the use of the troops to uphold pretended political power in any of the States against the will of the people? Is it the prerogative of the President or is it the right of Congress to secure republican forms of government to the States?

The scenes through which we are passing, so disgraceful to the authorities, need some relieving feature. The truth is, Mr. Hayes, coming into power as he does, ought to be thankful to his predecessor for any relief he can render in the few short hours left him. Thank God, those hours are few in number. Twelve long, dreary, years have passed by, during all of which time not a hand has been raised against the authority of the Federal Government. The symbol of its power has waved in peaceful triumph over every square foot of southern territory, whether in the crowded city or among the rural districts, or whether floating from the masts of ships and steamers as they ride upon the rolling waves, which seem to murmur back in gentle anthems the music of the Union. We have opened our doors and cordially invited our northern fellow-countrymen to come and live among us and enjoy our genial climate and cultivate our prolific soil; and hundreds of thousands have done so. We have made governors and Senators of some who have settled among us, that they might be of us but not to oppress us. Failing in every effort to convince our enemies of our good faith and patriotic intentions, except an appeal to their pity, which sooner than make the true southern heart would prefer to cease to beat; having exhausted every moral, social, and political consideration, we have arrived at the last argument in this difficult theorem. It is plain that it is now a question of self-interest with the North, for the wave of poverty and bankruptcy has reached northern commercial centers and now stares the whole country in the face.

Far-seeing democratic statesmen, both North and South, have for years past drawn aside the veil of the future and painted in vivid portraiture the very picture of distress and gloom which now hangs from the outer walls of millions of households. The philosophical truth has again and again been enforced that it was impossible for the body to remain sound, healthy, and vigorous when one or more of the limbs is stricken with paralysis and disease. The decaying condition of the prostrate States could not in the nature of things be confined to themselves, but must affect every member of the body-politic, and the commercial life-blood which flows through them must flow through all and eventually enfeeble all. The South, in her day of pride and prosperity, was the liberal and profitable patron of northern trade and commerce. The profits of northern merchants, dealers, and mechanics, and even farmers, were sought and highly prized. What is that southern trade worth now? What has destroyed those profits and ruined this internal commerce? Let the history of the republican party for the last decade answer that question. But the momentous issue which now presses upon the people North as well as South is, shall this same ruinous policy continue? Shall the oppressive hand still hold us in its iron grip, or shall peace, fraternity, home rule, and prosperity be substituted for the erring policy of the past?

But there is a better and a different use for the Army. That use is principally to protect the border settlements on the frontiers of Texas and in the Territories. A few men, very few, are required to man our forts upon the ocean front; the rest should be conveniently stationed to keep the savage tribes of Indians in subjection and to drive back the cattle thieves and robbers of Mexico on the Rio Grande. Although I do not profess to have any special knowledge of my own on the subject, yet I am assured from unimpeachable sources and from facts now patent to all intelligent men that a much less force than we now have is required for this service.

How many of the United States troops are now on the frontiers? Is it possible that the authorities have withdrawn one single company or soldier necessary to the protection of the helpless settler with his wife and little ones during the past summer and autumn while the presidential election was pending, in order that they might be transported at immense cost to the Government to any of the Southern States to "bull-doze" the voters of those States and carry the election for one of the political parties? If so the blood of those victims will never fade from the page of history which shall record the misdeeds of this Administration. Take away the soldiers from among the people; call constitutional government into power as they are now ready to exercise it by the voice of the people, the moment that Federal power shall loose its clutch; throw the responsibility upon the people for good government, for the protection of the life and property of every human being, and all will be peace, good-will, and pros-

perity. As proof of this, contrast Southern States under democratic with their condition under republican rule; Georgia under Smith and Colquitt with Georgia under Bullock. But particularly examine the different and much improved condition of affairs in Arkansas under the guiding hand of her patriotic and statesmanlike Garland with the rule of Clayton. No, the people only need to be trusted and they will act wisely and justly.

The number of troops which we need to provide payment for at this time is the number necessary to defend our borders; whatever number is essential to that end I am prepared to vote for and advocate, and not another soldier. Send capital and muscle to the South instead of soldiers if you want peace and prosperity.

The time has arrived when the good of the Republic justifies, in fact demands, that the policy of controlling elections by the bayonet should cease. The rights and privileges of the Southern States, in which military force has been used to set aside the verdict of the people at the ballot for President and Vice-President, are not alone violated. If that were all, those States might linger yet for many years shorn of their equality in the Union; but the correlative rights of all of the other States of the Union are equally affected by the overthrow of constitutional liberty in the Southern States. The people of New York and New England, of the Northwest and of the Pacific slope have been defrauded, while the South has been trodden beneath the iron heel of the oppressor, "with an eye to pity, but no arm to save."

No lower depth of humiliation remains to a people once proud and free than to realize the necessity of having to submit, through long and hopeless years, to a despicable tyranny, which insults while it robs the people, and skulks in craven cowardice the responsibility of its crimes behind the glittering sheen of Federal bayonets. Can constitutional liberty longer endure under bayonet rule or will it assert itself? But why need the South, more than the North, specially repine over the decay, if not the death, of constitutional government in the prostrate States?

It is true there has only been a nominal freedom at best since the war, living all the time under duress, restrained by the war prejudices of the northern people from the assertion of their manhood. For twelve long years some of the Southern States have not known self-government or constitutional freedom. And the Army has been used as the main instrument to effect their overthrow and uphold this despotism. Is it longer the policy of the American people to hold any American State bound to the car of carpet-bag rule by the aid of the Army? That is the issue. For one, I repeat it, I will never vote to appropriate money for the support of the Army if that is its mission.

The people of Louisiana and South Carolina cannot be longer fettered by my vote; the Army must be removed from their soil.

The cup so often quaffed by the southern people is this hour commended through the Louisiana returning board and the commission to the northern people. The people of the North are now made familiar with the infamies and tyrannies of the republican party and the Administration at Washington for long years heaped upon the Southern States. That it will be drank in submission I shall not believe until I see it, but that a hurricane of indignation will at the next election sweep these usurpers from power I have not the least doubt. I know the people South are growing weary, and well they may; hope deferred maketh the heart sick, but the ways of peace are the paths of victory to the democracy, and time will yet vindicate the truth.

Mr. BANNING. Mr. Speaker, the bill to fix the pay and allowance of Army officers, which was reported from the Military Committee, passed this House in March of the last session of this Congress. That bill made the following reductions in the pay and allowances of Army officers:

First. It reduces the pay and allowances of the General of the Army from \$18,081.91 to \$10,000, thus saving to the Government \$8,081.91. I do not think it necessary for me to stop to argue the propriety of this reduction or the sufficiency of the remaining salary of \$10,000. It is double that of a Senator, 25 per cent. more than that of a Cabinet officer or a supreme judge, and as much as a proper performance of our duties will admit of our giving the distinguished commander of our armies.

Second. The bill reduces the pay and allowances of the Lieutenant-General from \$13,593.86 to \$8,000 a year, saving \$5,593.86; leaving the Lieutenant-General a salary which is 60 per cent. more than the salary of a Senator, being a salary for life, equal to that of a Cabinet officer.

Third. The bill reduces the pay and allowances of a major-general from \$10,093 to \$6,000, saving on the pay of three major-generals \$12,281.56; leaving the annual pay of the major-general \$1,000 more than the pay of a Senator, which is an ample compensation for these officers.

Fourth. This bill reduces the pay of the brigadier-general from \$7,613 to \$5,000 per annum, saving on the pay of fourteen brigadier-generals \$35,781.13; leaving the pay of each the same as the pay of a Senator, making a saving on the general officers' pay of \$60,000.46 annually.

The pay proper of the colonel, lieutenant-colonel, major, captain, and first lieutenants is not changed. These are the hard-working officers of the Army, many of them having been general officers in

the war; men who led their commands in action; whose long and faithful service entitles them to the highest consideration, whose pay proper is not too large, and, in the opinion of the committee, should not be reduced.

The bill reduces the pay and allowances of all second-lieutenants \$200 per annum for the first four years of their service, fixing the salary at \$1,200 not mounted and \$1,300 mounted. This amount is, in the opinion of the committee, a fair compensation for young, inexperienced officers of this grade. The amount is sufficient for their support, and the testimony of experienced soldiers is that small salaries are best for young officers who know but little of the real value of money. It teaches them to avoid extravagance and practice economy. This pay is more than the average earnings of young men just starting in civil life. It is estimated that this reduction will make a saving of \$25,000 per annum.

Sixth. The chaplains' pay is reduced from \$1,500 per annum to \$1,200 per annum. This will make a saving of \$10,200.

Seventh. The repeal of the statute authorizing regimental adjutants and quartermasters to be extra lieutenants is recommended by many experienced officers of the Army and by the Secretary of War. It is a reduction of eighty officers, who, as extra adjutants and quartermasters, are not needed, and is a saving of \$121,700 annually.

Eighth. The reduction of the rent of officers' quarters from \$18 per room per month to \$12 per month it is estimated by the Quartermaster's Department will save \$107,839.30 annually, and leave allowances to officers for quarters as follows: To a colonel, \$60 per month when on detail; to a lieutenant-colonel, \$48 per month; to a captain, \$36; and to a lieutenant, \$24.

Ninth. The estimated saving in fuel is \$5,996.16 per annum. The reduction of the number of horses allowed officers and preventing officers drawing forage for any horses except such as are actually owned, kept, and used in the service, it is estimated, will make a saving in forage of \$140,000. Add to these items the savings made in reduction in amount of transportation, pay, and allowances of extra lieutenants as adjutants and quartermasters, and it will be found that the passage of the bill will save more than \$500,000 annually.

These reductions of pay and allowances left the Army officer well and handsomely paid; better paid than they were paid during the war; better paid than the officers of any army in the world, and 50 per cent. more salary than they would average if they were reduced to the necessity of earning their living as civilians.

This bill, the passage of which would save the Government near a half million of dollars annually, is yet pending in the Senate.

Our Army consists of 25,400 enlisted men and 2,151 commissioned officers on the active list and 300 on the retired list; being a total of 27,551 officers and men. Of the officers there are 1 General, 1 Lieutenant-General, 3 major-generals, and 14 brigadier-generals, 67 colonels, 86 lieutenant-colonels, 242 majors, 29 aids-de-camp, 501 captains, 40 adjutants, 40 regimental quartermasters, 1 battalion adjutant, 1 battalion quartermaster, 588 first lieutenants, 445 second lieutenants, and 34 chaplains, with the rank of captains of infantry. There are 40 sergeant-majors, 40 quartermaster sergeants, 40 chief musicians, 60 principal musicians, 2 saddle sergeants, 10 chief trumpeters, 114 ordnance sergeants, 148 commissary sergeants, 200 hospital stewards, 1 battalion sergeant-major, 1 battalion quartermaster-sergeant, 430 first sergeants, 1,910 sergeants, 1,816 corporals, 240 trumpeters, 628 musicians, 240 farriers and blacksmiths, 620 artificers, 120 saddlers, 430 wagoners, 205 privates of the first class, 179 privates of the second class, leaving our Army with 16,655 private soldiers.

A further examination shows the officers and men distributed as follows: General officers, 11; military secretary to the Lieutenant-General, 1 lieutenant-colonel; aids-de-camp to general officers, 29, of whom 6 are colonels, 2 lieutenant-colonels, 9 captains or lieutenants, 12 lieutenants. In the Adjutant-General's Department there are 1 brigadier-general, 2 colonels, 4 lieutenant-colonels, and 10 majors; 17 in all. In the Inspector-General's Department there are 1 colonel, 2 lieutenant-colonels, and two majors; 5 in all. In the Bureau of Military Justice there are 1 brigadier-general, and 4 majors; 5 in all. In the Quartermaster's Department there are 1 brigadier-general, 4 colonels, 8 lieutenant-colonels, 14 majors, and 30 captains; making 57 commissioned officers in the Quartermaster's Department. In the Subsistence Department there are 1 brigadier-general, 2 colonels, 3 lieutenant-colonels, 8 majors, 12 captains; 26 in all. In the Medical Department there are 1 brigadier-general, 6 colonels, 10 lieutenant-colonels, 50 majors, 69 captains, 56 first lieutenants, 200 hospital stewards—being 192 commissioned officers, 200 hospital stewards; 392 in all. In the Pay Department there are 1 brigadier-general, 2 colonels, 2 lieutenant-colonels, 50 majors; 55 in all. In the Corps of Engineers there are 1 brigadier-general, 6 colonels, 12 lieutenant-colonels, 24 majors, 30 captains, 1 battalion adjutant, 1 battalion quartermaster, 26 first lieutenants, 10 second lieutenants, 1 battalion sergeant-major, 1 battalion quartermaster-sergeant, 20 sergeants, 16 corporals, 8 musicians, 80 privates of the first class, 74 privates of the second class—being 109 commissioned and 260 enlisted; making a total of 369. In the Ordnance Department there are 1 brigadier-general, 3 colonels, 4 lieutenant-colonels, 10 majors, 20 captains, 16 first lieutenants, 40 sergeants, 80 corporals, 230 privates—being a total of 54 commissioned and 350 enlisted; a total of 404.

Signal Corps, 1 colonel, 400 enlisted men.

Post chaplains, 30.

In this statement we have the general officers and staff officers of our Army, consisting of 562 commissioned officers. Add to this the non-commissioned staff unattached to regiments—114 ordnance-sergeants and 148 commissary-sergeants, 200 hospital stewards, 60 sergeants, 96 corporals—and we have the commissioned and non-commissioned staff.

We have 10 regiments of cavalry; which are made up of 10 colonels, 10 lieutenant-colonels, 30 majors, 120 captains, 10 adjutants, and 10 quartermasters with the rank of lieutenant, 120 first lieutenants, 120 second lieutenants, 10 sergeant-majors, 10 quartermaster-sergeants, 10 chief musicians, 10 saddler-sergeants, 10 chief trumpeters, 120 first sergeants, 600 sergeants, 408 corporals, 240 trumpeters, 240 farriers and blacksmiths, 120 saddlers, 120 wagoners, 6,480 privates, 432 commissioned officers; being a total of 8,082 officers and men in our cavalry service.

We have 5 regiments of artillery; consisting of 5 colonels, 5 lieutenant-colonels, 15 majors, 60 captains, 5 adjutants, and 5 quartermasters, 120 first lieutenants, 65 second lieutenants, 5 sergeant-majors, 5 quartermaster-sergeants, 5 chief musicians, and 10 principal musicians; 60 first sergeants, 250 sergeants, 250 corporals, 120 musicians, 120 artificers, 60 wagoners, 1,725 privates, 280 commissioned officers; total, 2,880. We have 25 regiments of infantry; consisting of 25 colonels, 25 lieutenant-colonels, 25 majors, 250 captains, 25 adjutants, and 25 quartermasters, 250 first lieutenants, 250 second lieutenants, 25 sergeant-majors, 25 quartermaster-sergeants, 25 chief musicians, 50 principal musicians, 250 first sergeants, 1,000 sergeants, 1,000 corporals, 500 musicians, 500 artificers, 250 wagoners, 8,460 privates, 877 commissioned officers; making a total in the infantry of 12,085 non-commissioned officers and privates.

At our Military Academy we have 9 professors and 300 cadets. Add to these statements 300 Indian scouts, and we have the make-up of our Army.

An examination of these figures shows that our Army needs to be re-organized; that it is more an army of officers than an army of men; that the regiments and companies are mere skeletons, and that consolidation of regiments and companies is demanded, required, and necessary to make our Army what it should be, efficient and useful. We have 45 regimental organizations fully officered.

In these there are enough officers to command 60,000 troops, we have but 25,000, of whom only 16,665 are private soldiers.

On the subject of consolidation, General Sheridan has said:

If you increase the size of the companies you diminish the expense. One great item of expense at present arises from the fact that the companies are so small as to be non-effective. In order to get an effective body of men for any purpose, it is necessary to take three or four companies from different places. That kind of management is, of course, expensive; and that is what we are obliged to resort to at present.

And Captain Corbin, of the Army, in his examination says:

Question. Have you any information or opinion that you can give the committee on the question of consolidation?

Answer. I do not know that I have, except that I think the efficiency of the Army would be greatly enhanced by increasing the size of the companies. I think that the trouble we labor under now with the present company organization of infantry is that it is too small. I believe the maximum is fifty men, and after you take out the non-commissioned officers and the cook, and allow for the sick and the prisoners in the guard-house and the men who are detailed to drive the teams, it leaves hardly any men in the company for duty. I do not think the company organization should consist of less than one hundred men, either in time of peace or time of war, either for active operations or for purposes of instruction. It is rather stupid work for an officer to go out and drill four men. After having been a captain for ten years, I have frequently gone out with only four men. It is very hard to make an entertainment of that kind partake of the nature of a military movement. We go on parade duty regularly, to be sure, but the men look upon it as a kind of farce. I have seen a captain go on parade with only his sergeant, the captain forming the front line and the sergeant the rear. The officer cannot take as much interest in that as if he had a hundred men to look after. I think, therefore, it would tend greatly to the efficiency of the Army if you were to increase the companies, even if he had to assign more officers. A company of one hundred men with five officers would be much more efficient than two companies of fifty men each with six officers. Then, the internal administration of a company of one hundred men requires no more sergeants or cooks or commissary-sergeants than a company of fifty men. It is, however, more trouble for an officer to take care of and drill a hundred men than fifty. So, probably, if the companies were increased in size, it would be well to increase the number of officers. I have been told by officers of our Army who have visited Europe that they were greatly impressed with the difference in the size of the companies, and General Hazen and other officers who are capable of judging have told me that that was about the only advantage the European armies had over ours. A company there means a hundred or a hundred and fifty efficient men.

Q. Then, if consolidations and reductions must be made, you would recommend the consolidation of the companies into larger ones?

A. I would, most assuredly. I think if we are to have but 20,000 men in the Army, the larger the companies are made the more service our commanders can get out of the troops, and I think you will find that that is the testimony of most of the officers. I know if I were to go to command a post of a hundred men I would rather have one company of a hundred than two companies of fifty men each, because it would give me more men for active duty. To maintain a company organization you have to have a certain number of men who are useless as soldiers, being engaged on other duty; for instance, four of the best men in your company are taken up as sergeants, so that in two companies of fifty men each there are eight sergeants, and in a company of a hundred there would be just the same number; and the same is true of the musicians, cooks, company clerks, and commissary-sergeants. Then, the property of a large company is just as easily looked after as that of a small one, and one man can do the work as efficiently as two.

I know it is said that we only want a skeleton army and that we must educate officers to have them ready for war if it should come. This is perhaps true to some extent, but unfortunately for our Army the figures which I have produced show that too many of our officers are being educated in the staff, in the Quartermaster's, Subsistence,

Medical, Pay, and Signal Departments, where the tables show it requires more rank to purchase army boots and clothing, distribute hard tack, prescribe quinine, keep accounts, and signal the weather, than it does to command a battalion or meet the enemy and put him to flight.

The staff of our Army, although composed generally of good men, is entirely too large and stationed in large cities, where rents are high and living expensive. It is composed of too many departments or bureaus, too many officers, and is too expensive.

The Quartermaster's and Subsistence Departments should be consolidated, the Bureau of Military Justice abolished, the aids-de-camp reduced in number and in rank, the Pay Department reduced to twenty-five officers, the Signal Service transferred to the Coast Survey and attached to that scientific department. The thirty post-chaplains should be subject to re-appointment and confirmation every four years; then the complaints against them, such as are found in the reports of officers to the Military Committee of last session, would cease. The retired list of the Army should be examined, in order to determine whether any officers on that list are fit for the active list.

Our officers educated at West Point should have an opportunity to review their studies in teaching the soldiers at all posts as they are now taught in the French and German armies, thus to elevate the standard of the soldiers of our Army and prepare them for usefulness in the event of war and for promotion, to which they should be encouraged to aspire. The pay of the sergeant-major, quartermaster-sergeant, and first sergeant should be increased so that these hard-worked men may receive a better remuneration for their labor.

Mr. Speaker, I allude to these much-needed reforms in our Army and am glad to be able to say that if they are not made it is no fault of this House. The bills providing for them passed early in last session, and they are now pending in the Senate.

The pay bill, which has passed this House, if passed to a law would make a saving of nearly half a million of dollars annually. The reorganization bill, which has passed this House, if passed to a law would result in an immediate saving of \$387,433.44, and an ultimate annual saving of \$1,166,257.76, and make great and much-needed reforms in the management of the Army.

Mr. Speaker, I hold in my hand an abstract of the distribution and location of all the troops in our regular Army. This table shows the following distribution of troops: In Kentucky, 4 officers and 41 men; Missouri, 6 officers and 616 men; Tennessee, 4 officers and 40 men; Alabama, 2 officers and 20 men; Arkansas, 4 officers and 43 men; Virginia, 10 officers and 88 men; Georgia, 18 officers and 185 men; Florida, 36 officers and 256 men; South Carolina, 111 officers and 1,132 men; Louisiana, 91 officers and 1,300 men; North Carolina, 11 officers and 113 men; Texas, 192 officers and 2,933 men; making a total of 489 officers and 6,767 men in the Southern States.

In the Territories there are 710 officers and 12,235 men. In the District of Columbia are 51 officers and 720 men. The balance of the troops are located in the Northern and Western States.

In this connection, Mr. Speaker, I desire to call the attention of the House to the fact that in addition to our Army of 25,000 men we have a militia force in the United States, according to the last report, which I hold in my hand, and print with the permission of the House as a part of my remarks, of 2,875,469 available men for military duty. Of these, 98,865 are organized. In the abstract will be found a statement of the State organizations compiled at the Adjutant-General's Office of these militia organizations.

THE OBJECT OF OUR ARMY.

Mr. Speaker, there is a strange confusion in the minds of the people, shared by some eminent officials, as to what are the uses for which our regular Army was created and what the duties and responsibilities of the individual officer or private.

For the functions to be performed by the Army we must look to the "Constitution and the laws of the United States which shall be made in pursuance thereof," which are declared by article 6 of that instrument to be "the supreme law of the land."

We find in section 2 of article 2 that—

The President shall be commander-in-chief of the Army and Navy of the United States and of the militia of the several States when called into the actual service of the United States.

But as such commander-in-chief he has no other or further powers than such as may by act of Congress agreeably to the provisions of the Constitution be devolved upon him.

The power to declare war; to provide and maintain a navy; to make rules for the government and regulation of the land and naval forces; to provide for calling forth the militia to execute the laws of the Union, suppress insurrection, and repel invasions; to provide for organizing, arming, and disciplining the militia, &c., and all other powers connected with the Army and Navy except the single one before quoted are vested in the Congress of the United States. The Army can be used for national purposes to execute the laws of the Union, suppress insurrection, and repel invasions, and also aid the States, under section 4 of article 4, "to protect each of them against invasion, and on application of the Legislature, or of the executive when the Legislature cannot be convened, against domestic violence." The manner and occasion of such use, however, are not discretionary with the President as commander-in-chief, but are clearly defined by acts of Congress.

In relation to the use of the Army in the aid of the State governments, by the act of February 28, 1795, and March 3, 1807, (section 5297, Revised Statutes United States,) it is provided that—

In case of an insurrection in any State against the government thereof it shall be lawful for the President, on application of the Legislature of such State, or of the executive when the Legislature cannot be convened, to call forth such number of the militia of any other State or States which may be applied for as he deems sufficient to suppress such insurrection; or, on like application, to employ for the same purposes such part of the land and naval forces of the United States as he deems necessary.

Section 5300, Revised Statutes United States, (act of February 28, 1795,) provides that—

Whenever in the judgment of the President it becomes necessary to use the military forces under this title the President shall forthwith, by proclamation, command the insurgents to disperse and retire peaceably to their respective abodes within a limited time.

The first occasion on which it became necessary to consider the propriety of exercising these most important constitutional and legal functions arose in the year 1842, under the administration of President Tyler, in the case of the Dorr rebellion in Rhode Island. Daniel Webster was then Secretary of State, and matters growing out of the relations between the Federal Government and the several States of the Union were conducted through the State Department. In those days the Attorney-General of the United States was not claimed to be, as he now is, the virtual commander-in-chief of the Army. The circumstances of the case briefly stated are as follows:

In 1842 a large majority of the people of Rhode Island, acting outside of the forms of law, established a state government and elected Thomas W. Dorr their governor. On the 4th of April, 1842, Samuel W. King, legal governor of Rhode Island, addressed the President of the United States, stating that "the State of Rhode Island is threatened with domestic violence," that the Legislature could not be convened, and calling upon the President for "the protection which is required by the Constitution of the United States."

In another letter of the same date addressed to the President, Governor King recited the facts which led him to make the application for Federal assistance and requested that "such precautionary measures may be taken by the Government of the United States as may afford us that protection which the Constitution of the United States requires." * * * "The Government of the United States has the power to prevent as well as to defend us from violence. The protection provided by the Constitution of the United States will not be effectual unless such precautionary measures may be taken as are necessary to prevent lawless men from breaking out into violence as well as to protect the State from further violence after it has broken out." President Tyler, in a communication prepared by Daniel Webster, declined to interfere. He said, "For the regulation of my conduct on any interposition which I may be called upon to make between the government of a State and any portion of the citizens who may assail it with domestic violence, or may be in actual insurrection against it, I can only look to the Constitution and laws of the United States, which plainly declare the obligations of the executive department, and leave it no alternative as to the course it shall pursue." After reciting section 4 of article 4 of the Constitution and the acts of 1795 and 1807, before quoted, he said:

By a careful consideration of the above recited acts of Congress, your excellency will not fail to see that no power is vested in the Executive of the United States to anticipate insurrectionary movements against the government of Rhode Island, so as to sustain the interposition of the military authority; but that there must be an actual insurrection, manifested by lawless assemblages of the people or otherwise, to whom a proclamation may be addressed, and who may be required to betake themselves to their respective abodes.

On the 4th of May, 1842, the Legislature of Rhode Island passed resolutions calling upon the President for assistance to suppress the insurrection against the State, and reciting that—

A portion of the people of this State, for the purpose of subverting the laws and existing government thereof, have framed a pretended constitution, and for the same unlawful purposes have met in lawless assemblages and elected officers for the future government of this State; and whereas the persons so elected, in violation of law, but in conformity to the said pretended constitution, have, on the 3d day of May instant, organized themselves into executive and legislative departments of government, and under oath assumed the duties and exercise of said powers; and whereas, in order to prevent the due execution of the laws, a strong military force was called out, and did array themselves to protect the said unlawful organization of government and to set at defiance the due enforcement of the laws.

Did the President then interfere? No, sir; he still declined, and in a letter dated May 7, gave the best of reasons for so doing. He says "that he has information that leads him to believe that the danger of domestic violence is hourly diminishing."

I freely confess—

He says—

that I should experience great reluctance in employing the military power of this Government against any portion of the people; but, however painful the duty, I have to assure your excellency that if resistance be made to the execution of the laws of Rhode Island by such force as the civil posse shall be unable to overcome, it will be the duty of this Government to enforce the constitutional guarantee.

On the 9th of May, 1842, the President addressed Governor King of Rhode Island a letter, in which he counseled peaceful measures.

Why urge matters—

He says—

to an extremity? If you succeed by the bayonet you succeed against your own fellow-citizens, and by the shedding of kindred blood. * * * A resort to force will engender for years to come feelings of animosity.

On the 25th of May Governor King addressed the President, stating that the Dorr government, in addition to companies of men in Rhode Island, was organizing bands of men in Massachusetts, Connecticut, and New York. Therefore Governor King asked for the interposition of the Federal authority, and that the President might place a sufficient body of troops in the State, "to be subject to the requisition of the executive of this State whenever, in his opinion, the exigency of the case should require their assistance."

This request the President declined, in a letter dated the 28th of May, in which he said, "Should the necessity of the case require the interposition of the authority of the United States, it will be rendered in the manner prescribed by the laws."

On the 29th of June the President of the United States being informed "that the difficulties in Rhode Island have arrived at a crisis" which require the interposition of Federal authority in support of the State, directed the Secretary of War to proceed to Rhode Island and in the event of the necessary requisition being made by the governor of Rhode Island to issue a proclamation prepared by Daniel Webster, Secretary of State, and signed by Webster and the President, "commanding all insurgents and all persons connected with the insurrection to disband." This proclamation however was never issued, the Dorr rebellion having been suppressed by the State authorities.

In compliance with a resolution of the House of Representatives of the 23d of March, 1844, (Executive Document No. 225) the President informed the House "that the Executive did not deem it his duty to interfere with the naval and military forces of the United States in the late disturbance in Rhode Island; that no orders were issued for the employment of troops in that State except to strengthen the garrison at Fort Adams; that no orders were given to any officer or officers of the Army or Navy to report themselves to the charter government; that the Executive was at no time convinced that the *casus fœderis* had arisen which required the interposition of the military or naval power." Taking strong ground against the interference of the Executive in State questions, he said:

Actuated by selfish motives, he (the Executive) might become the great agitator, fomenting assault upon the State constitutions and declaring the majority of today to be the minority of tomorrow, and the minority in its turn the majority, before whose decrees the established order of things in the State should be subverted. Revolution, civil commotion, and bloodshed would be the inevitable consequences. The provision in the Constitution intended for the security of the States would thus be turned into the instrument of their destruction; the President would become in fact the great constitution-maker for the States and all power would be vested in his hands.

It will be seen upon a thorough examination of this case that President Tyler, acting under the advice of Daniel Webster, denied the power of the Federal Government to interfere in a cause of merely "threatened domestic violence" or to "anticipate insurrectionary movements" against the State, but claimed that there must be an "actual insurrection" and "lawless assemblages to whom a proclamation may be addressed;" that resistance must first be made to the execution of the laws of the State by such force as the *civil posse* shall be unable to overcome; that he could not place any part of the Army of the United States subject to the orders of the State executive to be used whenever in his opinion the exigency of the case should require, and that a proclamation must first be addressed to the insurgents demanding them to disperse.

How different has been the practice under the present administration of our Government. At Columbia and New Orleans United States troops have been placed under the orders of State executives and of subordinate State officers without previous proclamations and without any lawless assemblages against whom to direct them. There has been a constant and persistent interference in State matters by the Army; State Legislatures legally elected have been dispersed; troops have been used as a police to protect State returning boards in the perpetration of frauds, without any regard to the requirements of the acts of Congress regulating the manner and occasion of such interposition, and in defiance of law and the decisions of the highest tribunal in the land. The Army has been used as a State constabulary. In Louisiana to-day the Army of the United States is engaged in keeping the peace between two State governments, neither of which has been recognized by the President, and in inducting into office from time to time different State officers who have been removed from their offices, and their interference is continued, not upon the ground that either State government is the lawful one, but because the Army has been directed by the President to preserve the present chaotic condition of affairs in that State until he shall make up his mind which State government to recognize.

And yet, sir, the President, when called to an account for the use of troops in Louisiana, as far back as 1874, said in his message to Congress, dated January 13, 1875:

I am well aware that any military interference by the officers or troops of the United States with the organization of a State Legislature or any of its proceedings, or with any civil department of the Government, is repugnant to our ideas of government. I can conceive of no case not involving rebellion or insurrection where such interference by authority of the General Government ought to be permitted or can be justified.

Notwithstanding such expressions of opinion by the President, our Army, degraded from its high position of the defenders of the country from foreign and domestic foes, has been used as a police; has taken possession of polls and controlled elections; has been sent with fixed bayonets into the halls of State Legislatures in time of peace

and under the pretense of threatened outbreak; has been placed under the control of subordinate State officials, and, under the instructions of the Attorney-General, has been notified to obey the orders of deputy United States marshals, "general and special," appointed in swarms to do dirty work in a presidential campaign. I call your attention to the late order of the Attorney-General concerning the recent use of the Army during the elections, from which I quote the following paragraphs:

In this connection I advise that you and each of your deputies, general and special, have a right to summon to your assistance in preventing and quelling disorder, every person in the district above fifteen years of age, whatever may be their occupation, whether civilians or not, and including the military of all denominations, militia soldiers, marines, all of whom are alike bound to obey you. The fact that they are organized as military bodies, (whether of the State or of the United States,) under the immediate command of their own officers, does not in any wise affect their legal character. They are still the *posse comitatus*. I prefer to quote the above statement of the law upon this point from an opinion by my predecessor, Attorney-General Cushing, because it thus appears to have been well settled for many years, (6 Opinions, 466; May 27, 1854.) I need hardly add that there can be no State law or State official in this country who has jurisdiction to oppose you in discharging your official duties under the laws of the United States. If such interference shall take place, (a thing not anticipated,) you are to disregard it entirely. The laws of the United States are supreme, and so, consequently, is the action of officials of the United States in enforcing them. There is, as virtually you have already been told, no officer of a State whom you may not by summons embody in your own posse, and any State posse already embodied by a sheriff will, with such sheriff, be obliged upon your summons to become a part of a United States posse, and obey you or your deputy acting *virtute officii*.

The Attorney-General based his authority for such use of the Army upon an opinion of Attorney-General Cushing, given on the 27th of May, 1854, concerning the enforcement of the fugitive-slave law, an opinion questionable at best, but strangely perverted by the Attorney-General. What Attorney-General Cushing says is merely that being a soldier of the United States does not exempt a man from being called upon by the proper authorities to act like any other citizen as a part of a *posse comitatus*. He nowhere intimates that the soldier as a part of the Army or that the Army as such shall be used by a marshal in direct violation of the Constitution.

From this opinion of Attorney-General Cushing, which, as I have said, the Attorney-General strangely perverts, he draws the most extraordinary conclusions. Under his opinion issued as order No. 96, any marshal of the United States, or deputy or special marshal, may, upon his own private judgment, order any officer, even the General of the Army, to obey his command.

The General of the Army seems to have held very different views, for in his order to the Army promulgating it he so modified this opinion of the Attorney-General that he occupies precisely the same grounds that I advocate. I take pleasure in calling your attention to what he says. It reads as follows:

The obligation of the military (individual officers and soldiers) in common with all citizens to obey the summons of a marshal or sheriff must be held subordinate to their paramount duty as members of a permanent military body. However, the troops can act only in their proper organized capacity, under their own officers, and in obedience to the immediate orders of those officers. The officer commanding troops summoned to the aid of a marshal or sheriff must also judge for himself and upon his own official responsibility whether the service required of him is lawful and necessary and compatible with the proper discharge of his ordinary military duties, and must limit his action absolutely to proper aid in execution of the awful precept exhibited to him by the marshal or sheriff.

This carefully worded instruction of General Sherman reminds one of the better days of the Republic.

Concerning the powers of the United States in connection with matters relating solely to the States, and not by the Constitution placed under the paramount control of the United States, it may not be amiss to refer to the decision of the Supreme Court of the United States in the case of *Cruikshank*, 2 Otto, page 542. Mr. Chief-Justice Waite delivered the opinion of the court, (declaring the enforcement act of 1870 unconstitutional,) from which I quote the following paragraph, which will be found on page 556:

Certainly it will not be claimed that the United States have the power or are required to do mere police duty in the States. If a State cannot protect itself against domestic violence, the United States may, upon the call of the Executive, when the Legislature cannot be convened, lend their assistance for that purpose. This is a guarantee of the Constitution, (article 4, section 4,) but it applies to no case like this.

BLIND OBEDIENCE.

As a fit accompaniment of these lawless uses to which the Army has been put, a new and dangerous doctrine has been advanced that the duty of the soldier is blind obedience to the orders of his superior. Such a doctrine, destructive of all law and endangering the very existence of government, has never prevailed in this country, nor in Great Britain, from which nation our military code is derived.

Article 21 of the Articles of War provides that "any officer or soldier who disobeys any lawful command of his superior officer shall suffer death, or such other punishment as a court-martial may direct."

Article 4 of the Articles for the Government of the Navy provides that "the punishment of death, or such other punishment as a court-martial may adjudge, may be inflicted on any person in the naval service" who "disobeys the lawful orders of his superior officer."

Nowhere is any punishment prescribed for the officer or soldier who disobeys unlawful orders. There is no obligation resting upon the soldier to obey an unlawful order; on the contrary, like the private citizen, he is bound to obey and respect the laws of the land, and an unlawful order from a superior affords him no immunity from

punishment. The responsibility rests as well upon him who executes the unlawful order as upon him who issues it. These principles are sustained by English and American writers on military law, as well as by the decisions of the courts in both countries.

The oath of office taken by the officer of the Army and Navy is the same as that taken by persons elected or appointed to any civil office of honor or profit, except the President. It is (section 1756, Revised Statutes of the United States) that he "will support and defend the Constitution of the United States against all enemies, foreign and domestic, and bear true faith and allegiance to the same."

As well then insist that it is the duty of the civil officer to obey an unlawful order of his superior as that the Army or Navy officer is so bound.

The oath taken by the private soldier (article 2, Articles of War) is:

I will obey the orders of the President of the United States and the orders of the officers appointed over me, according to the Rules and Articles of War.

Now, the Articles of War, as well as the Articles for the Government of the Navy, show him that he is to obey the lawful orders only of his superior, and they show him the penalty for such disobedience.

Before going into an examination of the authorities, let us turn back the pages of history and see for what grave reasons the word "lawful" was inserted in the English mutiny acts.

During the great English rebellion the contending armies adopted military codes nearly identical, which resulted substantially in Prince Rupert's code of 1672. This was the parent of the code now regulating the army and navy of Great Britain, which, so far as then extant, was substantially adopted by the United States, first in 1775, and again in 1806.

Under the English code of 1715 "every officer or soldier who should refuse to obey the military orders of his superior officer" was liable to capital punishment. Speaking of this, Clode, in his work on Military Law, (edition 1872, page 57,) says:

The army being then under the personal command of a sovereign absolutely irresponsible—for according to our constitutional theory he could do no wrong—the danger of this enactment was not exaggerated by the Lords when in their protest they declared it to be a violation of the fundamental laws of the realm, "by which the commands or orders of the Crown are bound and restrained within the compass of the law, no person being obliged to obey them if illegal, but punishable by the law should he do so, notwithstanding such orders or commands proceed from the king."

So that it will be seen in England as early as 1715 it was held by the House of Lords that even in the absence of the word "lawful" in the English mutiny acts the soldier was punishable by the common law for the commission of an illegal act, although he had the orders of the Crown to do it. Continuing the same subject, Clode says:

The alterations made in the act of 1715 placed some limitation upon this penal obedience by using the words "who shall refuse to obey any lawful commands of his superior officer." In 1733 the increase of the army was opposed by several speakers mainly from the danger to which this authority over the army exposed the state. Discontent continued to be expressed, until in the year of 1749, after an angry debate, the words were altered thus: "To disobey any lawful command of his superior officer," which now stands in the military code of 1872.

The words used in our Articles of War are who "disobeys the lawful command of his superior officer," and in the Articles for the Government of the Navy who "disobeys the lawful orders of his superior officer."

No successful attempt has yet been made to explain away the word "lawful" thus inserted, after repeated debate, in the military code.

Among the English authorities on this point, I quote the following:

So general is the rule that the order of a superior shall be imperative in the military inferior that it will not admit of exception unless when the orders or the thing commanded to be done are directly contrary to law.—*Houga's Precedents on Military Law*, page 104.

So general is the rule that the orders of a superior shall be imperative in a military inferior that it will not admit of exception unless in the instance when the orders, or, more accurately speaking, the things commanded to be done, are directly repugnant or contrary to law. In the case only where the orders would afford no legal excuse in a court of law for the act committed under them can the inferior hesitate to obey the commands he receives from his superior.—*Samuel's Military Law*, page 284.

To disobey the unlawful command of a superior officer is undoubtedly lawful.—*Simmons on Courts-Martial*, page 207.

If death ensue from the fire of a soldier acting under the orders of his superior, the command itself being illegal, such order would be no justification of the deed in the eye of the common law. And the individual who was the instrument of the death would, with him directing the act by which it was effected, be equally guilty of murder.—*Ibid.*, page 227.

And therefore it is lawful in a military sense, to disobey an unlawful command of a superior.—*Ibid.*, page 229.

To carry the principle of blind obedience to the full extent to which, by easy deduction, it may be extended; to omit or render nugatory the word "lawful," inserted in the mutiny act, would not only degrade the British soldier in his own eyes and in the estimation of his fellow-citizens, but might lay the foundation of a superstructure dangerous, if not fatal, to the constitution itself.—*Ibid.*, page 230.

On a trial arising out of the Newbury affair, at Wrexford, in July, 1831, before Chief-Justice Bushe and Judge Johnstone, the following conversation is reported to have taken place:

Sir WILLIAM COX, (a grand juror.) My lord, I would wish to ask your lordship one question: if a military body be called out, and if the commander give the order to fire, whether those acting under his command are exempt from the consequences?

His LORDSHIP. My opinion is that no subject of the king is bound to obey an illegal order, and if an officer give an illegal order those who obey him are not, in my opinion, exempt.

JUROR. Then, my lord, is the soldier to be the judge for himself in the case, whether he is to obey the order or not?

His LORDSHIP. I suppose so.

[This remark of the learned judge caused much discussion among military men; but there appears nothing new in the opinion. There can be no doubt of its being the law of England.—*Author*, 1835.]

Hickman, chapter 17, quotes case of Sutton vs. Johnson, (1 D. and E., 501,) in which it was decided that—

It cannot be disobedience when obedience is impracticable or legally improper, for the term implies a crime, whereas there can be no criminality in omitting to do what is physically impossible or forbidden by law. The court-martial cannot, however, justify disobedience to a lawful command under any circumstances.

In the case of *Mostyn vs. Febrigas*, 1 Cowper, 180, Lord Mansfield quoted the case of Captain Gambier, decided by him. Admiral Boscawen ordered Captain Gambier to pull down the houses of certain sutlers on the coast of Nova Scotia who supplied the navy and sailors with spirituous liquors. The order was made by the admiral in good faith and executed by Captain Gambier. The result was a suit by the sutler against Captain Gambier and a verdict for £1,000 damages, besides heavy costs. This case is quoted by the Supreme Court of the United States in 13 Howard, 132, and the principles therein decided re-affirmed.

From these English authorities the following principles appear:

First. The soldier is not punishable by the military law for disobedience of "unlawful" orders.

Second. He is punishable by the common law, just as the citizen is, and the plea of orders of his superior, the orders being illegal, would be no justification; the officer giving the orders and the soldier who executes them are alike punishable; and this is true even where death results from the execution of an illegal order, as well as where the rights of property are invaded.

AMERICAN AUTHORITIES.

Among American authorities in regard to this question are the following:

That there must be some limit to this obedience the safety of society imperatively requires, and it is for the Legislature to ascertain and fix this boundary. The article therefore confines the criminalities of disobedience to the case of lawful orders. An unlawful order, being a direct opposition to the commands of the State, can compel no obedience. * * * Still, if the illegality of an order be made out to the satisfaction of the court, the plea is good and the accused must be acquitted. There is no recognizable principle on which submission to unlawful orders can be legally compelled.—*O'Brien on Courts-Martial*, page 82, ed. 1846.)

The principle of conduct is that illegal orders are not obligatory. This must appear as a consequence to the purposes of military service, and that all orders are given in furtherance of the objects contemplated by the laws creating and concerning the military establishment.—*De Hart's Military Law*, page 165.

See also Harwood on Naval Court-Martial, pages 118, 119:

The Judge-Advocate General (Digest of Opinions, edition 1863, page 5) decided that "the laws of the service inflict no punishment upon an officer who disobeys a command of his superior which is contrary to law. The right exists at all times to refuse obedience to such an order, and it may become an imperative duty to do so."

However meritorious and patriotic the motive which induces the officer to order an illegal act, or the subordinate to execute it, neither can escape the penalty.

DECISION OF THE SUPREME COURT OF THE UNITED STATES.

This principle is laid down very clearly in the case of *Mitchell vs. Harmony*, (13 Howard, Supreme Court of the United States,) before referred to. The history of that case is briefly as follows:

Before the commencement of hostilities in Mexico, Harmony planned a trading expedition to Santa Fé, New Mexico, and Chihuahua. When war commenced Kearney prepared an expedition to invade New Mexico, and prevented Harmony from proceeding in advance of the expedition, but permitted him to fall in the rear. Colonel Doniphan succeeded Kearney in command, and when Doniphan moved on the city of Chihuahua Harmony refused to go any further. Whereupon Doniphan ordered Colonel Mitchell to compel Harmony, with his trains, &c., to continue with the army, which order Mitchell executed. When Chihuahua was evacuated Harmony's property was unavoidably left behind, and was confiscated by the Mexicans. Harmony sued Mitchell in the circuit court of the United States for the southern district of New York, and recovered a judgment for \$95,855.33, which was sustained by the Supreme Court of the United States.

Mitchell pleaded the usual "military necessity" of the order, upon which point the Supreme Court was very clear. They say, (page 135:)

The movement upon Chihuahua was undoubtedly undertaken from high and patriotic motives. It was boldly planned and gallantly executed, and contributed to the successful issue of the war. * * * The question here is whether the law permits [private property] to be taken to insure the success of any enterprise against the public enemy which the commanding officer may deem it advisable to undertake. And we think it very clear the law does not permit it.

Quoting and approving the Gambier case, the court says:

The motive was evidently a commendable one, and the act done for the public service; yet it was an invasion of the rights of private property, and without the authority of law, and the officer who executed the order was held liable to an action, and the sutler recovered damages against him to the value of the property destroyed. This case shows how carefully the rights of private property are guarded by the laws of England.

Another plea of Mitchell's was:

Fifth, that he (defendant) acted in obedience to the order of his commanding officer, and therefore is not liable.

The court deemed the plea as worthy of very little consideration. They say, (p. 137:)

The fifth point may be disposed of in a few words. * * * The order given was an order to do an illegal act, to commit a trespass upon the property of another, and can afford no justification to the person by whom it was executed. The case

of Captain Gambier, (1 Cowper, page 180,) to which we have just referred, is directly in point. And upon principle, independent of the weight of judicial authority, it can never be maintained that a military officer can justify himself in doing an unlawful act by producing the order of his superior.

Thus it has been seen that "the custom of the service" and "the supreme law of the land," as interpreted by the Judge Advocate-General and the Supreme Court of the United States, relieve the soldiers from obeying an "unlawful" order, and punish him for any wrong committed in obeying an unlawful order.

Abstract of the militia force of the United States, (organized and unorganized,) according to the latest returns received at the office of the Adjutant-General.

States and Territories.	Year.	Organized strength.						Number of men available for military duty, (unorganized.)
		General officers.	General staff officers.	Regimental, field, and staff officers.	Company officers.	Total commissioned.	Total non-commissioned officers, musicians, privates, &c.	
Maine.....	1875	1	19	7	38	65	810	78,376
New Hampshire.....	1875	1	12	12	66	90	1,044	36,394
Vermont.....	1875	1	11	9	36	57	569	30,112
Massachusetts.....	1875	4	39	100	305	448	6,248	247,495
Rhode Island.....	1875	3	35	89	93	220	1,823	40,839
Connecticut.....	1875	1	21	36	110	168	2,266	61,302
New York.....	1875	27	302	324	855	1,508	17,971	483,183
New Jersey.....	1874	3	37	82	195	317	3,521	134,257
Pennsylvania.....	1875	14	148	162	536	860	9,723	356,393
Delaware.....	1875	1	10	17	63	91	1,168	88,244
Maryland.....	1875	1	10	17	63	91	1,168	498
Virginia.....	1875	1	10	17	63	91	1,168	498
West Virginia.....	1875	1	10	17	63	91	1,168	498
North Carolina.....	1875	15	30	143	340	537	6,412	77,040
South Carolina.....	1875	15	30	143	340	537	6,412	77,040
Georgia.....	1875	15	30	143	340	537	6,412	77,040
Florida.....	1875	15	30	143	340	537	6,412	77,040
Alabama.....	1875	15	30	143	340	537	6,412	77,040
Mississippi.....	1875	15	30	143	340	537	6,412	77,040
Louisiana.....	1875	15	30	143	340	537	6,412	77,040
Texas.....	1875	15	30	143	340	537	6,412	77,040
Arkansas.....	1875	15	30	143	340	537	6,412	77,040
Kentucky.....	1875	15	30	143	340	537	6,412	77,040
Tennessee.....	1875	15	30	143	340	537	6,412	77,040
Ohio.....	1875	15	30	143	340	537	6,412	77,040
Indiana.....	1875	15	30	143	340	537	6,412	77,040
Michigan.....	1874	1	9	6	48	64	1,020	1,084
Illinois.....	1875	1	9	13	162	185	3,086	3,271
Missouri.....	1875	1	9	13	162	185	3,086	3,271
Wisconsin.....	1875	3	13	6	80	102	1,635	1,737
Minnesota.....	1875	3	13	6	80	102	1,635	1,737
Iowa.....	1875	3	13	6	80	102	1,635	1,737
Nebraska.....	1875	3	13	6	80	102	1,635	1,737
Kansas.....	1875	3	13	6	80	102	1,635	1,737
Nevada.....	1875	3	13	6	80	102	1,635	1,737
Oregon.....	1875	3	13	6	80	102	1,635	1,737
California.....	1875	7	79	38	110	234	2,394	2,538
Grand aggregate.....	1875	115	895	1,175	4,356	6,541	83,826	2,875,469

* Returns not received.

† No enrollment.

Mr. ATKINS. I desire to make a statement to the House before I offer a motion which I think is proper to be made if we are to pass this bill at this session.

Mr. HAMILTON, of New Jersey. I rise to a question of order. There is so much confusion in the Hall that we cannot hear what is said by the gentleman from Tennessee.

The SPEAKER. The Chair is inclined to think that most of the noise comes from those in the rear of the seats of members. Unless gentlemen in the rear of the seats are seated, the Chair will cause the lobby to be vacated.

Mr. ATKINS. The session is so far advanced, and so many of the appropriation bills are behind, that if they are to be passed this session it will be necessary, in my opinion, so far at least as the Army appropriation bill is concerned, to have it passed under a suspension of the rules. Before I make that motion I desire to say that there are two or three radical propositions in the bill; two I may say. There is one proposition in the bill that is not so radical; it is this: In this bill, for the purpose of saving clerical hire and for the greater convenience of the service, especially in the quartermaster's department, we have condensed into one appropriating clause the appropriations for regular supplies, incidental expenses, transportation, barracks, and quarters.

The Committee on Appropriations deemed that amendment, or rather that form of the bill, very important for the convenience of the department and for the administration of this arm of the service.

Mr. THORNBURGH. Will my colleague allow me to ask him a question?

Mr. ATKINS. Certainly.

Mr. THORNBURGH. Was the Committee on Military Affairs of this House consulted in regard to that question?

Mr. ATKINS. I do not know that they were; but I do not suppose

any member of the Committee on Military Affairs will object to it, and it is earnestly recommended by the Quartermaster-General.

The two most important features of the bill are, first, that it is based upon the number of 17,000 enlisted men; and, second, the provision it contains that the appropriations made by the bill shall not be used for the purposes of sustaining by the Army any State government in any State. This has particular reference to the Packard government and to the Nicholls government in the State of Louisiana. But certainly the terms of the proposition are so broad as to embrace every State or any State.

These, sir, are the principal features of the bill that make it vary or differ from the usual Army appropriation bill.

I move to suspend the rules and put the bill upon its passage.

Mr. WALLING. I desire to ask the gentleman from Tennessee one question. Does this bill by its provisions reduce the rank and file of the Army?

Mr. ATKINS. It does.

Mr. WALLING. To what extent?

Mr. ATKINS. From 27,500 to 17,000.

The Clerk proceeded to read the bill.

Mr. WALLING, (interrupting.) I have an amendment which I propose to offer.

Mr. ATKINS. The bill is not before the House for amendment.

The SPEAKER. The gentleman cannot interrupt the reading of the bill to offer an amendment.

Mr. WALLING. Then I desire to make a point of order.

Mr. ATKINS. I make the point of order that the gentleman is out of order, because the bill is being read for information.

The SPEAKER. The gentleman from Ohio is certainly not in order in interrupting the reading of the bill.

Mr. WALLING. Then I will offer the amendment at the proper time.

The Clerk resumed the reading of the bill.

Mr. CONGER, (interrupting.) If the printed bill is correct, the Clerk is now reading a provision which is not in the bill.

Mr. ATKINS. The bill is being read as it was reported by the committee.

Mr. CONGER. The House was not informed that there was any difference between the printed bill and the manuscript one.

Mr. ATKINS. Yes, sir; it was. I made that remark to the gentleman from Ohio, [Mr. WALLING.]

The Clerk resumed the reading of the bill and read the fifth section thereof, which is as follows:

Sec. 5. That no part of the money appropriated by this act, nor any money heretofore appropriated, shall be applied to the pay, subsistence, or transportation of troops under, employed, or to be used or employed, in support of the claim of Francis T. Nicholls or of S. B. Packard to be governor of the State of Louisiana. Nor shall any of said money be applied in support of the claim of the two bodies claiming to be the Legislature of said State, presided over respectively by L. A. Wiltz and Louis Bush; nor of the two bodies claiming to be the Legislature of said State, presided over respectively by C. C. Antoine and Michael Hahn; nor in support of the claim of Thomas C. Manning and associates to be the supreme court of said State; nor in support of the claim of John T. Ludlow and associates to be the supreme court of said State; nor in the aid of the execution of any process in the hands of the United States marshal in said State issued in aid of and for the support of any of such claims. Nor shall the Army, or any portion of it, be used in support of the claims, or pretended claim or claims, of any State government, or officer thereof, in any State, until the same shall have been duly recognized by Congress. And any person offending against any of the provisions of this act shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be imprisoned at hard labor for not less than five nor more than ten years.

Mr. CONGER. I desire to raise the point of order upon that section, that it is new legislation. The Chair will recollect that points of order were reserved upon this bill.

The SPEAKER. But the gentleman from Tennessee indicates his purpose to move to suspend the rules and pass the bill.

Mr. CONGER. But he has not yet done it, and therefore I have a right to make the point of order.

Mr. ATKINS. I have already submitted the motion to suspend the rules.

Mr. CONGER. That motion has not been made, and I claim the right to make the point of order now.

The SPEAKER. The Chair of necessity must recognize the gentleman from Tennessee as having charge of the bill.

Mr. ATKINS. I have made the motion already to suspend the rules and pass the bill.

Mr. CONGER. The House is not acting under a suspension of the rules. I gave notice that I would reserve all points of order on this bill.

The SPEAKER. The motion to suspend the rules is pending, and the bill is now being read for the information of the House.

Mr. CONGER. And while that motion is pending it is the only opportunity I have to make the point of order which I do.

The SPEAKER. The Chair rules that a motion to suspend the rules suspends the rule under which the gentleman has the right to make the point of order.

Mr. CONGER. Then a motion to suspend the rules has the same effect as the suspension of the rules.

The SPEAKER. The Chair recognized the gentleman from Tennessee to move to suspend the rules and pass the bill.

Mr. SPRINGER. The gentleman from Michigan knows that that suspends all rules.

Mr. CONGER. I make the point of order before the rules are sus-

pended. The gentleman from Illinois [Mr. SPRINGER] is infinite in knowledge, but foolish in regard to this matter. He steps over to this side of the House telling me in his authoritative way the law. Sir, the youngest member of the House cannot even be instructed by that gentleman.

Mr. ATKINS. I make the point of order that the bill is being read for information, and that the reading cannot be interrupted.

Mr. CONGER. I desire the Chair to decide upon the point of order.

The SPEAKER. The Chair does not recognize the gentleman from Michigan at this time to make any point of order, for the Chair has entertained the motion of the gentleman from Tennessee.

Mr. CONGER. Then I ask that he make the motion now.

The SPEAKER. He has made it.

Mr. CONGER. Then I ask that it be put to the House.

The SPEAKER. The Chair is causing the bill to be read for information.

Mr. CONGER. And at that time I raised the point of order.

The SPEAKER. The gentleman will surely recollect that the practice is uniform in this respect, that a motion to suspend the rules suspends that rule under which the gentleman claims the right to make the point of order.

Mr. CONGER. Yes, when the motion to suspend the rules is agreed to.

The SPEAKER. The Chair supposed that the House desired to have the bill read; the gentleman from Tennessee can move to suspend the rules and dispense with the reading.

Mr. BANNING. No member has the right to interrupt the reading of a bill.

The Clerk resumed and concluded the reading of the bill.

Mr. ATKINS. I now demand that my motion to suspend the rules be put to the House.

Mr. FOSTER. I desire unanimous consent that I be allowed five minutes to explain the reasons why I shall support the motion of the gentleman from Tennessee.

Mr. ATKINS. I hope the House will agree to that.

Mr. CONGER. I would like to have five minutes also.

Mr. ATKINS. I have no objection to giving the gentleman from Michigan five minutes.

The SPEAKER. Is there objection that the gentleman from Ohio [Mr. FOSTER] and the gentleman from Michigan [Mr. CONGER] shall each occupy five minutes? The Chair hears no objection.

Mr. FOSTER. I do not agree with the proposition to reduce the Army to 17,000 men. I did agree in the committee to a reduction to 20,000. I am not willing either to vote for the proposition in relation to the use of troops in the States of South Carolina and Louisiana under any circumstances. In my judgment, that is a kind of legislation that this House ought not to indulge in. But we have but two legislative days left, and if we are to avoid an extra session we must pass the bill under a suspension of the rules and allow it to go to the Senate, where they can take such steps at once as will put it into a conference. And in that way we may be able to avoid an extra session, and we can do it only in that way.

While protesting against the two provisions of which I speak (and perhaps there are others in the bill which are objectionable) I shall vote, and I trust my party friends will vote with me, for suspending the rules and passing the bill.

Mr. PAGE. Do you expect the Senate to agree to the provisions in this bill?

Mr. FOSTER. I do not expect them to; I do not know.

Mr. PAGE. Would you prefer an extra session of Congress rather than have this bill passed in its present shape?

Mr. FOSTER. I am not prepared to answer that question now.

Mr. PAGE. I do not want any one to shirk responsibility.

Mr. CONGER. At this, almost the last day of the session, with an urgent necessity to employ every moment of the time of this House in order to pass the necessary appropriation bills and other legislation necessary to carry on this Government, I would be the last member here by any act of mine, or by the expression of my own opinion upon a bill, to retard the onward progress of legislation, if I did not believe that in this proposed bill I found legislation which is unconstitutional, in fact which would be injurious to the best and highest interests of the Republic, which would make the Commander-in-Chief of the Army and Navy of the United States, when engaged, as he may be, if called upon by the proper authorities of a State, in performing his constitutional duties—which would make him a criminal, guilty of a misdemeanor, and liable to be dragged from his place of dignity and trust and of confidence, and imprisoned for five years, more or less, in the penitentiaries of the country.

Sir, I can conceive that party spirit, party rancor may drive good men to adopt ultra measures of legislation in order to secure necessary objects, or to prevent other objects being accomplished; but I cannot conceive it possible that an American member of Congress should be willing for any purpose of partisan spite or of partisan hope to pass a law bearing upon its very face the marks of unconstitutionality. I marvel at it: I wonder that such a provision can be grafted in a bill presented to an American Congress.

Sir, has it come to this, indeed, that a law shall be passed by a co-ordinate branch of the Government prohibiting the Commander-in-Chief of the Army from exercising his constitutional powers, compelling him to choose between the violation of his oath when he ac-

cepts office and the duress of the dungeon? Yet no man can deny that such would be the effect of the passage of such a law as now proposed, if the government of a State should ever be in the condition of the States here mentioned and it became the duty of the Legislature or of the governor of that State to invoke the aid of the President of the United States to preserve peace and order.

It makes no difference that this bill provides that the Army shall not be used at the call of either of the governors or of the legislatures supposed to be in the interest of one or the other political party. It is equally unconstitutional; it is a blow at the freedom, the existence of the State. It turns over States of this Union, almost by name, to anarchy, to misrule, to confusion; and I care not which party succeeds.

Mr. HOLMAN. Allow me to ask a question.

Mr. CONGER. I cannot yield; I have not time. I call upon my friends of the republican party to look into the provisions of this bill, and they will see that it opens the way to misrule, to anarchy, to confusion.

Mr. ATKINS. One moment, if the gentleman—

Mr. CONGER. I ask the gentleman to allow me my five minutes. He has occupied the time of this House for hours and I have never objected.

[Here the hammer fell.]

The SPEAKER. The five minutes of the gentleman have expired.

Mr. CONGER. I ask that the time of interruption be not taken from my time. The gentlemen, by interrupting me, have prevented my talking the five minutes. I appeal to my republican friends not to vote for so damnable a bill as this.

Mr. ATKINS. I had no desire to get the gentleman off the floor.

Mr. CONGER. Well, the gentleman succeeded in doing so.

Mr. ATKINS. I hope the House will give the gentleman further time.

Mr. HOLMAN. This bill does not interfere with the power of the President to preserve peace in every State in the Union.

Mr. ATKINS. I hope the gentleman from Michigan [Mr. CONGER] will be allowed more time.

Mr. CONGER. I do not want it.

Mr. ATKINS. Then if you have said all you want, why do you complain?

Mr. CONGER. I did not want to be interrupted while I was speaking.

Mr. ATKINS. All the reply I desire to make to the gentleman from Michigan [Mr. CONGER] is to have read by the Clerk a resolution which was passed by the House of Representatives of the Thirty-fourth Congress.

Mr. CONGER. If we have passed bad laws, then it is time that we should stop.

Mr. ATKINS. That was a republican House.

Mr. CONGER. That is no argument in favor of a bad law.

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

The Clerk read as follows:

But Congress hereby disapproving the code of alleged laws officially communicated to them by the President, and which are represented to have been enacted by a body claiming to be the territorial Legislature of Kansas, and also disapproving of the manner in which said alleged laws have been enforced by the authorities of said Territory, expressly declare that until those alleged laws shall have been affirmed by the Senate and House of Representatives as having been enacted by a legal Legislature, chosen in conformity with the organic law by the people of Kansas, no part of the military force of the United States shall be employed in aid of their enforcement, nor shall any citizen of Kansas be required under those provisions to act as a part of the posse comitatus of any officer acting as marshal or sheriff in said Territory.

Mr. ATKINS. I now demand that the question be put to the House on my motion to suspend the rules.

Mr. STENGER. I call for the yeas and nays. [Cries of "O, no!"] Let the House vote down the call if it chooses.

The yeas and nays were not ordered.

The SPEAKER, (having put the question.) In the opinion of the Chair, two-thirds have voted in the affirmative, and the bill is passed.

RIVER AND HARBOR APPROPRIATION BILL.

Mr. REAGAN. I move to suspend the rules and pass, with two amendments reported from the Committee on Commerce, the bill (H. R. No. 4317) making appropriations for the construction, repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes.

The bill was read.

Mr. HOLMAN. I rise to a parliamentary inquiry. Does the gentleman move to suspend the rules and pass the bill?

Mr. REAGAN. I move to suspend the rules and pass the bill with two amendments recommended by the Committee on Commerce.

Mr. DOUGLAS. I rise to say that I resist the motion of the gentleman from Texas, and if an opportunity be afforded shall move to recommit the bill, so as to perfect it in such a way as to do justice to other sections than those named in the bill.

The SPEAKER. Under the motion as made by the gentleman from Texas, the gentleman from Virginia [Mr. DOUGLAS] has not the right to move to recommit.

Mr. DOUGLAS. But I appeal to the justice of this House to sustain me by voting down this motion.

Mr. PAGE. We will do it.

Mr. DOUGLAS. The bill should be recommitted in order that justice may be done to other sections.

Mr. HOOKER. I appeal to the gentleman from Texas to withdraw his motion in order to allow us to offer certain amendments.

Mr. HOLMAN. I call for the yeas and nays on the motion.

Mr. REAGAN. I sent up with the bill two amendments to which the motion to suspend the rules applies. Those amendments have not been read.

Mr. PAGE. Is it in order to move to recommit the bill?

The SPEAKER. The Chair has just stated that it is not, in reply to an inquiry of the gentleman from Virginia. [Mr. DOUGLAS.]

Mr. GOODE. I ask that the two amendments accompanying the bill be read.

The Clerk read as follows:

After line 170 add the following:

For the improvement of the harbor of Sandusky, Ohio, \$15,000.

For the removal of rocks from the channel and harbor of Brazos Santiago, Texas, \$6,000.

Mr. FORT. Is the bill open to amendment?

The SPEAKER. It is not.

Mr. FORT. If not, why are amendments being read at the desk?

The SPEAKER. The committee reports these amendments, and the motion is to suspend the rules and pass the bill with the amendments. The gentleman from Indiana has called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 118, nays 112, not voting 60; as follows:

YEAS—Messrs. Abbott, Adams, Atkins, Bagby, John H. Bagley, jr., William H. Baker, Ballou, Banks, Banning, Belford, Bell, Bliss, Bradford, Bradley, Buckner, Burleigh, John H. Caldwell, Candler, Carr, Chittenden, Conger, Cook, Cox, Crapo, Culberson, Davy, Denison, Dibble, Dunell, Eames, Faulkner, Felton, Field, Finley, Flye, Forney, Foster, Freeman, Frye, Fuller, Goodin, Gunter, Hancock, Harlensburgh, Benjamin W. Harris, Henry R. Harris, John T. Harris, Hartridge, Hartzell, Hatcher, Hathorn, Hendee, Henderson, Abram S. Hewitt, Hill, Hopkins, Hoskins, House, Hubbell, Hunter, Hurd, Hyman, Frank Jones, Kebr, Kelley, Leavenworth, Levy, Luttrell, MacDougall, McCrary, Monroe, New, Norton, O'Brien, O'Neill, Payne, Phelps, Pierce, Platt, Pratt, Purman, Rainey, Rea, Reagan, John Reilly, Riddle, John Robbins, Sobieski, Ross, Sampson, Sayler, Seales, Seelye, Singleton, Siemons, William E. Smith, Stone, Strait, Swann, Thomas, Throckmorton, Washington Townsend, John L. Vance, Robert B. Vance, Wait, Gilbert C. Walker, Ward, Erastus Wells, Whitehouse, Wigginton, Willard, Andrew Williams, Alpheus S. Williams, William B. Williams, Benjamin Wilson, James Wilson, Alan Wood, jr., Woodburn, Woodworth, and Young—118.

NAYS—Messrs. Ainsworth, Ashe, George A. Bagley, John H. Baker, Blackburn, Bland, Boone, John Young Brown, William R. Brown, Horatio C. Burchard, Battz, William P. Caldwell, Campbell, Cannon, Caswell, Cate, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochran, Collins, Cowan, Crouse, Cutler, Danford, Darrall, Davis De Bolt, Dobbins, Douglas, Durham, Eden, Egbert, Fort, Franklin, Gause Glover, Goode, Andrew H. Hamilton, Robert Hamilton, Haralson, Harrison, Hoge Holman, Hooker, Humphreys, Hurlbut, Jenks, Thomas L. Jones, Joyce Kasson, Kimball, Knott, Lamar, Franklin Landers, Lapham, Lawrence, Le Moine, Lynch, Mackey, Magoon, McFarland, McMahon, Meade, Morrison, Mutchler, Nash, Odell, Oliver, Packer, Page, John F. Phillips, William A. Phillips, Plaisted, James B. Reilly, Rice, William M. Robbins, Roberts, Robinson, Mil. Ross, Savage, Sheakley, Sinnickson, Smalls, A. Herr Smith, Southard, Sparks, Springer, Steger, Stevenson, Tarbox, Teese, Terry, Thompson, Martin I. Townsend, Tucker, Turney, Van Vorhes, Waddell, Charles C. B. Walker, Alexander S. Wallace, John W. Wallace, Walsh, Warren, White, Whiting, Wike, Charles G. Williams, James Williams, Jere N. Williams, and Yeates—112.

NOT VOTING—Messrs. Anderson, Bass, Beebe, Blair, Blount, Bright, Samuel D. Burchard, Cabell, Cason, Caulfield, Chapin, Durand, Ellis, Evans, Garfield, Gibson, Hale, Raymond, Hays, Henkle, Goldsmith W. Hewitt, Hoar, Hunton, King, George M. Landers, Lane, Lewis, Lord, Lynde, Maish, McDill, Metcalfe, Miller, Milliken, Mills, Money, Morgan, Neal, Piper, Poppleton, Potter, Powell, Rusk, S. Schleicher, Schumaker, Stanton, Stephens, Stowell, Thornburgh, Tufts, Waldron, Walling, Warner, Watterson, G. Wiley Wells, Wheeler, Whitthorne, Willis, Wilshire, and Fernando Wood—60.

So (two-thirds not having voted in the affirmative) the House refused to suspend the rules and pass the bill.

During the vote,

Mr. WALLING stated that he was paired with Mr. BLOUNT, a member of the Committee on Appropriations, who if present would vote in the affirmative, while he would vote in the negative.

The vote was then announced as above recorded.

Mr. HURD. I submit the following resolution, and on its adoption demand the previous question.

Whereas it has been decided that a President of the United States may be inaugurated upon the fraudulent action of the returning board of Louisiana; and whereas men who have so contributed to the election of the Chief Magistrate of this Union ought no longer to be in confinement: Therefore,

Be it resolved, That J. Madison Wells, Thomas C. Anderson, G. Casanova, Louis M. Kenner, now in custody of the Sergeant-at-Arms of this House under its order, be hereby discharged.

Mr. CONGER. I ask for a separate vote.

The SPEAKER. The gentleman from Ohio submits the resolution, and on its adoption demands the previous question.

Mr. HUBBELL. I ask that the resolution be again read.

Mr. COX. I wish to move to refer it to the committee on the Louisiana election. They have charge of that very question.

Mr. HURLBUT. I ask for a separate vote, first on the resolution and then on the preamble.

Mr. SPRINGER. Is this in order as a privileged question or is it a motion to suspend the rules and pass the resolution?

The SPEAKER. It comes in as a privileged question. The gentleman from Ohio did not move to suspend the rules. He demanded the previous question on the adoption of the preamble and resolution.

Mr. CONGER. I rise to a question of privilege. I move to suspend the rules and recommit the river and harbor bill to the Committee on Commerce.

Mr. WALLING. What question does the gentleman submit?

The SPEAKER. The Chair desires to ask the gentleman from Texas [Mr. REAGAN] a question. Did he not on a former occasion report that bill to the House?

Mr. CONGER. He moved that the rules be suspended to pass the bill.

Mr. FORT. The records will show where the bill is.

The SPEAKER. The bill is in the Committee on Commerce now.

Mr. SAVAGE. What becomes of the proposition of the gentleman from Ohio, [Mr. HURD]?

Mr. CONGER. I understood this river and harbor appropriation bill was reported to the House and that the gentleman from Texas [Mr. REAGAN] moved and failed to suspend the rules and pass it.

The SPEAKER. That bill is with the Committee on Commerce now, and the gentleman from Texas moved that the Committee be discharged from its further consideration and the bill passed. The gentleman from Ohio is now recognized to submit the resolution which has been read.

Mr. HURD. I have demanded the previous question on the preamble and resolution.

Mr. HUBBELL. I ask the preamble and resolution be again read.

The preamble and resolution were again read.

Mr. CONGER. I rise to debate that resolution.

Mr. HURD. I have demanded the previous question.

Mr. CONGER. I rise to debate it, as this is the first day on which it has been offered.

The SPEAKER. It is a question of the highest privilege.

Mr. CONGER. I rise to debate it.

Mr. WALLING. I move to suspend the rules and pass the preamble and resolution.

Mr. HUBBELL. I demand a division on the preamble and resolution.

The SPEAKER. The gentleman is not entitled to a division under a suspension of the rules.

Mr. CONGER. I demand the yeas and nays on the motion to suspend the rules.

The yeas and nays were ordered.

The question was taken; and (two-thirds not voting in favor thereof) it was decided in the negative—yeas 92, nays 87, not voting 111; as follows:

YEAS—Messrs. Abbott, Ainsworth, Bagby, John H. Bagley, jr., Blackburn, Bland, Bliss, Boone, Bradford, Bright, Samuel D. Burchard, John H. Caldwell, William P. Caldwell, Cate, Caulfield, John B. Clarke of Kentucky, Clymer, Cochran, Cook, Cowan, Culberson, Davis, Dibble, Eden, Finley, Forney, Franklin, Fuller, Gause, Glover, Goode, Goodin, Andrew H. Hamilton, Robert Hamilton, Harlensburgh, Henry R. Harris, Hartridge, Hartzell, Hatcher, Hooker, Hopkins, House, Humphreys, Hurd, Jenks, Thomas L. Jones, Knott, Franklin Landers, George M. Landers, Le Moine, Luttrell, Mackey, McFarland, McMahon, Monev, Morrison, Mutchler, New, O'Brien, Odell, Phelps, John F. Phillips, James B. Reilly, Rice, Riddle, John Robbins, Miles Ross, Savage, Sayler, Sheakley, William E. Smith, Southard, Sparks, Springer, Stenger, Tarbox, Teese, Terry, Throckmorton, Turney, John L. Vance, Robert B. Vance, Waddell, Walling, Walsh, Warner, Whitthorne, Wigginton, Wike, Alpheus S. Williams, Jere N. Williams, and Benjamin Wilson—92.

NAYS—Messrs. Adams, Ashe, George A. Bagley, William H. Baker, Ballou, Banks, Blair, Bradley, William R. Brown, Horatio C. Burchard, Battz, Campbell, Cason, Conger, Danford, Darrall, Davy, Denison, Dobbins, Dannels, Eames, Flye, Fort, Freeman, Frye, Haralson, Benjamin W. Harris, Hathorn, Hays, Hendee, Henderson, Hoar, Hoge, Hoskins, Hubbell, Hunter, Hurlbut, Hyman, Kasson, Kebr, Kimball, Lapham, Lawrence, Leavenworth, Lynch, Magoon, MacDougall, McCrary, Monroe, Nash, Norton, Oliver, O'Neill, Packer, William A. Phillips, Pierce, Plaisted, Platt, Pratt, Rainey, William M. Robbins, Robinson, Sobieski, Ross, Rusk, Sampson, Seelye, Sinnickson, A. Herr Smith, Strait, Martin I. Townsend, Washington Townsend, Tufts, Van Vorhes, Wait, Waldron, Alexander S. Wallace, John W. Wallace, White, Whitehouse, Whiting, Andrew Williams, Charles G. Williams, William B. Williams, James Wilson, Alan Wood, jr., and Woodworth—87.

NOT VOTING—Messrs. Anderson, Atkins, John H. Baker, Banning, Bass, Beebe, Belford, Bell, Blount, John Young Brown, Buckner, Burleigh, Cabell, Candler, Cannon, Carr, Caswell, Chapin, Chittenden, John B. Clark, jr., of Missouri, Collins, Cox, Crapo, Crouse, Cutler, De Bolt, Douglas, Durand, Durham, Egbert, Ellis, Evans, Faulkner, Felton, Field, Foster, Garfield, Gibson, Gunter, Hale, Hancock, John T. Harris, Harrison, Raymond, Henkle, Abram S. Hewitt, Goldsmith H. W. Hewitt, Hill, Holman, Hunton, Frank Jones, Joyce, Kelley, King, Lamar, Lane, Levy, Lewis, Lord, Lynde, Maish, McDill, Meade, Metcalfe, Miller, Milliken, Mills, Morgan, Neal, Page, Payne, Piper, Poppleton, Potter, Powell, Purman, Rea, Reagan, John Reilly, Roberts, Seales, Schleicher, Schumaker, Singleton, Siemons, Smalls, Stanton, Stephens, Stevenson, Stone, Stowell, Swann, Thomas, Thompson, Thornburgh, Tucker, Charles C. B. Walker, Gilbert C. Walker, Warner, Watterson, Erastus Wells, G. Wiley Wells, Wheeler, Willard, James Williams, Willis, Wilshire, Fernando Wood, Woodburn, Yeates, and Young—111.

So the rules were not suspended, (two-thirds not voting in favor thereof.)

MESSAGE FROM THE SENATE.

A message from the Senate by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed, without amendment, a bill of the House of the following title:

The bill (H. R. No. 2229) for the relief of Chaney J. Poore, late a private in Battery G, First New York Light Artillery.

The message further announced that the Senate had passed, with amendments in which the concurrence of the House was requested, bills of the House of the following titles:

A bill (H. R. No. 3925) relating to the production of fruit brandy and to punish frauds connected with the same; and

A bill (H. R. No. 534) for the relief of Rosetta Hert, (late Rosetta

Scoville,) Charles C. Benoist, Emily Benoist, and Logan Fan Fan, half-breed Indians.

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

A bill (S. No. 1111) for the relief of Thomas E. Maley;

A bill (S. No. 667) for the relief of William Wheeler Hubbell, and to make just compensation for the past making or use or vending of his patent explosive shell fuses and percussion exploders by the United States;

A bill (S. No. 177) to authorize the Secretary of War to open and re-adjust the settlements made by the United States Government with the Western and Atlantic Railroad of Georgia; and

A bill (S. No. 407) to authorize the restoration of George A. Armes to the rank of captain.

CORRECTION OF RECORD.

Mr. SAVAGE. I rise to a question of privilege. I am recorded as having voted "no" on the proposition that the vote of Henry N. Sollace be not counted. I voted "ay."

The SPEAKER *pro tempore*, (Mr. O'BRIEN.) The correction will be made.

ORDER OF BUSINESS.

Mr. EDEN. I desire to bring before the House for action at this time the bill (H. R. No. 4433) making appropriations for the payment of claims reported by the commissioners of claims under the act of Congress of March 3, 1871, with amendments.

Mr. COCHRANE. I submit to the Chair that the question before the House is the resolution presented to the House by the gentleman from Ohio, [Mr. HURD,] from the committee of which he is a member, and which is a privileged resolution. The gentleman had demanded the previous question on the resolution. Pending that the gentleman from Ohio [Mr. WALLING] moved to suspend the rules and adopt the resolution. The House has voted upon the question as to whether or not the rules shall be suspended. Two-thirds have not voted to suspend the rules. I ask the Chair whether the question should not now be put to the House upon the motion of the gentleman from Ohio, [Mr. HURD.]

Mr. EDEN. I do not yield for that purpose.

The SPEAKER *pro tempore*. The Chair will state in answer to the gentleman from Pennsylvania—

Mr. HUBBELL. I rise to a question of order.

The SPEAKER *pro tempore*. There is one question of order pending now.

Mr. HUBBELL. My question of order is that I cannot hear what is going on.

The SPEAKER *pro tempore*. The House will come to order. A point of order had been made on the resolution by the gentleman from Ohio, [Mr. HURD.]

Mr. HURD. My resolution is a matter of the highest privilege, involving the custody of persons now detained by the Sergeant-at-Arms.

Mr. EDEN. How did the gentleman from Ohio [Mr. HURD] get the floor?

Mr. HURD. The Speaker recognized me.

Mr. COCHRANE. The Chair recognized the gentleman from Ohio [Mr. HURD] on a privileged question. Pending the demand for the previous question, the gentleman from Ohio [Mr. WALLING] moved to suspend the rules and pass the resolution. That motion not having been sustained, the question recurs on the resolution of the gentleman from Ohio, [Mr. HURD.]

The SPEAKER *pro tempore*. The resolution of the gentleman from Ohio [Mr. HURD] was not in order for consideration at this time. Therefore the gentleman from Ohio [Mr. WALLING] moved to suspend the rules and pass the resolution. The suspension of the rules not having been sustained, the resolution is not before the House. The gentleman from Illinois [Mr. EDEN] is recognized.

Mr. WALLING. I arise to a parliamentary inquiry in reference to the last vote.

The SPEAKER *pro tempore*. The gentleman is not in order. The Chair has recognized the gentleman from Illinois, [Mr. EDEN.]

Mr. WALLING. I insist on my right to make a parliamentary inquiry at any time.

The SPEAKER *pro tempore*. The gentleman is not in order, for the reason that the question to which his inquiry refers is not before the House, and the gentleman from Illinois [Mr. EDEN] has been recognized.

Mr. WALLING. I rose to make a parliamentary inquiry.

The SPEAKER *pro tempore*. The Chair rules it out of order. Has the gentleman from Illinois the bill on which he asks the action of the House?

Mr. EDEN. The bill has been reported with certain amendments. The Clerk has it.

The SPEAKER *pro tempore*. The Chair will wait a few minutes while the bill is sent for. In the meantime the House will preserve order.

Mr. HARRISON. Meanwhile I desire to offer the resolution which I send to the desk.

Mr. WALLING. I object. If I was not in order, other gentlemen are not in order in offering resolutions.

Mr. WHITE. I rise to make a parliamentary inquiry. How long shall we have to wait?

The SPEAKER *pro tempore*. That is a matter within the discretion of the Chair. [Laughter.]

Mr. WHITE. Will the Chair entertain a resolution that I desire to offer now by unanimous consent? [Loud cries of "Regular order!" and great confusion.]

Mr. RUSK. Whom are you going to recognize, Mr. Speaker?

Mr. JONES, of Kentucky. What proposition is before the House?

The SPEAKER *pro tempore*. The Chair trusts the House will indulge the gentleman from Illinois until the bill which he desires to have passed can be brought here. [Loud cries of "Regular order!" and confusion.]

The SPEAKER *pro tempore*. The Chair informs the gentleman from Illinois [Mr. EDEN] that the bill upon which he desires action is not in the possession of the Clerk.

Mr. EDEN. Then I withdraw my motion. [Loud cries of "Regular order!" and confusion.]

GEORGE A. ARMES.

Mr. GLOVER. I move that the rules be suspended and the bill (S. No. 407) to authorize the restoration of George A. Armes to the rank of captain be passed. [Cries of "Object!"] I have moved a suspension of the rules and that the bill be passed.

The Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of law regulating appointments in the Army by promotion in the line are hereby suspended, for the purposes of this act, and only so far as they affect George A. Armes; and the President can, if he so desire, in the exercise of his own discretion and judgment, nominate, and, by and with the advice and consent of the Senate, appoint said George A. Armes, late captain in the Tenth United States Cavalry Regiment, to the same grade and rank of captain held by him on June 7, 1870 in any vacancy occurring: Provided, however, That no pay, compensation, or allowance whatever shall ever be given to said Armes for the time between June 7, 1870, and the date of appointment hereunder.

Mr. TEESE. I object to the passage of that bill, and I objected in season. I desire to hear the report on which the bill is founded, and then I propose to object to the bill.

The SPEAKER *pro tempore*. The motion to suspend the rules suspends the reading of the report.

Mr. TEESE. But I objected to the motion in the first place.

The SPEAKER *pro tempore*. The gentleman could not object to a motion to suspend the rules.

The question was taken on Mr. GLOVER's motion; and upon a division there were—ayes 100, noes not counted.

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

The yeas and nays were ordered.

Mr. FORT. We do not know anything about this case, and I ask that unanimous consent be given to the gentleman from Missouri [Mr. GLOVER] to explain it.

The SPEAKER *pro tempore*. The bill will be again read.

The Clerk again read the bill.

Mr. STONE. I move that the House adjourn.

The SPEAKER *pro tempore*. That motion is not now in order, and the Clerk will proceed to call the roll.

The question was taken; and there were—yeas 112, nays 74, not voting 104; as follows:

YEAS—Messrs. Adams, Ainsworth, Ashe, George A. Bagley, John H. Bagley, jr., Banning, Belford, Bland, Bliss, Boone, Bradford, Bright, Samuel D. Burchard, Buttz, John H. Caldwell, William P. Caldwell, Campbell, Candler, Cason, Cate, Collins, Cook, Cox, Culberson, Davis, Davy, De Bolt, Denison, Eden, Egbert, Ellis, Faulkner, Felton, Field, Forney, Franklin, Fuller, Glover, Goode, Goodin, Andrew H. Hamilton, Haralson, Benjamin W. Harris, Henry R. Harris, John T. Harris, Harrison, Hartzell, Hatcher, Haymond, Hendee, Henkle, Abram S. Hewitt, Hill, Hooker, House, Thomas L. Jones, Kehr, Knott, Franklin Landers, George M. Landers, Lord, Luttrell, Mackey, MacDougall, McFarland, McMahon, Mutchler, New, Odell, Page, John P. Phillips, William A. Phillips, Pierce, Rea, Reagan, John Reilly, Riddle, John Robbins, William M. Robbins, Roberts, Rusk, Savage, Scales, Sheakley, Singleton, Slemmons, A. Herr Smith, Sparks, Stenger, Stone, Terry, Thomas, Thompson, Throckmorton, Turney, Robert B. Vance, Waddell, Wait, John W. Wallace, Walling, Walsh, Watterson, Erastus Wells, Whitehouse, Willard, Andrew Williams, Alpheus S. Williams, James Williams, Wilshire, Benjamin Wilson, Woodworth, and Yeates—112.

NAYS—Messrs. Bagby, John H. Baker, William H. Baker, Ballou, Banks, Blair, Bradley, William R. Brown, Horatio C. Burchard, Burleigh, Cannon, Caswell, Conger, Crounse, Darrall, Dobbins, Douglas, Durham, Eames, Fort, Freeman, Frye, Garfield, Robert Hamilton, Hancock, Hardenbergh, Hathorn, Hays, Henderson, Hoar, Hoskins, Humphreys, Hunter, Hurlbut, Hyman, Joyce, Kasson, Kelley, Lapham, Lawrence, Leavenworth, Le Moine, Magoon, McCrary, McDill, Monroe, Neal, Norton, Oliver, O'Neill, Packer, Plaisted, Platt, Rainey, Robinson, Sobieski Ross, Sampson, Seelye, Smalls, Southard, Stanton, Teese, Thornburgh, Martin I. Townsend, Washington Townsend, Tufts, Van Vorhes, Waldron, Alexander S. Wallace, White, Wigington, Wike, William B. Williams, and James Wilson—74.

NOT VOTING—Messrs. Abbott, Anderson, Atkins, Bass, Beebe, Bell, Blackburn, Blount, John Young Brown, Buckner, Cabell, Carr, Caulfield, Chapin, Chittenden, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochran, Cowan, Crapo, Cutler, Danford, Dibrell, Dunnell, Durand, Evans, Finley, Flye, Foster, Gause, Gibson, Gunter, Hale, Hartridge, Goldsmith W. Hewitt, Hoge, Holman, Hopkins, Hubbell, Hutton, Hurd, Jenks, Frank Jones, Kimball, King, Lamar, Lane, Levy, Lewis, Lynch, Lynde, Maish, Meade, Metcalfe, Miller, Milliken, Mills, Money, Morgan, Morrison, Nash, O'Brien, Payne, Phelps, Piper, Poppleton, Potter, Powell, Pratt, Purman, James B. Reilly, Rice, Miles Ross, Sayler, Schleicher, Schumaker, Sinnickson, William E. Smith, Springer, Stephens, Stevenson, Stowell, Strait, Swann, Tarbox, Tucker, John L. Vance, Charles C. Walker, Gilbert C. Walker, Ward, Warner, Warren, G. Wiley Wells, Wheeler, Whiting, Whitthorne, Charles G. Williams, Jere N. Williams, Willis, Alan Wood, jr., Fernando Wood, Woodburn, and Young—104.

So (two-thirds not voting in favor thereof) the rules were not suspended.

PAYMENT OF CLAIMS.

Mr. EDEN. I move to suspend the rules for the purpose of considering at this time the bill (H. R. No. 4433) making appropriations for the payment of claims reported allowed by the Commissioners of Claims under the act of Congress of March 3, 1871. I have an amendment which I desire to offer to it.

Mr. WALLING. I demand the reading of the bill and amendment.

The SPEAKER *pro tempore*. The motion of the gentleman from Illinois [Mr. EDEN] is to suspend the rules and pass the bill without reading.

Mr. WALLING. No such motion was made.

Mr. LUTTRELL. I move to dispense with the reading of the bill.

Mr. EDEN. I will state what my motion was; and if I can get the attention of these gentlemen I think I can satisfy even the gentleman from Ohio [Mr. WALLING] as to this amendment. I cannot do it, however, in the prevailing confusion and unless I can have the attention of the House.

Mr. WALLING. If debate is in order I expect to be heard myself.

Mr. EDEN. I have no objection to the gentleman being heard. I wish to ask unanimous consent that the reading of the names and the amounts in this bill be dispensed with. I will state that it is a bill simply to pay the awards made by the commissioners of claims, and does not include a single item except what has been allowed by that commission. The amount of their allowance has in no instance been increased.

Mr. GARFIELD. Is it a bill to pay the amount embraced in the report of the southern claims commission?

Mr. EDEN. It is.

Mr. GARFIELD. Is there any new legislation in the bill?

Mr. EDEN. There is not.

Mr. GARFIELD. Then I hope there will be no objection to it.

Mr. WALLING. I make the point of order that this bill provides for the payment of claims and has not yet been considered in Committee of the Whole.

Mr. HOLMAN. I insist upon the bill being read.

Mr. EDEN. I would inquire of the gentlemen from Indiana [Mr. HOLMAN] if he desires to have read sixty pages of names and amounts, that will give nobody any more information than I could give by a few minutes' explanation? A bill of this character has never heretofore been read on any occasion when it has been passed. If the gentleman insists upon the reading of it, I suppose he has the right to do so.

Mr. GARFIELD. Why does not the gentleman move to suspend the rules and pass the bill?

Mr. HOLMAN. All I wish is that the gentleman from Illinois [Mr. EDEN] will give us a statement as to the number of claims reported by the southern claims commission to the present Congress, the general character of those claims, and the fact whether or not the Committee on War Claims, as far as possible, have looked into the records sent to the House by that commission; and also to state the aggregate amount involved, with such other facts pertaining to the southern claims commission as will inform the House of the character of the bill which we are now asked to pass. I understand that this bill involves an appropriation of \$600,000.

Mr. EDEN. Not so much as that.

Mr. HOLMAN. I hope it is not so much; perhaps it is not so much as that. But I think this statement is due to the House in order that members may be able to act intelligently.

The SPEAKER. That is just what the gentleman from Illinois [Mr. EDEN] desires to do. He moves to suspend the rules so as to bring this bill before the House for consideration at this time.

The motion of Mr. EDEN was agreed to, two-thirds voting in favor thereof.

Mr. EDEN. In response to the gentleman from Indiana [Mr. HOLMAN] I would state that this appropriation is in pursuance of an act of Congress passed on the 3d of March, 1871, under which act a commission was appointed, called the commissioners of claims, consisting of three persons nominated by the President and confirmed by the Senate. Under the provisions of that law persons living in the insurrectionary States who were loyal and who had furnished supplies to the Army or Navy of the United States, upon making proof of loyalty and proof of the amount and justice of their claim, and that the supplies were taken for the use of the Army or Navy, such persons were entitled to compensation to the amount that the commission might find to be due.

Mr. WALLING. Is it in order to call for the reading of the bill which is at the Clerk's desk?

The SPEAKER. The gentleman from Illinois [Mr. EDEN] has the floor upon the bill.

Mr. WALLING. I reserve my right to call for the reading of the bill.

Mr. EDEN. This is the sixth annual report of that commission. I believe the amount in this report is smaller than in any preceding report. The whole number of claims passed upon by the commission in this report is eighteen hundred and sixty-six, of which there were allowed in whole or in part nine hundred and seventy-six. The whole amount involved in the claims was \$4,264,877.71, and the amount allowed was \$474,632.45; and the commission in a subsequent report allowed about \$500 more.

As I stated a moment since, this commission is composed of three

gentlemen appointed by President Grant and confirmed by the Senate of the United States. This is their sixth annual report. Appropriations have been made at every session of Congress since the commission was organized, to pay the awards of the commission. The Committee on War Claims have given to these cases all the attention they possibly could give them. There are in this report a great many smaller claims; but all claims involving any considerable amount were examined by members of the committee, and this bill is reported by the unanimous direction of the Committee on War Claims.

Mr. CONGER. Will the gentleman state to the House whether the law requires a commission to report all their judgments on these claims to the House for our action here?

Mr. EDEN. That is the fact.

Mr. HOOKER. I desire to ask the gentleman from Illinois how many claims referred to that commission have not been acted upon by them, and further, whether it is not the custom of the commission in ascertaining the validity of any claims from Southern States to send special agents to take *ex parte* testimony, for the purpose of defeating the claims presented for consideration?

Mr. EDEN. The practice of the commission is to send special agents into the Southern States to make investigation in reference to the correctness of the claims and the loyalty of the claimants.

Mr. HOOKER. Do they not take *ex parte* testimony, without notice to the claimants at the time such testimony is taken?

Mr. EDEN. I can speak only with reference to the law. The law authorizes the commission to adopt their own mode of procedure.

Mr. HOOKER. I know that the commission has sent agents into Mississippi and taken testimony without notice to the claimants.

Mr. EDEN. That is probably true; but it is not probable, however, that such a mode of procedure would do injustice to the Government, though it might in some cases do injustice to the claimant.

Mr. HOOKER. That is the reason I want to know whether the claims that were not acted on by the commission were returned to you.

Mr. EDEN. The whole number of claims filed before the commission was 22,298. There was a limitation of two years from the passage of the act within which claims should be filed. The whole amount involved in those claims, I believe, was over \$50,000,000. The commission has passed upon about one-half of those claims and made very great reductions, probably allowing not more than one-fifth or one-sixth of the amount of the claims.

Mr. HOOKER. Does the gentleman mean that the commission has passed upon one-half the number of claims presented or one-half the amount of the claims?

Mr. EDEN. They have passed upon one-half of the number of claims and probably one-half of the amount. But they have not allowed one-half of the amount claimed; they have made very great reductions; and in this respect some gentlemen of the South may believe that there has been some ground of complaint on account of these special agents. But I wish to call attention to the fact that such a system would not probably do the Government any injustice; and from the experience I have had in the examination of war claims, I am satisfied it is necessary that this commission, or any other tribunal that undertakes to settle war claims, whether they come from the North or the South, must use a great many precautions in order to see that the Government is not defrauded; and in so doing doubtless many just claims will not be allowed. This bill does not include what are known as the 4th of July claims, the claims coming from the Quartermaster's Department. It includes only claims reported by the commissioners of claims.

Mr. HARRISON. From what localities in the United States are these commissioners appointed?

Mr. EDEN. They are all appointed from the Northern States: Judge Addis, from Vermont; Judge Howell, (formerly a Senator,) from Iowa; and Judge Ferriss, (formerly a member of this House,) from New York.

Mr. SINGLETON. Is it not the fact that these commissioners have adjudged every man to be *prima facie* a rebel against the Government? Do they not in every instance require affirmative proof of loyalty to the Government?

Mr. EDEN. They require actual proof of loyalty in every case as a condition precedent to the consideration of the claim upon its merits.

There was one portion of the question of my friend from Mississippi that I did not answer. The number of claims yet undisposed of, including the eighteen hundred embraced in this bill, is 11,210.

Mr. HOOKER. And that is about one-half of the whole number?

Mr. EDEN. Yes, sir.

Mr. HOOKER. Are any claims sent to your committee except those favorably reported by the commissioners?

Mr. EDEN. We have not reported a dollar in this bill except what the commission has recommended.

Mr. HOOKER. As I understand, then, all the claims, whether favorably or unfavorably acted upon by the commission, are sent to your committee, but you have not acted at all upon any of those reported unfavorably by the commission.

Mr. EDEN. That is the fact. I now call the previous question on the bill and amendments.

Mr. WALLING. I inquire whether we have not the right to have the bill read before it is disposed of.

The SPEAKER. The practice has never been to read the schedule of claims appended to bills of this character.

Mr. WALLING. Every Monday morning of this session bills introduced have been read *in extenso* upon the demand of one member. I demand the reading of this bill.

Mr. EDEN. I move to suspend the rules and pass the bill with the amendments of the committee without reading.

The motion of Mr. EDEN was agreed to, (two-thirds voting in favor thereof;) and the bill, with the amendments of the committee, was accordingly passed.

Mr. HOLMAN. I rise to move a recess of the House, and desire to state the object of the motion if I can get the ear of the House.

The SPEAKER. The necessity of a recess for an evening session is so manifest the Chair thinks the House will at once accede to it.

Mr. HOLMAN. I wish to call attention to the importance of the House being full to-night.

Mr. WALLING. I demand the regular order.

Mr. HOLMAN. I move the House take a recess until eight o'clock to-night.

The motion was agreed to; and accordingly (at ten minutes after five o'clock p. m.) the House took a recess until eight o'clock this evening.

AFTER THE RECESS.

At eight o'clock p. m. the House resumed its session.

CONTESTED-ELECTION CASES.

Mr. HARRIS, of Virginia, from the Committee of Elections, reported the following resolution, and moved that the rules be suspended and the resolution adopted; which motion was agreed to:

Resolved, That there be printed for the use of the House the usual number of copies of the digest of contested-election cases, by the clerk of the Committee of Elections, together with a full index to the same, to be prepared by the said clerk; for which, and for the necessary preparation and superintendence connected therewith, shall be paid by the Clerk of the House a per diem for days actually employed therein, not exceeding that paid to clerks of committees during the session of Congress, the aggregate amount not to exceed \$1,500, and not more than \$500 shall be paid before the work is completed.

REAL-ESTATE POOL.

Mr. GLOVER. I am directed by the Committee on Real-Estate Pool to ask that the testimony taken before that committee be printed.

Mr. WILSON, of Iowa. What testimony?

Mr. GLOVER. The testimony taken before that committee.

Mr. WILSON, of Iowa. What is the subject of it?

Mr. GLOVER. The various subjects investigated by that committee.

Mr. WILSON, of Iowa. Relative to the charges against Mr. GARFIELD?

Mr. GLOVER. Part of it is testimony taken in that case.

Mr. WILSON, of Iowa. I object, unless it is passed under suspension of the rules.

Mr. GLOVER. Mr. GARFIELD has seen it and does not object to having it printed.

Mr. WILSON, of Iowa. I object unless it is passed under suspension of the rules.

Mr. GLOVER. I move to suspend the rules, and that the testimony be ordered to be printed. I understood from Mr. GARFIELD that he would not object to the printing of the testimony.

Mr. GARFIELD rose.

Mr. WILSON, of Iowa. The gentleman from Ohio is now present.

Mr. GARFIELD. I understand there is some testimony referring to myself. I have seen but a single deposition, but I am told there is considerable more. I do not think it just, until I shall have a chance to see what it is, that it should be printed. So far as that one deposition is concerned, I do not object, but I have not had any opportunity to see the rest.

Mr. GLOVER. If the gentleman from Ohio has not seen the testimony, it is because he did not apply for it. It is much of the same nature.

Mr. GARFIELD. I wish to say for myself that I do not think a vast mass of testimony reflecting on individuals should be printed in this way. I have not seen all the testimony referring to myself. I do not think it should be printed until I have seen it. So far as the one deposition I have seen, I do not object to that being printed.

Mr. WILSON, of Iowa. Did you have an opportunity to cross-examine the witnesses?

Mr. GARFIELD. I did not.

Mr. WILSON, of Iowa. I will object, then, unless it is done under a suspension of the rules.

Mr. GLOVER. I move to suspend the rules and print the testimony.

Mr. HARRIS, of Virginia. I desire to ask a question. Did the gentleman have knowledge of the taking of the testimony, and if so, did he attend?

Mr. GLOVER. The gentleman has had knowledge since the day before yesterday morning of the taking of the testimony.

Mr. GARFIELD. Then, for the first time, I had information that testimony was taken before that committee.

Mr. WILSON, of Iowa. It is a gross outrage to have an investigation going on against him without letting him know. I protest against it to the utmost.

Mr. GLOVER. I desire to repel the insinuation of the gentle-

man there has been any outrage in the matter. There is but little new matter in this concern. It is a review of a matter which appeared before the joint select committee of the House in the Forty-third Congress. There are some features of new testimony, all of which Mr. GARFIELD has had liberty to see for over two days.

We omitted giving any public notice of this testimony until the committee had reached a point where, in their judgment, it reflected on Mr. GARFIELD. At that point we notified him; and he has had two days now in which he could have reviewed the whole of this testimony, for there is not much of it.

Mr. WILSON, of Iowa. I insist without any disrespect to the gentlemen on that committee that when a committee enters upon an investigation in regard to a member of this House without his knowing what is being done they perpetrate an outrage on the rights of that member.

Mr. GLOVER. The gentleman from Ohio [Mr. GARFIELD] has known all about it from the day the first testimony was given before that committee.

Mr. WILSON, of Iowa. He says he did not.

Mr. GLOVER. I know that he did know it.

Mr. WILSON, of Iowa. The word of the gentleman from Ohio is as good as that of the gentleman from Missouri.

Mr. GLOVER. I know that one of those witnesses went to the house of the gentleman from Ohio before breakfast in the morning and informed him of the fact that he had been subpoenaed before the committee, and Mr. GARFIELD knew what the witness had to say. The gentleman from Iowa [Mr. WILSON] has brought this out by his unbecoming and unnecessary reflections upon the committee.

Mr. GARFIELD. If anybody here desires to assail me now is the time, and let the assault be made as promptly and by as many as please. But I propose to know who my assailants are and what they say before their assaults shall be printed as part of the proceedings of the House.

Mr. PRATT. I desire to inquire of the Chair if it is not necessary that this request should come from the committee. I am on that committee and know nothing of any desire on the part of the committee to have the testimony printed.

The SPEAKER. The Chair must take the word of the gentleman from Missouri [Mr. GLOVER] as representing the wish of the committee; he being chairman of the committee.

Mr. O'BRIEN. Is it in order to have the testimony read?

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 4306) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1878, and for other purposes.

The message further announced that the Senate had passed, without amendment, bills of the House of the following titles:

The bill (H. R. No. 1611) authorizing the change of the name of the sloop *Addie Parker*;

The bill (H. R. No. 1765) respecting the limits of reservations for town sites upon the public domain;

The bill (H. R. No. 1824) to change the name of the pleasure yacht *Hiram B. to Iola*; and

The bill (H. R. No. 3574) for the relief of Marshal P. Thatcher.

The message further announced that the Senate agreed to the resolution of the House to print 300,000 copies of the Report of the Commissioner of Agriculture for the year 1876.

REAL-ESTATE POOL.

The SPEAKER. The gentleman from Missouri [Mr. GLOVER] moves to suspend the rules, that he may be permitted to report from the Committee on the Real-Estate Pool certain testimony, and that the same may be printed.

A *viva voce* vote being taken on the question, the Speaker stated that in the opinion of the Chair two-thirds had not voted in the affirmative.

Mr. GLOVER. I call for a division.

Mr. BANNING. I think the House will, on a division, find itself without a quorum. I suggest that by unanimous consent action be taken on pension bills until we have a quorum.

Mr. HAMILTON, of Indiana. I call for the regular order.

The SPEAKER. The Chair is inclined to think that there is a quorum present. A vote on the motion of the gentleman from Missouri [Mr. GLOVER] will develop whether there is or not.

The question being taken, there were—ayes 42, noes 34.

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

Mr. HAMILTON, of Indiana. I make the point that a quorum has not voted.

Mr. BAKER, of Indiana. That point is made too late.

The question being taken on ordering the yeas and nays, there were ayes 23.

Mr. WILSON, of Iowa. Count the other side.

The other side being counted, there were noes 42.

So (the affirmative being more than one-fifth of the whole vote) the yeas and nays were ordered.

The question was taken; and there were—yeas 65, nays 62, not voting 163; as follows:

YEAS—Messrs. Ainsworth, Bagby, John H. Bagley, Jr., Banning, Bell, Blount, Boone, John Young Brown, Buckner, John H. Caldwell, Candler, Caulfield, Collins, Cowan, Davis, De Bolt, Dibrell, Eden, Finley, Forney, Glover, Goodin, Andrew H. Hamilton, Hardenbergh, Hartzell, Hatcher, Haymond, Henkle, Hill, Hooker, House, Humphreys, Jenks, Thomas L. Jones, Franklin Landers, Levy, Neal, O'Brien, John F. Phillips, Poppleton, Rea, Reagan, John Reilly, James B. Reilly, Riddle, Savage, Sheakley, Sparks, Springer, Stenger, Stevenson, Tarbox, Terry, Thomas, Thompson, Turney, Robert B. Vance, Charles C. B. Walker, Walsh, Erastus Wells, Whitehouse, Whitthorne, Wigginton, Wike, and Yates—65.

NAYS—Messrs. Adams, John H. Baker, William H. Baker, Ballou, Banks, Bedford, Blair, Bradley, William R. Brown, Caswell, Chittenden, Conger, Crapo, Crounse, Danford, Darrall, Dobbins, Dunnell, Foster, Frye, Benjamin W. Harris, Hathorn, Hays, Hubbell, Joyce, Kelley, Kimball, Lapham, Lawrence, Lynch, MacDougall, McDill, Monroe, Oliver, O'Neill, Packer, Page, William A. Phillips, Pierce, Pratt, Rainey, Robinson, Sobieski Ross, Rusk, Sampson, Seelye, Simmickson, A. Herr Smith, Strait, Thornburgh, Martin I. Townsend, Washington Townsend, Tufts, Wait, Waldron, Alexander S. Wallace, John W. Wallace, White, Willard, Charles G. Williams, William B. Williams, and James Wilson—62.

NOT VOTING—Messrs. Abbott, Anderson, Ashe, Atkins, George A. Bagley, Bass, Beebe, Blackburn, Bland, Bliss, Bradford, Bright, Horatio C. Burchard, Samuel D. Burchard, Burleigh, Buttz, Cabell, William P. Caldwell, Campbell, Cannon, Carr, Casson, Cate, Chapin, John B. Clarke of Kentucky, John B. Clark, Jr., of Missouri, Clymer, Cochrane, Cook, Cox, Culberson, Cutler, Davy, Denison, Douglas, Durand, Durham, Eames, Egbert, Ellis, Evans, Faulkner, Felton, Field, Flye, Fort, Franklin, Freeman, Fuller, Garfield, Gause, Gibson, Goode, Gunter, Hale, Robert Hamilton, Hancock, Haralson, Henry R. Harris, John T. Harris, Harrison, Hartridge, Hendee, Henderson, Abram S. Hewitt, Goldsmith W. Hewitt, Hoar, Hoge, Holman, Hopkins, Hoskins, Hunter, Hutton, Hurd, Hurlbut, Hymen, Frank Jones, Kasson, Kehr, King, Knott, Lamar, George M. Landers, Lane, Leavenworth, Le Moyne, Lewis, Lord, Luttrell, Lynde, Mackey, Magoon, Maish, McCrary, McFarland, McMahon, Meade, Metcalfe, Miller, Milliken, Mills, Money, Morgan, Morrison, Mottler, Nash, New, Norton, Odell, Payne, Phelps, Piper, Plaisted, Platt, Potter, Powell, Purman, Rice, John Robbins, William M. Robbins, Roberts, Miles Ross, Saylor, Seales, Schleicher, Schumaker, Singleton, Slemmons, Smalls, William E. Smith, Southard, Stanton, Stephens, Stone, Stowell, Swann, Teese, Throckmorton, Tucker, Van Vorhes, John L. Vance, Waddell, Gilbert C. Walker, Walling, Ward, Warner, Warren, Watterson, G. Wiley Wells, Wheeler, Whiting, Andrew Williams, Alpheus S. Williams, James Williams, Jere N. Williams, Willis, Wiltshire, Benjamin Wilson, Alan Wood, Jr., Fernando Wood, Woodburn, Woodworth, and Young—163.

So (two-thirds not voting in favor thereof) the rules were not suspended.

During the roll-call,

Mr. HUBBELL said: I am requested to state that Mr. KNOTT is absent on account of illness; if present he would vote "ay."

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

Mr. HAMILTON, of Indiana. No quorum has voted. I move a call of the House.

ENROLLED BILLS SIGNED.

The SPEAKER. Pending that motion the Chair lays before the House a report from the Committee on Enrolled Bills.

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

An act (H. R. No. 256) for the relief of Herman Hulman, of Terre Haute, Indiana;

An act (H. R. No. 1016) for the relief of Virginia E. White, of Ohio County, West Virginia;

An act (H. R. No. 1253) granting to the State of Missouri all lands therein selected as swamp and overflowed lands;

An act (H. R. No. 2229) for the relief of Chancy J. Poore, late a private in Battery G, First New York Light Artillery; and

An act (H. R. No. 4117) for the relief of Colonel Frank L. Woolford, late of the First Kentucky Cavalry Volunteers, of certain disabilities.

WITHDRAWAL OF PAPERS.

On motion of Mr. HARDENBERGH, leave was granted for the withdrawal from the files of the House of the papers in the case of Major Henry G. Healey.

On motion of Mr. VANCE, of North Carolina, leave was granted to withdraw from the files of the House the original papers accompanying the bill H. R. No. 3210, no adverse report having been made thereon.

JOHN KELLEY.

On motion of Mr. HARRIS, of Virginia, it was ordered that the leave given him to withdraw from the files of the House the papers in the case of John Kelley be rescinded, as the request was made under a misapprehension.

LEAVE TO PRINT.

Mr. SPARKS, by unanimous consent, was granted leave to print as a part of the debates in the CONGRESSIONAL RECORD some remarks upon the electoral bill.

NATIONAL COUNCIL OF THE OSAJE INDIANS.

Mr. WILSHIRE. I ask unanimous consent to report a substitute for the bill (H. R. No. 3079) to authorize the execution of a resolution of the national council of the Osage Indians.

There was no objection, and the bill was recommitted to the Committee on Indian Affairs, and ordered to be printed.

SILVER COMMISSION.

The SPEAKER, by unanimous consent, laid before the House the report of the silver commission, the same having been placed in his

hands by the gentleman from Missouri, [Mr. BLAND,] and asked the same be printed.

There was no objection, and the report was ordered to be printed.

CORRECTION.

Mr. WIKE. I notice in the RECORD that I am recorded as having voted in the negative yesterday on the proposition of the gentleman from New York [Mr. WOOD] not to count the vote of Mr. Sollace as one of the electors of the State of Vermont. I voted in the affirmative, and I wish the record to show that fact.

The SPEAKER. The Journal and the RECORD will be corrected accordingly.

MAIL ROUTES.

The SPEAKER, by unanimous consent, laid before the House a memorial from the council and house of representatives of the Territory of Montana, in relation to the mail-route from Bozeman City, Montana, to Cheyenne, Wyoming; which was referred to the Committee on the Post-Office and Post-Roads.

HARBORS OF REFUGE ON OHIO RIVER.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting the report of the chief engineer in reference to harbors of refuge on the Ohio River; which was referred to the Committee on Commerce.

PUBLIC SCHOOLS IN THE TERRITORY OF MONTANA.

The SPEAKER also, by unanimous consent, laid before the House a memorial from the legislative council and house of representatives of Montana Territory in reference to the establishment of public schools in that Territory; which was referred to the Committee on Education and Labor.

TERRITORIAL OFFICES.

The SPEAKER also, by unanimous consent, laid before the House a joint memorial from the legislative council and house of representatives of Montana Territory in relation to certain territorial offices; which was referred to the Committees on Territories.

NATIONAL HOME FOR DISABLED SOLDIERS.

The SPEAKER also, by unanimous consent, laid before the House the report of the managers of the National Home for Disabled Volunteer Soldiers; which was referred to the Committee on Military Affairs.

ORDER OF BUSINESS.

Mr. LANDERS, of Indiana. I ask unanimous consent to introduce a bill.

Mr. O'BRIEN. I object, and demand a call of the House.

The SPEAKER. The Chair desires to accommodate gentlemen who have measures to introduce.

Mr. HAMILTON, of Indiana. I object and call for the regular order, and that is a call of the House, as no quorum is present.

The SPEAKER. The Chair thinks a quorum is present.

Mr. HAMILTON, of Indiana. I insist on the motion that there be a call of the House, and object to everything but the regular order.

The SPEAKER. The Chair is of the opinion that there is a quorum present.

SALE OF DESERT LANDS.

Mr. LUTTRELL. The bill (H. R. No. 4231) to provide for the sale of desert lands in certain States and Territories has been returned from the Senate with amendments. I move that the amendment of the Senate be non-concurred in, and that a committee of conference be asked upon the disagreeing votes of the two Houses thereon.

Mr. O'BRIEN. I withdraw the motion for a call of the House.

Mr. GLOVER. I desire to withdraw the motion to print testimony at this time.

LEWIS E. CAMPBELL.

Mr. LANDERS, of Indiana, by unanimous consent, introduced a bill (H. R. No. 4695) granting a pension to Lewis E. Campbell, Company K, Twenty-first Regiment Indiana Heavy Artillery; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOAB ALBERTSON.

Mr. LANDERS, of Indiana, also, by unanimous consent, introduced a bill (H. R. No. 4696) granting a pension to Joab Albertson, of Company K, Twenty-first Regiment Indiana Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CURRENCY AND SILVER COIN.

Mr. LANDERS, of Indiana, also, by unanimous consent introduced a bill (H. R. No. 4697) to compel the gradual retirement of national-bank currency and to authorize an issue of United States Treasury notes in lieu thereof; also to repeal an act entitled "An act to provide for the resumption of specie payments," approved January 14, 1875, and also to provide for the coinage of silver dollars; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

Mr. STEVENSON. I ask unanimous consent that the bill just in-

troduced by the gentleman from Indiana [Mr. LANDERS] may be printed in full in the RECORD.

There was no objection and it was so ordered.

The bill is as follows:

An act to compel the gradual retirement of national bank currency and to authorize an issue of United States Treasury notes in lieu thereof; also to repeal an act of Congress entitled "An act to provide for the resumption of specie payments," approved January 14, 1875, and also to provide for the coinage of silver dollars.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That each and every banking association in the United States shall pay a tax upon its circulation, in addition to the tax now authorized by law, as follows, to wit: 1 per cent on the 1st day of January, 1878; 2 per cent on the 1st day of January, 1879; 3 per cent on the 1st day of January, 1880; and 5 per cent on the first day of each year thereafter; and the Secretary of the Treasury is hereby authorized and directed to levy and collect such tax from said banking associations at the times herein specified in the manner in which the tax on bank circulation now authorized by law is levied and collected.

SEC. 2. That on and after the 1st day of January, 1878, the notes of banking associations shall not be received in payment of debts, dues, demands, imposts, or taxes due to the Federal Government.

SEC. 3. That the Secretary of the Treasury is hereby authorized and directed to provide an issue of non-interest-bearing Treasury notes, not to exceed the sum of four hundred millions of dollars of the denomination of five, ten, twenty, fifty, one hundred, five hundred, and one thousand dollars, in the same proportion of each denomination as has been adopted in the issue of the legal-tender Treasury notes authorized by the act of Congress of February 28, 1862, and acts supplementary thereto; and the said non-interest-bearing Treasury notes shall be receivable by the United States Government for all taxes, duties, imposts, excises, debts, and demands of every kind, including customs duties, and shall be in the following form, to wit: "The United States will receive this Treasury note in payment of all taxes, duties, imposts, excises, debts, and demands of every kind due to the United States to the value of \$5," or whatever sum or denomination may be expressed thereon.

SEC. 4. That the Secretary of the Treasury is hereby authorized and directed to issue said Treasury notes in payment of the current expenses of the Federal Government at the rate of the retirement of the circulation of the national banking associations, or in exchange for gold or silver bullion at the coinage value thereof, or for interest-bearing bonds of the United States at their par value.

SEC. 5. That the Secretary of the Treasury is hereby authorized and directed as often as \$10,000 or more of said Treasury notes are paid out of the Treasury in the current expenses of the Federal Government to apply an equal amount of the legal-tender Treasury notes received in payment of current dues and taxes to the purchase of interest-bearing bonds of the United States, or of gold and silver bullion at the market price thereof, which said bullion shall be coined and applied to the redemption of the interest-bearing bonds of the United States in the manner provided by law.

SEC. 6. That the Secretary of the Treasury is hereby authorized and directed to have all gold and silver bullion presented at the Mint of the United States or any of its branches coined free of charge: *Provided*, That all silver bullion coined under any of the provisions of this act shall be coined into standard silver dollars of 412½ grains.

SEC. 7. That the standard silver dollar of 412½ grains shall be a legal tender for all debts, public and private.

SEC. 8. That the act of Congress entitled "An act to provide for the resumption of specie payments," approved January 1, 1875, is hereby repealed; and also all other acts or parts of acts inconsistent with the provisions of this act.

SEC. 9. That the act of Congress entitled "An act to authorize the refunding of the national debt," approved July 14, 1870, and all other acts supplementary thereto for refunding the public debt are hereby repealed.

SEC. 10. That in towns and cities where there is no United States depository the Secretary of the Treasury is authorized to deposit the funds of the Federal Government in such bank or banks as he may select, provided that ample security is given, and provided further that such bank or banks shall not be required to pay interest on such funds.

SEC. 11. The Secretary of the Treasury is hereby authorized to apply any funds in the Treasury of the United States, not otherwise appropriated, to the payment of the expenses incurred in preparing and executing the Treasury notes authorized by this act.

SEC. 12. That the laws in relation to counterfeiting or altering notes issued by the Federal Government, or passing spurious notes thereof, now in force, shall apply to the counterfeiting or altering of the Treasury notes authorized by this act, or passing such counterfeited or altered notes.

ORDER OF BUSINESS.

Mr. CONGER. I move to suspend the rules and pass the resolution which I send to the Clerk's desk.

The Clerk read as follows:

Resolved, That J. Madison Wells, T. C. Anderson, G. Cazanave, and L. M. Kenner, witnesses now confined by order of the House, be discharged from further custody, and the Sergeant-at-Arms, is hereby directed to carry this order into execution.

Mr. CONGER. On that I demand the yeas and nays.

Mr. WALLING. You do, indeed! well, you shall have them.

Mr. BANNING. They ought to get out in time for the inauguration.

Mr. HOOKER. I move to lay the resolution on the table.

Mr. WALLING. That is right.

Mr. O'BRIEN. That is not in order.

Mr. WALLING. Why not?

Mr. O'BRIEN. You cannot move to lay on the table a motion to suspend the rules.

Mr. HOOKER. I make the point of order that the gentlemen who are down on the list for motions to suspend the rules are not recognized by the Chair.

The SPEAKER. The Chair is desirous to equitably divide the time among gentlemen who have motions to suspend the rules. The Chair was not aware what was the character of the resolution the gentleman from Michigan [Mr. CONGER] desired to offer. The gentleman from New York [Mr. FIELD] was entitled to the floor, but the Chair understood that he yielded for the time.

Mr. FIELD. I yielded merely for such matters as would not interfere with my right to the floor. I propose now to go on. I am directed by the committee on the privileges, powers, and duties of the House in relation to the electoral count to make a report in part, to report the

bill which I send to the Clerk's desk, and upon which I call the previous question.

Mr. CONGER. I demand a vote on my motion to suspend the rules. I wish to say, sir, that if the Chair does not intend, when I rise to a question of privilege, although other matter may be pending, to hold that I have the right to take gentlemen from the floor for that purpose, then I would like the Chair to say so.

The SPEAKER. The Chair desires to be equitable all around. He requested the gentleman from New York to yield temporarily, so that other matters which would occasion no controversy might be presented. The gentleman from New York was recognized at the time the House took a recess this afternoon.

Mr. CONGER. He was not upon the floor and I was.

The SPEAKER. He was upon the floor and on his feet.

Mr. CONGER. I must object to the ruling of the Chair. My resolution has been read, and I demand a vote upon my motion to suspend the rules and pass the resolution. We have been unable on this side of the House to offer any resolution to-day.

The SPEAKER. Well, gentlemen on both sides of the House have been complaining.

Mr. CONGER. Perhaps it is time that we should have one chance.

Mr. HOLMAN. I suggest that after the gentleman from New York [Mr. FIELD] gets through with his bill, the gentleman from Michigan [Mr. CONGER] shall then be recognized.

The SPEAKER. The difficulty about that is—

Mr. HOOKER. If gentlemen are going to indicate to the Chair what he shall do—

The SPEAKER. The Chair is compelled to recognize two or three gentlemen who have been waiting for three or four weeks an opportunity to submit motions to suspend the rules. The gentleman from Mississippi in front of the Chair, [Mr. HOOKER,] the gentleman from Mississippi on the left of the Chair, [Mr. LAMAR,] have been waiting for some weeks to move to suspend the rules upon subjects about which there is a controversy, a public controversy, and a controversy in the House. The Chair will be compelled to recognize those gentlemen.

Mr. FIELD. I have reported this bill as a report in part from the committee, and upon it I call the yeas and nays.

Mr. CONGER. I have made my motion to suspend the rules and pass the resolution which has been read, in the interest of imprisoned citizens.

Mr. BURCHARD, of Illinois. I would like to ask the gentleman from New York [Mr. FIELD] how much time he proposes to allow on his bill.

Mr. FIELD. An hour, a half hour on each side.

The SPEAKER. The gentleman from New York held the floor, but yielded for motions that would give rise to no controversy.

Mr. BRADLEY. I raise the question whether the Chair should enter into an arrangement to recognize A, B, and C and to rule others out.

The SPEAKER. The Chair has not ruled anybody out.

Mr. BRADLEY. It strikes me that it would be but fair that others sitting here should have a chance.

The SPEAKER. Every one thinks that he should be the "other."

Mr. CONGER. I desire a ruling on my point. Am I in order?

The SPEAKER. The gentleman is not. The gentleman from New York [Mr. FIELD] will either proceed or yield the floor unconditionally.

CONTEST OF PRESIDENTIAL ELECTION.

Mr. FIELD. Mr. Speaker, I propose—

Several MEMBERS. Let the bill be read.

The SPEAKER. The bill will be read.

The Clerk proceeded to read the bill (H. R. No. 4698) to provide an effectual remedy for a wrongful intrusion into the office of President and Vice-President of the United States. The reading was interrupted by

Mr. CONGER, who said: I rise to a point of order. I wish the Clerk would stop reading when I am addressing the Chair.

The SPEAKER. The Clerk is not under the direction of the gentleman from Michigan.

Mr. CONGER. But it disturbs me to have him read while I am addressing the Chair.

The SPEAKER. If the gentleman from Michigan has any fault to find with the Clerk, he will make his complaint to the Chair.

Mr. CONGER. I am making it to the Chair. I make the point that this bill is not in order, coming from the gentleman from New York or from his committee at this time, and further that the motion to suspend the rules is of higher privilege; and I stand here asking the Chair to grant me the right to make the motion to suspend the rules on a matter of higher privilege affecting the liberty of a citizen.

The SPEAKER. The committee from which the gentleman from New York reports this bill is entitled to report at any time. But a motion to suspend the rules is in order; and the Chair, if compelled to rule strictly, would rule that the gentleman from Michigan had a right during these last six days of the session to rise and move to suspend the rules.

Mr. WILSON, of Iowa. That is right.

Mr. CONGER. Then I send to the desk a resolution—

Mr. SPRINGER. Can the gentleman from Michigan make this motion while another member has the floor? I make the point of order that while the gentleman from New York holds the floor he cannot be taken from it by another member who desires to move to suspend the rules.

Mr. HOOKER. I understood the Speaker to put the inquiry to the gentleman from New York whether he would yield the floor and the gentleman from New York declined to yield it. I submit that the motion of the gentleman from Michigan cannot be made so as to take the gentleman from New York off the floor.

Mr. CONGER. It has been decided too often in this House to make it necessary for me to argue the point, that a motion to suspend the rules may take a member off his feet.

Mr. HOOKER. As I understand, the gentleman from New York was on the floor, recognized by the Chair. He had presented his bill and it was in process of being read. The gentleman from Michigan now undertakes to take the gentleman from New York off the floor by proposing a resolution.

Mr. CONGER. That is the very proposition.

Mr. HOOKER. The gentleman from New York had presented his bill, a bill reported from the committee on the powers and privileges of the House. He had asked the consideration of the bill, and the Chair had recognized him. The Chair under these circumstances, I submit, could not take the gentleman from New York off his feet to hear the motion made by the gentleman from Michigan.

Mr. SPRINGER. Further than that, Mr. Speaker, there is but one motion recognized in the Digest as entitling a member to take another from the floor; and that is a motion to reconsider. A member may take another from the floor to make this motion, but not to have it considered at that time.

The SPEAKER. A conference report can also take a member off the floor.

Mr. SPRINGER. That is true.

Mr. CONGER. The Chair will understand distinctly that, as I claim, the gentleman from New York held the floor if at all under the rules. If I hold the floor, I hold it under a motion to suspend the rules.

The SPEAKER. The Chair thinks that the practice of the House and his own practice during his occupancy of the Chair have been to allow gentlemen to take others off the floor upon a motion to suspend the rules. It has been done quite frequently upon appropriation bills; and once, as the Chair recollects, the gentleman from Iowa [Mr. KASSON] took the gentleman from New York [Mr. WOOD] off the floor under circumstances somewhat similar to the present.

Mr. SPRINGER. But the Chair will observe that if such a ruling were correct then we could do no business at all, because as soon as one member obtained the floor to move a suspension of the rules another member could take him off to move another suspension and so on *ad infinitum*.

The SPEAKER. While the Chair believes that the practice under the rules has been and should be what he has stated, yet, if he understands correctly the proposition of the gentleman from New York, he entertains it as a question of high constitutional privilege.

Mr. CONGER. I claim that my proposition is a question of high personal privilege concerning four citizens of the United States now imprisoned in these walls, in our dungeon.

The SPEAKER. The Chair has twice entertained resolutions today on this subject, and the House has failed to reach a conclusion in this respect.

Mr. CONGER. I offer one in which I presume all the members will unite.

The SPEAKER. The Chair will recognize the gentleman at the first opportunity. The bill of the gentleman from New York will be read.

The bill was read. Section 1 provides when any person usurps, intrudes into, or without due election holds or exercises the office of President or of Vice-President of the United States, his title to the office and the title of any claimant thereof may be tried and determined by action in the nature of a *quo warranto* as hereinafter provided.

The second section provides that the action may be brought in any circuit court of the United States against the person in office by any person claiming title thereto.

The third section provides that the action must be brought in the name of the United States and of the claimant, but the prosecution thereof shall be under the sole direction of the claimant; it must be brought by the service of a summons which the court shall issue on the filing of the complaint, and which may be served in any part of the United States, requiring the defendant to answer the complaint within a time fixed by the court, not exceeding forty days after the service of the summons; and the complaint must allege that the claimant was duly elected and is entitled to the office, that the defendant is in possession of the office without a just title thereto, and ask that the defendant may be excluded from the office and the claimant placed in possession thereof.

The fourth section provides that the defendant may answer the complaint by denying his own unlawful intrusion into the office or the title of the claimant or both, and the issue thus made shall be tried by a jury, or by the court, if a jury trial be waived; but if there be no answer the court shall receive such evidence of title as may be of-

fered by the claimant and thereupon make a written finding of the facts.

The fifth section provides that the following rules must be observed in the conduct of the action:

(a) The finding of the facts if there be no answer and the trial of the issue upon an answer shall be had at any time and place within the United States, to be fixed by the court, having regard to the convenience of parties and witnesses, but it must be commenced within ninety days from the service of the summons.

(b) Subpoenas to attend and testify, with or without papers, may be served in any part of the United States; all process shall issue in the name of the United States, and the jury shall be drawn from the district where the trial is had.

(c) The court shall inquire whether the electoral votes purporting to come from a State were cast by persons duly appointed by that State in the manner directed by its Legislature, and whether any such person was at the time of his appointment ineligible, or at the time of casting this vote incapacitated by the laws of the State or of the United States, and for that purpose shall receive evidence tending to show the forgery, falsehood, or invalidity of any certificate of any governor, canvasser, or other officer whomsoever; it shall reject the votes of all persons ineligible at the time of their alleged appointment or incapacity at the time of casting their votes, and it must investigate any other fact necessary to a judgment upon the rights of the parties.

(d) Judgment shall be rendered within ten days after the verdict of the jury or the trial or finding by the court.

(e) The judgment may determine the right, both of the defendant and of the claimant, or only the right of the defendant, as justice shall require. If the defendant be adjudged not entitled to the office, he shall be excluded from it; and if the claimant shall be adjudged entitled to it, he may immediately, on taking the required oath, enter upon the execution of the office.

(f) In all other respects then, as herein prescribed, the proceedings in the action shall be conformable to the proceeding in other civil cases in the circuit court.

The sixth section provides that either party may appeal to the Supreme Court of the United States within ten days after notice of the judgment, and if such appeal be taken the judgment shall not be excluded until the decision upon the appeal.

The seventh section provides that the action, and all motions, argument, and other proceedings therein, shall have precedence over all other business in the Supreme Court and circuit court; and if the Supreme Court be not in session at the time of the appeal, it shall be immediately convened by the Chief-Justice upon ten days' notice to each of the judges.

The eighth section provides that the execution of the judgment may be enforced by any proper writ issued to any marshal of the United States.

Mr. FIELD. Mr. Speaker, in ten minutes I propose to explain the provisions of this bill and the reasons why it appears to me expedient to pass it, and gentlemen on the other side shall have fifteen minutes.

Mr. BURCHARD, of Illinois. I was going to say, if sufficient time is given for debate—I do not desire any length of time for myself, but other gentlemen may desire it—that the first and second reading of the bill may be dispensed with.

Mr. FIELD. Now, Mr. Speaker, the provisions of this bill are extremely simple. They provide that the title of President may be determined by an action in the nature of a *quo warranto* in any circuit court of the United States. In this respect I have to call the attention of the House to the fact that it follows the precedent of the bill passed by Congress some years ago, authorizing a suit in respect to the Union Pacific Railway and Credit Mobilier Company, which might be brought in any court in the country.

Then it authorizes a trial in any part of the country which the court may designate as most convenient to witnesses and parties; and it provides that the court shall go to the very root of the matter by inquiring whether the votes sent from a State are the true electoral votes of that State. The object is to get at the truth and the validity of the votes that purport to come from a State. The bill authorizes the court to inquire whether there be in them any falsehood or any invalidity, and whether the person appointed elector was ineligible when he was appointed or incapacitated when he cast his vote; and provides that all votes of persons ineligible when appearing to be elected or incapacitated when voting shall be rejected.

The court is authorized further to inquire into any fact necessary to determine the rights of the parties. The trial is to be begun within ninety days from the commencement of the suit; and upon the decision there is to be no execution of the judgment if either party appeals to the Supreme Court within ten days, and that court, if not in session, is to be immediately convened. And after its decision, the judgment is to be executed.

Those are the provisions of the bill. Is it expedient that the bill should pass? The first question, of course, is whether the bill is constitutional. That is to say, is it constitutional to vest in any court of the United States the right to try the title to the Presidency? In respect to that I have only to answer that the Constitution declares that the judicial power shall extend to all cases arising under this Constitution or the laws of the United States. Is not a disputed title to the Presidency a case that arises under the Constitution and laws?

Most unquestionably it is; it is clearly within that grant of power. Congress has already determined that question; because there is now upon the statute-book an authority for a *quo warranto*—and, for aught I see, a *quo warranto* to try the title to the Presidency—in cases arising under the fourteenth amendment. This is the language:

Jurisdiction is given to the circuit courts of all suits to recover possession of any office except that of elector of President and Vice-President, or Representative or Delegate in Congress, or member of a State Legislature, where the sole question arises out of the denial of the right to vote on account of race, color, or previous condition of servitude.

In short, I think there can be no question that the proposed bill is constitutional. Then is it expedient? This is a question which gentlemen on this floor can determine from their own observation. There are but two alternatives: a trial by law or a trial by force. And you know from your own experience that but for the electoral bill you would probably have had a conflict here this very month. The two Houses of Congress, assuming that they can count, are diametrically opposed to each other upon the question whether they both must agree to count or both must agree to reject. You cannot solve that except by legislation. The Anglo-Saxon mode, the mode which makes the Anglo-Saxon races the superior of the Latin races, and will always make them so, is that when they have a question to settle they are willing to try that question by the arbitrament of reason rather than by the arbitrament of force.

Therefore, I insist that this bill is not only constitutional but that it is expedient and of the very highest expediency. In the present emergency I appeal to gentlemen on the other side of the House. You have a President just counted in whose just claim to the office is disputed. I make no imputations against any one in regard to this matter. But there is a question about the title of the incoming President. You know there is a question. And you can best satisfy the conscience and relieve the doubts of the country by allowing that question to be settled as other questions in dispute are settled. Give us this bill and you have conciliation for the present and safety for the future.

Mr. BURCHARD, of Illinois. The object of this bill, as explained by the gentleman from New York, [Mr. FIELD,] is to prolong the controversy in which the two Houses have been engaged for the past three months and continue the excitement which has so disastrously agitated the country. It was claimed that the decision to be made by the commission would settle all of the disputed questions, and it was claimed on the other side of the House that the two Houses of Congress in making the count had power to investigate and decide all the questions referred by this bill to the courts. The members of the electoral commission have been criticised and censured because they decided that the commission could not assume judicial functions; objection was made to their decision because they have not gone behind the returns. The bill admits the action of the commission to be correct and proposes to invest the circuit courts of the United States with jurisdiction to decide these questions. Is this a proper and constitutional measure? I have no time to discuss the subject at length. I desire to point out some of its objectionable features and then yield the floor to other gentlemen who will discuss the bill more fully than I shall attempt to do.

The bill, in contravention of the uniform practice and universally recognized principle of law and equity which require suit to be brought in the district where the defendant resides, proposes to give the party bringing the action the choice of any district in the United States. He can go to California; to Georgia; to Maine, and select his judge anywhere among the circuit judges. He can go to any one of the fifty judicial districts in the United States, and the trial can be had at any other place in the United States. It establishes special rules for the trial of the suit, and does not follow the course of the common law or the statute laws in similar cases. If such a bill is to be passed by Congress, it should have been carefully considered by the Committee on the Judiciary. But this is a bill conceived in the brain of a single member of the committee of privileges, powers, and duties, presented to the committee in the absence of the minority of that committee. It has not been considered by the committee at any regular meeting. The constituents of the gentleman from New York, [Mr. FIELD,] the business men of that city and of the country, do not desire any such law to be passed or action now to be commenced after the count is finished and the declaration made as to who is elected and to be inaugurated as President of the United States. The proposition is to plunge the country into doubt and uncertainty, and to re-open a question already practically decided by Congress. I yield five minutes of my time to Mr. LAWRENCE, of Ohio.

MESSAGE FROM THE SENATE.

A message from the Senate by Mr. SYMPSON, one of its clerks, announced that the Senate had passed with amendments a bill of the following title; in which he was directed to ask the concurrence of the House:

A bill (H. R. No. 4187) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1878, and for other purposes.

CONTEST OF PRESIDENTIAL ELECTION.

The House resumed the consideration of the bill in regard to contesting the right to the office of President.

Mr. LAWRENCE. During our whole existence as a nation there have been but few bills ever presented in Congress of equal importance with this. For a century we have lived without it, and now instead of averting perils this is a measure to invite them. It is gravely proposed after a discussion of thirty minutes to pass a bill which is to determine the title to the highest office within the gift of the American people; to pass a bill which has not been perfected by any careful consideration of any committee; which has not yet been read by half a dozen members of the House; which has not been considered for thirty minutes by any member of the House except the gentleman who reports it, and which is even not yet printed. I submit to the House that we ought not to attempt at this late period of the session to legislate upon a matter of such vital importance. But if we must gravely consider this bill under the circumstances which have been stated, the objections urged to it by my friend from Illinois [Mr. BURCHARD] are such as to utterly condemn it.

Let me call attention to another objection. It is proposed that, if the court which tries the right to the presidential office shall find an elector who held an office of trust or profit under the Government of the United States, his vote shall be rejected, and if two such electoral votes can be found at the recent presidential election it may change the result which has already been declared. The people of the country may be deprived of their voice because incautiously they had elected two men who held offices of trust and profit under the Government of the United States. This would be a great wrong to the people and a sacrifice of their rights to which I can never consent.

It has been repeatedly declared by the courts that where an ineligible person has been elected to an office and entered upon its duties his acts are legal and valid; just as valid as though he were eligible to the office. It is not to be tolerated that whole communities are to be deprived of their political power because they incautiously select an elector who happens to be a postmaster or a United States commissioner. It may be wise to provide, as the Constitution does, that such officers shall not be chosen as electors. But if they shall nevertheless be chosen, the remedy should be applied before they vote for President. Let proper proceedings be instituted to remove from office the ineligible electors before they vote for President, so that the States may supply their place by a new election or by appointment by the Legislature, and thus let every State exert its full share of power in selecting a President. If the proper remedy be not applied in this way all objectors thereafter should be estopped from urging any objection.

But there are still more serious objections to this bill. I am not yet certain the Constitution permits Congress to pass any such bill.

The Constitution declares that the "person receiving the highest number of votes shall be President of the United States." This bill undertakes to say he shall not be President. The Constitution gives to the person chosen in the forms it requires a presidential term of four years. This bill undertakes to say his term may not continue so long. This bill undertakes to give to a single court the power to reverse the decision of the States as to who are their duly appointed electors. Even if their title had been duly tried in proper courts, this bill proposes to go back of all that and annul the decision, and place in the hands of a single court the power to decide who is President. It proposes to give to a single court the power to reverse the decision of the two Houses of Congress and of an electoral commission, created under an act of Congress, and to create a new canvassing board, alien to the Constitution, never suggested by its framers or sanctioned by the opinion of any great commentator.

It may well be doubted whether the Constitution gives any sanction to such a scheme as this. It does provide one mode of ascertaining and declaring who is elected President and so entitled to hold the office for four years. It may well be doubted whether any other or new mode can be added to this to revise the decision so made. The Constitution does not provide for revising this decision; it seems to regard it as final and conclusive. I suppose it must now be regarded as settled law that it belongs to the Houses of Congress as a political question or a political power to determine the result of a presidential election. This is the character of the power exercised by the Houses of Congress. It would destroy the efficacy and force of this political power if courts could revise and reverse it, as proposed, in ninety days, and dictate who should be President. When a power is given by positive words, in one form, this excludes all others in other forms over the same subject.

The writ of *quo warranto* in ordinary cases only reaches back of the officer to inquire as to the legality or regularity or sufficiency in numbers of the votes cast for him, but this bill proposes to go back in the second degree. It proposes to contest the right to the presidential office by contesting the right of the presidential electors themselves, and back of them to the right of the voters in a State. I cannot well conceive that the Constitution sanctions the exercise of such immense powers by a court; powers which are ministerial, political, executive, administrative, and in no sense judicial.

To concede this power to a court would make it supreme in and over all departments of the Government. It would blend and confuse and confound and destroy all other departments. The departments are co-ordinate, independent, and the Constitution does not permit one to absorb all others.

We are told by the gentleman from New York [Mr. FIELD] that we must have this bill or we must have war; that unless there be

some power to test the right to the office of President of the United States this Anglo-Saxon race will not submit to the decision of the question which has been made by the two Houses of Congress. I say that if the people of this country shall be so revolutionary in spirit or purpose that they will not abide by the judgment of the two Houses of Congress, they will not respect the decision of any single court upon this question.

This bill only invites new controversies, organizes fresh hostilities, and may give occasion to inaugurate rather than avert war.

I object to this bill, then, for several reasons.

1. There is no sufficient time now to consider it.
2. This bill is crude, imperfect, and objectionable in its provisions and details.
3. It is of doubtful constitutionality.
4. It is dangerous in its effects, and may be ruinous in its consequences.

It is an attack upon the power of the States, an attack upon the powers of the Houses of Congress, an attack upon the very foundation of the Republic. It comes to harrow up old controversies and create new ones. It is a veritable wooden horse, from whose sides may come forth enemies to destroy the Republic. My voice and my vote are against it. Rutherford B. Hayes is the legally and honestly chosen President of the United States, and no vote of mine shall rob the people of their choice or deprive them of the blessings to flow from his administration.

[Here the hammer fell.]

The SPEAKER. The time of the gentleman has expired.

Mr. FRYE. The time given for the discussion of this important bill is so short that I will waive my right to the floor and yield to the gentleman from New York, [Mr. TOWNSEND.]

Mr. TOWNSEND, of New York. I reiterate the remark made by the gentleman from Ohio, [Mr. LAWRENCE,] that the Constitution has declared that the man who is counted in shall be President of the United States. It is said by the gentleman from New York [Mr. FIELD] that the two Houses have differed as to who should make the count. But there is no difference of opinion, and there can be no difference of opinion upon the proposition that the man, when constitutionally counted in, shall be President of the United States for the next four years? In this case we have created a counting commission, and through the aid of that counting commission a man has been counted in as President, and it is proposed to deprive the people of his services by the quirks of this law.

I have another objection to this proposition. Under Anglo-Saxon legislation, of which the gentleman boasts so much, no private individual has ever been allowed to bring an action of *quo warranto*. That is an action brought by the government, in the name of the government, and for the interests of the governed. It is proposed in this case that the right to bring such an action shall be given for the benefit of any claimant, and that the man who has been declared by the proper authority of the country under the Constitution to be elected may be harassed by the wily trickery of any claimant, however dishonest and however unconscientious, who shall set up a claim to the office.

Such a man is to have the privilege of selecting his district, and in selecting the district of selecting his judge. Suppose that in this case the gentleman from New York [Mr. FIELD] should be employed outside of this House as the counsel of a claimant to this office and should select the district of California for the place of trial and his own brother for the judge. What would be the chance that Rutherford B. Hayes or any other man would have in any such court against such odds?

You have by law required that your President shall reside at the Capitol. Yet under this bill within ninety days' time he might be compelled to leave the Capitol and go three thousand miles to attend a trial upon the claim of any vagabond upon the face of the earth. Is this American legislation? Is this anything that an Anglo-Saxon can be proud of? Sir, this bill is not only a novelty but it is an abomination; the very proposition itself is a disgrace to the country and to the age in which we live.

The gentleman tells us that war would have been the consequence if somebody's views had not been followed. Sir, we have had one civil war, and if anybody wants another war, if the gentleman wants a war on New York City principles—that is, a war that men threaten about, and when it comes shrink from, if the gentleman wants such a war—let him begin it. I doubt whether anybody here wants another war. No good citizen of any party or from any portion of the country has threatened war.

I say that it ill becomes that gentleman, after having voted for Mr. Hayes for President, to take a seat in this House and come here and threaten war if the man that he voted for is counted in and held to be the lawful President of the United States.

Now, sir, I have tried to be as comfortable as I could under the taunts that have been thrown out against us on the other side of the House. We have been told that we were a guilty set here. We have been guilty of being run over! We have been guilty of being voted down, and when the scheme was formed to crush out the minority of this House, it was found to work like the musket which—

Aimed at duck or plover,
Bears wide, and kicks its owner over.

When this scheme failed, we have been accused of every crime that could blacken humanity. Why, sir, the majority of this House had the power of talking when our mouths were closed, and we had to sit still. The party who sits still and whose mouth is closed always seems to be in the wrong—always seems to be guilty of fraud, if those who can be allowed can control the public ear.

[Here the hammer fell.]

Mr. FIELD. To all that part of the gentleman's remarks which may be deemed personal, I have not a word of reply. I thought he, whom I have known so many years, knew me better; but it seems that he does not. I will show in a moment that in his argument he shows a great deal more zeal than discretion. He remarks that there never was such a case as a trial for the Chief Magistracy before in the world. Will he tell me where the Chief Magistrate is elective except in this country? That is an answer.

Mr. TOWNSEND, of New York. Will the gentleman allow me—

Mr. FIELD. No, sir; do not interrupt me; I do not allow it.

Mr. TOWNSEND, of New York. Then do not misstate my position.

Mr. FIELD. Then the gentleman tells us that the person counted in is the rightful President. Does not the Constitution carefully abstain from declaring that the count makes the title? This is its language: "The person having the highest number of votes shall be the President." He has the right to the Presidency under the Constitution whether the two Houses of Congress count him in or not. The gentleman should have known this.

Then, again, we are told that the idea of having the title to such an office tried in the courts is a new thing.

Mr. TOWNSEND, of New York, (in his seat.) I did not say so; I spoke of a *quo warranto* at the instance of an individual.

Mr. FIELD. If the gentleman can keep quiet—

The SPEAKER. The gentleman from New York [Mr. TOWNSEND] will please not interrupt; and if he does desire to speak he ought to rise to his feet.

Mr. FIELD. But this electoral bill contains the following provision:

That nothing in this act shall be held to impair or affect any right now existing under the Constitution and laws to question the right or title of the person who shall be declared elected, or who shall claim to be President or Vice-President of the United States.

What does this mean? Did the men who drew the bill mean to deceive us? Did they hint that there was a remedy when there was none?

It is disputed whether there is at present a remedy or not. Mr. Justice Bradley, when I was arguing before the commission, intimated that there was a remedy under the old law of Maryland, still in force in this District; and Mr. Carpenter in arguing before the commission insisted that under a provision of the statutes which he drew the writ might be issued. But I answer these suggestions, that if the writ is issued under those laws, if it can be issued at all, it must be issued in the name of the United States, and the proceeding must be conducted by the Attorney-General. Do you imagine that an Attorney-General appointed by the incumbent of the office will carry on a lawsuit to oust his master? The bill which I offer provides that the prosecution shall be under the direction of the claimant, as it ought to be. I think I have now answered all the objections—

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

Mr. FIELD. No, sir.

But the one urged by my friend from Ohio, [Mr. LAWRENCE,] If I understood him aright, he was in favor of providing by law for the determination of this question in the courts. He asked, "Will you require a vote given by an ineligible person to be rejected?" Why, sir, do gentlemen believe that when the Constitution of the United States declares that no person holding an office under the United States shall be appointed an elector, one may yet be appointed? It has indeed been decided by the commission that although the great charter of our Union, the highest authority in the land, declares that no person holding an office of profit or trust under the United States shall be appointed an elector, yet he may be appointed an elector, and his vote may make a President. The gentleman whom you are about to inaugurate will hold his office by no higher title than the votes of men who who are declared by the fundamental law to be incapable of exercising the functions of electors.

Now, Mr. Speaker, I call for the previous question.

The previous question was seconded and the main question ordered.

The SPEAKER. If there be no objection the second reading of the bill will be dispensed with, and the question will be taken on the engrossment and third reading.

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

Mr. PAGE. I call for the reading of the engrossed bill.

The Clerk was proceeding to read the engrossed copy of the bill when

Mr. PAGE said: As the Clerk has the engrossed bill prepared, I withdraw the call. [Laughter.]

The bill was read the third time by its title.

Mr. LAWRENCE. I call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and there were—yeas 66, nays 99, not voting 125; as follows:

YEAS.—Messrs. John H. Bagley, jr., Banning, Beebe, Bell, Boone, John Young Brown, William P. Caldwell, Candler, Cate, Caulfield, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Collins, Cox, Davis, De Bolt, Eden, Ellis, Field, Finley, Franklin, Fuller, Gause, Glover, Andrew H. Hamilton, Hardenbergh, John T. Harris, Hartzell, Hatcher, Hill, Holman, Hooker, Humphreys, Thomas L. Jones, Franklin Landers, Lane, Levy, Lord, Luttrell, Lynde, Meade, Morrison, Neal, Payne, Poppleton, Rice, John Robbins, Miles Ross, Scales, Schleicher, Sheakley, Slemmons, Sparks, Springer, Teese, Terry, Thomas, Tucker, John L. Vance, Robert B. Vance, Gilbert C. Walker, Erastus Wells, Whitthorne, Wigginton, Benjamin Wilson, and Yeates—66.

NAYS.—Messrs. Abbott, Adams, Ainsworth, John H. Baker, William H. Baker, Ballou, Banks, Belford, Blair, Bradford, Bradley, Brown, Buckner, Burleigh, Butts, John H. Caldwell, Cannon, Caswell, Chittenden, Conger, Crapo, Crounse, Culbertson, Cutler, Danford, Darrall, Davy, Denison, Dobbins, Dunnell, Eames, Forney, Foster, Freeman, Frye, Garfield, Goodin, Haralson, Benjamin W. Harris, Hathorn, Hays, Hopkins, House, Hubbell, Hunter, Hurlbut, Jenks, Joyce, Kasson, Kelr, Kelley, Kimball, George M. Landers, Lapham, Lawrence, Le Moyne, Lynch, MacDougall, McDill, Mills, Monroe, New, Oliver, O'Neill, Packer, Page, William A. Phillips, Pierce, Pratt, Rainey, James B. Reilly, Riddle, Robinson, Sampson, Seelye, Sinnickson, Snalls, A. Herr Smith, Strait, Stevenson, Stowell, Tarbox, Thompson, Thornburgh, Martin I. Townsend, Washington Townsend, Tufts, Wait, Wadron, Alexander S. Wallace, John W. Wallace, Warren, White, Whitehouse, Willard, Charles G. Williams, William B. Williams, Willis, James Wilson—99.

NOT VOTING.—Messrs. Anderson, Ashe, Atkins, Bagby, George A. Bagley, Bass, Blackburn, Bland, Bliss, Blount, Bright, Horatio C. Burchard, Samuel D. Burchard, Cabell, Campbell, Carr, Cason, Chapin, Clymer, Cochran, Cook, Cowan, Dibrell, Douglas, Durand, Durban, Egbert, Evans, Faulkner, Felton, Flye, Fort, Gibson, Goode, Gunter, Hale, Robert Hamilton, Hancock, Henry R. Harris, Harrison, Hartrige, Haymond, Hendee, Henderson, Henkle, Abram S. Hewitt, Goldsmith, W. Hewitt, Hoar, Hoge, Hoskins, Hutton, Hurd, Hyman, Frank Jones, King, Knott, Lamar, Lewis, Mackey, Magoon, Maish, McCrary, McFarland, McMahon, Metcalfe, Miller, Milliken, Money, Morgan, Mutchler, Nash, Norton, O'Brien, Odell, Phelps, John F. Phillips, Piper, Plaisted, Platt, Potter, Powell, Purman, Rea, Reagan, John Reilly, William M. Robbins, Roberts, Ross, Rusk, Savage, Saylor, Schumaker, Singleton, William E. Smith, Southard, Stanton, Stenger, Stephens, Stone, Swann, Throckmorton, Turney, Van Vorhes, Charles C. B. Walker, Walling, Walsh, Ward, Warner, Watterson, G. Wiley Wells, Wheeler, Whiting, Wike, Andrew Williams, Alpheus S. Williams, James Williams, Jero N. Williams, Wilshire, Alan Wood, Jr., Fernando Wood, Woodburn, Woodworth, and Young—125.

So the bill was rejected.

During the vote,

Mr. CALDWELL, of Alabama, stated that Mr. ATKINS was detained at his room by sickness.

Mr. ROSS, of Pennsylvania, stated that he was paired with his colleague, Mr. COCHRANE, who if present would vote in the affirmative, while he would vote in the negative.

Mr. MCCRARY stated that he was paired with Mr. HUNTON, who was detained at home by sickness, and who if present would vote in the affirmative, while he would vote in the negative.

Mr. FRYE stated that Mr. RUSK was compelled by sickness to leave the House.

Mr. WELLS, of Missouri, stated that his colleague, Mr. MORGAN, was absent on account of sickness.

The vote was then announced as above recorded.

DESERT LANDS.

The SPEAKER announced as the managers of the conference on the part of the House on the disagreeing votes of the two Houses on the bill (H. R. No. 4261) to provide for the sale of desert lands in certain States and Territories Mr. LUTTRELL, Mr. LANE, and Mr. CROUNSE.

COMMERCIAL RELATIONS.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of State, with the accompanying documents, showing the commercial relations with foreign nations during the year 1876; which were referred to the Committee on Printing.

SAMOAN ISLANDS.

The SPEAKER also laid before the House a message from the President of the United States, transmitting information, in reply to a resolution of the House of the 25th of January, relating to the agency of A. B. Steinberger, of the Samoan Islands; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

POST-OFFICE DEPARTMENT.

The SPEAKER also laid before the House a letter from the Postmaster-General, giving information as required by the eighth section of an act relating to the Post-Office Department, approved June 8, 1872; which was laid on the table, and ordered to be printed.

POST-OFFICE APPROPRIATION BILL.

Mr. HOLMAN. Mr. Speaker, I present the following conference report.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill from the House of Representatives No. 4187, entitled "An act making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1878," and for other purposes, after a full and free conference thereon, beg leave to report as follows:

The House recedes from its disagreement to the amendments of the Senate numbered 3, 4, 5, 8, 10, 20, 21, 22, 23, 24, 26, 28, 29, 30, and 31.

The Senate recedes from its amendments numbered 19 and 27.

The House recedes from its disagreement to amendment No. 1, and agrees to the same with an amendment making the amount \$135,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 2, and agrees to the same with an amendment making the amount \$25,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 6, and agrees to the

same with an amendment making the amount \$3,340,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 7, and agrees to the same with an amendment making the amount \$1,825,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 9, and agrees to the same with an amendment making the amount \$400,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 11, and agrees to the same with an amendment making the amount \$80,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 14, and agrees to the same with an amendment making the amount \$1,225,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 15, and agrees to the same with an amendment making the amount \$1,000,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 16, and agrees to the same with an amendment making the amount \$150,000; and the Senate agree to the same.

The House recedes from its disagreement to the amendment No. 17, and agrees to the same with an amendment making the amount \$110,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 18, and agrees to the same with an amendment making the amount \$670,000; and the Senate agree to the same.

The House recedes from its disagreement to the amendment No. 25, and agrees to the same with an amendment making the amount \$14,150; and the Senate agree to the same.

Upon amendments Nos. 12, 13, 32, 33, 34, and 35 the conferees have been unable to agree, and so report to their respective Houses.

W. S. HOLMAN,
JAMES H. BLOUNT,
CHAS. FOSTER,

Managers on the part of the House.

J. R. WEST,
H. HAMLIN,
L. V. BOGY,

Managers on the part of the Senate.

Mr. HOLMAN. Mr. Speaker, it will be seen by the House that the committee of conference has not been able to agree upon four of the amendments made by this bill. I am anxious the House should understand the points of those agreements. Our conferees recommend in this report that the House recede from its disagreement to quite a number of amendments made by the Senate. They recommend concurrence in many other amendments of the Senate, with amendments reducing the amounts proposed by the Senate, and on the four points of disagreement I wish to say a word.

The first is the increase of the appropriation in the nature, as I think, of a subsidy to the railroads for the transportation of the mails. The increase is \$600,000. The House appropriated \$9,000,000 for this service for the next fiscal year. The expenditure for the present year on the basis of the appropriation bill of last session will not vary materially from \$8,700,000. Under the circumstances the House felt that the appropriation of \$9,000,000 for the railway postal service of the next year was very ample. The Senate increased that \$600,000, and proposed that \$250,000 of that sum shall be used by the Postmaster-General in increasing the facilities of the great trunk lines in the transportation of the mails. The House conferees were of the opinion that the appropriation of \$9,000,000 was ample. They suggested, however, the increase of that amount \$100,000, making the whole appropriation \$9,100,000; while the Senate committee suggested reducing the amount from \$9,600,000 to \$9,300,000. The House conferees were unable to concur in that proposition. That comes, therefore, before the House as one of the points of disagreement.

The second point of disagreement is one of comparatively little moment. Mr. Speaker, there is so much disturbance in the House that I cannot be heard. I think a great deal of it comes from the lobby of the House.

The SPEAKER. The officers of the House will clear the lobbies.

Mr. CLYMER. That is right.

Mr. TOWNSEND, of Pennsylvania. I think the noise is on the floor.

The SPEAKER. The Chair thinks that the order he has just given to the officers of the House is in the interest of intelligent legislation. [After a pause.] The gentleman from Indiana will proceed.

Mr. HOLMAN. By the legislation of last session we provided for a postal commission, to consist of three gentlemen, to be appointed by the President, to inquire into the subject of the transportation of the mails, and appropriated for that service the sum of \$10,000. It is proposed by the Senate to prolong the period of the service of that commission—one of whose members, General Palmer, of Chicago, has been recently appointed to the office of postmaster of that city—and to appropriate the additional sum of \$10,000. The House conferees suggested \$5,000; and the two committees have not agreed upon that. I would say, however, that this is a very subordinate item, and I have no doubt a further conference will readily reach a solution of that difficulty.

The SPEAKER. What motion does the gentleman intend to make?

Mr. HOLMAN. I will indicate it presently.

I come now to the important questions involved in this bill; the two subsidies of \$500,000 each; the one for the transportation of the mails on the Pacific to China and Japan, the other for the transportation of the mails from New Orleans to Rio, in Brazil. The conferees upon the part of the House have not been able to concur with the Senate conferees upon the subject of those subsidies of a half million dollars each. The Senate conferees have suggested, as I

ought to state to the House and the Speaker, that perhaps they might consent to fix the amount of these subsidies at \$300,000 each for the coming fiscal year. To that suggestion the conferees on the part of the House have not been able to accede. So that the important disagreements are, first, the increase of the appropriation for the transportation of the mails by railroad from \$9,000,000 to \$9,600,000; and, secondly, the two subsidies of half a million dollars each for the line from New Orleans to Rio, in Brazil, and from San Francisco to the ports of China and Japan.

Having made this brief statement of the points of disagreement, I move that the House concur in the conference report which disposes of all the features of this bill except the four items named, and ask a further conference.

The motion was agreed to.

Mr. HOLMAN moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The Chair appoints as managers of the further conference on the part of the House Mr. HOLMAN, Mr. CLYMER, and Mr. FOSTER.

Mr. SPRINGER. Would it be in order to instruct the conferees on the part of the House to insist upon the exclusion of the subsidies to the railroads and the steamship companies mentioned by the gentleman from Indiana, [Mr. HOLMAN?]

The SPEAKER. It would not. It would not be a free conference if instructed.

RETURNING BOARD OF LOUISIANA.

Mr. CONGER. I move that the rules be suspended and that the following resolution be adopted:

Ordered, That J. Madison Wells, Thomas C. Anderson, G. Casanave, and L. M. Kenner, witnesses now confined by order of the House, be discharged from further custody, and the Sergeant-at-Arms is hereby directed to carry this order into execution.

A *viva voce* vote being taken, the Speaker stated that in the opinion of the Chair two-thirds had not voted in the affirmative.

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

The yeas and nays were ordered.

The question was taken; and there were—yeas 77, nays 80, not voting 133; as follows:

YEAS—Messrs. John H. Baker, William H. Baker, Ballou, Banks, Blair, Bradley, Bright, William R. Brown, Horatio C. Burchard, Burleigh, Buttz, Cannon, Caswell, Chittenden, Conger, Crounse, Culberson, Danford, Darrall, Davy, Denison, Dobbins, Dunnell, Fort, Freeman, Frye, Garfield, Goodin, Haralson, Benjamin W. Harris, Hathorn, Hays, Hubbell, Hunter, Hurlbut, Joyce, Kasson, Kelley, Franklin Landers, Lapham, Lawrence, Lynch, Lynde, Mackey, MacDougall, McCrary, McDill, Monroe, Oliver, O'Neill, Packer, Page, Pratt, Rainey, John Robbins, Robinson, Sobieski Ross, Sampson, Seelye, Sinnickson, Smalls, A. Herr Smith, Stowell, Strait, Thornburgh, Martin I. Townsend, Washington Townsend, Tufts, Wait, Alexander S. Wallace, John W. Wallace, White, Willard, Alpheus S. Williams, Charles G. Williams, William B. Williams, and James Wilson—77.

NAYS—Messrs. Ainsworth, John H. Bagley, Jr., Banning, Beebe, Boone, Bradford, John Young Brown, Buckner, John H. Caldwell, William P. Caldwell, Candler, Cate, Canfield, John B. Clarke of Kentucky, John B. Clarke, Jr., of Missouri, Clymer, Collins, Cowan, Cox, Davis, DeBolt, Eames, Ellis, Finley, Forney, Franklin, Fuller, Gause, Glover, Andrew H. Hamilton, Hardenbergh, John T. Harris, Hartzell, Hatcher, Humphreys, Jenks, Thomas L. Jones, Kehr, George M. Landers, Le Moine, Levy, Meade, Money, Morrison, Mutchler, Neal, New, O'Brien, Payne, John F. Phillips, Poppleton, Rea, James B. Reilly, Rice, Riddle, Saylor, Scales, Schleicher, Sheakley, Slemmons, Sparks, Springer, Stenger, Tarbox, Terry, Throckmorton, Turney, John L. Vance, Robert B. Vance, Walsh, Erastus Wells, Whitehouse, Whitthorne, Wigginton, Wike, James Williams, Willis, Yeates, and Young—80.

NOT VOTING—Messrs. Abbott, Adams, Anderson, Asha, Atkins, Bagby, George A. Bagley, Bass, Belford, Bell, Blackburn, Bland, Bliss, Blount, Samuel D. Burchard, Cabell, Campbell, Carr, Cason, Chapin, Cochran, Cook, Crapo, Dibrell, Douglas, Durand, Durham, Eden, Egbert, Evans, Faulkner, Felton, Field, Flye, Foster, Gibson, Goode, Gunter, Hale, Robert Hamilton, Hancock, Henry R. Harris, Harrison, Hartridge, Raymond, Hendee, Henderson, Henkle, Abram S. Hewitt, Goldsmith W. Hewitt, Hill, Hoar, Hoge, Holman, Hooker, Hopkins, Hoskins, House, Hutton, Hurd, Hyman, Frank Jones, Kimball, King, Knott, Lamar, Lane, Leavenworth, Lewis, Lord, Luttrell, Magoon, Maish, McFarland, McMahon, Metcalfe, Miller, Milliken, Mills, Morgan, Nash, Norton, Odell, Phelps, William A. Phillips, Pierce, Piper, Plaisted, Platt, Potter, Powell, Purman, Reagan, John Reilly, William M. Robbins, Roberts, Miles Ross, Rusk, Savage, Schumaker, Singleton, William E. Smith, Southard, Stanton, Stephens, Stevenson, Stone, Swann, Teese, Thomas, Thompson, Tucker, Van Vorhes, Waddell, Waldron, Charles C. B. Walker, Gilbert C. Walker, Walling, Ward, Warner, Warren, Waterson, G. Wiley Wells, Wheeler, Whiting, Andrew Williams, Jere N. Williams, Wilshire, Benjamin Wilson, Alan Wood, Jr., Fernando Wood, Woodburn, and Woodworth—133.

So (two-thirds not voting in favor thereof) the rules were not suspended.

During the roll-call the following announcements were made:

Mr. BOONE. My colleague, Mr. BLACKBURN, is absent on account of sickness.

Mr. EDEN. My colleague, Mr. HARRISON, is absent serving upon the Committee on Enrolled Bills.

Mr. POPPLETON. I state by request that Mr. ATKINS is so unwell that he could not attend the session to-night.

Mr. HOLMAN. Upon this subject I am paired with Mr. FOSTER; if he would vote "ay," and I should vote "no."

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

NAVAL APPROPRIATION BILL.

Mr. BLOUNT. I present a report from the committee of conference on the naval appropriation bill and I ask that it be read, and upon its adoption I ask the previous question.

The Clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 4616) making appropriations for the naval service for the year ending June 30, 1878, and for other purposes, after full and free conference, report that they are unable to agree:

JAMES H. BLOUNT,
EUGENE HALE,
W. C. WHITTHORNE,
Managers on the part of the House.
AARON A. SARGENT,
AARON H. CRAGIN,
WM. A. WALLACE,
Managers on the part of the Senate.

The SPEAKER. The report is a mere report for the information of the House, and the question is, Will the House appoint a further conference?

The question was put, and it was decided in the affirmative.

The SPEAKER. The Chair appoints as new conferees Mr. BLOUNT, Mr. HARRIS of Virginia, and Mr. HALE.

NORTHERN PACIFIC RAILROAD.

Mr. LAMAR. I move to suspend the rules so as to take from the Speaker's table the bill (S. No. 14) to extend the time for the construction and completion of the Northern Pacific Railroad.

Mr. HOLMAN. I ask for the yeas and nays upon that motion. It involves the question of the restoration of thirty-six million acres of land to this company.

Mr. MCCRARY. I rise to a parliamentary inquiry.

The SPEAKER. The Chair will hear the gentleman.

Mr. MCCRARY. Is it in order now for the gentleman from Mississippi [Mr. LAMAR] to state what he proposes in regard to the conduct of this bill?

The SPEAKER. It is not. The motion of the gentleman is to suspend the rules, and that motion is not debatable.

Mr. MCCRARY. I ask unanimous consent that we may understand how long a time will be allowed for the consideration of this bill if it shall be taken up.

Mr. GARFIELD. I hope unanimous consent will be given to allow the chairman of the Committee on the Pacific Railroad [Mr. LAMAR] to state what he proposes to do.

Mr. HOLMAN and others objected.

Mr. TOWNSEND, of New York. Is it in order to have this bill read?

The SPEAKER. That is in order.

Mr. TOWNSEND, of New York. Then I ask that it be read; I want to know what it is.

Mr. LAMAR. If the bill is not passed it will be a practical confiscation of the interests of a large number of meritorious stockholders, widows, orphans, and trustees. The bill passed the Senate with but a few dissenting votes, and is unanimously recommended by the Committee on the Pacific Railroad of this House.

Mr. HOLMAN. I object to debate.

The bill was then read.

Mr. BUCKNER. I desire to inquire if it is the object of the gentleman to suspend the rules for the purpose of bringing the bill before the House for consideration?

Mr. LAMAR. That is the proposition, simply to bring it before the House for consideration.

Mr. FENN. Will the bill then be open to amendment?

The SPEAKER. Undoubtedly, unless the previous question is called on it and the call is sustained by the House.

The question was taken upon ordering the yeas and nays, and they were ordered.

The question was then taken on the motion to suspend the rules; and there were—yeas 91, nays 71, not voting 128; as follows:

YEAS—Messrs. William H. Baker, Ballou, Banning, Belford, Blair, Bradley, Buckner, Buttz, Caswell, Canfield, Chittenden, John B. Clark, Jr., of Missouri, Conger, Crapo, Culberson, Denison, Dobbins, Dunnell, Eames, Ellis, Foster, Freeman, Garfield, Gause, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, Hatcher, Hathorn, Haymond, Hays, Hubbell, Hurlbut, Thomas L. Jones, Joyce, Kasson, Kehr, Kelley, Lamar, George M. Landers, Lane, Le Moine, Levy, Lynch, Lynde, Mackey, MacDougall, McCrary, McDill, Mutchler, O'Brien, Oliver, O'Neill, Packer, Payne, William A. Phillips, Pierce, Pratt, Purman, Rainey, John Reilly, James B. Reilly, Riddle, John Robbins, Sobieski Ross, Seelye, Sheakley, Sinnickson, Slemmons, Smalls, A. Herr Smith, Strait, Stowell, Terry, Thompson, Throckmorton, Martin I. Townsend, Washington Townsend, Waldron, Charles C. B. Walker, Gilbert C. Walker, Alexander S. Wallace, John W. Wallace, Walsh, Erastus Wells, Whitehouse, Wigginton, Alpheus S. Williams, Charles G. Williams, William B. Williams—91.

NAYS—Messrs. Ainsworth, Baker, Blount, John H. Bradford, Bright, John Young Brown, Horatio C. Burchard, John H. Caldwell, William P. Caldwell, Campbell, Candler, Cannon, Cate, John B. Clark of Kentucky, Clymer, Collins, Cowan, Cox, Crounse, Cutler, Danford, Darrall, Davis, DeBolt, Eden, Field, Finley, Forney, Franklin, Glover, Goodin, Andrew H. Hamilton, Hartzell, Holman, Hopkins, House, Humphreys, Hunter, Franklin Landers, Lawrence, McMahon, Meade, Monroe, Morrison, Neal, New, Page, Poppleton, Rea, Rice, Robinson, Sampson, Scales, Schleicher, Sparks, Springer, Stenger, Stevenson, Thornburgh, Tufts, Turney, John L. Vance, Robert B. Vance, White, Whitthorne, Wike, James Williams, Willis, Benjamin Wilson, James Wilson, Yeates, and Young—71.

NOT VOTING—Messrs. Abbott, Adams, Anderson, Asha, Atkins, Bagby, George A. Bagley, John H. Bagley, Jr., Banks, Bass, Beebe, Bell, Blackburn, Bland, Bliss, Boone, William R. Brown, Samuel D. Burchard, Burleigh, Cabell, Carr, Cason, Chapin, Cochran, Cook, Davy, Dibrell, Douglas, Durand, Durham, Egbert, Evans, Faulkner, Felton, Flye, Fort, Frye, Fuller, Gibson, Goode, Gunter, Hale, Robert Hamilton, Henry R. Harris, John T. Harris, Harrison, Hartridge, Hendee, Henderson, Henkle, Abram S. Hewitt, Goldsmith W. Hewitt, Hill, Hoar, Hoge, Hooker, Hoskins, Hutton, Hurd, Hyman, Jenks, Frank Jones, Kimball, King, Knott, Lapham, Leavenworth, Lewis, Lord, Luttrell, Magoon, Maish, McFarland, Metcalfe, Miller, Milliken, Mills, Money, Morgan, Nash, Norton, Odell, Phelps, John F. Phillips, Pierce, Piper, Plaisted, Platt, Potter, Powell, Purman, Reagan, John Reilly, William M. Robbins, Roberts, Miles Ross, Rusk, Savage, Schumaker, Singleton, William E. Smith, Southard, Stanton, Stephens, Stevenson, Stone, Swann, Teese, Thomas, Thompson, Tucker, Van Vorhes, Waddell, Waldron, Charles C. B. Walker, Gilbert C. Walker, Walling, Ward, Warner, Warren, Waterson, G. Wiley Wells, Wheeler, Whiting, Andrew Williams, Jere N. Williams, Wilshire, Benjamin Wilson, Alan Wood, Jr., Fernando Wood, Woodburn, and Woodworth—128.

Phillips, Piper, Plaisted, Platt, Potter, Powell, Reagan, William M. Robbins, Roberts, Miles Ross, Rusk, Savage, Saylor, Schumaker, Singleton, William E. Smith, Southard, Stanton, Stephens, Stone, Swann, Tarbox, Teese, Thomas, Tucker, Van Vorhes, Waddell, Wait, Walling, Ward, Warner, Warren, Watterson, G. Wiley Wells, Wheeler, Whiting, Willard, Andrew Williams, Jere N. Williams, Wilshire, Alan Wood, jr., Fernando Wood, Woodburn, and Woodworth—123.

So (two-thirds not voting in favor thereof) the rules were not suspended.

During the call of the roll the following occurred:

Mr. FRYE. I would like to vote on this bill, but I am an unfortunate stockholder in this road, and do not feel at liberty to vote until the Chair has ruled upon my right to do so.

Mr. CLYMER. What will you take for your stock? [Laughter.]

Mr. LANE. I ask unanimous consent that the gentleman be allowed to vote.

The SPEAKER. Rule 29 reads:

No member shall vote on any question in the event of which he is immediately or particularly interested.

Having read this rule, it is for the gentleman himself to determine whether he shall vote, not for the Chair.

Mr. FRYE. I decline to vote.

Mr. MACDOUGALL. I lost quite a large amount of money once on a contract in the Northern Pacific Railroad. I desire to know if that ought to affect my vote? [Laughter.]

The SPEAKER. The Chair thinks not.

Mr. WELLS, of Missouri. I desire to state that my colleague, Mr. MORGAN, and the gentleman from Texas, Mr. REAGAN, have been compelled to leave the Hall on account of indisposition.

Mr. HAMILTON, of Indiana. The gentleman from Illinois, Mr. HARRISON, is absent on duty on the Committee on Enrolled Bills.

Mr. WILLIAMS, of Michigan. My colleague, Mr. RUSK, is absent on account of indisposition.

The result of the vote was announced as above recorded.

TAX BILL FOR THE DISTRICT OF COLUMBIA.

Mr. NEAL submitted the following; which was read:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 4354) for the support of the government of the District of Columbia for the fiscal year ending June 30, 1878, and for other purposes, having met, after a full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

The Senate recedes from its amendments numbered 2, 9, 10, 12, 13, 14, 17, and 19. The House recedes from its disagreement to the amendments numbered 3, 4, 5, 6, 7, 11, and 16; and agree to the same.

The Senate recedes from its amendment numbered 1, and agree to the same with an amendment, as follows:

On page 1, line 5 of the bill strike out "\$1" and insert "\$1.25;" and the House agree to the same.

The Senate recedes from its amendment numbered 15, and agree to the same with an amendment as follows:

On page 8, line 18, of the bill after the words "United States," strike out the words "other than those for the government of the District of Columbia;" and the House agree to the same.

The Senate recedes from its amendment numbered 18, and agree to the same with an amendment as follows:

In line 10 of the said amendment strike out "five" and insert "four;" and the Senate agree to the same.

LAWRENCE T. NEAL,
WILLIAM W. CRAPO,
Managers on the part of the House.
GEORGE E. SPENCER,
S. W. DORSEY,
W. H. BARNUM,
Managers on the part of the Senate.

Mr. NEAL. Mr. Speaker, most of the amendments embraced in this report are immaterial. There are only two or three to which I think it necessary to call the attention of the House. The first amendment of any consequence is the one relating to the rate of taxation upon real estate in the county. The bill as passed by the House fixed the tax upon the realty in the county at 1 per cent. The Senate amendment increased the tax to $1\frac{1}{2}$ per cent. In this report we have split the difference and put it at $1\frac{1}{4}$.

The next amendment considered of importance by the committee was the one inserted by the Senate authorizing the Commissioners of the District to use in the repair of streets and pavements any of the surplus revenues derived from the different sources of taxation. The House conferees insisted upon a disagreement to that amendment; and it has been finally abandoned, so that the amendment is stricken out.

In regard to another amendment, that relating to the taxation of church property, the Senate conferees abandoned the amendment inserted by the Senate; and the bill as it now comes before the House corresponds precisely with the bill passed by the last Congress.

Mr. STEVENSON. Will the gentleman please state what that was?

Mr. NEAL. The clause as amended provides that churches and the grounds actually occupied by them should be exempt. It provides also, that all property exempt by the laws of the United States shall be exempt from taxation by the District. That includes, I believe, school-houses owned by colleges or academies, and the lands appurtenant thereto. I think the law was first passed in 1870.

Mr. STEVENSON. This amendment leaves the law precisely as it was last year?

Mr. NEAL. Yes, sir. Now, the remaining amendment to which I wish to call attention is a new section inserted by the Senate—section 17—which provided that the Secretary of the Treasury should

advance to the commissioners, to defray the ordinary running expenses of the government, the sum of \$500,000. We have reduced this amount to \$400,000. Upon examination of all the facts it appears absolutely impossible for the government of the District of Columbia to be run during the coming year without this advance on the part of the United States Government. The sum now proposed is much less than has been advanced at former periods. In 1874 Congress appropriated \$1,300,000 outright to aid in carrying on the government of this District. In 1875 \$1,060,000 was appropriated for the same purpose, in addition to \$185,000 for interest on 3.65 bonds. During the last year Congress provided that the commissioners should anticipate the taxes by a loan to the amount of \$418,957. I think that in this advance of \$400,000 there will be no risk upon the part of the Government of the United States, inasmuch as the Secretary of the Treasury is required to retain the moneys as they are paid in, so as to re-imburse the Treasury. I demand the previous question on agreeing to the report.

The previous question was seconded and the main question ordered; and under the operation thereof, the report was adopted.

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

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate insisted on its amendments to the bill (H. R. No. 4261) to provide for the sale of desert lands in certain States and Territories, agreed to the conference asked by the House on the disagreeing votes of the two Houses, and had appointed as conferees on the part of the Senate Mr. SARGENT, Mr. OGLESBY, and Mr. KELLY.

The message further announced that the Senate had passed a bill of the following title, with an amendment in which the concurrence of the House is requested:

A bill (H. R. No. 2019) for the relief of Edwin Morgan, late captain of Company G, Seventy-seventh Regiment Pennsylvania Volunteer Infantry.

The message also announced that the Senate had passed, without amendment, bills of the following titles:

A bill (H. R. No. 2606) for the relief of Catherine Harris; and

A bill (H. R. No. 559) for the relief of Almeron E. Calkins, late a lieutenant in the Eighth Michigan Cavalry.

The message also announced that the Senate had passed a bill (S. No. 1255) for the relief of Henry Voelter; in which the concurrence of the House was requested.

ENROLLED BILLS.

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

An act (H. R. No. 559) for the relief of Almeron E. Calkins, late a second lieutenant in the Eighth Michigan Cavalry;

An act (H. R. No. 1611) authorizing the changing of the name of the sloop Addie Parker, of New Bedford, Massachusetts;

An act (H. R. No. 1765) respecting the limits of reservations for town sites upon the public domain;

An act (H. R. No. 1824) to change the name of the pleasure-yacht Hiram B. to Iola;

An act (H. R. No. 2606) for the relief of Catherine Harris; and

An act (H. R. No. 3574) for the relief of Marshal P. Thatcher.

AMENDMENT TO THE RULES.

Mr. SAYLER. Mr. Speaker, I am instructed by the Committee on Rules to submit the following report.

The Clerk read as follows:

The Committee on Rules report the accompanying amendment to Rule 22; which is as follows, namely:

After the word "Speaker," where it first occurs in said rule, insert the following: "And pending the election of a Speaker, under the direction of the Clerk;" and recommend its adoption.

The necessity for this amendment can be briefly stated. This rule as originally adopted April 14, 1879, was as follows, namely:

"It shall be the duty of the Sergeant-at-Arms to attend the House during its sittings, to execute the commands of the House from time to time, together with all such process issued by authority thereof as shall be directed to him by the Speaker."

Experience had fully demonstrated, especially during the protracted struggles over the election of a Speaker in the Thirty-first, Thirty-fourth, and Thirty-sixth Congresses, respectively, that the rules for the preservation of order were defective, and the twenty-second rule was accordingly amended on the 16th of April, 1880, upon a report from the Select Committee on Rules, made by Mr. Washburn, of Maine, by the insertion of the following words after the word "sittings," namely: "To aid in the enforcement of order under the direction of the Speaker."

It has been found, however, in the organization of a new House, that this rule was still defective, in that it failed to direct and authorize the Sergeant-at-Arms to preserve order during the election of a Speaker.

Rule 146 requires the Clerk, pending the election of a Speaker, "to preserve order and decorum," but fails to provide means to execute his direction in that regard.

This proposed amendment supplies the defect in this particular by requiring the Sergeant-at-Arms to aid in the enforcement of order under the direction of the Clerk, the officer charged by law with the organization of a new House.

Mr. McPherson, the Clerk of the House for many years, stated during the organization of the House in the Forty-second Congress that he had no power to direct the Sergeant-at-Arms to enforce order, and could only appeal to members to preserve order and decorum.

The Committee on Rules believe the proposed amendment to be proper and necessary, and recommend its adoption.

Mr. COX rose.

Mr. GARFIELD. I should like to hear a statement from the gentleman from New York.

Mr. COX. I say as a member of the Committee on Rules that report as written was never submitted to me as one of its members. I do not know exactly what it means, and I hope it will be postponed until to-morrow morning, so I may have an opportunity to read it.

Mr. GARFIELD. I would like to make a suggestion on the subject.

Mr. SAYLER. Mr. Speaker, I will state to the House that the amendment as proposed in the report was discussed in the Committee on Rules at length, and, by a vote of four out of five of that committee, was adopted, and I was ordered to submit it to the House. The report contains nothing except a mere statement of the history of the rule, the original rule having been adopted in 1792, and the effect of the introduction of the clause to aid in the enforcement of order under the direction of the Speaker, which was adopted in 1860. I will state the only change in the rule, and will read the rule as it now stands, that members may understand it. The twenty-second rule provides that it shall be the duty of the Sergeant-at-Arms to attend the House during its sittings; to aid in the enforcement of order, under the direction of the Speaker. We propose to add at that point, "and during the election of a Speaker, under the Clerk of the House." It simply orders the Clerk of the House to command the Sergeant-at-Arms to preserve the order of the House during the time that the House is effecting its organization in the election of Speaker. That is the only change effected.

I will state when submitting the report I intended no discourtesy to the gentleman from New York, [Mr. Cox,] and it was perhaps an inadvertence; but I have submitted the report as it is drawn to three members of the committee, and I do not know why I happened not to submit it to the gentleman from New York, and certainly he will not think it was an intentional discourtesy to him on my part. It certainly was not, Mr. Speaker. It only makes the change that I have stated. There has been trouble heretofore, and Mr. McPherson, as the report states, complained at one time when there was trouble in the organization of the House that he had no power except to appeal to members to preserve order.

Mr. CONGER. Was not that sufficient?

Mr. SAYLER. It only gives to the Clerk, during the time the House is effecting its organization in the election of Speaker, the power to preserve order in the House that belongs at all times to the Speaker. And as I stated, the amendment was concurred in by four out of five of the members of the Committee on Rules, and I understood the fifth member, General BANKS, to urge no special objection to it, but to state that he thought the Clerk was already possessed of that power. I do not know whether General BANKS is now in the House or not. I believe I state his position correctly. If not, the gentleman from Iowa, [Mr. WILSON,] who is also a member of that committee, can correct me. I think it very important that this amendment should be adopted.

Mr. CONGER. Will the gentleman from Ohio object to having this report go over until to-morrow that it may be printed in the RECORD and that we may have time to consider it?

Mr. GARFIELD. I hope it will go over until to-morrow. I wish now to suggest the objection whether this amendment does not carry with it the assumption that we have created for the new Congress a full corps of officers. It implies a Sergeant-at-Arms. It implies a Doorkeeper.

The SPEAKER. They remain until their successors are elected.

Mr. GARFIELD. Not certainly without the consent of the incoming House.

The SPEAKER. They are the officers of the new House by law until their successors are appointed.

Mr. SAYLER. The proposed amendment to the rule certainly carries with it this implication: that until the successors of these officers are elected they are still officers of the House.

Mr. GARFIELD. But if under the rules of the House as they now exist the Clerk has not this power, then he has no power to command any person called an officer of the House. And if this amendment clothes him with that power, it must also carry with it a declaration of existing officers over whom he is to have power. It therefore assumes an organization of officers in advance.

Mr. SAYLER. Does the gentleman pretend to say that the present Clerk is not the Clerk of the House until his successor is elected?

Mr. GARFIELD. I know that is the law.

Mr. SAYLER. And is not the present Sergeant-at-Arms the Sergeant-at-Arms of the House until his successor is elected?

Mr. GARFIELD. I want to make one other suggestion; for I consider this as a very important question. I hold that as far as the new House is concerned this House has, in strict law, no power to bind its successor. Each House is independent of the other House; and the new House may call any of its members to the Chair to preside temporarily until the organization of the House is effected; and no one Congress is entitled, if the new House asserts its right, to project over that House any officer of the old House to direct it. But, as a matter of convenience, as a matter of preventing disorder, by common consent it has been agreed for many years that the Clerk of the former House shall preside. But when we now propose to clothe him with power to command a corps of officers about the House, I think we are going a great way. It may be it is right; but before

the House is called to act upon the report I think it will be well to have it in the RECORD that we may see it in print.

Mr. SAYLER. I do not understand the peculiar position which the gentleman from Ohio appears to assume in this case. He seems to overturn all the precedents in regard to organizing a new House.

Mr. GARFIELD. O, no.

Mr. SAYLER. From the beginning of the Government down to the present time. I am so much accustomed to seeing things overturned in these times that I am not much astonished at it. But I am willing to let this go over till to-morrow, more especially on account of the statement made by the gentleman from New York, [Mr. Cox,] to whom I certainly wish to show no discourtesy.

COMMITTEE ON ENROLLED BILLS.

The SPEAKER. The Chair asks consent of the House to name three additional names on the Committee on Enrolled Bills, so that the bills may be properly examined. Is there objection?

There was no objection.

The SPEAKER. The Chair appoints as such additional members Mr. POPPLETON of Ohio, Mr. JAMES B. REILLY of Pennsylvania, and Mr. FORT of Illinois.

The Chair recognizes the gentleman from New York, [Mr. Cox.]

REMOVAL OF DISABILITIES.

Mr. COX. I was about to say that I am entirely content with the arrangement made about the report of the Committee on Rules that it shall go over till to-morrow. I rise now for the purpose of offering a bill, and I move to suspend the rules if any objection be made to its passage.

The Clerk read the title of the bill, as follows:

A bill to remove the political disabilities imposed by the third section of the fourteenth article of the amendments of the Constitution of the United States.

The Clerk read the bill in full. It provides that (two-thirds of each House concurring therein) all disabilities imposed and remaining upon any persons by virtue of the third section of the fourteenth article of the amendments of the Constitution of the United States be removed, and each and every person is hereby and forever relieved therefrom. And that whenever any person from whom disabilities are removed shall be elected or appointed to any post of honor or trust under the Government of the United States he shall take the oath prescribed by section 1767, title 14, of the Revised Statutes of the United States, or such other official oath as may be hereafter prescribed in such case by any other act of Congress.

Mr. GARFIELD. I think the gentleman had better wait until there is a fuller House before pressing that motion.

The SPEAKER. The Chair thinks that time will be saved by appointing tellers on this question, and the gentleman from Ohio [Mr. GARFIELD] and the gentleman from New York [Mr. Cox] will act as tellers.

The House divided; and the tellers reported—ayes 118, noes 37.

Mr. SAMPSON. I demand the yeas and nays.

The yeas and nays were not ordered, only 13 members voting therefor.

So (two-thirds voting in favor thereof) the rules were suspended, and the bill (H. R. No. 469) was passed.

JOHN J. ANDERSON.

Mr. BROWN, of Kentucky. I move that the Committee of the Whole on the Private Calendar be discharged from the further consideration of the bill (S. No. 628) for the relief of John J. Anderson, surviving copartner of the firm of Anderson & White, and that the same be put upon its passage. I wish to have a moment to make a statement in regard to this bill. It has passed the Senate twice, and has been considered by the Committee on War Claims of this House, and is reported with a favorable recommendation.

Mr. GARFIELD. I understand that this bill has been reported favorably by the Committee on War Claims?

Mr. BROWN, of Kentucky. Yes, sir.

Mr. HOLMAN. I ask that the report be read.

The SPEAKER. The motion is to suspend the rules, which motion suspends the right of the gentleman to call for the reading of the report.

The question was taken on the motion of Mr. BROWN, of Kentucky; and (two-thirds voting in favor thereof) the rules were suspended and the bill passed.

ORDER OF BUSINESS.

Mr. THROCKMORTON. I desire to move a suspension of the rules for a passage of the bill.

Mr. FORT. I move that the House adjourn.

The SPEAKER. The Chair desires to say that there are quite a number of gentlemen who have matters of trifling importance to the public but of great importance to individuals, which they desire to bring before the House.

Mr. GARFIELD. I would like to ask the Speaker to state what is the condition of the appropriation bills, and whether it would be safe to adjourn now.

The SPEAKER. The Chair is informed that the House should remain in session at least for half an hour more, so as to receive the re-

port of the committee of conference on the legislative, &c., appropriation bill. The Chair thinks it right to make this statement.

Mr. SPRINGER. I would suggest that the House take up from the Speaker's table the House bills which have been returned with Senate amendments, so that every gentleman may have any bills in which he is interested considered.

Mr. HOLMAN. I ask that by unanimous consent the bills on the Speaker's table be taken up in their order and reported to the House and, if there is no objection to them, passed.

Mr. SPRINGER. I hope that will be done; that is right.

The SPEAKER. The gentleman from Indiana asks unanimous consent that the Senate bills and the House bills with Senate amendments now on the Speaker's table be taken up in their order, subject to objection.

Mr. PAGE. Would it not be in order to move to suspend the rules and pass a bill if objection were made to it?

The SPEAKER. This is proposed to be done by unanimous consent, and if objection be made to any bills they will resume their place upon the Speaker's table.

Mr. CROUNSE. I would like to include in the order Senate bills now in committees, and which have the unanimous approval of the committees to which they have been referred.

The SPEAKER. The gentleman from Nebraska [Mr. CROUNSE] and the gentleman from Tennessee [Mr. BRIGHT] ask leave to report from the Committee on Public Lands and from the Committee on Invalid Pensions Senate bills which have the approval of their respective committees, so that they may go upon the Speaker's table to be considered under this order. The Chair hears no objection.

Mr. SPRINGER. I ask that House bills with Senate amendments be first taken up, because if the amendments of the Senate are concurred in that will secure the final passage of the bills.

The SPEAKER. House bills with Senate amendments will be first taken up.

RAILROAD LAND GRANT TO IOWA.

The first bill on the Speaker's table with Senate amendments was the bill (H. R. No. 4168) to amend section 1 of the act of May 12, 1864, for a grant of land in the State of Iowa to aid in the construction of a railroad in said State.

Mr. MORRISON. I object to that bill.

Mr. OLIVER. I hope the gentleman will withdraw his objection; it is a matter of merely local interest.

The SPEAKER. Objection being made, the bill will be passed over.

THOMAS J. SPENCER.

The next bill with a Senate amendment was the bill (H. R. No. 4198) to authorize the President to restore Thomas J. Spencer to his former rank in the Army.

Mr. FOSTER objected, but subsequently withdrew his objection.

Mr. GARFIELD. Let the amendment be read.

The amendment was to add to the bill the following:

And the law of promotion in the line is hereby suspended in this case for the purpose.

The amendment was concurred in.

Mr. THROCKMORTON moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SHORT-HAND REPORTERS FOR UNITED STATES COURTS.

The next bill with Senate amendments was the bill (H. R. No. 4476) to provide for the appointment of an official short-hand reporter for the United States courts in and for the district of California.

Mr. McCRARY. I ask unanimous consent that the House non-concur in the Senate amendments to this bill, and that a committee of conference be requested.

Mr. HOLMAN. Let the amendment of the Senate be reported.

The amendment was to strike out all after the enacting clause and insert the following:

That it shall be competent for any circuit or district court justice or judge, in any of the courts of the United States, to appoint a short-hand reporter of their respective courts, whose duty it shall be upon the request of the parties in any case and under the direction of said court, to take in short-hand full notes of the oral testimony and other oral proceedings in such case, upon the trial of issues of fact, not, however, including the arguments of counsel; which said notes shall be filed with the clerk of the court in which said cause is tried. Such notes, when written out in long-hand and authenticated by the certificate of such reporter, shall be deemed to be *prima facie* a correct record of such testimony and proceedings.

SEC. 2. That the reporter so appointed shall while engaged in the discharge of his duties be an officer of the court so appointing him, and shall be entitled to the same fees allowed by the law of the State in which said court is held to short-hand reporters in such State courts, or, where there is no such State law, to the fees which may be established by general rule of the court making the appointment, such fees to be chargeable and paid by the parties in like manner as other costs in the case. The court shall have power to make such rules and regulations as may be necessary to secure the said reporter his fees for the work so required at his hands.

Also amend the title so as to read: "A bill to provide for the appointment of official short-hand reporters for the courts of the United States."

Mr. CAULFIELD. This bill was originally reported from the Committee on the Judiciary of this House. What is the objection to the Senate amendments?

Mr. McCRARY. In the substitute adopted by the Senate there are some things which I think should be amended, and I therefore prefer that the amendments of the Senate be non-concurred in and a conference requested.

The motion of Mr. McCRARY was then agreed to.

The SPEAKER announced as the conferees on the part of the House Mr. McCRARY, Mr. WIGGINTON, and Mr. CAULFIELD.

ESTHER P. FOX.

The next bill with a Senate amendment was the following:

A bill (H. R. No. 1238) granting a pension to Esther P. Fox.

The amendment of the Senate was to strike out all after the word "from," in line 8, to the end of the bill, and to insert in lieu thereof the words "and after the passage of this act."

Mr. SPRINGER. That is in accordance with the practice of the House in regard to these bills, and changes the bill so that it shall take effect from and after the passage of the act, instead of dating back.

The amendment of the Senate was concurred in.

Mr. SPRINGER. I move to reconsider the vote by which the amendment of the Senate was concurred in; and also move that the motion to reconsider be laid on the table.

Mr. HOLMAN. I think that has not been the practice of the House in reference to private bills.

The SPEAKER. The Chair thinks that the practice of the House in reference to these private bills upon their passage is to leave them without laying on the table the motion to reconsider, so as to retain power to correct any error that may afterward be discovered.

Mr. SPRINGER. I withdraw the motion.

MRS. ANN ANNIS.

The next bill with Senate amendments was the bill (H. R. No. 3011) granting a pension to Mrs. Ann Annis.

The amendments were read, as follows:

Strike out "Henry" and insert "Harvey."

At the end of the bill insert "to take effect from and after the passage of this act."

There being no objection, the amendments were concurred in.

ROSETTA HERT AND OTHERS.

The next bill with Senate amendments was the bill (H. R. No. 534) for the relief of Rosetta Hert, (late Rosetta Scoville,) Charles C. Benoist, Emily Benoist, and Logan Fanfan, half-breed Indians.

The amendments were read, as follows:

In lines 1 and 2 strike out "proper accounting officers of the Treasury and Department of the Interior are," and insert "Secretary of the Treasury is."

In lines 3 and 4 strike out "money in the Treasury not otherwise appropriated," and insert "funds which may remain of the moneys arising from the sale of lands known as the Nemaha half-breed reserve on the Missouri River, in Nebraska, under an act making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations, approved February 28, 1859, upon these parties satisfying the Secretary of the Treasury that they are entitled to the same."

There being no objection the amendments were concurred in.

EDWIN MORGAN.

The next bill with Senate amendments was the bill (H. R. No. 2019) for the relief of Edwin Morgan, late captain Company G Seventy-seventh Regiment Pennsylvania Volunteer Cavalry.

The amendment was read, as follows:

In line 6 strike out "19th day of June," and insert "7th day of July."

There being no objection the amendment was concurred in.

W. W. VAN ANTWERP.

The next bill with Senate amendments was the bill (H. R. No. 2694) for the relief of W. W. Van Antwerp, late major Fourth Michigan Cavalry.

The amendment was read, as follows:

Strike out "60" in line 4 and insert "50;" so as to read "the sum of \$150."

The amendment was concurred in.

COMPENSATION TO CERTAIN LAND OWNERS.

The next bill with Senate amendments was the bill (H. R. No. 186) to provide for compensation to the owners of certain lands ceded by the United States to Great Britain in and by the treaty of Washington, July 9, 1849.

The amendments were read.

Mr. HOLMAN. I shall have to ask for the reading of that bill.

The SPEAKER. That is in the nature of an objection, and the bill will be passed over.

FRANCIS GUILBEAU.

The next business on the Speaker's table was the bill (S. No. 974) for the relief of Francis Guilbeau, of San Antonio, Texas; which was read a first and second time.

The bill was read. It directs the Secretary of the Treasury to pay to Francis Guilbeau \$2,600, in full payment of his claim against the United States for the use of his buildings at San Antonio and Galveston, Texas, in the years 1865 and 1866.

Mr. SCHLEICHER. I hope there will be no objection to this bill. It provides merely for the payment of rent under a written contract. It is a perfectly plain case.

Mr. HOLMAN. I should like to hear the report. Of course there is a Senate report on the bill. I think we should have some information to determine whether an objection would be proper or not.

Mr. SCHLEICHER. This was a quartermaster's contract for the rent of a building.

Mr. HOLMAN. If it was a regular contract why has the party not been paid?

Mr. SCHLEICHER. Several bills to provide for cases of this kind have been passed.

Mr. HOLMAN. But all regular claims of this kind would be paid in a regular manner.

Mr. SCHLEICHER. No, sir; several bills of this kind have passed the Senate.

Mr. HOLMAN. I know nothing about the case. I would be glad to hear the report.

The SPEAKER. The report is not at the desk.

There being no objection, the bill was ordered to a third reading, read the third time, and passed.

H. E. WOODHOUSE & CO.

The next business on the Speaker's table was the bill (S. No. 1071) for the relief of H. E. Woodhouse & Co., of Brownsville, Texas; which was read a first and second time.

The bill was read. It directs the Secretary of the Treasury to pay to H. E. Woodhouse & Co., of Brownsville, Texas, \$952, being the amount demanded of them by the collector of customs and by them paid on account of non-dutiable goods, October 30, 1872.

Mr. SCHLEICHER. I will state that this is a case where the customs were wrongfully collected. Mr. Morrill, Secretary of the Treasury, recommended that they should be refunded. On that recommendation the Senate committee reported the bill favorably.

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

NICHOLAS WAX AND OTHERS.

The next business on the Speaker's table was an act (S. No. 907) for the relief of Nicholas Wax, Michael Granary, and Moline Lange.

The bill was read.

Mr. HOLMAN. I think there should be some information first to the House as to whether this is a proper claim or not.

The SPEAKER. Objection being made, the bill will be passed over.

H. H. MATTHEWS.

The next business on the Speaker's table was an act (S. No. 931) for the relief of H. H. Matthews.

The bill was read.

Mr. HOLMAN. We should have some report in that case, and I object.

Objection being made, the bill was passed over.

THOMAS M. SIMMONS.

The next business on the Speaker's table was an act (S. No. 948) for the relief of Thomas M. Simmons.

The bill was read.

Mr. HOLMAN. Is there a report in this case?

Mr. LEVY. I ask the report be read.

The report was read.

Mr. BAKER, of Indiana. I object to the consideration of the bill at this time.

Objection being made, the bill was passed over.

WILLIAM JASPER CORDILL.

The next business on the Speaker's table was an act (S. No. 734) for the relief of William Jasper Cordill; which was read a first and second time.

The preamble recites that William Jasper Cordill, of Faribault County, State of Minnesota, did, on or about the 11th of March, 1866, file with the clerk of the court for Fillmore County, in that State, his affidavit and application in proper form for entry, under the homestead laws of the United States, of the fractional northwest quarter of section No. 7, of township No. 101, of range No. 26, subject to entry at the district land office at Winnebago City, and did, on the 14th of June, 1866, remove with his family on said land, and did reside thereon for the full period of five years required by the homestead law, and still continues to reside thereon, as shown by his proofs now on file in the General Land Office; that he did, in the year 1872, make full proof of his settlement, residence, and cultivation on the tract as a *bona fide* claimant under the homestead law, and applied for his final certificate therefor under homestead application No. 4038, made at Winnebago City on the 31st of March, 1866, being, as he supposed, his original application filed with the clerk of Fillmore County, and was refused such certificate for the reason that the original application No. 4038 was not, in fact, made by William Jasper Cordill, but was made by and in the name of his brother, one James W. Cordill; that James W. Cordill and other witnesses all agree that the actual settlement, residence, cultivation, and improvement upon the quarter section were made by William Jasper Cordill, and not by James W. Cordill; and that it is incompetent for the Commissioner of the General Land Office, as he deems, now to correct said mistake, and the parties have failed to show, after repeated effort, to the satisfaction of the Commissioner, how it occurred, there being no papers on file of the date of the original entry in the name or handwriting of William

Jasper Cordill, but all the papers appearing under the genuine signature of James W. Cordill.

The bill authorizes the Commissioner of the General Land Office, in his discretion, to permit the final proof of William Jasper Cordill to be filed, and the final certificate to be made in his name, for the entry No. 4038, and to issue patent thereon for the northwest fractional quarter of section No. 7, of township No. 101, of range No. 26, in the district of lands now subject to sale at Worthington, Minnesota, formerly Winnebago City, and late Jackson district, in said State.

The bill was ordered to a third reading, and it was accordingly read the third time, and passed.

ENROLLED BILL AND JOINT RESOLUTIONS.

Mr. HARRIS, of Georgia, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled the following bill and joint resolutions; when the Speaker signed the same:

An act (S. No. 1271) to remove the political disabilities of W. F. Carrington, of Virginia;

Joint resolution (H. R. No. 175) authorizing the issue of clothing to Company A, Second Regiment United States Cavalry; and

Joint resolution (H. R. No. 176) authorizing the issue of clothing to private Francis Hegner, Company F, Seventh Cavalry, and private John C. Collins, Company G, Seventh Cavalry.

LOUIS ROSE.

The next business on the Speaker's table was a bill (S. No. 1034) for the relief of Louis Rose; which was read a first and second time.

The bill, which was read, provides that all claim of title of the United States to blocks 93 and 94 in the city of San Diego, California, as designated and described on the map made by Charles H. Poole, in or about the year 1856, for the authorities of the city, (being blocks numbered 54 and 56 on the map made in or about the year 1849 by Cave J. Couts, lieutenant United States Army,) is quitclaimed and released to Louis Rose, the equitable owner of those blocks.

The bill was ordered to a third reading, and it was accordingly read the third time, and passed.

BENJAMIN FENTON AND D. W. FENTON.

The next business on the Speaker's table was a bill (S. No. 855) making an appropriation to pay the claim of Benjamin Fenton and D. W. Fenton; which was read a first and second time.

The bill, which was read, appropriates \$958.32 in full payment, satisfaction, and discharge of the claim of Benjamin Fenton and D. W. Fenton, for rent of lot No. 59 of the Memphis navy-yard, in Memphis, Tennessee, while the same was occupied by the United States.

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

PUBLIC ACCOUNTS AND CLAIMS.

The next business on the Speaker's table was a bill (S. No. 1109) relating to public accounts and claims.

Mr. WHITTHORNE. There is no necessity for the reading of that bill; I object.

COUNTERFEIT COIN.

The next business on the Speaker's table was an act (S. No. 1147) for the punishment of persons making or having in possession dies, molds, &c., for manufacturing counterfeit coin.

Mr. O'BRIEN. I think it is time for the House to adjourn; I object.

Mr. HOLMAN. No; wait till we get the conference report on the legislative appropriation bill.

Mr. CLYMER. It is necessary we should get it before the adjournment.

The SPEAKER. Objection being made, the bill is passed over.

FORT DALLES MILITARY RESERVATION.

The next business on the Speaker's table was an act (S. No. 1001) to provide for the disposition of Fort Dalles military reservation.

Mr. CONGER. I object.

Objection being made, the bill was passed over.

DENVER AND RIO GRANDE RAILWAY COMPANY.

The next business on the Speaker's table was an act (S. No. 1083) to amend an act entitled "An act granting the right of way through the public lands to the Denver and Rio Grande Railway Company," approved June 8, 1872.

Mr. O'BRIEN. I object.

Objection being made, the bill was passed over.

ISSUE OF ARMS.

The next business on the Speaker's table was a joint resolution (S. R. No. 30) to amend the joint resolution authorizing the Secretary of War to issue arms, approved July 3, 1876; which was read a first and second time.

The joint resolution, which was read, amends the joint resolution approved July 3, 1876, authorizing the Secretary of War to issue arms to the Territories and the States bordering thereon, by inserting after the words "each of said Territories" the words "and ammunition for the same, not to exceed fifty ball-cartridges for each arm."

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

RAILROAD LANDS IN KANSAS.

The next business on the Speaker's table was the bill (S. No. 1122) to secure the rights of settlers upon certain railroad lands, and to re-

peal the first five sections of an act entitled "An act granting lands to the State of Kansas to aid in the construction of the Kansas and Neosho Valley Railroad and its extension to Red River," approved July 25, 1866.

The bill was read, as follows:

Be it enacted, etc., That sections 1, 2, 3, 4, and 5 of the act entitled "An act granting lands to the State of Kansas to aid in the construction of the Kansas and Neosho Valley Railroad and its extension to Red River," approved July 25, 1866, be, and the same are hereby, repealed.

SEC. 2. That the Secretary of the Interior is hereby instructed to issue no more patents to said railroad company for the lands withdrawn from market in consequence of the enactment of the sections of said act hereby repealed, and to withhold from delivery any patents not yet delivered for the same.

SEC. 3. That upon said Kansas and Neosho Valley Railroad Company, its successor or successors or assigns, filing with the Secretary of the Interior its acceptance of the terms, conditions, and impositions of this act, as hereinafter provided, and its execution and delivery of the deeds hereinafter specified, all of said lands, so withdrawn and undisposed of shall be restored to market by proclamation of the President of the United States and opened to settlement and purchase under the homestead laws of the United States only.

SEC. 4. That said railroad company, its successor or assigns, shall reconvey, by deed or deeds duly executed, all unsold lands patented to it, in pursuance of the sections hereby repealed, and shall pay into the Treasury of the United States the proceeds of all such lands sold and conveyed prior to the passage of this act, and that if said company shall have any uncompleted contracts for the sale of any portion of such lands, the same shall be forthwith canceled, if the contracting party or parties consent thereto in writing filed with the Secretary of the Interior; and if any portion of the purchase-money has been paid thereon, the same shall be refunded to the contracting party or parties.

SEC. 5. That the acceptance of said company, or its successor or assigns, of the terms, conditions, and impositions of this act shall be signified in writing, under the corporate seal of said company duly executed, pursuant to the direction of its board of directors first had and obtained, which acceptance shall be made within ninety days from the passage of this act. And the deed or deeds hereinafter referred to shall be executed and delivered within six months from the passage of this act, and both deeds and acceptance shall be deposited with the Secretary of the Interior. And the payment of the money and the cancellation of the contracts hereinafter specified shall also be made within a like period of six months from the date of the approval of this act.

Mr. GOODIN. I ask that this bill may be put upon its passage. I desire to state that it simply transfers from the railroad company to the Government of the United States about thirty thousand acres of land.

Mr. CLYMER. I wish to ask the gentlemen from Kansas one question. Why is it that this railroad company desires to re-convey these thirty thousand acres of land?

Mr. GOODIN. I will say in reply to the gentleman from Pennsylvania that these lands all lie within my own district and nearly all of them are settled upon. This railroad company has had a great deal of difficulty with settlers along the line of the road but not with reference to any of these lands. The company itself, I think, has about come to the conclusion that as these settlers will not buy of them their best course is to make peace with the settlers themselves. So the company is disposed to surrender these lands to the Government of the United States and let them be opened up by the settlers under the provisions of the homestead law. The five sections repealed are simply the sections which granted the lands to the railroad company; and all we do for the railroad company is to relieve them from the obligation of carrying troops, &c.

Mr. GARFIELD. Does the United States thereby become involved in any obligation?

Mr. GOODIN. Not in the least. Every acre of this land is turned back to the Government of the United States without imposing any obligation whatever on the Government.

Mr. HOLMAN. I ask that the sections of the law proposed to be repealed be reported.

Mr. MACDOUGALL. If those sections are to be read, I must object to the bill.

Mr. HOLMAN. Then I will not insist upon the reading of the sections if this bill has been considered by the Committee on Public Lands of the House, and they say to the House that the bill ought to pass, and they are sure that we thereby surrender no right.

Mr. MACDOUGALL. I object to debate.

Mr. GOODIN. I will say to the gentleman from Indiana that the bill has passed our committee unanimously, and there is no objection to it whatever.

Mr. HOLMAN. The committee of the House?

Mr. GOODIN. Yes, sir, the Committee on the Public Lands of the House, of which the gentleman from Ohio [Mr. SAYLER] is chairman.

Mr. MACDOUGALL. I withdraw the objection.

There being no further objection, the bill was read three times, and passed.

DENVER AND RIO GRANDE RAILROAD COMPANY.

Mr. JOHN REILLY. The objection to the bill (S. No. 1083) is withdrawn.

There being no further objection, the bill (S. No. 1083) to amend an act entitled "An act granting the right of way through the public lands to the Denver and Rio Grande Railway Company," approved June 8, 1872, was read, as follows:

Be it enacted, etc., That an act entitled "An act granting the right of way through the public lands to the Denver and Rio Grande Railway Company," approved June 8, 1872, be, and the same is hereby, amended by making the second proviso in said act read as follows, to wit:

Provided, That said company shall complete its railway to a point on the Rio Grande as far south as Santa Fe within five years of the passage of this act, and

and shall complete fifty miles additional south of said point in each year thereafter; and in default thereof the rights and privileges herein granted shall be rendered null and void so far as respects the unfinished portion of said road.

The bill was read three times, and passed.

FORT DALLIES MILITARY RESERVATION.

Mr. CONGER. I withdraw my objection to the bill relating to the Fort Dalles military reservation.

Mr. POPPLETON. I renew it. I think it is time to adjourn.

Mr. GARFIELD. We cannot adjourn. We must wait for the report on the legislative appropriation bill.

Subsequently Mr. POPPLETON withdrew his objection.

There being no further objection, the bill (S. No. 1001) to provide for the disposition of the Fort Dalles military reservation was read three times, and passed.

ISRAEL YOUNT.

The next business on the Speaker's table was the bill (S. No. 481) for the relief of Israel Yount.

The bill was read.

(Objected to by Mr. MORRISON.)

EXPENSES OF ELECTORAL COMMISSION.

The next business on the Speaker's table was the bill (S. No. 1239) making an appropriation for expenses of the electoral commission.

The bill was read. It appropriates the sum of \$7,000, or so much thereof as may be necessary, to pay the expenses of the electoral commission provided for by the act approved January 29, 1877, entitled "An act to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877," the sum to be disbursed upon the certificate of the president of the commission; provided that any person employed by said commission may receive such compensation as may be allowed by said commission in addition to any other compensation or salary he may be receiving as an officer of the Government.

Mr. HOLMAN. I trust there will be some explanation of that bill.

Mr. GARFIELD. I think the gentleman should allow that bill to pass. I hope he will not think of permitting the expenses that have been incurred to fall upon the president of the commission himself. I will state in a word or two what I know about this. The commission was authorized to appoint officers. The president of the commission was by the commission authorized to make the appointments himself. He appointed, I think, three clerks, a sergeant-at-arms or marshal, and two or three assistants about the room.

He was compelled also, in consequence of the appropriation for the printing having run out, to make arrangements for the printing at private offices to print the certificates as they came over from the House and to print the objections of the objectors as they came over, there being no power to get the printing done at the Government Printing Office. What the expenses have been I do not know, but I know that a committee was appointed to act with the President in reference to this matter, and I think Senator BAYARD and perhaps Mr. HOAR were on that committee. I was not on that committee myself. That committee, headed by the president of the commission, revised and examined all the accounts, and were directed to make up and send to the two Houses a statement of the amount required for the expenses of the commission. I happened not to be present when the report was presented, but I have no doubt that the report was drawn up in accordance with the decision of the committee to which I referred.

Mr. HOLMAN. Is that report before the House?

Mr. GARFIELD. I suppose it consisted in a letter merely.

Mr. HOLMAN. I have no doubt that these expenses ought to be paid, but I think we ought to have the report before us before appropriating the money.

Mr. MACDOUGALL. I must object to the bill if it is going to lead to debate.

Mr. THORNBURGH. It does not lead to debate, and therefore the objection does not apply.

No objection being made, the bill was passed.

H. H. MATHEWS.

The SPEAKER. As objection is withdrawn by the gentleman from Ohio [Mr. GARFIELD] to the bill (S. No. 931) for the relief of H. H. Mathews, of Arkansas, the bill will be read.

The bill was read. It provides that the Secretary of the Treasury shall pay to H. H. Mathews, of Saint Francis County, Arkansas, the sum of \$5,628.50, in full compensation for twenty-seven bales of cotton, seized by order of Colonel Jacob Fry, commanding United States forces at the post of Trenton, Tennessee, which cotton was taken and placed in the fortifications at that post.

Mr. HOLMAN. I ask that the report in this case be read. I think I find a very interesting question presented here. I understand myself what the claim is very well.

Mr. BAKER. It ought to be examined by a committee of the House.

Mr. SMITH, of Pennsylvania. I object to that bill.

Objection being made the bill was passed over.

CHARLES E. BOGGS.

The next business on the Speaker's table was the bill (S. No. 457) authorizing the restoration of Charles E. Boggs to the active list of the Navy.

Mr. WHITTHORNE. I object to that bill.
Objection being made the bill was passed over.

NATIONAL MUSEUM.

The next business on the Speaker's table was the bill (S. No. 1252) for the erection of a fire-proof building for the national museum.

Mr. HOLMAN. O! I think that appropriation can be postponed for the present, and I must object to it.

Objection being made the bill was passed over.

AMENDMENT OF REVISED STATUTES.

The next business on the Speaker's table was the bill (H. R. No. 1225) to amend section 2291 of the Revised Statutes of the United States, in relation to proof required in homestead entries.

Mr. GARFIELD. If the Committee on Public Lands, or any member of that committee, has looked into this case, I will not object, but otherwise I must object.

Mr. OLIVER. This bill has been before the Committees on Public Lands of the two Houses and has been reported by them unanimously, and it has at different times passed both Houses of Congress.

Mr. GARFIELD. Then I withdraw the objection.

The Clerk read the bill. It provides that the proof of residence, occupation, or cultivation, the affidavit of non-alienation, and the oath of allegiance required to be made by section 2291 of the Revised Statutes may be made before the judge, or, in his absence, before the clerk of any court of record of the county and State or district and Territory in which the lands are situated; and if said lands are situated in any unorganized county, such proof may be made in a similar manner in any adjacent county in said State or Territory; and the proof, affidavit, and oath, when so made and duly subscribed, shall have the same force and effect as if made before the register or receiver of the proper land district; and the same shall be transmitted by such judge, or the clerk of his court, to the register and the receiver, with the fee and charges allowed by law to him; and the register and receiver shall be entitled to the same fees for examining and approving said testimony as are now allowed by law for taking the same.

The bill in its second section provides that if any witness making such proof, or the said applicant making such affidavit or oath, swears falsely as to any material matter contained in said proof, affidavits, or oaths, the said false swearing being willful and corrupt, he shall be deemed guilty of perjury, and shall be liable to the same pains and penalties as if he had sworn falsely before the register.

No objection being made, the bill was passed.

ORDER OF BUSINESS.

Mr. JAMES B. REILLY. I move that the House do now adjourn.

Mr. CLYMER. In the absence of the chairman of the Committee on Appropriations, allow me to say that if the House adjourns now we may endanger the passage of the legislative, executive, and judicial appropriation bill.

Mr. HOLMAN. There has been a little delay in the preparation of the report of the committee of conference on the legislative, &c., appropriation bill. There was a mistake made which it required several hours to detect, although it was apparent that there was a mistake somewhere in the report prepared by the conferees. The report has now gone to the Senate, and I think we may count with reasonable certainty on its coming to the House for action within half an hour.

The SPEAKER. The Chair will now, after the statement of the gentleman from Indiana, submit the question upon the motion to adjourn; but the Chair desires to state that it is very important and essential that the House should remain in session until the report of the committee of conference on the legislative bill is received and acted upon.

Mr. HOLMAN. I hope that the House will remain in session for at least half an hour longer.

Mr. JAMES B. REILLY. I am willing to remain here all night if it be necessary to pass the appropriation bills.

Mr. HAMILTON, of Indiana. I desire to state that the enrolling clerks have their hands full already, and that we cannot do anything except to enroll the appropriation bills.

The SPEAKER. The Chair would state that the practice has been to enroll the appropriation bills first.

Mr. HAMILTON, of Indiana. There is no use in passing other bills. We have not time enough to enroll anything but the appropriation bills.

Mr. STEELE. But these are Senate bills, and will be enrolled on the Senate side.

Mr. SPRINGER. We can employ additional enrolling clerks.

Mr. HAMILTON, of Indiana. It is utterly impossible to enroll any but appropriation bills.

The SPEAKER. That should not prevent the House from passing bills. Some of these bills are to be enrolled by the Senate enrolling clerks.

Mr. JAMES B. REILLY. I will withdraw the motion to adjourn, and hope members will take their seats and allow business to proceed in an orderly manner.

Mr. HAMILTON, of Indiana. I desire to say one word. There are now five clerks working at enrolling the bills we have already passed; and it is utterly impossible for us to enroll any bill—

The SPEAKER. These are Senate bills, and if passed will be enrolled in the Senate.

Mr. HAMILTON, of Indiana. I have no objection to passing them.

JOHN S. WOOD.

The next bill on the Speaker's table was the bill (S. No. 40) for the relief of John S. Wood, late first lieutenant in the Seventh Pennsylvania Cavalry.

The bill directs the Secretary of War to cause to be furnished to John S. Wood, late a first lieutenant in the Seventh Pennsylvania Cavalry Volunteers, an honorable discharge from the service, on account of wounds received in action, of the same date as the date of the discharge of his company, and the Paymaster-General to pay him a sum equal to emoluments of a first lieutenant of cavalry, from the date of his muster into the service as such until the muster out of Company I of the Seventh Pennsylvania Cavalry, deducting therefrom such sum or sums as he may have received on account of such services for the same period.

The second section provides that nothing contained in the thirteenth section of the act entitled "An act supplementary to the several acts relating to pensions," approved June 6, 1867, or any other act limiting the time for filing a claim for a pension shall operate to prevent the said John S. Wood from making a claim for a pension from the date of the muster out of service of Company I, Seventh Pennsylvania Cavalry.

There being no objection, the bill was read three times, and passed.

ELI TEEGARDEN.

The next business on the Speaker's table was the bill (S. No. 1197) for the relief of Eli Teegarden.

The bill directs the Secretary of the Treasury to pay to Eli Teegarden, of California, \$50.34, being the amount of a balance due him March 31, 1875, on his account as receiver of public moneys at the land office at Marysville, California.

There being no objection, the bill was read three times, and passed.

ORDER OF BUSINESS.

Mr. HAMILTON, of Indiana. I desire to say that unless there is some prospect of the appropriation bills coming before the House I shall raise the question of a quorum.

The SPEAKER. The Chair appeals to the gentleman not to object to the transaction of the public business at this time.

Mr. HAMILTON, of Indiana. I want some assurance that the appropriation bills will come before the House.

The SPEAKER. It is the general practice on the last night and the last night but one of the session to proceed with business in this way by unanimous consent. There is no earthly danger of passing any bills that should not pass.

Mr. O'BRIEN. It seems to me—

The SPEAKER. The gentleman is not in order except by unanimous consent, unless he has some motion to make.

Mr. O'BRIEN. I have a motion to make.

The SPEAKER. The gentleman will submit it.

Mr. O'BRIEN. My motion is that these bills shall be considered as rejected when read, unless some member shall get up here and state upon his own authority that he knows something of the bill.

The SPEAKER. The Chair is watching carefully every bill as it is read.

Mr. O'BRIEN. If the Chair makes that reply to me, then I would inquire of the Chair whether he has personal knowledge that these bills are proper bills to be passed?

The SPEAKER. The Chair is watching them closely.

Mr. O'BRIEN. If the Chair will say so I will submit?

The SPEAKER. The gentleman's suggestion seemed to imply that proper consideration was not given to these bills—

Mr. O'BRIEN. Not at all.

The SPEAKER. And in reply to that suggestion the Chair stated that he was listening to every bill as it was read.

Mr. O'BRIEN. I understand that, and so are a number of other members in the House. But there are many of these bills that not one of us know anything about; no reports are being read. I call the attention of the House to the fact that during the whole session of Congress—

Mr. COX. I move that the House now adjourn.

Mr. HOLMAN. I trust not.

The SPEAKER. The Chair will submit the motion to the House. Mr. O'BRIEN. I hope the gentleman from New York [Mr. COX] will not take me off the floor by such a motion.

The SPEAKER. Debate is not in order.

Mr. COX. The House can vote down the motion to adjourn.

The motion to adjourn was not agreed to.

Mr. O'BRIEN. I desire to say, Mr. Speaker—

Cries of "Regular order!"

Mr. O'BRIEN. The regular order is to hear what I have to say.

Many MEMBERS. "O, no."

Mr. MACDOUGALL. I think the gentleman must have been asleep and just waked up, for he does not seem to know anything about what has been going on.

Mr. O'BRIEN. That is not so.

The SPEAKER. The Chair appeals to the gentleman from Maryland [Mr. O'BRIEN] to let business proceed.

Mr. O'BRIEN. If any member will rise as these bills are read and say that they are proper bills and ought to be passed, I will not object; otherwise I think I must object to every bill.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had agreed to the report of the committee of conference on the bill (H. R. No. 4554) for the support of the government of the District of Columbia for the fiscal year ending June 30, 1878, and for other purposes.

SETTLERS ON THE PUBLIC LANDS.

The next business on the Speaker's table was the bill (S. No. 1063) for the relief of certain settlers on the public lands; which was read a first time and second time.

The bill was read. It provides that it shall be lawful for homestead and pre-emption settlers on the public lands, or pre-emption settlers on Indian reservations, where crops were destroyed or seriously injured by grasshoppers in the year 1877, to leave and be absent from said lands until the 1st day of July, 1878, under such rules and regulations as to proof of the same as the Commissioner of the General Land Office shall prescribe; and where such grasshoppers shall re-appear in 1878, with a like destruction or injury of crops, the right to leave and be absent shall continue to October 1, 1879; and during such absence no adverse rights shall attach to the lands, such settlers being allowed to resume and perfect their settlement as though no such absence had occurred.

The second section provides that the time for making final proof and payment by pre-emptors whose crops have been destroyed or injured as aforesaid be extended for one year after the expiration of the term of absence provided for in the first section of this act; and all the rights and privileges extended by this act to homestead and pre-emption settlers shall apply to and include the settlers under an act entitled "An act to encourage the growth of timber on western prairies," approved March 3, 1873, and the acts amendatory thereof.

Mr. SAYLER. A House bill similar to this has received the careful consideration of the Committee on Public Lands of the House and meets their hearty approval.

There being no objection, the bill was ordered to a third reading, read the third time, and passed.

FREDERICK HINKEL.

The next business on the Speaker's table was the joint resolution (S. No. 32) providing for the renunciation of the naturalization of Frederick Hinkel; which was read a first and second time.

The bill was read. It provides that an official notification from the government of the North German Empire of the employment of Mr. Frederick Hinkel in the consular or diplomatic service of that government, accompanied by a renunciation in writing by Hinkel of his naturalization in the United States, may be accepted by the President as evidence of a renunciation of such naturalization equivalent in effect to the residence of two years in his former country without intent to return to the United States, provided for in the fourth article of the treaty of February 22, 1868, between the United States and the North German Confederation.

Mr. BANKS. This bill has received the unanimous approval of the Committee on Foreign Affairs.

Mr. GARFIELD. I understand that a bill identical in terms with this was passed by the House not long ago. There can be no objection to passing this bill.

Mr. BANKS. If necessary, I could state the facts very briefly.

Several MEMBERS. It is all right.

There being no objection, the bill was ordered to a third reading, read the third time, and passed.

SARAH A. CHAMBERLAIN.

The next business on the Speaker's table was the bill (S. No. 1116) granting a pension to Sarah A. Chamberlain, guardian of the minor heirs of James Eagle, late private Company F, Second Regiment Kansas State Militia; which was read a first and second time.

The bill was read. It authorizes and directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Sarah A. Chamberlain, guardian of the minor heirs of James Eagle, late private Company F, Second Regiment Kansas State Militia.

There being no objection, the bill was ordered to a third reading, read the third time, and passed.

HARRIET MOSS.

The next business on the Speaker's table was the bill (S. No. 1183) granting a pension to Harriet Moss; which was read a first and second time.

The bill was read. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Harriet Moss, widow of Samuel I. Moss, late private in Company E, Eighteenth Missouri Infantry Volunteers.

There being no objection, the bill was ordered to a third reading, read the third time, and passed.

MARGARET HUNTER HARDIE.

The next business on the Speaker's table was the bill (S. No. 1200) to grant a pension to Margaret Hunter Hardie, widow of James A.

Hardie, Inspector-General in the United States Army; which was read a first and second time.

The bill was read. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Margaret Hunter Hardie, widow of James A. Hardie, Inspector-General in the Army of the United States, and pay her a pension at the rate of \$50 per month from and after the passage of this act.

There being no objection, the bill was ordered to a third reading, read the third time, and passed.

Mr. COX. I move that the House adjourn.

The motion was not agreed to.

DANIEL HOULIHAN.

The next business on the Speaker's table was a bill (S. No. 1259) granting a pension to Daniel Houlihan; which was read a first and second time.

The bill, which was read, authorizes and directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Daniel Houlihan, late sergeant Company I, Eighty-second Regiment New York Volunteers.

There being no objection, the bill was ordered to a third reading; and it was accordingly read the third time, and passed.

EDMUND H. COBB.

The next business on the Speaker's table was a bill (S. No. 1260) granting a pension to Edmund H. Cobb; which was read a first and second time.

The bill, which was read, authorizes and directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Edmund H. Cobb, private Company B, New Hampshire Heavy Artillery.

There being no objection, the bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

STAFF OF THE ARMY.

The next business on the Speaker's table was a bill (S. No. 1243) to repeal the statutes forbidding appointments and promotions in the staff of the Army; which was read a first and second time.

The bill, which was read, provides that section 1194 of the Revised Statutes, now applying only to grades in the Pay Department of the Army above the rank of major, is hereby repealed.

Mr. THORNBURGH. The Committee on Military Affairs of this House have acted on this bill favorably.

Mr. MACDOUGALL. And I hope it will be passed without objection.

Mr. HOLMAN. I think the bill ought to be referred to the Committee on Military Affairs.

Mr. A. S. WILLIAMS. That committee has already considered the subject and passed upon it unanimously.

Mr. WHITE. I move the House adjourn.

The House refused to adjourn.

Mr. HOLMAN. I think the original law is right. It has been repealed piece by piece.

Mr. MACDOUGALL. It is the unanimous report of the Committee on Military Affairs in both Houses.

Mr. HOLMAN. I withdraw my objection, but I hope the committee will provide for the re-enactment of the old law.

There being no objection, the bill was ordered to a third reading; and it was accordingly read the third time, and passed.

WILLIAM L. HICKAM.

The next business on the Speaker's table was a bill (S. No. 1284) for the relief of William L. Hickam, of Missouri.

The bill, which was read, directs the Secretary of the Interior to cause the pension agent at Saint Joseph, Missouri, to issue and deliver to William L. Hickam a duplicate check, No. 61872, for the sum of \$1,616.33, in favor of William L. Hickam, for one lost in the mail November 30, 1876; provided that the Secretary of the Interior be satisfied that the same has not been paid, and that the said Hickam give bond and security, approved by the Secretary of the Interior, to hold the United States harmless against the payment of the original check.

There being no objection, the bill was ordered to a third reading; and it was accordingly read the third time, and passed.

P. J. QUATTLEBAUM.

The next business on the Speaker's table was a bill (S. No. 1188) to remove the political disabilities of P. J. Quattlebaum, of Georgia; which was read a first and second time.

The bill, which was read, provides, two-thirds voting in favor thereof, that the political disabilities of P. J. Quattlebaum, of Georgia, imposed by reason of his participation in the late war be, and the same are hereby, removed.

There being no objection, the bill was ordered to a third reading; and it was accordingly read the third time and passed, two-thirds voting in favor thereof.

CONTINENTAL CONGRESS.

The next business on the Speaker's table was a bill (S. No. 1019) to provide for a reprint of the resolves, ordinances, and acts passed by the Continental Congress and the Congress of the Confederation; which was read a first and second time.

The bill, which was read, in the first section provides that there be printed at the Government Printing Office, for the use of Congress, five thousand copies of the resolves, ordinances, and acts of the Continental Congress and the Congress of the Confederation of the United States, one thousand five hundred copies for the use of the Senate, three thousand copies for the use of the House of Representatives, and five hundred copies for the use of the Executive Departments.

The second section provides that said resolves, ordinances, and acts shall be taken from the journals, and printed with a proper index, under the supervision of the Librarian of Congress.

The third section provides that the sum of \$1,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to defray the expenses of making such work and index; the same to be disbursed under the direction of the Joint Committee on the Library.

Mr. HOLMAN. I see the chairman of the Committee on Printing is present, and I ask him to explain the purpose of this bill.

Mr. VANCE, of Ohio. That bill received the approval of the Joint Committee on the Library in the Senate, and I do not myself see any objection to it. I think it should pass.

Mr. GARFIELD. It provides for the publication of a document precious to every man who wishes to know the early history of the country.

There being no objection, the bill was ordered to a third reading; and it was accordingly read the third time, and passed.

JULIUS S. BOHRER.

The next business on the Speaker's table was a bill (S. No. 1010) for the relief of Julius S. Bohrer, master of the United States Navy.

Mr. HARRIS, of Massachusetts. I object.

Mr. ROBERTS. That bill has been unanimously reported by the committee of this House.

Mr. HARRIS, of Massachusetts. I object.

Objection being made, the bill was passed over.

WESTERN AND ATLANTIC RAILROAD, GEORGIA.

The next business on the Speaker's table was a bill (S. No. 177) to authorize the Secretary of War to open and re-adjust the settlement made by the United States Government with the Western and Atlantic Railroad, of Georgia; which was read a first and second time.

The bill, which was read, authorizes the Secretary of War to re-open the settlement made by the United States Government with the Western and Atlantic Railroad Company of the State of Georgia, and to adjust the same upon the basis and plan of settlement which was adopted in the settlement made by the Secretary of War with the Nashville and Chattanooga Railroad Company of East Tennessee, and Georgia Railroad Company and the Nashville and Decatur Railroad Company under the authority of an act of Congress approved March 3, 1871.

The second section provides that when said claims have been adjusted in pursuance of the provisions of this act the Secretary of War shall be authorized to issue his warrant on the Treasury of the United States to the governor of Georgia or his order for the amount of money it is found ought to be refunded to said railroad on account of said settlement.

Mr. O'BRIEN. I object.

Mr. CANDLER. I hope the gentleman will not object to that bill.

Mr. O'BRIEN. I withdraw my objection.

Mr. HOLMAN. I hope there will be some explanation of it.

Mr. CANDLER. This bill was considered thoroughly by the Committee on Military Affairs of the Senate, and they reported unanimously in its favor. After discussion in the Senate it was passed by that body. It is a bill to open a settlement by the Western and Atlantic Railroad of the State of Georgia with the Government of the United States upon the same terms upon which settlements have been had with certain railroads in Tennessee on account of property sold by the United States to said railroads. It arises out of the sale of some property by the United States to the Western and Atlantic Railroad directly after the war. The amount paid by the Western and Atlantic Railroad to the Government of the United States was over \$400,000, but there is nothing like that amount involved in this bill.

Mr. GARFIELD. I desire to ask the gentleman if this is a case similar to that of the Chattanooga Railroad?

Mr. CANDLER. Exactly the same.

Mr. GARFIELD. In that case the Government took possession of the railroad and ran it for some time during the war, and it was necessary after the war was over to make an adjustment with the road of the account between it and the United States. I am told that this is a case of the same kind. If it be, it is just that this settlement should be made.

Mr. STRAIT. I desire to say that this bill has been before the Committee on Military Affairs of this House and has received the sanction of that committee.

Mr. HOLMAN. What is the reason for re-opening this settlement?

Mr. CANDLER. There was an amount due from the United States for iron and other property taken from the Western and Atlantic Railroad, which was not included in the settlement made at the time the Western and Atlantic Railroad paid to the United States the amount due for rolling-stock and other property sold by the United States to that railroad.

Mr. GARFIELD. I will further say that the Senator from that State stated this case to me and requested me to give attention to it; and from his statement I believe that this bill is similar to the Tennessee bill, and a just settlement of the accounts between the Government and the State of Georgia, which ought to be made.

Mr. HOLMAN. Does the gentleman know anything of the reasons for re-opening the settlement?

Mr. GARFIELD. I know nothing of it except what I have been told by the gentleman representing the State.

Mr. CANDLER. This road is in the same position as the other roads with which settlements have been made. This amount was not included in the settlement and is now to be settled on precisely the same terms.

There being no objection, the bill was read three times, and passed.

JULIUS S. BOHRER.

Mr. TERRY. I understand the objection to the bill (S. No. 1010) is withdrawn.

Mr. WHITTHORNE. I renew it.

WILLIAM WHEELER HUBBELL.

The next business on the Speaker's table was the bill (S. No. 667) for the relief of William Wheeler Hubbell, and to make just compensation for the past making, or use, or vending of his patent explosive shell-fuse and percussion-exploders by the United States.

Mr. EDEN. I object.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate insisted on its amendments to the bill (H. R. No. 4476) to provide for the appointment of an official short-hand reporter in the United States court for the District of California, disagreed to by the House of Representatives, agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. WRIGHT, Mr. HOWE, and Mr. COOPER as conferees on the part of the Senate.

THOMAS E. MALEY.

The next business on the Speaker's table was the bill (S. No. 1111) for the relief of Thomas E. Maley.

The bill was read.

Mr. A. S. WILLIAMS. That bill has passed the Committee on Military Affairs of the House unanimously, and they recommend its passage.

Mr. HOLMAN. It is a very complicated bill. I shall not object to its being considered to-morrow; but, in this confusion, I must object to its being passed now.

Mr. CONGER. I ask unanimous consent to take from the Private Calendar a bill for the relief of a private soldier of the State of Michigan.

The SPEAKER. The Senate bills on the Speakers' table will soon be disposed of. The Chair will recognize the gentleman from Michigan hereafter.

GEORGE A. ARMES.

The next business on the Speaker's table was the bill (S. No. 407) to authorize the restoration of George A. Armes to the rank of captain.

The bill was read.

Mr. GARFIELD. I object.

HENRY VOELTER.

The next business on the Speaker's table was the bill (S. No. 1235) for the relief of Henry Voelter.

The bill was read.

(Objected to by Mr. SPRINGER.)

RICHMOND FEMALE INSTITUTE.

The next business on the Speaker's table was the bill (S. No. 780) for the relief of the Richmond Female Institute, in the city of Richmond, Virginia.

The bill was read. It directs the accounting officers of the Treasury to pay to the treasurer of the Richmond Female Institute of the city of Richmond, in the State of Virginia, the sum of \$4,933.33 in full payment and satisfaction for the rent, use, and occupation of its buildings by the Army of the United States from October 1, 1865, to October 10, 1866; all claim for injuries and damages being satisfied by the acceptance of said sum; and the bill appropriates the said sum to enable such payment to be made.

Mr. HOLMAN. What was the date of the occupation?

Mr. TUCKER. From October 1, 1865, to October 10, 1866; that is, after the war.

There being no objection, the bill was read three times, and passed.

LOUISVILLE ORPHANS' HOME.

Mr. WATTERSON. I move that the bill (S. No. 259) for the benefit of the Louisville Baptist Orphans' Home be taken from the Speaker's table and passed.

Mr. CONGER. I made objection to that bill when it was up before, but I have since examined it and I think ought to pass, and therefore I withdraw the objection.

No further objection being made, the bill was passed.

MOSES F. CARLTON.

Mr. CONGER. I ask unanimous consent to take from the Private Calendar the bill (H. R. No. 2386) for the relief of Moses F. Carlton, late second lieutenant Company I, Fourth Michigan Volunteers.

Mr. HOLMAN. I think we should proceed to execute the order of the House if it is not completed.

The SPEAKER. The order is completed.

Mr. CONGER. I ask the gentleman to give me the privilege of having that bill read.

Mr. HOLMAN. The Senate has adjourned, and there is no object now of continuing in session.

The SPEAKER. The Chair hopes that this bill will not be objected to unless it be wrong.

No objection being made, the bill was passed.

PENSION LAWS.

The SPEAKER. Unanimous consent was given for the reporting of the bill (S. No. 36) amending the pension law so as to remove the disability of those who, having participated in the rebellion, have, since its termination, enlisted in the Army of the United States, and become disabled. The bill will be read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the law prohibiting the payment of any money on account of pensions to any person, or to the widow, children, or heirs of any deceased person, who in any manner engaged in or aided or abetted the late rebellion against the authority of the United States, shall not be construed to apply to such persons as voluntarily left the forces of the rebellion, with the bona fide intent of aiding the United States in suppressing the same, and, in pursuance of such intent, afterward enlisted in the Army of the United States, and who, while in such service, incurred disability from a wound or injury received or disease contracted in the line of duty: Provided, however, That this act shall not be construed to include those who enlisted while they were prisoners of war.

No objection being made, the bill was passed.

SETTLERS UNDER THE PRE-EMPTION LAW.

The SPEAKER. The Chair now lays before the House the bill (S. No. 1163) for the relief of settlers on the public lands under the pre-emption laws.

Mr. CROUNSE. That bill has the unanimous approval of the Committee on Public Lands.

No objection being made, the bill was passed.

Mr. SPRINGER. I desire to withdraw my objection to the bill, (H. R. No. 555,) the patent being in the interest of the dissemination of knowledge.

Mr. HOLMAN. I move that the House take a recess until ten o'clock to-morrow. It is now past one o'clock, and the Senate has adjourned, and under such circumstances the House had better take a recess.

The SPEAKER. The Chair is informed that the Senate bills passed to-night have been enrolled in the Senate.

Mr. WILSON, of Iowa. There is evidently no quorum present.

Mr. WADDELL. I move that the House do now adjourn.

Mr. HOLMAN. I hope not; I hope we shall take a recess.

Mr. WADDELL. I will modify my motion so as to move that the House take a recess until ten o'clock.

Mr. BANNING. I move that the House adjourn, and I make that motion because I have been trying unsuccessfully to offer a bill all day.

The SPEAKER. The Chair will recognize the gentleman if he has been trying to offer a bill.

Mr. BANNING. I have been trying all day. I objected to bill No. 667, and I understand that the Committee on Naval Affairs fully considered the bill and recommended its passage.

Mr. HOLMAN. I had moved that there be a recess until ten o'clock.

Mr. BANNING. I will withdraw my motion if the gentleman from Indiana will treat me as fairly as I want to be treated.

Mr. THORNBURGH. I renew the motion that the House do now adjourn.

The question was taken on the motion, and the House refused to adjourn.

Mr. WHITE. I make the point of order that no quorum voted.

Mr. GLOVER. I ask the gentleman from Indiana [Mr. HOLMAN] to withdraw his motion for a recess to enable me to offer a resolution.

Mr. CAULFIELD. I object to that. Let us all have an opportunity to offer our resolutions, or cut them all off.

The question was then taken on the motion for a recess until to-morrow morning at ten o'clock; and upon a division there were—ayes 32, noes 22.

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

Mr. BANNING. I rise to make a parliamentary inquiry.

The SPEAKER. The gentleman will make it.

Mr. BANNING. Is it in order for less than a quorum to take a recess?

The SPEAKER. It is not, if the point is made.

Mr. HOLMAN. I trust that point will not be made.

Mr. CAULFIELD. I make it.

Mr. HOLMAN. I will state to gentlemen that if we take a recess to a later hour than ten o'clock to-morrow it may be fatal to some of the appropriation bills.

Mr. CAULFIELD. Let us all have an equal show here.

The SPEAKER. Does the gentleman from Indiana [Mr. HOLMAN] withdraw his motion for a recess?

Mr. HOLMAN. I do not. I desire to say that it will be impossible for me to remain here much longer to-night, and I know that is the case with many other members.

Mr. SAYLER. Our committees ought to have to-morrow morning from ten to eleven o'clock for their meetings. I know that the Committee on Public Lands want to have a meeting to-morrow morning, and I suggest to the gentleman to modify his motion so as to take a recess until eleven o'clock to-morrow.

Mr. HOLMAN. I think if we go beyond ten o'clock to-morrow morning it will be likely to prove fatal to some of the appropriation bills.

Mr. SAYLER. Very well. I will withdraw the suggestion.

The SPEAKER. The Chair will again submit the question upon the motion that the House now take a recess until ten o'clock to-morrow morning.

The motion was agreed to; and accordingly (at one o'clock and twenty-five minutes a. m.) the House took a recess until ten o'clock a. m.

AFTER THE RECESS.

The recess having expired, the House was called to order by the Speaker at ten o'clock a. m., (Saturday, March 3.)

THOMAS MORROW.

Mr. TARBOX. I ask unanimous consent to submit for adoption at this time a resolution which has the approval of the chairman of the Committee of Appropriations [Mr. HOLMAN] and the chairman of the Committee on Accounts, [Mr. ROBERTS.]

The Clerk read as follows:

Resolved, That the Clerk of the House be, and hereby is, authorized and directed to pay out of the contingent fund of the House to Thomas Morrow, for services rendered under the Doorkeeper of the House, the sum of \$350.

There being no objection, the resolution was adopted.

Mr. TARBOX moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HARBORS OF REFUGE ON THE OHIO RIVER.

Mr. SAYLER, by unanimous consent, submitted the following resolution; which was read:

Resolved, That the Secretary of War be requested to report to Congress on the best method, by harbors of refuge or otherwise, of protecting the river commerce at Cincinnati from floes of ice in the Ohio.

Mr. SAYLER. I offer this resolution in accordance with the suggestion of Major Merrill, of the Engineer Corps, stationed at Cincinnati, and upon the recommendation of General Humphreys, Chief of Engineers of the United States Army. It is intended to cover all the ground of the resolutions heretofore adopted by the House, and which were offered by my colleague, [Mr. BANNING,] by the gentleman from Kentucky, [Mr. JONES,] and by myself.

The resolution was then adopted.

HENRY THOMAS.

Mr. WILSON, of Iowa. I want to get a few dollars for a little colored messenger of the Committee on War Claims, and I ask unanimous consent that the resolution which I send to the Clerk's desk be adopted.

The Clerk read as follows:

Resolved, That the Clerk of the House be directed to pay out of the contingent fund to Henry Thomas, for sixty days' services as messenger to the Committee on War Claims, at \$2 per day, \$120.

There being no objection, the resolution was adopted.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HENRY M. MEADE.

Mr. WHITTHORNE, by unanimous consent, from the Committee on Naval Affairs, reported back, with a favorable recommendation, House bill No. 1082, for the relief of Henry M. Meade, late paymaster in the United States Navy.

The bill authorizes the accounting officers of the Treasury to adjust the accounts of Henry M. Meade, late a paymaster in the United States Navy, and credit him with the sum of \$2,545.22 for unavoidable losses and checkages sustained by him in the legitimate performance of his duties as paymaster in the United States Navy from 1862 to 1872, which sum stands charged against him in the United States Treasury Department.

There being no objection, the bill was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

MOLINE WATER POWER COMPANY.

Mr. HENDERSON, by unanimous consent, introduced a joint resolution (H. R. No. 194) to appoint a commission to examine into the matter of contracts made by and between the United States and the Moline Water Power Company as to the water power at Moline, Illinois, and to report to Congress as to the same; which was read a first and second time.

The preamble states that the Moline Water Power Company of Moline, in the State of Illinois, complains that certain contracts made with said company by the United States, through the Secretary of War acting under the authority of Congress, have not been carried out

in good faith in developing and maintaining the water power at said town of Moline, as required by said contracts, and that by reason of such failure said company has sustained and is sustaining large damages.

The joint resolution authorizes and requires the Secretary of War to appoint a commission, to consist of three competent engineers, one of whom shall be the Chief of Engineers of the United States Army, whose duty it shall be to examine into the subject-matter of said contracts made by and between the United States and the said water power company, as to said water power and the development and maintenance of the same, and to report to the Congress of the United States at its next session what if anything is necessary to be done by the United States to carry out in good faith said contract, and to relieve said water power company from its alleged grievances, said report to be submitted through the Secretary of War to the Congress of the United States at its next session, and to be directed to the Speaker of the House of Representatives.

Mr. HENDERSON. I desire to state that this is a mere resolution of inquiry, and I introduce it at the suggestion of the chairman of the Committee on Appropriations.

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

FRUIT BRANDY.

Mr. LUTTRELL. I ask unanimous consent that the bill (H. R. No. 3925) in relation to the production of fruit brandy and to punish frauds connected with the same be taken from the Speaker's table in order that an amendment of the Senate may be concurred in. The bill passed the House unanimously.

There being no objection, the amendment was concurred in.

Mr. LUTTRELL moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FRANCIS A. PAGE.

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

Resolved, That the Clerk of the House be, and he is hereby, authorized and directed to pay out of the contingent fund to Francis A. Page, a messenger on the soldiers' roll, the sum of \$300, being the amount of salary due him as a disabled soldier from September 1, 1876, to December 1, 1876.

MRS. HELEN M. SLOCUM.

Mr. JOYCE, by unanimous consent, introduced a bill (H. R. No. 4700) to remove the political disabilities of Mrs. Helen M. Slocum, of New York City; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

REPORT OF THE COMMISSIONER OF EDUCATION.

Mr. CUTLER. I ask unanimous consent for the consideration at this time of the joint resolution (H. R. No. 192) for printing the Report of the Commissioner of Education for 1876. This bill has the unanimous approval of the Committee on Education and Labor, as well as the Committee on Printing.

The joint resolution was read. It provides for printing fifteen thousand copies of the Report of the Commissioner of Education for 1875 and 1876; five thousand for the use of the Commissioner, twenty-five hundred for the use of the Senate, and seventy-five hundred for the use of the House of Representatives.

Mr. HOLMAN. I think the number proposed to be printed is unnecessarily large.

Mr. VANCE, of Ohio. I suggest a reduction of the number from thirty thousand to fifteen thousand.

Mr. CUTLER. Fifteen thousand is the number named in the bill.

Mr. VANCE, of Ohio. This bill has never been before the Committee on Printing.

Mr. HOLMAN. I waive any objection to this bill; but I must object to the passage of any bills in such disorder that it is impossible for us to understand what we are doing.

PURCHASE OF FREEDMAN'S BANK BUILDING.

Mr. DOUGLAS. I am instructed by the Select Committee on the Freedman's Bank to report back a communication relative to the purchase by the Government of the Freedman's Bank building, and to ask its reference to the Committee on Public Buildings and Grounds.

There being no objection, the reference was changed accordingly.

JULIUS S. BOHRER.

Mr. ROBERTS. I ask unanimous consent to have taken from the Speaker's table and passed at this time the bill (S. No. 1010) for the relief of Julius S. Bohrer, master in United States Navy.

The bill was read. It directs the Secretary of the Treasury to pay to Julius S. Bohrer, retired master United States Navy, or his legal representatives, the pay and allowances of a retired master from December 30, 1865, to June 5, 1876, out of any moneys in the Treasury not otherwise appropriated.

Mr. ROBERTS. This bill has received the unanimous indorsement of a committee of this House; it has been passed by the Senate unanimously. I hope there will be no objection to passing it here.

Mr. HOLMAN. I wish to inquire how large a sum is to be expended under this extraordinary bill—a bill that proposes to pay an

officer for a period of eleven years, during which he has not been in service.

Mr. ROBERTS. And during which time he has demanded his right under the Constitution to have a trial in order that the facts of his case might be inquired into and justice done to him.

Mr. HOLMAN. I hope my friend will state the amount the bill proposes to pay.

The SPEAKER. Does the gentleman from Indiana [Mr. HOLMAN] object to the bill?

Mr. HOLMAN. I do not wish to object, if it is proper the bill should pass. But this is the first hearing of the bill that I have had or any other member of the House.

Mr. ROBERTS. I yield to the gentleman from Massachusetts, [Mr. TARBOX,] who reported a House bill similar to this.

Mr. TARBOX. A bill precisely identical in terms with this has been reported unanimously by the Committee of Claims and is now upon the Private Calendar. I do not know the precise amount which will be paid to this officer under the bill. I only know that whatever the amount it is only a proper measure of justice.

Mr. FIELD. That is not satisfactory. What is the amount?

Mr. HOLMAN. About \$15,000.

The SPEAKER. Is there objection?

Mr. HOLMAN. I should prefer not to act on this question without a regular report. This is a very extraordinary measure.

Mr. TARBOX. May not the report be read?

The SPEAKER. There is no report here; that is the difficulty.

Mr. TARBOX. I send to the desk and ask to have read the report of the Committee of Claims upon a House bill similar in terms to this.

The Clerk read as follows:

The Committee of Claims, to whom was referred the bill (H. R. No. 4035) for the relief of Julius S. Bohrer, United States Navy, having had the same under consideration, submit the following report:

Bohrer entered the naval service in 1839, and was retired as a master in 1855. In 1861, while on the retired list, at the commencement of the civil war, he volunteered into active service, and served through the war with the rank and pay of a retired master. On December 30, 1865, he was dismissed the service by order of Secretary Welles, in consequence of the findings of a naval court of inquiry. He immediately demanded a trial by court-martial, and renewed his demand often and persistently, but was unsuccessful in his application until May, 1876, when his trial by court-martial was had, and the findings of the court fully exonerated him from all charges and specifications and declared his dismissal null and void. He seems to have presented his demand for a trial with as much vigor and diligence as was possible under the conditions of his health, it appearing that for a great part of the time he was in a most critical state of bodily and mental health, such as disabled him for business affairs, due chiefly, if not wholly, to injuries sustained by him while in the service. This bill proposes payment to him, or his legal representative, of his pay as retired master from the date of his dismissal to the date of his restoration. The order restoring Bohrer to the retired list is as follows:

[General Order No. 210.]

NAVY DEPARTMENT.

Washington, June 5, 1876.

The order of December 30, 1865, dismissing Julius S. Bohrer, master in the United States Navy, from the naval service, is hereby declared void, and Mr. Bohrer, under and by virtue of the Revised Statutes of the United States, title 15, chapter 10, article 57, restored to the retired list as master.

GEO. M. ROBESON,

Secretary of the Navy.

By the act of March 3, 1865, it is provided:

"That in case any officer of the military or naval service who may hereafter be dismissed by authority of the President shall make an application in writing for a trial, setting forth under oath that he has been wrongfully and unjustly dismissed, the President shall, as soon as the necessities of the public service may permit, convene a court-martial to try such officer on the charges on which he was dismissed. And if such court-martial shall not award dismissal or death as the punishment of said officer, the order of dismissal shall be void; and if the court-martial aforesaid shall not be convened for the trial of such officer within six months from the presentation of his application for trial the sentence of dismissal shall be void."

Master Bohrer did in fact promptly make his application for a trial by court-martial, but no court was convened within six months, and so, it seems, by the operative force of the statute the order of dismissal was rendered void.

But the act of July 22, 1874, prohibits the accounting officers of the Treasury from making any allowance to any officer of the Navy dismissed from the service and restored under the provisions of the act of March 3, 1865, section 12, except to the extent of six months' leave pay, unless it shall appear that such officer has demanded and continued to demand in writing, as often as once in six months, a trial by court-martial. The officers of the Treasury decline to allow Bohrer his pay from December 30, 1865, to June 5, 1876, because of the prohibition of the last-named statute and the absence of any appropriation available for the purpose.

Without attempting to define the just legal effect of the statute of 1874 as touching vested rights and imposing conditions which the officer in the pursuit of his rights could not anticipate, the committee have no doubt that Mr. Bohrer is entitled to the relief the bill provides. He performed long and honorable service. He voluntarily left a retirement in which he might honorably have remained in safety to serve the country in a season of public peril. He was wrongfully subjected to the painful indignity of dismissal in disgrace, and the consequent loss of emoluments, fairly the need of his public service, in his age and infirmity. The Government having admitted the injustice done him and restored him to this rank, cannot justly refuse him the pecuniary benefits of which he has been unjustly deprived.

The committee recommend that the bill pass, with amendments as follows, namely:

First. Strike out the preamble.

Second. Strike out all after the enacting clause and insert:

"That the Secretary of the Treasury be, and hereby is, authorized and directed to pay to Julius S. Bohrer, retired master United States Navy, or his legal representatives, the pay and allowances of a retired master from the 30th day of December, 1865, the date of his wrongful dismissal from the naval service, to the 5th day of June, 1876, the date of his restoration to the retired list, out of any moneys in the Treasury not otherwise appropriated."

Mr. SPRINGER. Let me ask the gentleman from Massachusetts whether the pay which this bill proposes to allow is the pay of a retired master.

Mr. TARBOX. Yes, sir; precisely the pay this officer would have received had he not been illegally dismissed from the service.

Mr. SPRINGER. The pay of a retired officer?

Mr. TARBOX. Yes, sir.

Mr. SPRINGER. Well, I think it ought to pass.

The SPEAKER. Is there objection?

Mr. HOLMAN. I insist it should come from a regular committee of the House.

Mr. ROBERTS. It has come from a regular committee of the House. This bill has passed the Senate, and the subject having already been acted on by a regular committee, I hope there will be no objection to passing it at this time.

Mr. HOLMAN. I must object.

The SPEAKER. The bill remains upon the Speaker's table.

COMMITTEE CLERKS.

Mr. KNOTT. Mr. Speaker, I send to the desk to have read a report I am instructed to make from the Committee on the Judiciary. The Clerk read as follows:

The Judiciary Committee, to whom was referred a resolution of the 20th of December, 1876, instructing the committee "to inquire whether by the appropriation act of August 15, 1876, the twenty-one clerks to committees therein mentioned are entitled to receive as compensation during the fiscal year ending June 30, 1877, the amount per diem designated in said act for their actual services," have had the same under consideration and make the following report:

The bill begins with this provision:

"That the following sums be, and the same are hereby, appropriated out of any money in the Treasury not otherwise appropriated in full compensation for the service of the fiscal year ending June 30, 1877, for the objects hereinafter expressed." (Page 143.)

On page 146 the following provision occurs:

"For twenty-one clerks to committees at \$6 per day during the session, \$15,120." Your committee believes that the construction of the last-named provision, in connection with the first, is that the twenty-one clerks named are entitled to \$6 per diem from the 30th day of June, 1876, to the 30th day of June, 1877, for each day during the first and second sessions of this Forty-fourth Congress embraced within that fiscal year.

Your committee therefore report the following resolution, and recommend that it be adopted by the House:

Resolved, That the Clerk of the House be, and he is hereby, authorized and directed to pay out of the contingent fund of the House, at the rate of \$6 per day from July 1st to August 31st, 1876, inclusive, to the clerks of the twenty-one committees designated by the Committee of Accounts as the committees for payment of clerks to which provision was made in the act of Congress approved August 15, 1876, entitled "An act making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1877, and for other purposes," deducting therefrom any amount which the clerks of said committees respectively may have heretofore received during the time named.

Mr. HOLMAN. Mr. Speaker, during the expensive period of 1871-'72-'73, under a policy which the country has condemned, we were in the habit of allowing to the employés of the House the balance of a month's pay whether we adjourned on the 4th of March or any other day. It was never done in the administration of this House at a period when the party now in power controlled the administration of the Government. I know of no reason why it should be done now. I know of no excuse for it. I do not see why the Government should pay gentlemen for the greater portion of a month when they render no service at all to the Government, and that, too, when we pay them beyond the compensation of other employés of the Government. It does not seem to be a proper thing, and I therefore must object.

Mr. KNOTT. I should like to make a remark. The gentleman from Indiana does not comprehend the nature of the resolution. I would like to explain to him that this resolution is simply the construction of an existing statute, which it is necessary should be done in order that the disbursing officers of the House may make up their accounts. And I wish further to state I have information that resolution was drawn at the request of the chairman of the Committee on Appropriations and met his approval. It does not give any clerk one solitary cent more than the law allows, but simply construes the law so the disbursing officers may make up their accounts.

Mr. HOLMAN. I should not hold myself severely responsible for suggestion made of what might be done in a given emergency. I have no recollection, though, of it.

Mr. KNOTT. I move to suspend the rules.

The SPEAKER. There is no quorum and the gentleman will interfere with every other member.

Mr. KNOTT. If the gentleman from Indiana is to run this House, why then we might as well adjourn.

C. G. FREUDENBERG.

Mr. HARDENBERGH. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. No. 189) placing the name of C. G. Freudenbergh upon the retired list of the United States Army, and put it on its passage.

There was no objection, and the bill was taken up and read a first and second time.

The bill, which was read, directs the proper authorities to place the name of C. G. Freudenbergh upon the retired list of Army officers, under the rank and grade of lieutenant-colonel, instead of captain, the rank now held by him on said retired list; and that said promotion take effect from the 15th day of December, 1870.

Mr. HOLMAN. I should like to have an explanation of that bill.

Mr. HARDENBERGH. I ask that the report of the committee in the Senate be read.

The report was read, as follows:

This bill is intended to place said Freudenbergh upon the retired list with the rank of lieutenant-colonel instead of that of captain, as he now stands.

Charles G. Freudenbergh was mustered as captain Fifty-second New York Volunteers, 1st November, 1861; promoted major 9th November, 1861, and lieutenant-colonel 24th November, 1862, same regiment, and resigned 11th December, 1863. He was appointed major Veteran Reserve Corps 10th December, 1863; promoted lieutenant-colonel 26th April, 1864, and was honorably discharged 9th March, 1866. He was appointed captain Forty-fifth United States Infantry (Veteran Reserve Corps) 28th July, 1866; transferred to Fourteenth United States Infantry 22d July, 1869, and retired with the rank of captain 15th July, 1870. He has been breveted major and lieutenant-colonel United States Army and colonel of volunteers.

The records show that at the battle of Fair Oaks, Virginia, he received on June 1, 1862, "a gun-shot wound through the upper and outer part of his left thigh, which disabled him for two months to resume his duties; and also that he was severely wounded at the battle of Gettysburg, Pennsylvania, July 2, 1863. He was examined by a retiring board in September, 1870. He was retired by a retiring board in September, 1870. The board reported him "incapacitated for active service by reason of wound in the left leg, received in the battle of Gettysburg, July 2, 1863; and also incapacitated for active service in consequence of enlargement of the heart, which incapacitated him for any active exertion, and that it is impossible for the board to determine the cause of said incapacity." At the time he received the wound mentioned he was lieutenant-colonel Fifty-second Regiment, and in command of his regiment. As section 32 of the act of July 28, 1866, authorized retirement with the rank of command, &c., for disability resulting from wounds alone, Captain Freudenbergh was, under the finding of the board, retired with the rank he held at the date of retirement, (that of captain.) He subsequently claimed that his disability is due to wounds alone; that he should have been retired with the rank of colonel, under section 32, act of July 28, 1866, and that under the act of March 3, 1875, (for the relief of General Crawford,) section 2, he should be given the rank of lieutenant-colonel.

The following certificates and letter bearing upon this case explain themselves:

NEW YORK, November 25, 1875.

Captain Charles Freudenbergh, now on the retired list of the Army, served throughout the late war with distinction in the grades of captain, major, and lieutenant-colonel of the Fifty-second New York Volunteers. While major of that regiment he was severely wounded at the battle of Fair Oaks, Virginia; and again, while lieutenant-colonel commanding his regiment (in the Second Army Corps, Army of the Potomac) at Gettysburg, under my command, he received three severe wounds while intrepidly leading his regiment against the enemy. These wounds disabled him for life, and compelled him to resign on account of disability, in December, 1863. He was afterward, in 1864, appointed a major and lieutenant-colonel in the Veteran Reserve Corps, and was subsequently commissioned as captain in the Forty-fifth United States Infantry.

During the whole period of his service under my command he was distinguished for good conduct and marked gallantry in battle, and I had frequent occasion to mention him for these qualities.

He received the brevets of major, lieutenant-colonel, and colonel for gallantry and meritorious service during the war.

WINF'D S. HANCOCK,
Major-General United States Army.

I hereby certify that Colonel C. G. Freudenbergh was under my treatment while residing in Columbus, Ohio, for hypertrophy or enlargement of the heart, neuralgic pains, and lameness consequent upon wounds received in the service of the United States. Said wounds were one flesh-wound in the right arm, one through the left hip, and one through the upper part of the left leg, all from musket-balls, and a contusion or contused wound from a piece of shell on the spine and left side. I further declare my belief that the consequences of said wounds are incurable, and that they totally disable the said officer for military duty.

STARLING LOVING, M. D.

COLUMBUS, O., November 8, 1875.

REMEDIAL INSTITUTE, SARATOGA SPRINGS, NEW YORK,

November 9, 1875.

We hereby certify that Colonel C. G. Freudenbergh has been under our medical care between three and four months, a part of the time in the early summer, and the remainder during early fall. His wounds on the left side give him continual, and at times severe pain, and frequently make him so lame that he walks with difficulty. He also suffered from nervous palpitation of the heart, produced, as we believe, by an injury of his spinal cord by a piece of shell.

S. S. & S. E. STRONG.

DISTRICT OF COLUMBIA, BOARD OF HEALTH,
Office of Registrar, Washington, May 2, 1876.

I certify that C. G. Freudenbergh, late lieutenant-colonel Fifty-second Regiment New York Volunteers, has been under my professional care for the last past eight months, and that, upon a most careful physical examination of his case, I find that he has received a gunshot wound in his hip, passing downward and inward and emerging on the inner surface of the upper third of the left thigh, producing lesion of important branches of the external cutaneous and anterior crural nerves, causing several neuroma of the nerves named; and also a gunshot wound passing through the anterior muscles of the left thigh. The present condition of the important branches of the external cutaneous and anterior crural nerves is such as to produce constant and severe neuralgic pains, and render the patient unable to perform either continuous physical or mental labor; in short, producing permanent disability.

D. W. BLISS, M. D.

HOBOKEN, NEW JERSEY, December 17, 1870.

This certifies that Colonel C. G. Freudenbergh, United States Army, was under my treatment from July 21 to August 26, 1863, from wounds received in battles of the late war of the rebellion. Of these wounds, if I recollect right, one was in the elbow, another in the thigh, and when he left here they were healing; but a contusion of the spine, being the effect of a shell explosion, showed still alarming symptoms of impeded respiration and heart disorder, the real nature of which I had no opportunity of more closely observing, as the patient left the place.

C. J. LOEWENTHAL, M. D.

It will be seen by reference to these reports that if the retiring board had been in possession of all of the facts, they would have reported that the incapacity in consequence of an enlargement of the heart resulted from a wound or contusion of the spine, in which case he would have been retired under section 32, act of 28th July, 1866, as colonel, the command held by him when wounded, and would have

been reduced to the rank of lieutenant-colonel under the Crawford bill, section 2, act March 3, 1875.

Your committee therefore recommend that said C. G. Frendenberg be placed upon the retired list with the rank of lieutenant-colonel.

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

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

The latter motion was agreed to.

ADVERSE REPORTS OF COMMITTEES.

Mr. JOHN REILLY. I ask unanimous consent that adverse reports from committees may be handed to the Clerk at the desk and an order made that the bills adversely reported be laid on the table and the accompanying reports printed.

The SPEAKER. The bills embraced in this proposition, on which adverse reports are made, are practically killed; and the adverse reports accompanying the bills are printed so that they may be filed for reference. Is there objection to the proposition of the gentleman from Pennsylvania?

There was no objection and it was so ordered.

ROBERT C. BUCHANAN.

Mr. A. S. WILLIAMS, by unanimous consent from the Committee on Military Affairs, reported a bill (H. R. No. 4701) for the relief of Robert C. Buchanan, colonel (retired) and brevet major-general of the United States Army; which was read a first and second time, re-committed to the Committee on Military Affairs, and ordered to be printed.

FORT UNION MILITARY RESERVATION.

Mr. STRAIT. I ask unanimous consent to report back from the Committee on Military Affairs, with amendments, and to have put upon its passage at this time, as amended, the bill (H. R. No. 4304) to authorize the United States to secure a title to the Fort Union military and timber reservation in New Mexico.

The SPEAKER. The bill and the amendments will be read for information; after which objections, if any, will be in order.

The bill was read, as follows:

Be it enacted etc., That upon the owner or owners of the lands embraced within the limits of the Fort Union military and timber reservation, situated in the county of Mora and Territory of New Mexico, as surveyed and platted by John Lambert, in March, 1868, and as declared and set apart by the President of the United States by proclamation, filing in the office of the Commissioner of the General Land Office good and sufficient deeds in law conveying to the United States all the right, title, and interest of such owner or owners in and to said land, such owner or owners, his or their legal representatives, thereupon, in lieu of the land so conveyed to the United States may select and shall be allowed patents for an equal quantity of the unappropriated public lands of the United States in tracts not less than the subdivision provided for in the United States land laws, and if surveyed when taken, to conform, when surveyed, to the general system of the United States land surveys; and the Commissioner of the General Land Office, under the direction of the Secretary of the Interior, is hereby authorized and directed, upon the filing of said deeds as aforesaid, to issue certificates of location, in legal subdivisions, to the grantor or grantors in said deed or deeds, his or their legal representatives, in accordance with the provisions of this act.

Add to the bill the following:

Provided, That the acceptance by the grantor or grantors of any certificate of location provided for in this act shall be taken and held as a full and complete relinquishment by such grantor or grantors, his or their legal representatives, of all right, claim, and demand of every kind, nature and description, he or they may have against the United States for the use and occupation of the premises conveyed by him or them and for any damages to said premises: *And provided*, That the certificates of location herein provided for shall not be located upon any lands known to the law as double-minimum land.

Mr. HOLMAN. I ask from the gentleman an explanation of the purpose of that bill.

Mr. STRAIT. Let the report of the committee be read.

Mr. HOLMAN. A few words of explanation may probably answer the purpose as well.

Mr. STRAIT. These lands on the Fort Union military reservation have been patented to the owners. They are situated in the Mora grant. The Government has about half a million dollars' worth of property there. The amendment reported by the committee provides that no double-minimum lands shall be taken by the parties in lieu of these lands.

Mr. TERRY. I think that is as good as the Government can do.

Mr. HOLMAN. The Government wishes to get possession of these lands?

Mr. STRAIT. Yes, sir.

Mr. HOLMAN. This is the recommendation of the Secretary of War?

Mr. STRAIT. Yes, sir; and of the Land Department.

Mr. HOLMAN. I think I begin to understand this matter. The Government wishes to get this land for the purpose of a fort and to give these parties other lands in lieu of them. Am I right?

Mr. STRAIT. Yes, sir; and it is provided that they shall have, in lieu of those lands other than double-minimum lands.

Mr. HOLMAN. After that explanation I have no objection to the bill being passed.

The amendment of the committee was adopted.

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

WITNESSES IN CONTEMPT.

Mr. TUCKER, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

Whereas all the investigations that have been directed by this House have been virtually closed, and no more testimony can be taken by reason of the near adjournment of the House, and the further imprisonment of witnesses in contempt of the authority of this House cannot conduce to the truth sought by said investigations; Therefore,

Resolved, That the Sergeant-at-Arms be directed to discharge all persons held by him under order of this House for contempt of its authority.

SIGNAL SERVICE.

Mr. SINGLETON. I ask unanimous consent to report back from the Committee on Appropriations, with amendments, the bill (S. No. 731) to limit and fix the Signal-Service, and that it be put upon its passage as amended.

The bill was read. It authorizes the President to appoint, as assistants to the Chief Signal Officer, two majors, six officers who shall have the rank and pay of captains of infantry, six who shall have the rank and pay of first lieutenants mounted, and six who shall have the rank and pay of second lieutenants of infantry, or to detail as such assistants the said number of officers who shall have respectively the said rank and pay while so serving.

The bill in its second section provides that the enlisted force shall be maintained as hitherto upon duty, and not to exceed one hundred and fifty sergeants, thirty corporals, and three hundred privates; and the enlisted men of the Signal Service shall receive pay at the rates formerly fixed for enlisted men of the Signal Corps of the Army of similar grades, provided that all acts or parts of acts relating to the duties of the Chief Signal Officer and the Signal Service shall remain in force.

The amendments of the Committee on Appropriations were read as follows:

Amend section 1 as follows:

In line 1 of the section strike out the word "appoint" and insert in lieu thereof "detail from the line of the Army."

In line 3 of the section strike out the words "who shall have" and insert the word "of."

In line 4 of the section strike out the words "of infantry," and strike out the words "who shall have" and insert the word "of."

In line 5 of the section strike out the words "of infantry."

In line 6 of the section strike out the words "who shall have" and insert the word "of."

Amend section 2 as follows:

In line 4 of the section strike out the word "three" and insert the word "two;" and after the words "one hundred," in the same line, insert the words "and twenty."

And strike out all after the words "privates," in the said line, down to and including the word "grades," in line 8.

Mr. KASSON. Will the gentleman from Mississippi state what force is left under the proposed amendments?

Mr. SINGLETON. This does not add one dollar of expense to the service as provided by the appropriation bill of last year, except that it details two majors of the Army.

Mr. HOLMAN. The effect of the bill as proposed to be amended by the gentleman from Mississippi, [Mr. SINGLETON]—

Mr. SINGLETON. By instructions of the Committee on Appropriations.

Mr. HOLMAN. The effect of the bill is this: As the law now stands there is one chief of the Signal Corps with the rank of colonel, six first lieutenants, and twelve second lieutenants; making nineteen officers, including the chiefs, employed in that service. The effect of this amendment is, first, to increase the number by two majors.

Mr. SINGLETON. It does not increase the expense.

Mr. HOLMAN. Then the effect is to increase the grade of the officers, and to increase the number so as to make twenty in all. The amendment provides for the detail of these officers, and not for their number being increased by appointment in civil life. The number of men engaged in the service remains as now at three hundred.

But the point I have to make is this: This bill as proposed to be amended is not specially objectionable, because it provides simply for a detail of these officers from the Army. As it came from the Senate it would allow appointments from civil life and the promotion of lieutenants in the Army to the rank of major. In the closing hours of this session, if it is the understanding that these amendments are to be made here and the subject sent to a committee of conference, and then the conferees on the part of the House are to yield to the plan of the Senate and pass the bill in its original form, then I must object to this increase of rank in this service.

Mr. KASSON. The object of my inquiry was to ascertain if it was intended to increase or diminish the efficiency of this service.

Mr. SINGLETON. There is not one dollar increase of expenditures.

Mr. KASSON. It is an object of great interest to me to see this service made more efficient, and whatever is proposed in that direction I should be in favor of.

Mr. SINGLETON. I am surprised at the objection of my friend from Indiana, [Mr. HOLMAN,] because he is a member of the committee that instructed me to report this bill.

Mr. HOLMAN. If my friend from Mississippi [Mr. SINGLETON] will say that he will not ask the House to recede from these amendments—

Mr. SINGLETON. I cannot say anything at all of that kind, because I do not know that I shall be upon the committee of conference,

if there be one, and for me to make a promise of that sort would be entirely nugatory.

Mr. HOLMAN. I understand that the Committee on Military Affairs is opposed to this bill.

Mr. SINGLETON. It does not add one single dollar of expense; it simply allows the detail of officers of higher rank in order to make this service more efficient.

Mr. HOLMAN. That is true of the bill as proposed to be amended, but it is not true of the original bill as it passed the Senate, for that increased the grade of officers from lieutenants to majors and provides for the appointment of officers from civil life. I hope the House will not consent to amend this bill further; I cannot object to these amendments being adopted, but I certainly will ask the House not to pass the bill in its original form.

Mr. SINGLETON. "Sufficient unto the day is the evil thereof." The gentleman is anticipating what he does not know will happen at all. The Senate may concur in these amendments; I think it likely they will. If it goes to a committee of conference, I cannot bind myself or any man here as to what our future action will be. All I can say is, that the only object is to make this service more efficient.

The amendments were adopted; and the bill, as amended, ordered to a third reading, read the third time, and passed.

BOARD OF COMMISSIONERS OF CLAIMS.

Mr. EDEN. I ask unanimous consent to report from the Committee on War Claims for present consideration Senate bill No. 1123, to extend for two years the act establishing a board of commissioners of claims, and the acts relating thereto, with an amendment.

The bill provides that sections 2, 3, 4, and 5 of the act entitled "An act making appropriations for the support of the Army for the year ending June 30, 1872, and for other purposes," approved March 3, 1871; and the act entitled an act to authorize the commissioners of claims to appoint special commissioners to take testimony, and for other purposes," approved May 11, 1872, be, and the same are hereby, extended and continued in force for two years from March 10, 1877, provided that nothing herein contained shall be so construed as to extend the time for filing claims before said commission, or to enlarge its jurisdiction, or to authorize the filing of new claims.

The amendment reported from the Committee on War Claims was to add to the bill the following:

SEC. 2. That the commissioners of claims shall not receive any evidence on behalf of any claimant or claimants for the allowance of any claim or claims, unless such evidence shall have been taken and presented and filed by the 10th day of March, 1878, except in rebuttal of evidence introduced on behalf of the Government; and all claims wherein the evidence of claimant or claimants is not filed within the time herein limited shall be deemed barred forever thereafter.

Mr. HOLMAN. I did not understand the bill fully when it was read. I would inquire how long the time is extended.

Mr. EDEN. The Senate bill proposed to extend the commission for two years. The amendment proposed by the Committee on War Claims of the House goes upon the theory that this commission ought to be closed up as soon as the business now on hand before it can be disposed of. In order to facilitate that object we propose to amend so as to provide that the original evidence on the part of the claimants shall all be taken by the 10th of March, 1878.

There are now pending before the commission about two thousand five hundred claims in which the evidence has been taken in whole or in part. There are pending over eight thousand claims in which there has never been any evidence taken at all, although the time for filing claims expired on the 3d of March, 1876. It is necessary that this business should be disposed of, and the committee are of the opinion that it will take two years to do it. In order that it may be done we propose that all evidence shall be closed in one year, except testimony in rebuttal of evidence introduced on behalf of the Government.

Mr. GARFIELD. It may be said that we are presented with a choice between two evils, if we can call them evils. We must either continue this commission and finish its work, or we will have these nine thousand claims brought into this House to be acted upon in the uncertain way in which claims are frequently acted upon in this House, overburdening our records and really interfering with the current legislation of the country. I think the bill itself is eminently judicious, and, if passed, will protect Congress against a vast avalanche of claims.

The amendment was agreed to, and the bill, as amended, ordered to a third reading, read the third time, and passed.

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

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed, with amendments, in which the concurrence of the House was requested, a bill of the following title:

A bill (H. R. No. 4680) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1878, and for other purposes.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. HOLMAN. I ask unanimous consent to take from the Speaker's

table the sundry civil appropriation bill, just returned from the Senate, with amendments, with the view of non-concurring in the Senate amendments, and requesting a committee of conference thereon.

There was no objection, and it was so ordered.

The SPEAKER subsequently appointed as managers of the conference on the part of the House Mr. HOLMAN, Mr. EDEN, and Mr. WALDRON.

JOHN N. HALL.

Mr. DUNNELL. I move to suspend the rules so as to discharge the Committee of the Whole from the further consideration of the House bill No. 3833.

The SPEAKER. The Chair is now entertaining business by unanimous consent.

Mr. DUNNELL. Very well; then I ask unanimous consent for that purpose. I will state that the bill has the unanimous indorsement of the Committee on the Judiciary, and I hope there will be no objection to it.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to adjust and settle the claims of John N. Hall, late collector of internal revenue in and for the first district of Minnesota, for moneys paid to deputy collectors by him for services rendered during the months of July, August, September, and October, 1866, and for clerk hire in his office as such collector during the quarter ending September 30, 1866, and for moneys paid by him for hire of clerks in his office in making out the accounts and returns thereof between October 1, 1866, and June 30, 1867; said adjustment and settlement to be made upon the principles of equity; and whatever sums may be allowed thereon shall, together with interest from the date of disbursement, be credited upon two judgments obtained against said Hall and others by the district court of the United States for the district of Minnesota on the 6th day of June, 1872.

Mr. DUNNELL. I desire to say also that this is recommended by the Treasury Department.

There being no objection, the Committee of the Whole was discharged from the further consideration of the bill, and the same was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

JOSEPH W. PARISH.

Mr. BUCKNER. I ask unanimous consent that the Committee of the Whole on the Private Calendar be discharged from the further consideration of Senate bill No. 830, and that the same may now be put upon its passage. It is a bill for the relief of Joseph W. Parish.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby is, directed to pay to Joseph W. Parish, out of any money in the Treasury not otherwise appropriated, \$4,250 and interest thereon at 6 per cent. per annum from the 23d day of July, in the year 1865, to the date of payment under this act, in full for that amount paid over by him in cash to the Commissary Department of the Army on the day aforesaid.

Mr. HOLMAN. We are getting into that noisy state when it is impossible to hear what is being read at the Clerk's desk.

The SPEAKER. Gentlemen will resume their seats, so that order may be restored in the House.

Mr. STEVENSON. If there is a report upon this bill I ask that it may be read.

Mr. BUCKNER. I send to the Clerk's desk and ask to have read a report made by the Committee of Claims of this House. It will show that there never was a more meritorious claim than this, and it ought to have been paid long ago.

The Clerk read as follows:

The Committee of Claims, to whom was referred the bill (S. No. 830) for the relief of Joseph W. Parish, submit the following report:

In December, 1863, Hadley & Co. had a transaction with the commissary of subsistence at Louisville, Kentucky, by which they agreed and undertook to deliver two thousand barrels of pork. This they failed to do.

In 1865, Joseph W. Parish, the party asking relief under this bill, had (for the firm of Parish & Co.) a large contract, which he was then engaged in fulfilling, to furnish ice to the medical department of the Army at New Orleans, was under heavy bonds, and this contract demanded his constant attention; any day's delay or neglect endangering its violation and rendering him liable to heavy penalties.

He was in Saint Louis, and an order was issued from Louisville for his arrest, because it was believed that he was interested in the Hadley & Co. bid, either as a silent partner or in some manner, and, as the Government had suffered a loss by such failure and such loss had not been made good otherwise, Parish should be held for the same. He protested against such liability, but was, nevertheless, taken before the proper authorities, and, after taking counsel, in view of his other engagement, (on his ice contract, the neglect of which would be most disastrous,) it was deemed advisable to pay the amount demanded, to wit, \$4,250, which he accordingly paid under protest, and was thereupon released from the military arrest. The object of this bill is to refund this amount with interest.

The matter was long pending before the proper executive officers. On the 7th of April last, the Third Auditor held that there was no law under which the accounting officers of the Treasury could entertain such claim, and it was therefore disallowed for want of jurisdiction.

The Second Comptroller held and found, on the 12th of the same month, that Mr. Parish appeared, from the evidence, to have a just and meritorious claim against the United States to the amount of \$4,250, but that settlement of such questions did not lie within the jurisdiction of the accounting officers of the Treasury, nor was there an implied assumption for the torts of its officers.

Under such circumstances, if Mr. Parish cannot be relieved by Congress he is without remedy.

It seems to be quite clear that the officer ordering the arrest acted upon a mere suspicion that Parish was interested in the bid of Hadley & Co., a suspicion quite unfounded. He is vouched for by several persons as a man of integrity and veracity, and in his petition and papers denies under oath most flatly such interest. In this he is corroborated by other witnesses.

Under such circumstances, we cannot doubt his right to relief, and we therefore report back the accompanying bill with the two amendments of the Senate, and recommend its passage.

Mr. BUCKNER. This bill is unanimously recommended by the

committee in each House. I hope there will be no objection to its passage.

There being no objection, the bill was ordered to a third reading, read the third time, and passed.

RECLAIMED LANDS IN ILLINOIS.

Mr. LE MOYNE. I ask unanimous consent that the Committee on Public Lands be discharged from the further consideration of the bill (S. No. 732) to dispose of the lands formerly covered by the water of Pistakee Lake, in the State of Illinois.

The bill was read.

Mr. WALLING. This bill has been considered in the Committee on Public Lands, and that committee, if it had been permitted to report, would have reported the bill favorably. I think it should be passed.

Mr. BAKER, of Indiana. Has the report actually been made?

Mr. WALLING. No, sir; the committee has not been called.

Mr. BAKER, of Indiana. Then I must object.

SHIP CANAL, LAKE GEORGE, FLORIDA.

Mr. JONES, of Kentucky. I move to suspend the rules and to pass the bill (H. R. No. 4456) to authorize William H. Dorner and others to construct a ship canal at the head of Lake George, Florida. This bill has received the unanimous approval of the Committee on Railways and Canals.

The bill was read.

Mr. CONGER. I object.

Mr. JONES, of Kentucky. I move to suspend the rules.

The SPEAKER. The Chair is now entertaining business for which unanimous consent is requested, with the understanding that if a motion to suspend the rules is entertained the gentleman from Mississippi [Mr. HOOKER] shall be recognized.

Mr. JONES, of Kentucky. My original motion was to suspend the rules.

The SPEAKER. The gentleman had not the floor for that purpose.

Mr. JONES, of Kentucky. I withdraw the bill for the present.

W. H. WOODWARD.

Mr. TERRY. I ask unanimous consent to have taken up and passed the bill (S. No. 845) for the relief of W. H. Woodward, of Indianola, Texas.

The bill was read. It directs the Secretary of the Treasury, out of any money not otherwise appropriated by law, to pay to W. H. Woodward, of Indianola, in the State of Texas, without interest, the sum of \$588, the amount due him on account of property rented from him by the United States military authorities.

There being no objection, the bill was ordered to a third reading, read the third time, and passed.

TAX ON SAVINGS-BANK DEPOSITS.

Mr. HAYMOND. I ask unanimous consent to report from the Committee on Banking and Currency for action at the present time a bill relating to the tax upon deposits in savings banks. It is the unanimous report of the committee.

The bill was read. It provides that all deposits made in institutions which do business only as savings banks, and are recognized as such by the laws of their respective States or by Congress, shall be exempt from taxation in the same manner as deposits in associations or companies known as provident institutions, savings banks, savings funds, or savings institutions having no capital stock and doing no other business than receiving deposits to be loaned or invested for the sole benefit of the parties making such deposits, without profit or compensation to the association or company, although they have a reserve fund or capital, stock or bond, or both capital, stock or bond, and reserve fund, so long as no part of said reserve fund is disposed of for the benefit of other parties than those making the deposits; nor shall any tax be hereafter collected which may have been assessed or which shall have been liable to be assessed upon such deposits prior to the passage of this act.

Mr. MORRISON. I object.

Mr. HAYMOND. I move to suspend the rules and pass the bill.

The SPEAKER. The Chair cannot give the gentleman the floor for that purpose.

Mr. BLACKBURN. I ask unanimous consent to have taken up and passed the bill (S. No. 973) for the relief of Elizabeth Carson. This bill has been twice passed by the Senate, but has failed in the House for want of action. It has been unanimously reported by the appropriate committee in each House.

The bill was read. It directs the Secretary of the Treasury, out of any money in the Treasury not otherwise appropriated, to pay to Elizabeth Carson, of Bourbon County, Kentucky, \$2,630.40, in full satisfaction for subsistence, use of jail, fuel, fire, care, and attention furnished by her to conscripts, deserters, and rebel prisoners confined in the jail of Bourbon County, Kentucky, by the military authorities of the United States in the years 1862, 1863, 1864, and 1865.

Mr. BAKER, of Indiana. I desire to hear the report read, if there is one.

Mr. BLACKBURN. I call upon the chairman of the Committee on War Claims [Mr. EDEN] to state whether this bill has not received the unanimous sanction of his committee.

Mr. EDEN. It has been recommended by the Committee on War Claims.

Mr. BLACKBURN. Unanimously?

Mr. EDEN. I think there was no objection.

Mr. BAKER, of Indiana. I desire to hear the report read.

Mr. BLACKBURN. The report was with the papers in the case. This bill was reported to the House by my colleague, [Mr. MILLIKEN.] Mr. WILSON, of Iowa. I recollect very distinctly when the bill was acted on by the committee. There was a full committee; we inquired carefully into the case, and I believe it is right. The gentleman from Kentucky [Mr. MILLIKEN] who was directed to report the bill has gone home by leave of the House. The committee think the bill all right.

There being no objection, the bill was ordered to a third reading, read the third time, and passed.

GEORGE FOSTER.

Mr. WILLIAMS, of New York, by unanimous consent, moved that the Committee on Revolutionary Pensions be discharged from the further consideration of the petition of George Foster, and that the same be referred to the Committee on Invalid Pensions; which motion was agreed to.

ENROLLED BILLS.

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

An act (H. R. No. 534) for the relief of Rosetta Hert, (late Rosetta Scoville,) Charles C. Benoist, Emily Benoist, and Logan Fanfan, half-breed Indians;

An act (H. R. No. 1238) granting a pension to Esther P. Fox;

An act (H. R. No. 2019) for the relief of Edwin Morgan, late captain of Company G, Seventy-seventh Regiment, Pennsylvania Volunteer Infantry;

An act (H. R. No. 3011) granting a pension to Mrs. Ann Annis; and

An act (H. R. No. 4198) to authorize the President to restore Thomas J. Spencer to his former rank in the Army.

Mr. HAMILTON, of Indiana, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (H. R. No. 2694) for the relief of W. W. Van Antwerp, late major of Fourth Michigan Cavalry; when the Speaker signed the same.

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

An act (H. R. No. 4306) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1878, and for other purposes; and

An act (H. R. No. 4559) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1878, and for prior years, and for other purposes.

FRANCIS M. STRONG AND THOMAS ROSS.

Mr. J. H. BAGLEY. Mr. Speaker, I ask, by unanimous consent, that the bill (H. R. No. 4397) for the relief of Francis M. Strong and Thomas Ross, with an amendment which was pending in the morning hour, be taken up and passed.

Mr. HOLMAN. After this bill is reported, I give notice, in the interest of members of the House on conference committees, that I shall ask the House to take a recess for one hour.

The bill, which was read, provides that Francis M. Strong, of Vergennes, in the county of Addison and State of Vermont, and Thomas Ross, of Rutland, in the county of Rutland and State of Vermont, have leave to make application to the Commissioner of Patents for an extension of the letters-patent numbered 24161, granted to them for an improvement in weighing-scales, of date the 24th day of May, 1859, for the term of seven years from and after the expiration of the original term of fourteen years for which said letters-patent were granted; such application to be made in the same manner as if the same had been filed not less than ninety days before the expiration of the aforesaid original term of said patent; and upon such application so filed, the Commissioner of Patents shall be authorized to consider and determine the same in the same manner as if the original term of said patent had not expired; provided that no person shall be held liable for the infringement of said patent, if extended, for making use of said invention since the expiration of the original term of said patent, and prior to the date of its extension.

The amendment was read, as follows:

Strike out the words "the expiration of the original term of fourteen years for which said letters-patent were granted," and in lieu thereof insert the words "the date of such extension."

The amendment was agreed to.

Mr. BAKER, of Indiana. I ask that the report in this case be read, and I hope we will have order in the House so we can hear what it is.

The SPEAKER. The officers of the House will request gentlemen who are not entitled to the privilege of the floor to vacate the lobby, and for the rest of the session the Doorkeepers will not, in any particular, vary from the rules.

The report was read, as follows:

The Committee on Patents, to whom was referred the petition of Francis M. Strong and Thomas Ross, for an extension of letters patent for improvements in weighing-scales, submit the following report:

The evidence submitted in this case shows that Francis M. Strong, of Vergennes, and Thomas Ross, of Rutland, Vermont, are the joint inventors of certain improvements in weighing-scales, for which letters-patent were granted them May 24, 1859.

Within ample time, as prescribed by law, these inventors placed in the hands of the Brandon Manufacturing Company a signed petition for the extension of said letters-patent, that it might be forwarded and filed with the Commissioner of Patents. Fearing, however, that some mistake might occur they forwarded to their attorney at Washington a duplicate petition with instructions that he should file it in case it was not filed in time by other parties. This attorney made frequent inquiries at the Patent Office, and was at length assured that the petition had been filed. The event proved, however, that the clerk in charge was in error and that the petition was not filed, as stated. The mistake occurred through the filing of another application by the same parties for the extension of another patent of the same date. But the error was not discovered until too late to rectify it under the statute, and for this reason the petitioners pray for the passage of an act to enable them to make application, as they certainly would have done if not misled by the information given their attorney at the Patent Office. In view of these facts, the omission to act having arisen by no fault of the patentees, but by the inadvertence of a Government employé, this committee recommend the granting of the prayer and the passage of the accompanying bill.

Mr. J. H. BAGLEY. Mr. Speaker, this is one of the simplest matters presented to Congress. These applicants merely applied for the correction of an error by a clerk in the Patent Office. Under the statute they were entitled to a seven years' extension of their patent. Of this right they were deprived by the error of a clerk in the Patent Office. This bill does nothing more than correct that error.

Mr. BAKER, of Indiana. The discussion the other day in the House on this subject brought me to the conclusion that the passage of this bill might involve danger to innocent parties.

Mr. J. H. BAGLEY. Not in the least. Mr. Speaker, is it in order to move to suspend the rules?

The SPEAKER. Not now.

Mr. J. H. BAGLEY. In my judgment it is gross injustice to these parties not to allow the correction of the error.

Subsequently, Mr. BAKER, of Indiana, withdrew his objection.

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

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

The latter motion was agreed to.

REAL ESTATE POOL.

Mr. GLOVER, by unanimous consent, from the Committee on the Real-Estate Pool and Jay Cooke & Co.'s Indebtedness, reported the following resolution.

The Clerk read as follows:

Resolved, That the Committee on the Real-Estate Pool and Jay Cooke & Co.'s Indebtedness be, and they are hereby, allowed the service of a clerk during the present session of Congress, commencing December 4, 1876, and such clerk be paid \$4 per diem for his services.

The resolution was adopted.

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

The latter motion was agreed to.

SOLDIERS' AND SAILORS' RE-UNION AT MARIETTA.

Mr. BANNING. I ask unanimous consent to report back from the Committee on Military Affairs with a favorable recommendation of the joint resolution (H. R. No. 179) granting the use of artillery, blankets, &c., at the national soldiers' and sailors' re-union, to be held at Marietta, Ohio. I ask that the resolution may now be put upon its passage.

I desire to say just one word in explanation of this resolution. It has been customary to pass this each year. It was passed last year. It costs the Government nothing; and the Committee on Military Affairs have unanimously agreed to report the resolution favorably.

There being no objection, the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was read the third time, and passed.

CATHARINE WINSLOW.

Mr. PIERCE. I ask unanimous consent to take from the Private Calendar and have put upon its passage at this time the bill (S. No. 599) granting a pension to Catharine Winslow, widow of the late Rear-Admiral John A. Winslow.

Mr. RUSK. If the pension-list is to be touched at all, I want it to be taken up as a whole. I have been struggling for two weeks to get the floor for the Pension Committee in order to have the whole pension-list passed.

Mr. PIERCE. I hope the gentleman will not object to the passage of this bill.

Mr. RUSK. They are all equally meritorious.

The SPEAKER. There will probably be time enough to get all these pension bills through.

Mr. PIERCE. This bill has passed the House heretofore, and the Senate also.

The SPEAKER. This is a Senate bill.

Mr. RUSK. I have in my desk a number of Senate bills granting pensions, and I have been struggling in vain for two weeks to get them before the House.

The SPEAKER. The gentleman from Wisconsin objects.

Mr. HOLMAN. I move that the House take a recess for one hour. A *recess* vote being taken, the Speaker stated that in the opinion of the Chair the "noes" had it.

Mr. BAKER, of Indiana. I call for a division.

Mr. SAMPSON. I rise to a question of order. It is now twenty-five minutes to twelve o'clock, and if the House takes a recess we will be carried beyond the commencement of a new legislative day.

The SPEAKER. The Chair thanks the gentleman for his suggestion. The motion of the gentleman from Indiana [Mr. HOLMAN] would take us further into to-morrow than we desire to go.

Mr. HOLMAN. Then I move that we take a recess till twelve o'clock.

Mr. KNOTT. I move that the House do now adjourn.

The motion of Mr. KNOTT was agreed to; and accordingly (at eleven o'clock and thirty-five minutes a. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk under the rule, and referred as stated:

By the SPEAKER: The petition of citizens of Shingle Creek, Orange County, Florida, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. AINSWORTH: Two petitions, one from J. G. Stroble and 28 others, the other from Peter Klink and 125 others, citizens of Iowa, that the office of President of the United States be abolished and that the executive duties of the Government devolve upon a commission appointed by Congress, to the Committee on the Revision of the Laws.

By Mr. BAKER, of New York: The petition of citizens of New York, that all pensioners be paid from the date of their discharge from the Army and for the removal of the limitation upon the time in which to apply for pensions, to the Committee on Invalid Pensions.

By Mr. BALLOU: The petition of the quarterly conference of the Methodist Episcopal church, Marshalltown, Iowa, for a commission of inquiry concerning the alcoholic liquor traffic, to the Committee on the Judiciary.

By Mr. BLAIR: The petition of J. C. Armstrong and other citizens of Marshall County, Michigan, of similar import, to the same committee.

By Mr. BRADLEY: Resolution of the Legislature of Michigan, asking that a survey be made of Portage Lake with a view of constructing a harbor of refuge, to the Committee on Commerce.

By Mr. FRYE: The petition of citizens of Marshalltown, Iowa, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. GOODIN: Concurrent resolution of the Legislature of Kansas, favoring the passage of a law in aid of the construction of the Texas Pacific Railroad, to the Committee on the Pacific Railroad.

By Mr. HATCHER: The petition of citizens of Washington County, Missouri, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. JENKS: The petition of J. D. Fowler and 35 other citizens of Washington Territory, of similar import, to the same committee.

By Mr. LUTTRELL: Two petitions, one from J. C. Crigler and others, the other from John S. Hutchins and others, of Butler County, California, of similar import, to the same committee.

By Mr. RICE: The petition of the orphans of Captain Presley N. Guthrie, for an increase of their pension, to the Committee on Invalid Pensions.

By Mr. STRAIT: The petition of 120 citizens of Renville County, Minnesota, that Congress declare the lands granted to the State of Minnesota to aid in the construction of a railroad from Hastings to the western boundary of the State forfeited to the United States Government unless the construction of said road is proceeded with immediately, to the Committee on Public Lands.

IN SENATE.

SATURDAY, March 3, 1877.

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

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

On motion of Mr. INGALLS, and by unanimous consent, the reading of the Journal of yesterday's proceedings was dispensed with.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of War, transmitting a report from the Second Comptroller of the Treasury, and accompanying papers, relative to the decision of the Supreme Court in the matter of land-grant railroads; and recommending such legislation as will remove the prohibition imposed by law upon any payment to such railroad companies; which, on motion of Mr. WEST, was referred to the Committee on Railroads, and ordered to be printed.

VISITORS TO WEST POINT.

The PRESIDENT *pro tempore* appointed Mr. BLAINE and Mr. MAXEY members of the board of visitors on the part of the Senate to attend the annual examination of the cadets at the United States Military Academy at West Point, New York.