the session of to-night for the business of the Committee on Naval Affairs be read. I do not think the resolution contemplates action on any bill on the Private Calendar.

The SPEAKER *pro tempore*. The Clerk will read the resolution.

The Clerk read as follows:

Ordered, That there be sessions of the House on Wednesday and Thursday evenings next, April 14 and 15, for the consideration of business reported, or to be reported, from the Committee on Naval Affairs.

The SPEAKER *pro tempore*. The Chair thinks the order of the House makes no distinction between the business on the different calendars.

Mr. WHITTHORNE. I will state to gentlemen here that I will not ask them to proceed now to the consideration of business on the Private Calendar, as they have treated my committee so generously and kindly last night and to-night. In view of the fact that before this session closes I may find it necessary to ask for another night session, I wish to show that we fully appreciate the kindness of the House, and I will myself make the motion that the House now adjourn.

The motion was agreed to; and accordingly (at nine o'clock and thirty-eight minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. BARBER: The petition of Laparle & Elick and others, of Chicago, Illinois, for the passage of the Carlisle bill amending the revenue laws—to the Committee on Ways and Means.

Also, the petition of Grommes & Ullrich and others, of Chicago, Illinois, of similar import—to the same committee.

By Mr. BERRY: The petitions of 953 citizens and of 475 citizens of California, against the passage of the bill (H. R. No. 4927) to confirm the patents heretofore issued to the Western Pacific Railroad Company for certain lands within the boundaries of the rejected Moquelemos grant—to the Committee on the Public Lands.

By Mr. BLAND: The petition of Sanders Luttrell, James Flood, N. Martin, and others, of Company F, Second Battalion Fourteenth Regiment Cavalry, Missouri State Militia, for bounty and pension—to the Committee on Invalid Pensions.

By Mr. CHALMERS: Memorial of citizens of Vicksburgh, Mississippi, for the improvement of the harbor at that place, accompanied by a map and report from James B. Eads—to the Committee on Commerce.

By Mr. HORACE DAVIS: The petition of citizens of Vallejo, California, for an increased appropriation to construct a dry-dock at Mare Island navy-yard—to the Committee on Appropriations.

By Mr. DEERING: The petition of soldiers and sailors of Howard County, Iowa, for the passage of the Weaver soldier bill—to the Committee on Military Affairs.

By Mr. GILLETTE: The petition of D. W. Church and 19 others, citizens of Adair County, Iowa, against the passage of the Wood refunding bill, and for the passage of the bill (H. R. No. 4910) providing for the payment of the public debt—to the Committee on Ways and Means.

By Mr. MORTON: The petition of Dorothea Bothner, for a pension—to the Committee on Invalid Pensions.

By Mr. O'CONNOR: The petition of F. W. Wagener & Co., and other merchants of Charleston, South Carolina, against the adoption of certain sections and provisions of the sugar-tariff bill—to the Committee on Ways and Means.

By Mr. PHISTER: The petition of Joseph H. Snapp and 71 others, citizens of Nicholas County, Kentucky, for legislation against monopolies and fluctuations and unjust discriminations in transportation charges—to the Committee on Commerce.

By Mr. REAGAN: Memorial of General Daniel Ruggles, on the subjects of a system of reservoirs, levees, and irrigation—to the same committee.

By Mr. ROTHWELL: A paper relating to the pension claim of George Zeifle—to the Committee on Invalid Pensions.

By Mr. WARNER: The petition of J. M. McElhinney and 49 others, of Washington County, Ohio, soldiers in the late war, for the equalization of bounties—to the Committee on Military Affairs.

By Mr. WHITEAKER: The petition of Dr. J. Falkman, publisher of the Oregon Staats-Zeitung, for the abolition of the duty on type—to the Committee on Ways and Means.

IN SENATE.

FRIDAY, *April* 16, 1880.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a message from the President of the United States, transmitting, in response to a resolution of the Senate of February 27, 1880, a report of the Secretary of State, concerning the investigation of certain cases in which awards were made by the late United States and Mexican commission; which was referred to the Committee on Foreign Relations, and ordered to be printed.

ADJOURNMENT TO MONDAY.

Mr. BUTLER. I move that when the Senate adjourn to-day it be to meet on Monday next.

Mr. MORRILL. Mr. President——

The VICE-PRESIDENT. The motion is not debatable.

Mr. MORRILL. I know it is not, but I think the Senator from South Carolina should wait until the Senate is fuller before such a motion is offered.

The VICE-PRESIDENT. The question is on the motion of the Senator from South Carolina.

Mr. COCKRELL. I should like to have the yeas and nays.

The yeas and nays were ordered.

Mr. EATON. I believe that we shall do a proper thing to adjourn until Monday. My friends know very well that I am usually in my seat, and do not often ask for adjournments. I know there is a great deal of committee work that is absolutely necessary to be done to-morrow. It will take several committees that I know of all day to-morrow to get up their work. Therefore I think the Senate ought to adjourn over.

Mr. MORRILL. When the Senator from Connecticut speaks, I know he speaks in behalf of the democratic party, and I withdraw my opposition to the motion.

Mr. EATON. I did not speak in behalf of any party. I spoke in behalf of a democratic Senator that is anxious to do the work of the session and get home; and I think we can do it better by adjourning over until Monday than by coming here to-morrow.

The question being taken by yeas and nays, resulted—yeas 27, nays 17; as follows:

YEAS—27.

Anthony,	Cameron of Pa.,	Johnston,	Saulsbury,
Bailey,	Cameron of Wis.,	Kernan,	Vance,
Baldwin,	Davis of W. Va.,	McMillan,	Walker,
Bayard,	Eaton,	Morgan,	Wallace,
Blair,	Ferry,	Morrill,	Windom,
Burnside,	Garland,	Pryor,	Withers.
Butler,	Hill of Colorado,	Ransom,	

NAYS—17.

Cockrell,	Hereford,	Paddock,	Teller,
Coke,	Ingalls,	Plumb,	Vest.
Groome,	Jonas,	Rollins,	
Hamlin,	Kirkwood,	Saunders,	
Hampton,	Maxey,	Slater,	

ABSENT—32.

Allison,	Davis of Illinois,	Hoar,	Pendleton,
Beck,	Dawes,	Jones of Florida,	Platt,
Blaine,	Edmunds,	Jones of Nevada,	Randolph,
Booth,	Farley,	Kellogg,	Sharon,
Bruce,	Gordon,	Lamar,	Thurman,
Call,	Grover,	Logan,	Voorhees,
Carpenter,	Harris,	McDonald,	Whyte,
Conkling,	Hill of Georgia,	McPherson,	Williams.

So the motion was agreed to.

PETITIONS AND MEMORIALS.

Mr. ANTHONY. I present the petition of Allen H. Crosby, Hamilton Lee Smith, George F. Wilson, Jesse Boynton, José Manuel Glas, H. Billini, H. J. Boardman, Richard N. Young, L. L. Brown, and others, praying for the incorporation of a company to be styled the Dominican and United States Navigation Company. The purpose of this association of business men and capitalists is to develop our trade with Dominica, from which government they have an important railroad concession connecting with the interior. I move that the petition be referred to the Committee on Commerce.

The motion was agreed to.

Mr. BUTLER presented the petition of E. A. Searles, J. P. Blackwell, and 198 other citizens, residing in the valley of the Savannah River, State of South Carolina, praying Congress to make an appropriation to improve the navigation of that river; which was referred to the Committee on Commerce.

Mr. VOORHEES presented a petition of ex-soldiers of Indiana praying for the passage of what is known as the equalization bounty bill; which was referred to the Committee on Military Affairs.

Mr. GROOME. I present a joint resolution of the Legislature of Maryland, and ask that it be read.

The resolution was read, as follows:

Joint resolution requesting our Senators and Representatives in the Congress of the United States to procure an appropriation for the location and preparation of the Choptank and Delaware Ship-Canal line, and for the survey and location of the Chesapeake Bay and Potomac River Tide-Water Canal line.

Whereas application is made to the Legislature at its present session to pass an act of incorporation for the construction of the Choptank and Delaware Ship-Canal; from Ferry Creek, on the Choptank, to Lewes, at the Delaware breakwater, connecting the water of the Chesapeake and Delaware Bays, and opening a direct route to sea for vessels trading at the ports of Baltimore, District of Columbia, and along the coasts of the Chesapeake Bay, thereby shortening the distance from Baltimore to European ports, and New York and New England seaboard cities two hundred miles, and avoiding the dangerous and tedious route doubling Cape Charles; and

Whereas this General Assembly approves of the construction and speedy opening of the Choptank and Delaware Ship-Canal as of paramount importance to the growing commerce of Baltimore, the coal trade of Maryland, Virginia, and Pennsylvania, and the great agricultural sections of the Southwest, the West, and the Northwest, which find their market and natural outlet at Baltimore City; and

Whereas the said canal would afford the cheapest and most effectual means of defending the cities of Washington, Baltimore, and Annapolis, on the south side, and Wilmington, Philadelphia, and New York, on the north side, in case of war,

by enabling the naval forces of the United States freely and speedily to pass from bay to bay, and on interior lines to pass up the Atlantic coast for the defense of threatened points, and would also enable merchant shipping to retreat from one bay to the other in case of danger from a hostile fleet; and

Whereas the Federal Government is charged with the public defense, and it is its duty to adopt the most complete modes of rendering the capital of the United States and the great seaboard cities impregnable, and the interests heretofore mentioned are national, and the construction of said canal of international importance: Now, therefore,

Be it resolved by the General Assembly of Maryland, That the Representatives and Senators from Maryland in the Congress of the United States are hereby requested to urge upon the Congress of the United States to appropriate $30,000 for the location and preparation of the Choptank and Delaware Ship-Canal line as laid down in their charter, that is to say, starting from Frederick Creek, on the Choptank River, to Walnut Landing, on the Nanticoke, and via the Nanticoke and Broadkill Creek to Lewes, on the Delaware Bay; and to solicit an appropriation of $5,000 for the survey and location of the Chesapeake Bay and Potomac River Tide-Water Canal, as laid down in the charter, starting from Beaver Dam Creek, on the eastern branch of the Potomac River, via Beaver Dam Creek, western branch of the Patuxent, Patuxent River, Lyon's Creek, and across to Herring Bay on the Chesapeake Bay.

And be it resolved, That the governor of Maryland be, and is hereby, requested without delay to transmit a copy of these resolutions to each of the said Representatives and Senators from Maryland.

The VICE-PRESIDENT. The resolution will be printed and laid on the table.

REPORTS OF COMMITTEES.

Mr. COCKRELL. The Committee on Claims, to which was referred the bill (S. No. 347) for the relief of John B. Nix, find that it is a matter affecting wholly public lands, and have directed me to report it back and to ask to be discharged from its further consideration and that it be referred to the Committee on Public Lands.

The report was agreed to.

Mr. EDMUNDS. I am directed by the Committee on Private Land Claims, to which was referred the bill (S. No. 795) to abrogate the power of the executive officers of the United States in allowing indemnity locations or scrip for confirmed, unsatisfied private land claims, under section 3 of the act of Congress approved June 2, 1858, (United States Statutes at Large, volume 11, pages 294 and 295, chapter 81,) and to vest that power in the courts of the United States, to report the same back with a recommendation that the bill be indefinitely postponed. The committee have heard counsel interested in land claims, and received the opinion of the Commissioner of the General Land Office, which is rather in favor of passing a bill upon the subject; but our investigation and consideration of the matter has led us to the opinion that it is not desirable to make any change in the law at present upon that subject. We therefore recommend that the bill be indefinitely postponed.

The report was agreed to.

Mr. KIRKWOOD. The Committee on Pensions, to whom was referred the petition of Samuel B. Brightman, praying for an increase of pension from the date of his discharge from the service, have instructed me to report it back. The petition discloses that he was granted a pension in 1879; it does not appear whether by special or by general law. If the pension was granted to him under the general law, his application for arrears should be made to the Pension Office; if by special act, the committee are of opinion that arrears of pension under special acts should be provided for by a general law, and not in individual cases. The committee ask to be discharged from the further consideration of the petition.

The report was agreed to.

Mr. KIRKWOOD. I am also instructed by the same committee, to whom was referred the petition of Elizabeth Vernon Henry, praying that a pension be granted to her, to report it back and ask to be discharged from its further consideration. She is the widow of a deceased naval officer, but does not come within the pension law.

The report was agreed to.

Mr. KIRKWOOD, from the Committee on Pensions, to whom was referred the bill (S. No. 1465) granting a pension to William H. H. Anderson, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 2857) granting a pension to Joseph Showman, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

Mr. BALDWIN, from the Committee on Commerce, to whom was referred the bill (S. No. 1593) to authorize the Richmond and Southwestern Railway Company to build bridges across the Pamunky and Mattaponi Rivers, 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. 938) authorizing the Astoria and Winnemucca Railroad Company to construct bridges across Young's Bay or River and Lewis and Clark's River, in the State of Oregon, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. WITHERS, from the Committee on Pensions, to whom was referred the bill (H. R. No. 2860) granting a pension to Thomas H. Vaughn, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 740) granting a pension to Martha J. Robinson, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 1460) granting an increase of pension to James P. Sayer, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 1363) granting a pension to Eli Coopridee, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 1411) granting a pension to James Morgan, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Thomas Burroughs, praying for the passage of an act granting him arrears of pension, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

He also, from the same committee, to whom was referred the bill (S. No. 1307) granting a pension to L. C. French, 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. 1248) for the relief of Rebecca T. Scott, widow of the late Major John B. Scott, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. GROOME, from the Committee on Pensions, to whom was referred the bill (H. R. No. 2855) granting a pension to Rachael J. Reber, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

Mr. CALL, from the Committee on Pensions, to whom was referred the bill (H. R. No. 2041) granting a pension to James Aaron, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. INGALLS, from the Committee on Pensions, to whom was referred the bill (S. No. 1201) granting a pension to Henry Williams, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Horace S. Spear, Company I, Fifth Regiment Vermont Volunteers, praying to be allowed a pension, submitted a report thereon, accompanied by a bill (S. No. 1638) granting a pension to Horace S. Spear.

The bill was read twice by its title, and the report was ordered to be printed.

PAPERS WITHDRAWN.

Mr. WITHERS. In regard to the bill (S. No. 923) granting a pension to Brevet Major Morven M. Jones and the petition of said Jones accompanying the bill, I ask permission to withdraw the petition and papers from the files of the committee, at the request of the petitioner, in order they may be presented to the Pension Bureau, where application never has been made.

The VICE-PRESIDENT. The Chair hears no objection. The committee will be discharged from the further consideration of the bill and leave will be granted to the petitioner to withdraw his papers.

BILLS INTRODUCED.

Mr. WINDOM asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1639) for the relief of Henry T. Johns; which was read twice by its title, and referred to the Committee on Claims.

Mr. GROOME asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1640) referring the claim of the owners of the schooner Addie B. Bacon to the Court of Claims; which was read twice by its title, and referred to the Committee on Claims.

Mr. CALL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1641) for the relief of certain purchasers of the public lands; which was read twice by its title, and referred to the Committee on Public Lands.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1642) to provide for the erection of a public building for the use of the United States courts, post-office, and other Government offices in the city of Key West, in the State of Florida; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

CANAL IMPROVEMENTS IN WASHINGTON.

Mr. BUTLER submitted the following resolution, which was read:

Resolved by the Senate of the United States, That the commissioners of the District of Columbia be requested to furnish the Senate with an estimate of the probable cost of completing the filling up of the old canal, the amount of ground that will be reclaimed thereby; also the probable cost of placing James Creek Canal in good sanitary condition.

Mr. BUTLER. I ask the reference of that resolution to the Committee on the District of Columbia.

Mr. EDMUNDS. I suggest to the Senator from South Carolina to modify the word "requested" and turn it into "directed" where the resolution says that the commissioners are "requested" to do this. It is a constant practice as exercising a right on the part of the Senate to demand that.

Mr. BUTLER. I have no objection to that modification.

The VICE-PRESIDENT. The resolution will be so modified, and referred to the Committee on the District of Columbia.

NEBRASKA BOUNDARY LINE.

Mr. ALLISON. A few days ago I entered an objection to the consideration of the bill (S. No. 550) to extend the northern boundary of the State of Nebraska, when the Senator from Nebraska [Mr. SAUNDERS] asked unanimous consent to consider it. The Senators from that State are anxious to have the bill considered, and I withdraw my objection.

Mr. EDMUNDS. We must have the regular order, Mr. President.

The VICE-PRESIDENT. The regular order is demanded, which is the call of the Calendar of General Orders.

Mr. SAUNDERS. Inasmuch as the objection is now withdrawn by the Senator from Iowa, I should be glad to have the Senate take the bill up. The amendments that have been proposed are acceptable, and therefore I presume there will be no question or debate upon the subject. It is a subject that I should like to have acted upon now. The bill was put over for the purpose of allowing the Senator from Iowa to examine some points. He has examined them and now withdraws his objection.

The VICE-PRESIDENT. Is the call for the regular order withdrawn?

Mr. EDMUNDS. No sir; there are matters on the Calendar that affect pensioners and other people which ought to be taken up in their order. I think this bill ought to take its regular place. It is a proposition to increase the already small area of the State of Nebraska by a handsome little corner, that can wait for a few days I think. It may be perfectly right; I am not questioning the merits.

Mr. SAUNDERS. The object of the bill is merely to straighten the boundary line of the State.

The VICE-PRESIDENT. The regular order is demanded.

Mr. MORRILL. I ask the Senate to take up the bill for making an addition to the present City Hall in Washington.

Mr. WITHERS and others. The regular order.

Mr. COCKRELL. Let us have the regular order, and that can be taken up after we get through.

JESSE F. PHARES.

The VICE-PRESIDENT. The Secretary will call the Calendar of General Orders, commencing at the point reached when last under consideration.

The bill (S. No. 1185) granting a pension to Jesse F. Phares was announced as being first in order upon the Calendar.

The VICE-PRESIDENT. The pending question is on the motion of the Senator from Missouri [Mr. COCKRELL] that the bill be indefinitely postponed.

Mr. EDMUNDS. I listened with some attention the other day to the interesting discussion of this man's case, and I shall vote against the indefinite postponement of the bill. I think his case falls within the spirit, and only that it is said the Pension Office decides otherwise I should say within the letter, of that provision of law which provides for paying a pension to anybody who volunteers for the time being to assist in an engagement, as I understand in substance this man did, and was put at the front, and in getting back to his command, although he was contracted with as a scout, was wounded.

That comes, as it appears to me, within the spirit of the provision of law that was read by the Senator from Iowa, [Mr. KIRKWOOD;] and it does not at all fall, as it appears to me, within the spirit of his engagement as a scout and the supposed enhanced price that he gets for the risks that he runs in that particular character. Take the case of a teamster. If a teamster in an engagement gets shot, I am quite sure the practice was, when I used to be the chairman of the Committee on Pensions, to give him a pension if he was drawing up ammunition and was hurt in that way; but if in the mere performance of his duty as a teamster on account of a rut he fell from his wagon and was run over by a horse, or whatever it might be, then it was his civil employment, it was a civil accident, and it did not come within the provisions of the pension law.

Take the case of officers' servants who have been entitled to pensions although they are not enlisted men. They have an allowance, they hire themselves, and all that. I think there have been a great many cases in the earlier times, in 1867, 1868, 1869, and 1870, when I was connected with the Committee on Pensions, where an officer's servant being shot in attending him or wounded in doing his duty as that officer's servant, fell within the theory, as it was thought, perhaps erroneously, of the pension laws, and had a pension.

Because this particular man was not obliged by his contract to expose himself to the infinite peril of acting actually as a sentry or a vidette in the front of our lines at the place where this matter occurred, and being cut off by the forces of the enemy, in making a brave dash in getting back to our lines again was wounded, I confess I cannot see upon what principle of justice a distinction is made between him and an enlisted man who might properly have been sent out then and there on that very spot to have done the same duty.

Consequently I shall vote with satisfaction against the indefinite postponement of the bill.

Mr. WITHERS. I have only one word to say in reply. This man, being a non-enlisted man, although he may have received an injury from a gunshot wound, does not belong to a class which is pensionable under the existing law. The effect of granting a pension to this man will be accepted by the Committee on Pensions as an indication of the views of the Senate that it is right and proper to extend the benefits of the pension laws to a class of men who under existing law are not pensionable, and consequently that the remaining cases and cases of similar character which are now pending before the committee, of men belonging to the civil employés of the Government, will be reported favorably. There are several such cases on the Calendar and there are several others before the committee.

Mr. EDMUNDS. I am quite willing to accept the logic of my friend from Virginia. I am not in favor of this claim because it happens to be for this particular man; I never heard of his case until I saw it in this report; but I am in favor of providing a little consolation, sustenance, aid, to any man, whether he was enlisted or not enlisted, who was wounded or received an injury in performing a strictly military service.

The fact that this man was generally performing the business of a scout does not prove that he was not on the occasion when he was wounded performing strictly military service. He was in the very position, as I remember the report, where very properly a regularly enlisted mounted vidette might have been and ought to have been, to know whether the enemy was approaching. The enemy, it seems, learning that this man was lying out to keep watch of them, ambuscaded him, or rather made a flank movement, as the saying is, got between him and his supports; a collision came on, and he dashed back and was shot. If that is not doing military service I confess I do not understand what is.

Mr. WITHERS. The facts of the case are not precisely as the Senator from Vermont understands them. This man had not been sent out for a special purpose as a vidette. He was employed generally as a scout, and in pursuance of his avocation, going around getting information, there is no doubt that he was intercepted on his return to the camp, not by an ambuscade, but simply on the approach of a force of the confederates who desired to surprise the post, at which there was a force of Union soldiers. They threw out an advance guard for the purpose of intercepting persons on the roads leading to this point in order to prevent information being conveyed. Among those intercepted was this scout, and upon being challenged and ordered to halt, instead of doing so he attempted to escape by dashing through the force which was opposing him. In doing so they fired upon and wounded him. The fact that he thus received his wound is an admitted fact; there is no question about that; but the cause of the adverse report from the Pension Committee was that they did not conceive that it was proper to select one or two cases from a class of cases embodying thousands, and give them the benefit of the pension laws and exclude all other persons of the same class from those benefits. The Pension Committee have no feeling whatever upon the subject. They are perfectly willing to accept the views of the Senate and to carry them out in their action hereafter. If their construction of the law is erroneous in the opinion of the Senate, they will conform their future action to what the Senate may decide to be the proper construction of these laws. I only wanted the Senate to vote understandingly with a full knowledge of the facts in the question.

Mr. VOORHEES. For myself, having been a member of the Pension Committee, I know that there is no subject more difficult than a case like this. The Pension Committee is confronted with a rule which is necessary and proper; that is, the rule of pensioning only those who were enlisted in the Army or Navy; and yet there are cases when something more than that ought to be done.

I have not advised myself carefully as to the facts in this case. I am under the impression, however, that it is one of that sort which in support of the view that I take of this matter I recall, and which I will state. During a season of great excitement and pressure upon the armies in the Southwest all the steamboats of the Ohio River were seized and impressed. Among the rest was one above on the Ohio River, on which there was an engineer, with his son as his assistant. It was seized by military authority, came down the Ohio River, and was loaded at Cincinnati with supplies. The engineers were not allowed to go ashore for fear they might not come back. The vessel was taken under these circumstances down the Ohio River and up the Tennessee, close to the enemy's country. Meantime the son took sick, and the father stood at that engine, my impression is some five days and nights, without relief and without assistance except such as came to him by the laws of nature and exhaustion. When the vessel returned to Cincinnati he was carried ashore and died. His daughter came here and raised the question whether her father had not lost his life in the service of his country. I thought he had, and took that ground in the committee; yet I have no complaint to make of the committee in adhering to the rule that he was not an enlisted man; but I brought that question before the Senate, and the children of that man now draw a pension, and rightfully and properly.

I think that it is proper for the Senate now and then to make exceptions in regard to persons who were thus situated, and who were not regularly enlisted in the military service, and I think at the same time it is proper for the Committee on Pensions to adhere to their rule and let the Senate make the exceptions. That can always be done, and I believe it is the safer course to pursue.

I think I shall vote in this case to give this man some support and subsistence, because he was injured in doing his duty and defending the country, as in the case of the engineer who lost his life, as much so as if he had charged in battle.

Mr. DAVIS, of West Virginia. This is a peculiar case and one in

which there is great merit. I doubt whether a similar case has made its appearance before the Committee on Pensions. The facts are that this man Phares is completely incapable of doing anything and is dependent upon charity for a living, as I understand, in consequence of his wound.

Now, what did he do? He entered the service as a scout with the first appearance of General McClellan in West Virginia, and served there until he was shot in 1863. The Union and the confederate officers in this case both agree that he saved the Union forces that were at Beverly at the time. How did he do it? He was outside of the town when the confederates were approaching. They intended to surprise the Union forces. This man being outside and hearing of it attempted to get to the Union forces in the town, so as to give them notice. In doing so he passed the pickets of the confederates, and they demanded him to halt; but he proceeded, and as he did he was shot and, as I understand, shot badly, so much so that he could not sit at all upon his horse, but he lay down upon it, resting himself as best he could, and went into where the Federal forces were and notified them of the approach of the confederates, and thereby saved the Union forces, for the confederate forces were much larger and intended to surprise them. If this man has not done a service to his country, and one that few men would have done, I do not know who has. He was in a safe position; he could have remained at his home and nothing would have occurred to him; but he chose to take his life in his own hands, and pass the confederate forces to get to the Union forces as best he could and notify them of the coming of the confederates, which he did; and Colonel Latham, who has recently been confirmed by the Senate as supervisor of the census in our State, certifies that but for that information he would have been surprised and perhaps his whole force captured.

What else? This man was in tolerably fair circumstances, as the report shows, and from the fact that he did give this notice to the Federal forces, and because of his action as a scout, his entire property was taken and destroyed by the confederates, and from being in a fair way of making a living he is now, as I said, living on the charity of his neighbors. I believe this is such a case that there is not another one like it before the committee, and probably will not be another. I agree with the chairman of the committee that we cannot be too careful, and I will aid him in that respect. I believe we have been entirely too liberal in granting pensions. As was said by the Senator from Kansas [Mr. INGALLS] the other day, we are paying more for our pension list now than all the rest of the world. All the rest of the world to-day are not paying as much in pensions as the United States is paying to its pensioners. I think we must call a halt somewhere; but certainly it ought not to be on this bill.

Mr. VOORHEES. I inquire of the Senator from West Virginia what this Government has money for, or what better purpose can it apply it to than to pay it to those who have made this Government what it is? I confess there ought to be a proper economy; but this talk about the waste of public money upon such of our own citizens as have enabled this Government to exist, I do not sympathize with.

Mr. McMILLAN. Mr. President, I think I appreciate the condition in which the Committee on Pensions are placed here; but I am unable to see why they should hesitate about making an exception in regard to cases of this character, when they do make exceptions in other instances. The Committee on Pensions have in many instances recommended a pension much greater in amount in individual cases than the law permitted them to do. Why? Because there were particular circumstances in the case which called for and justified the committee in allowing a greater amount of pension than the law provided. On what principle can that be justified? Only on the principle that the particular case should be made an exception, and ought not to be brought within the general rule. Where there were particularly brave or gallant services, or where the survivors of an officer were more completely dependent than in other cases, the committee has allowed a greater amount of pension than the law provided; and it was only because they reported the case and a special law was passed by Congress that that additional amount was allowed.

What is the case here? Here are meritorious services, gallant services, performed by this man whose case is before the Senate; but it is claimed by the committee that he is not within any class of pensioners known to the law. They do not claim that the services are not such as to call for a pension; they do not deny that the services were meritorious and gallant, that they were military services strictly; but by reason of the fact that this man was not technically in the military service of the Army the law does not authorize them to grant a pension. Can we not pass a special law for this case? Cannot the committee recognize the fact that here are military services which have been performed, gallant and brave, and that this man has suffered wounds and been so disabled that he cannot sustain his family, and that by the result of the very approach of the confederate army at this time property to a large amount, belonging to him, was destroyed, and he was reduced to poverty? Cannot the committee recognize that as a special case in which they can say that this man ought to be allowed a pension?

I am unable to see the distinction in principle between allowing an officer a greater amount of pension than he is entitled to by the general law, although he was connected with the Army of the United States, and making a special law granting a pension to a man who did perform military service although not technically in the Army, and therefore not within the letter of the pension law. We can bring this case within the pension law by passing the bill proposed here and refusing to indefinitely postpone it. This case is one which calls for the exercise of this action on the part of the Senate, and I think we should not hesitate to pass the bill.

Mr. KIRKWOOD. Mr. President, I have but a few words more to say in addition to what I said when this matter was under consideration the other day; and when I have said them, I shall leave the matter to the Senate.

My belief is strong, my opinion is clear that this man is within the law. Let me read now the third subdivision of section 4693 of the Revised Statutes. That section defines what classes of persons shall be entitled to pensions. The third paragraph itself includes three classes. I shall only read the operative words that I think apply to this man:

> Any person, not an enlisted soldier in the Army * * * who volunteered for the time being to serve with any regularly organized military or naval force of the United States—

is entitled to a pension. How does that apply to this man? "Any person not an enlisted soldier in the Army,"—he was not an enlisted soldier in the Army—"who volunteered"—what is meant by that? What is meant by the term "volunteered?" A man goes of his own motion, willingly, not drafted, not compelled to go. This man undoubtedly went of his own motion. He was not drafted; he was not compelled to go. He went of his own free will. "For the time being." That means temporarily. An enlisted man has agreed to serve for a definite time; he cannot leave before the expiration of that time; but that is not required in this class of cases. A man who "volunteers for the time being" may have a pension. He may terminate the service when he pleases, and so might this man.

"Who volunteered for the time being" to do what? "To serve with any regularly organized military or naval force of the United States." There is no question that he was with a regularly organized military force of the United States; and the only inquiry is what is meant by the words "to serve." He was a non-enlisted man, volunteered for the time being to do something with a regularly organized military force; but what he volunteered to do to entitle him to a pension must be "to serve" with them. What is meant by that phrase?

It was argued some days ago that it meant to perform military duty, and it seemed to be considered by some that it meant the carrying of a gun or a sword, and that nothing else than that was service. I had occasion the other day to show that that ground was not tenable by referring to another section of the statute, showing that teamsters, wagoners, artificers, hospital stewards, and farriers, if enlisted men, are held to be serving with a regularly enlisted force.

Mr. CAMERON, of Wisconsin. Will the Senator from Iowa allow me to ask him a question in that connection?

Mr. KIRKWOOD. Certainly.

Mr. CAMERON, of Wisconsin. Can this man be said to have volunteered when he was acting under a contract?

Mr. KIRKWOOD. I think so.

Mr. CAMERON, of Wisconsin. His compensation was fixed by contract?

Mr. KIRKWOOD. Certainly.

Mr. CAMERON, of Wisconsin. The compensation that is paid to a soldier is not fixed by contract, but is fixed by law. I want to call the attention of the Senator to that distinction.

Mr. KIRKWOOD. Very well. I say, Mr. President, that every volunteer soldier of the United States was serving under contract. The law being itself an offer of the Government to pay certain sums of money and give certain privileges for certain services, became a contract with a man who consented to serve and render the service upon the terms proposed to him; and the amount of money he received for his services was paid to him under a contract just as much as in the case of a special contract made with a man occupying the position this man did.

Mr. CAMERON, of Wisconsin. When the soldier agreed to serve the law fixed his compensation.

Mr. KIRKWOOD. Yes.

Mr. CAMERON, of Wisconsin. When this man entered into the contract the law did not fix his compensation, but the compensation was fixed by the terms of the contract.

Mr. KIRKWOOD. Certainly it was.

Mr. CAMERON, of Wisconsin. The Senate will recognize the distinction between the two cases.

Mr. KIRKWOOD. It strikes me that it is a distinction without a difference.

Mr. CAMERON, of Wisconsin. I think not.

Mr. KIRKWOOD. The volunteer soldier agreed that he would serve the United States for three years for, say $16 a month; he entered into a contract with the United States to do that thing. In good faith he could not be required to take any less than that during the time for which he contracted to serve at that. All the services rendered in our Army and in our Navy is by a contract between the Government and the soldier or the sailor to render certain service for certain compensation. But I was endeavoring to find out what was the meaning of the words "to serve." He volunteered for the time being to do something. Was the thing that he volunteered to do a voluntary agreement "to serve" within the meaning of the law?

Mr. CAMERON, of Wisconsin. He agreed to do something. He

did not, I think, in the terms of the act, volunteer to do anything. He agreed according to the terms of his contract to do something.

Mr. KIRKWOOD. He agreed voluntarily.

Mr. CAMERON, of Wisconsin. Certainly he agreed voluntarily. I presume he did, at least.

Mr. KIRKWOOD. The distinction between doing a thing voluntarily and agreeing to do it I cannot understand.

Mr. CAMERON, of Wisconsin. I can see a very clear distinction.

Mr. KIRKWOOD. Very well.

Mr. INGALLS. I wish the Senator would allow me to ask another question on that point before he leaves it. He is speaking about the contract made by the soldier and by the scout. He alludes to the fact that the soldier agrees to perform certain service for the Government for a stipulated consideration during a specified period of time. If the soldier violates that contract before the expiration of his period of service he is liable to be arrested as a deserter and shot at a drumhead court-martial. The scout, having a vastly increased compensation, can terminate his contract any time he sees fit without incurring any penalty whatever. He can ride off on horseback in the midst of an engagement. He can terminate his contract whenever he pleases. Now, does the Senator from Iowa pretend to say that he sees no distinction between the contract made by a private soldier with the Government and that made by a scout with the military commander of a district?

Mr. KIRKWOOD. Oh, no; the Senator must not understand me in that way at all. I say there is a wide distinction between them, but they are both contracts notwithstanding. We may make different contracts, and yet both are contracts.

Mr. DAVIS, of West Virginia. Will my friend from Iowa allow me to answer the Senator from Kansas?

Mr. KIRKWOOD. I am afraid my whole speech will get so mixed up that nobody will understand it unless I can get it somewhat consecutively together.

Now, it is shown clearly that the service of a teamster, that the service of a farrier, that the service of a wagoner, or an artificer, or a hospital steward, is such service as entitles the man, if an enlisted man, to a pension for wounds or disability.

Mr. INGALLS. There is exactly the distinction, "if he is an enlisted man."

Mr. KIRKWOOD. Exactly so; but I am speaking of what is meant by the words "to serve." If to shoe horses is to serve, why is not scouting to serve as well? If to drive a wagon is to serve, why is not scouting service as well?

Mr. INGALLS. The Senator entirely avoids the operative words in the statute.

Mr. KIRKWOOD. What are they?

Mr. INGALLS. "If an enlisted man." That is what fixes the question of what may be called pensionability under existing statutes. These men to whom the Senator refers in that section from which he has quoted are enlisted men, and who therefore by that fact alone are entitled to pensions, not in consequence of the services they rendered, but in consequence of the fact that they were enlisted.

Mr. KIRKWOOD. Enlisted as wagoners, enlisted as farriers, enlisted as hospital stewards, all of which tends to show that something else besides carrying a musket is service within the meaning of the law.

Mr. INGALLS. Nobody disputes that.

Mr. KIRKWOOD. Very well, then; this man "volunteered for the time being to serve," if the service of a scout is as much service in the military sense as the service of a wagoner or a teamster.

Mr. INGALLS. I hope the Senator will pardon one more interruption. He must be aware that the word "volunteer" in that connection has a specific, definite, well-ascertained, and, if I may say so, a technical meaning.

Mr. KIRKWOOD. What is that?

Mr. INGALLS. It is a man who volunteers to render military service in opposition to a man who is in the regular service; as, for instance, in the case of a sudden foray of Indians, in the case of a sudden incursion of rebel forces, there is a demand made for service by volunteers for a specific purpose; and that is the definition that should be employed in connection with that portion of the section of the statute to which the Senator has referred. It ought not to be said that one volunteering means a man who performs voluntary service. That is trifling with terms. The word "volunteer" when taken in connection with military service has a distinct and well-ascertained and defined significance. It will not do to play with terms and make puns by saying that it has reference to the fact of its being voluntary.

Mr. KIRKWOOD. That is what I supposed "volunteer" meant. "Volunteer" service is service rendered voluntarily, willingly, of the man's own motion, not because he is compelled to do it; and for that reason every soldier that we sent into the war, except those in the regular Army, was called a volunteer during the war. Those men went there of their own will; they volunteered to go. The difference between them and this man was that they volunteered to go for a definite time, and this man volunteered to go temporarily. That is the difference between them. They both went of their own will, they both went of their own accord. The drafted man was not a volunteer.

Mr. INGALLS. That is a pun.

Mr. KIRKWOOD. That is the Senator's opinion upon the matter, but he is liable to err about that as well as about other things.

I have endeavored to show, Mr. President, that this man not being an enlisted soldier did volunteer for the time being to serve with a regularly organized military force, and that the duty he performed was such as comes within the meaning of "service" as applied to military men. But it was argued, I argued or tried to argue that even if it were not so, we should still pension this man because he had rendered such service to the country as required us in good faith and decency to give him a pension.

What have we done, Mr. President? At the last session of Congress we passed a bill giving to General Shields's widow and children $100 a month during her life-time and the lives of her children until they reached a certain age. Why? Did they come within the terms of the pension law, I should be glad to know? No man claimed that they came within the terms of the pension law. No man on this floor a year ago, who voted that pension to them, claimed that they came within the terms of the pension law.

The very same bill that gave that pension to his widow and children gave to the widow of Colonel Fletcher Webster a pension to which she was not entitled under the law. Why? For no other reason that ever I heard, for no other reason that I ever imagined than that she was the widow of the son of Daniel Webster. That was all, nothing more and nothing less than that. And yet here is a man living in a State that went into rebellion, possessed of a comfortable competence when the rebellion broke out, who did not go with his State as so many men unfortunately did, and remained true to the Union cause——

Mr. CAMERON, of Wisconsin. I wish to say to the Senator from Iowa that I think this is a meritorious case, and I will with great pleasure vote for the bill, but I do not think that this man Phares is within the statute as the Senator is trying to prove.

Mr. KIRKWOOD. I am so happy to get the Senator's vote on the right side that I am indifferent as to the reasons that constrain him to give that vote.

Mr. CAMERON, of Wisconsin. I never had any intention of voting otherwise; but I think that the Senator from Iowa is wasting his own time in attempting to prove that this case is within the statute. I think it is an exceptional case, and that being exceptional and being a meritorious case Congress ought to enact this bill for his benefit.

Mr. KIRKWOOD. I am very glad to hear it; and with a very few words more I will leave the matter, Mr. President.

We have been doing continuously things not nearly as proper to be done as what we are asked to do in the passage of this bill. This man has lost all his property just because he remained a Union man when his State went into rebellion. He is crippled for life; he is unable to earn anything to support his family about him, wounded by a rebel bullet. What was he doing? What was he doing at the time? Let a rebel officer tell. There may be some men not as fully convinced as my friend from Wisconsin, and for their benefit I will read this. Lieutenant-Colonel Hutton, a rebel officer, says of this man:

> His knowledge of the country was thorough; he was *smart*, daring, and vigilant, and capable of great endurance. In consequence of the knowledge we possessed of this fact, every possible exertion was made on our part to capture him, but without success until the 23d day of April, 1863, when General Imboden advanced upon the Federal forces then stationed at Beverly, commanded by Colonel George R. Latham.

Now look at him. A rebel force was advancing to attack a Union force. This man had been sent out to ascertain what was the condition of affairs so that our force might be prepared, if about to be attacked, to meet that attack. The rebel officer continues:

> In order to cut off all scouts that might be outside the Federal pickets—

So as to make their attack effective—

> we sent by night a party of men through the woods to gain the road near the outside Federal picket post before daylight on the morning of April 23, 1863. About daylight said Phares, who was thus cut off, approached said party of men on horseback and was ordered to halt, but dashed forward and past the men, when he was fired upon by them, one ball taking effect, passing through his body—through the lungs—from the effects of which he is now almost wholly disabled. He retained his seat, however, until he reached the Federal picket and gave information of our advance.

And probably saved from capture the Union forces; and now we are hesitating here, some of us, whether or not we shall grant the man a pension under these circumstances, his property all gone, his ability to support his family gone for the reason that I have read to you from a rebel source. Another word or two and I am done.

It was argued the other day that pensions were matters of contract between the Government and the soldier, that when a soldier entered the service he entered with the understanding by law that he was to have a pension. Is that really so? The law read by the Senator from Missouri [Mr. COCKRELL] the other day is dated in July, 1861, the law promising pensions to soldiers who might be wounded in the service and to the families of those who might die. How many men had we in the field before that law was passed? The first seventy-five thousand men called out by President Lincoln were called out long before that law was passed, and many of them had died before that law was passed; and yet their families are entitled to pensions although there was no contract, express or implied, at the time of their enlistment that they should have pensions. "That won't do," if I may be allowed to use the language of the Senator from Ohio, [Mr. THURMAN.] The pension is granted for meritorious services, whether it has been promised or whether it has not been promised.

Something was said the other day that our pension list is large. Very well, Mr. President, it is large. It was a large war that we were

engaged in—a very large war—and the consequence is that our pension list is very large. I wish the war had been much less, and consequently our pension list much less; but we have to take these things as they are and not as we would wish to have them.

Now, let us look at it a little. The burden of the war upon us today arises from two sources largely. The interest on our public debt is one of them; and the pension list the other. We are raising by a tax upon tobacco and whisky and beer about enough of money to pay the interest on the public debt. What good reason exists why the men who use these three articles should pay the interest on the public debt, perhaps might be difficult to discover; but they do it, and do not complain, so far as I know, in regard to it. Now, if the putting upon the pension list of a few men—and there cannot be the thousands of them that gentlemen speak of—who as scouts or in some other capacity served their country well and are disabled in consequence of it; if putting them on the pension list will increase the pension list largely, can we not increase a little by an amendment of our revenue law the amount of our income so as to cover that amount? The Senator from Wisconsin [Mr. CARPENTER] is not here with his constitutional objections to almost everything; and I will suggest, suppose that to offset the tax upon tobacco we put a tax upon claw-hammer coats—swallow-tails, I believe they are called. That will raise something.

Mr. CAMERON, of Wisconsin. They are tax enough on the men who wear them. [Laughter.]

Mr. KIRKWOOD. Suppose in addition to that we tax every man who wears a stove-pipe hat, or rather a tax on every stove-pipe hat manufactured. I do not see why in the interest of art it should not be done. Something certainly ought to be done, it seems to me, to discourage the use of those monstrosities.

Mr. HAMLIN. Why not tax frock-coats and reach the Senator from Iowa?

Mr. KIRKWOOD. No; I say tax claw-hammer coats and stove-pipe hats; and then if you would only tax the trains of ladies' dresses by the foot or yard, I am sure you would raise the amount of money required, if we add the few men who come within the scope of this bill to the pension list. I do not see why that would not be precisely as fair as to tax the man who smokes cigars, chews tobacco, or drinks beer occasionally.

It will not do for us to make this complaint; it will not do for us to say that we cannot afford to pay a man who has earned a pension as this man has earned it. Believing that, and comforted by the assurance of my friend from Wisconsin [Mr. CAMERON] that he intends to vote for the bill, I will say nothing further upon it.

Mr. PLATT. Mr. President, the fact that this question has been so much discussed must be my excuse for asking the Senate to listen once more to some suggestions from me.

I do not think, in view of the colloquy which has just occurred between the Senator from Wisconsin and the Senator from Iowa, that it is worth while to discuss the question whether this is a case which is now pensionable by law. It seems to be conceded that it is not. Then if I understand the situation it is this: The Senate is asked to grant a pension to a man, there being no law for granting that pension, because it is said that he has earned a pension by some meritorious service. I want to look at that for a moment.

I deny that there is any merit in this case which entitles the man to a pension. That he did a gallant deed I do not deny. I may illustrate the way in which it strikes my mind thus: The Senator from West Virginia described what he had done. He was out on a scout. He knew that the force of the enemy was approaching, and he rode into camp through that force, receiving a ball in his body, for the purpose of communicating that information to the Army. Does that entitle him to a pension?

Suppose it had been a sutler who had been there, and suppose the sutler had obtained information that the confederate army was advancing, and suppose he had ridden to camp, and suppose he had been shot on the road, would the Senator from West Virginia or anybody else say that a sutler was a man who was deserving a pension?

Now, let us go a little further. This man's property was destroyed; why not pay him for it? Would the Senator from West Virginia stand up here and advocate a bill to pay this man for his property? It is said that under the law he cannot get pay for his property. Why not? Why not make a special act? My friend from Wisconsin, who is going to vote for this bill because he thinks it is a meritorious case, is upon the Committee on Claims. I apprehend that if this case had come before the Committee on Claims, he would be the first one to stand up and say, "there is no law under which we can pay this man for the destruction of his property." It is a great deal easier to pension a man than it is to pay his claim when he presents one; it is so exceedingly easy. The Senator behind me says we do not wait for a law to do these things. That is just what I insist the Senate ought to do.

Mr. CAMERON, of Wisconsin. Make a law.

Mr. PLATT. Congress ought to wait for it, and if there is no such law they ought to make it before they grant a pension.

Now, let us see just what the situation is. Here my friend, the Senator from Minnesota, [Mr. MCMILLAN,] has got a scout case; my friend, the Senator from West Virginia, [Mr. HEREFORD,] has another; I believe my friend, the Senator from Iowa, [Mr. KIRKWOOD,] has another or is interested in some case of an Indian scout, or something of that sort. So they all combine here to tell us that each of their cases is the most meritorious kind of a case, when there are hundreds and hundreds of scouts (if we could learn the facts and circumstances) who are just as much entitled to the consideration of Congress as these men who have come here and excited the sympathies of gentlemen.

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

Mr. PLATT. Certainly.

Mr. MCMILLAN. Do I understand the Senator from Connecticut that if he had a scout case he would support this bill?

Mr. PLATT. I confess that I do not think I would be here pressing a scout case with my views of the law. I think that if a scout came to me and asked me to present a bill here to obtain a pension for him and to get it through, to do all I could to obtain a pension for him, I would say to him, "My dear friend, I will try to get a law passed to pension scouts, if that is right; but there being no law, I think I must be excused from presenting your case to Congress."

It is said that we have granted a pension to the widow of Colonel Fletcher Webster. I think I might well put the question to the Senator from Iowa whether he thought that was right?

Mr. INGALLS. But her husband fell in battle.

Mr. PLATT. I know it. It was a larger pension than she would have been entitled to on that account, however.

Mr. CAMERON, of Wisconsin. We pensioned the widow of General Custer.

Mr. INGALLS. She was pensionable, and the only thing the Senate did was to increase the amount to which she would have been entitled under the general law. That act of Congress did not create a pensionable class.

Mr. MCMILLAN. Will the Senator from Kansas allow me to ask him how different in principle that is from the case before the Senate?

Mr. PLATT. I think that there are a variety of cases which can be made here which will appeal to the sympathy of the Senate. I read in the newspapers a few days ago of a marshal of the United States endeavoring to execute the laws of the United States shot through the body. Will the Senate pension that marshal's wife and children when they come here asking for a pension? Why not? It is said we have pensioned an engineer of a steamboat who was not in the service; we have pensioned a teamster who was not in the service; but would Congress pension the wife and children of a marshal of the United States shot dead in trying to execute the laws of the United States? I apprehend not. Why not? Because they do not come within that class of persons who are recognized as pensionable. That is the distinction.

This man makes a contract to serve—not to serve with the Army, not to serve as a soldier, but to get information for the Army just as a civilian might get supplies for the Army. If there was but one case here, or if that one case had not such eloquent advocates to enlist the sympathies of Senators, it seems to me they would all agree that we had better be governed by the law as it is until we make a new law.

Will the Senate pass a law, if reported by the Committee on Pensions, to pension all scouts disabled, and their widows and children where they were killed? Will they pass a law to pension all engineers and employés on steamboats disabled, or their widows and children if they were killed? Will they pass a law to pension those cases? If not, are we to sit here and adjudge on each particular case whether it has a shadow more of merit than another case which we may not have heard of? It seems to me that we had better be governed by some well-known, definite rule of action.

Mr. CALL. Mr. President——

The VICE-PRESIDENT. The morning hour has expired.

Mr. HEREFORD. This case has been before this body now for the fourth day, I believe, and certainly I think it can be disposed of in ten or fifteen minutes, and I should like very much if the Senate would by unanimous consent let us proceed with it for a short time. I am ready to take the vote now, so far as I am concerned. Let it be proceeded with informally; and if the Senator from Florida, [Mr. JONES,] who is entitled to the floor on the Geneva award bill, shall call for the regular order at any moment it can be taken up.

The VICE-PRESIENT. Is there objection?

Mr. INGALLS. I ask for the regular order, Mr. President.

The VICE-PRESIDENT. The regular order is demanded, which is the unfinished business, being the Geneva award bill.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. T. F. KING, one of its clerks, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 231) to establish upon a permanent footing the professorships of modern languages and of drawing at the United States Naval Academy;

A bill (H. R. No. 1023) making an appropriation for the erection of a naval wharf at Key West, in the State of Florida;

A bill (H. R. No. 2788) to authorize the President to appoint an officer of the Navy or the Marine Corps to perform the duties of solicitor and judge-advocate-general, and so forth, and to fix the rank and pay of such officer;

A bill (H. R. No. 4227) for the relief of settlers on public lands;

A bill (H. R. No. 4477) to regulate the mode of purchasing tobacco for the United States Navy;

A bill (H. R. No. 4787) to provide for excepting from the provisions of section 3617 of the Revised Statutes of the United States the proceeds from dockage of private vessels at the several navy-yards of the United States;

A bill (H. R. No. 5047) relating to the appointment of professors of mathematics in the Navy;

A bill (H. R. No. 5502) granting to the Territory of Dakota section 36, in township No. 56 north, of range No. 94 west, in the county of Yankton, in said Territory, for the purposes of an asylum for the insane and granting to said Territory one section of land in lieu of said thirty-sixth section for school purposes; and

A bill (H. R. No. 5627) to amend section 1486 of the Revised Statutes, in order to preserve the meaning of the original law from which it was taken, with reference to the rank of engineer officers, graduates of the Naval Academy.

The message also announced that the Speaker of the House had appointed Mr. J. G. CARLISLE of Kentucky, Mr. R. L. GIBSON of Louisiana, and Mr. J. A. GARFIELD of Ohio, members of the joint committee on the part of the House to take into consideration the alleged losses of revenue arising from the evasion of the stamp-tax on cigars and other articles subject to excise duties.

The message further announced that the House had agreed to the amendments of the Senate to the following bills:

A bill (H. R. No. 225) granting a pension to Melissa Wagner; and

A bill (H. R. No. 1597) granting a pension to Patsy Davenport.

The message further announced that the House had passed the following bill and joint resolution:

A bill (S. No. 1489) to remove the political disabilities of Roger A. Pryor, of New York; and

A joint resolution (S. R. No. 102) authorizing the Secretary of War to loan certain tents, flags, and camp equippage for the use of the soldiers' reunion to be held at Milwaukee, in the State of Wisconsin, in June, 1880.

ENROLLED BILLS SIGNED.

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

A bill (H. R. No. 5161) to amend an act entitled "An act for the removal of certain Indians in New Mexico," approved June 20, 1878;

A bill (S. No. 885) to amend an act entitled "An act to provide for taking the tenth and subsequent censuses," approved March 3, 1879;

A bill (S. No. 1027) to provide for the establishing of terms of courts in the district of Colorado;

A bill (H. R. No. 254) granting an increase of pension to James M. Boreland; and

A bill (H. R. No. 2303) granting a pension to Abram F. Farrar.

AMENDMENT TO A BILL.

Mr. BURNSIDE submitted an amendment intended to be proposed by him to the bill (H. R. No. 5523) making appropriations for the support of the Army for the fiscal year ending June 30, 1881, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Naval Affairs.

A bill (H. R. No. 231) to establish upon a permanent footing the professorships of modern languages and of drawing at the United States Naval Academy;

A bill (H. R. No. 1023) making an appropriation for the erection of a naval wharf at Key West, in the State of Florida;

A bill (H. R. No. 2788) to authorize the President to appoint an officer of the Navy or the Marine Corps to perform the duties of solicitor and judge-advocate-general, and so forth, and to fix the rank and pay of such officer;

A bill (H. R. No. 4477) to regulate the mode of purchasing tobacco for the United States Navy;

A bill (H. R. No. 4787) to provide for excepting from the provisions of section 3617 of the Revised Statutes of the United States the proceeds from dockage on private vessels at the several navy-yards of the United States;

A bill (H. R. No. 5047) relating to the appointment of professors of mathematics in the Navy; and

A bill (H. R. No. 5627) to amend section 1486 of the Revised Statutes, in order to preserve the meaning of the original law from which it was taken with reference to the rank of engineer officers, graduates of the Naval Academy.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Public Lands.

A bill (H. R. No. 4227) for the relief of settlers on public lands; and

A bill (H. R. No. 5502) granting to the Territory of Dakota section 36, in township No. 56 north, of range No. 94 west, in the county of Yankton, in said Territory, for the purposes of an asylum for the insane, and granting the said Territory one section of land in lieu of said thirty-sixth section for school purposes.

GENEVA AWARD FUND.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 1194) for reviving and continuing the court of commissioners of Alabama claims and for the distribution of the unappropriated moneys of the Geneva award, the pending question being on the amendment of Mr. HOAR to the fourth section of the bill.

Mr. KIRKWOOD. I wish to submit an amendment to the bill now pending, and I offer it now so that it may be entertained at the proper time.

The VICE-PRESIDENT. This is an amendment proposed to be offered hereafter?

Mr. KIRKWOOD. Proposed to be offered when in order. Let it be read now for information.

The CHIEF CLERK. In section 5 it is proposed to strike out, in line 5, after "Washington," the words "and the interest accruing therefrom;" so as to make the section read:

That the judgments rendered by said court under this act shall be paid by the Secretary of the Treasury, out of the money paid to the United States pursuant to article 7 of the treaty of Washington, not expended in payment of claims heretofore proved and allowed under the provisions of said original act, and the act extending the time for the filing of claims thereunder, and of expenses under this act.

The VICE-PRESIDENT. The proposed amendment will be printed and laid on the table. The pending question is on the amendment of the Senator from Massachusetts, [Mr. HOAR.]

Mr. JONES, of Florida. Mr. President, when this matter was under consideration last evening, I was struck somewhat with an observation or two which fell from the senior Senator from Ohio who has this measure in charge [Mr. THURMAN] in reference to the pending bill. One would infer from what the Senator stated that all that was intended to be submitted by this bill to the court proposed to be revived or continued was a mere hearing of the claims of insurance companies, the question as to whether they had any status or not. For fear I should do the honorable Senator the least injustice, I propose to read his own language:

The question from the first has been, Shall these insurance companies be allowed to prove their claims before any tribunal that we may establish to hear claims upon this fund? In 1874 the Congress of the United States excluded them from a hearing virtually, and the question ever since has been whether or not they should be entitled to a hearing.

The Senator also said:

I do not know that I have ever witnessed quite such a proceeding as we have now before us. The great contest from the very first bill that was introduced on this subject has been whether the insurance companies should be paid. They had claims according to as well-settled law as ever existed in the world. Their right to present those claims, their right to stand in the shoes of those who lost the property captured, was expressly admitted by the attorney-general of Great Britain before the Geneva tribunal.

Mr. President, I have not thought it necessary to go over the vast record which we have before us in reference to what took place at Geneva touching these claims, but I have turned to the argument of the attorney-general of Great Britain, as he is called, Sir Roundell Palmer, who did allude to these claims, and what did he say? I attach, for one, but very little importance to what any British authority said on this subject; but when an argument of this kind is brought forward in behalf of these corporations to sustain this bill, I think it is eminently proper for those of us who do not concur with the Judiciary Committee to reply to it in the usual way by showing that it is not entitled to any weight. Sir Roundell Palmer before the Geneva tribunal used this language in his argument:

With respect to the insurance companies, it must be remembered that, as against the losses which they paid, they received the benefit of the enormous war premiums which ruled at that time; and that these were the risks against which they indemnified themselves (and, it cannot be doubted, so as to make their business profitable upon the whole) by those extraordinary premiums. Would it be equitable now to reimburse them, not only the amount of all these losses, but interest thereon, without taking into account any part of the profits which they so received?

16. These remarks would hold good if an exact valuation of the claims were possible; but, before this tribunal, neither an exact valuation of any part of these claims, nor any approximation to such a valuation, is possible. This consideration alone ought to be decisive against the demand of interest, as an element of damages, in any gross sum to be awarded by the tribunal.

That was the language used by the distinguished counsel who represented the case of Great Britain before the Geneva board, and I am greatly at a loss to discover anything in that language which can be tortured into an admission upon his part that these underwriters had any claim there that that tribunal was bound to recognize.

Mr. CONKLING. If the Senator will allow me, does he refer now to that so-called opinion of Mr. Cushing?

Mr. JONES, of Florida. Not at all. I quote from the language of the distinguished counsel that represented Great Britain, to which an allusion was made last evening by the Senator from Ohio.

Mr. President, it is not to be denied that this controversy is an old one, and that it would require a person of greater ingenuity and power than myself to be able to put anything forward in the shape of a new argument upon this threadbare subject; but finding as I do so many able and distinguished legal minds in this body supporting with all the vigor and all the power of their great intellects the claims of the underwriters to this fund, and differing as I do with them most sincerely with respect to their conclusions, I cannot cast the vote which I propose to do without assigning the reasons which shall actuate me in doing so.

I think that this case is clearly susceptible of determination by the

express words of the treaty, and that it is not necessary for us to go into that great labyrinth of matter upheaved at Geneva by the two contestants to spell our way to a reasonable conclusion in this case. For my part I do not intend to do it. I rely upon the terms of this treaty, this international compact or contract entered into between the two great powers; and I say that according to the terms of this contract this problem must be solved. The very first thing that meets the eye in the paper that I have before me is the preamble of the proclamation of the President of the United States, which announced to the civilized world that this angry controversy was about to be terminated in a rational way. President Grant issued this proclamation after the treaty was concluded, and what did he say?

Whereas a treaty between the United States of America and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, concerning the settlement of all causes of difference between the two countries, was concluded and signed at Washington by the high commissioners and plenipotentiaries of the respective governments on the 8th day of May last; which treaty is, word for word, as follows.

Leaving that and coming down to the first article of the treaty, it tells us what the character of the controversy was:

Whereas differences have arisen between the Government of the United States and the government of Her Britannic Majesty, and still exist, growing out of the acts committed by the several vessels which have given rise to the claims generically known as the "Alabama claims;"

And whereas Her Britannic Majesty has authorized her high commissioners and plenipotentiaries to express, in a friendly spirit, the regret felt by Her Majesty's government for the escape, under whatever circumstances, of the Alabama and other vessels from British ports, and for the depredations committed by those vessels:

Now, in order to remove and adjust all complaints and claims on the part of the United States, and to provide for the speedy settlement of such claims, which are not admitted by Her Britannic Majesty's government, the high contracting parties agree that all the said claims, growing out of acts committed by the aforesaid vessels, and generically known as the "Alabama claims," shall be referred to a tribunal of arbitration, to be composed of five arbitrators, to be appointed in the following manner, that is to say: One shall be named by the President of the United States; one shall be named by Her Britannic Majesty; His Majesty the King of Italy shall be requested to name one; the President of the Swiss Confederation shall be requested to name one; and His Majesty the Emperor of Brazil shall be requested to name one.

Then provision is made for a vacancy. Then coming down to the sixth article of the traty it is provided:

In deciding the matters submitted to the arbitrators they shall be governed by the following three rules, which are agreed upon by the high contracting parties as rules to be taken as applicable to the case, and by such principles of international law, not inconsistent therewith, as the arbitrators shall determine to have been applicable to the case.

The rules have been often referred to, and I need not say to the Senate that they concern the duties of government. This, therefore, was an international court, if ever there was one, created to determine a purely international question according to international law, and it was empowered to do so in accordance with these three rules and the laws of nations not inconsistent with them.

In the argument which has been stated to the Senate hitherto upon this subject, it has been gravely insisted that the rights of individuals and of corporations were passed upon before the tribunal, and that we are bound in distributing the fund now in the public Treasury to pay regard to what was done at Geneva by that exalted tribunal which averted the calamity of war by its great international decision. Mr. President, I venture to assert that no lawyer who takes the pains to examine the eleven articles of the treaty bearing upon this important question can find in it a single syllable going to show that the rights of individuals or of corporations were regarded for one moment.

"A neutral government is bound," says the first rule, to do what? "To use due diligence to prevent the fitting-out, arming, or equipping" of hostile ships. Does it say that a corporation is bound? Does it say that an individual is bound? It says "a neutral government is bound" to do these things; and then the sixth article of the treaty goes on to provide that in the event that this great tribunal finds that the defendant in the case had not kept herself within these rules or within the principles of international law consistent with them, it was authorized to award against that defendant a sum in gross to compensate for the violation of international law.

It was required on the part of the tribunal to examine into the case of each ship; I admit it; but for what purpose? Was that stipulation in the treaty put there for the purpose of governing the distribution of the fund that might be finally awarded? Or, was it not put there for the purpose of protecting, as far as it was possible to protect, the rights of one of the high contracting parties? It was put there at the instance of Great Britain for the purpose of securing her interest and to limit to the lowest sum possible the amount of the award. When the tribunal was required to take into consideration the case of each ship and to examine into all the circumstances attending her capture, that was not a provision for the purpose of regulating or governing in any way the final distribution of the money that might be given to the United States for the infraction of these three rules or of international law. It was done for the protection of one of the contracting parties, and for that alone; and still learned lawyers here undertake to give an interpretation to this provision which goes to the extent of saying that it must control this sovereign power years after the determination of the duty of the commission, and that we have no power to look beyond the losses occasioned by the inculpated cruisers in dealing out justice to the large class of claimants who have suffered under these proceedings. I say it was put there in order to guard against an excessive award, to guard the rights of one of the contracting parties, to prevent inaccuracy, to prevent excessive damages. They were required to come down to that specific and particular examination with respect to each vessel which would enable the tribunal to deal with it in detail, and not to consider the whole testimony in a lump.

Mr. CONKLING. Will it be disagreeable to the Senator if I make an inquiry of him?

Mr. JONES, of Florida. I will hear the Senator.

Mr. CONKLING. I am trying to understand the Senator from Florida, and I have tried to understand every Senator who has taken such a distinction. If anybody can make it plain, the Senator from Florida can. Therefore I beg to inquire of him what was the object in dealing in detail, as he says, with vessel after vessel, unless the value of each vessel and its cargo was to be an item in the award of damages, and if it was, the sum total was to be made up of such items? Does not the honorable Senator give up the whole argument when he so admits because can it be that the value of a vessel and its cargo was to be the rule of recovery, and that the total of those items was to be the sum total of the award, and yet that the recovery did not take place in substance for the destruction of those vessels and the loss inflicted upon their owners? If the Senator will take the trouble to explain that distinction, I will listen with great respect, and indeed will listen with gratitude, because I have been seeking for days to ascertain what that distinction is and where it resides.

Mr. JONES, of Florida. I think in this case that the treaty is its own best expounder and I cannot find anything clearer than the language of the sixth article.

In deciding the matters submitted to the arbitrators they shall be governed by the following three rules, which are agreed upon by the high contracting parties as rules to be taken as applicable to the case, and by such principles of international law not inconsistent therewith as the arbitrators shall determine to have been applicable to the case.

Then in article VII:

The decision of the tribunal shall, if possible, be made within three months from the close of the argument on both sides.

It shall be made in writing and dated, and shall be signed by the arbitrators who may assent to it.

The said tribunal shall first determine as to each vessel separately whether Great Britain has, by any act or omission, failed to fulfill any of the duties set forth in the foregoing three rules——

Mr. CONKLING. Those were rebel cruisers, not the destroyed vessels.

Mr. JONES, of Florida. I understand—

or recognized by the principles of international law not inconsistent with such rules, and shall certify such fact as to each of the said vessels. In case the tribunal find that Great Britain has failed to fulfill any duty or duties as aforesaid, it may, if it think proper, proceed to award a sum in gross to be paid by Great Britain to the United States for all the claims referred to it; and in such case the gross sum so awarded shall be paid in coin by the government of Great Britain to the Government of the United States, at Washington, within twelve months after the date of the award.

What does that mean? It prescribes for that tribunal the rules of its decision; it sets them out, and it says it shall enter upon the inquiry with respect to each confederate cruiser whether or not Great Britain violated these three rules or either of them on the international code; and if, mark you, it finds that any of these international rules were violated, then it was authorized by the seventh article of the treaty to award a sum in gross to the United States on account of such violation.

Mr. CONKLING. For what? For mere wounded honor?

Mr. JONES, of Florida. It does not say, and the honorable Senator from New York must know the great mystery up to this time, after all the investigation that has taken place, which hangs over the measure of damage adopted by this international tribunal. Their duty was plain certainly in inquiring into the case of each ship. The Government of the United States was the plaintiff; the crown of Great Britain was the defendant. Three august powers represented in the persons of imperial characters, so to speak, sat there as judges, and the little neutral ground of Geneva was selected as the proper place to hold this important proceeding. Once the tribunal found that Great Britain was in fault, the arbitrators had it in their power to assess any sum in gross that they thought proper against the defendant, and everything that was brought before them in the shape of private claims or private interests was nothing more than evidence to sustain the international claim of the American Government which was set up against the opposing nationality.

The United States set forth in their case their right to recovery for that class of claims, it does not matter how you denominate them, whether private or national; but this Government set forth its title on the record and claimed from Great Britain compensation in damages for the violation of these three rules, and a sum of money was awarded to it on account of such breach. It brought forward, it is true, evidence of ownership with respect to this property; it filed schedules going to show that ships bearing the American flag had been captured and destroyed; it did all that, and it said in effect, "This is my property for the purposes of this adjudication." It said, "This is not a contest between corporation and corporation, between Great Britain and insurance companies, or between A, B, or C, but it is a controversy between the national power, known as the United States, on the one side, and the nationality of Britain on the other, and I come forth here with evidence to sustain my case, first, to show

that the rules were violated, and second, to claim that I am entitled to compensation for that violation." Was it not awarded on that principle? If it was not, on what principle was it awarded?

It has been said here that it was in effect a decision in favor of the underwriters. I read from the argument of the attorney-general of Great Britian, to show that the claims of underwriters never were considered—the claim of no individual. The property which was destroyed, it was insisted, was American property; and with respect to the intervening rights of mortgagees and mortgageors, underwriters and insured, and all the various equities growing out of that property, that international tribunal had nothing to do with them. They did not meet there to adjudicate upon private rights. They met there to settle a great international controversy which was about to bring this nation into the very jaws of war, and they made an award which is consistent with the treaty, and awarded to the United States $15,500,000 in satisfaction of the demand presented.

Was it recovered for the benefit of any particular class of individuals? I am not one of those who pretend to say that this fund ought to go into the public Treasury. In that respect I do not concur with my honorable friend from Connecticut [Mr. EATON] in saying that we are under no obligation whatever to deal with this fund except to pay it into the public Treasury. I say, sir, that it did come into our hands coupled with a most sacred trust, not a trust in behalf of any of the insurance companies, not a trust in behalf of any distinct or special set of men. No, Mr. President, it came into our hands coupled with a special trust, to be paid to actual sufferers, a moral trust in contradistinction to a legal one, for I contend that the ordinary rules of law which have been set forth here as governing this case have no more application to it than the laws of the Medes and Persians; and I entertain this opinion honestly in opposition to the views of the distinguished Senators who have reported this bill.

Mr. THURMAN. May I interrupt my friend from Florida to ask a question for information?

Mr. JONES, of Florida. If the Senator will wait a little I will answer any question. No, Mr. President, there is not one word in this treaty from beginning to end that does not go to show that this was a great international lawsuit. And here I would put a practical question. Who ever heard of evidence introduced in a court of justice to sustain the title and the right of a plaintiff in equity or at law to govern his action in the distribution of the money that might be awarded to him under the judgment? Mr. Cushing, himself an active participator in the proceedings at Geneva, speaks of it as a lawsuit. He says in his book:

> In effect the United States were the plaintiffs and Great Britain the defendant in a suit at law to be tried, it is true, before a special tribunal and determined by conventional rules, but not the less a suit at law for the recovery of damages in reparation of alleged injuries.

The United States was the plaintiff; the Crown of Great Britain was the defendant. The cause was heard before five representatives of sovereign states, sitting as I said awhile ago in a spot peculiarly adapted for their sittings, the little weak power of Switzerland which lies on the threshold of the great military state of Europe, and from whose presence nothing could be dreaded, but where everything breathed the spirit of liberty such as we are accustomed to breath in this land. The circumstances, the character of the judges, the character of the parties, the character of the counsel, the character of the cause, the consequences likely to flow from it, all go to show that this was not the little petty controversy which we have been taught to believe it was over the rights of a few greedy corporations.

No, Mr. President, the destinies of millions were involved in that controversy; and had that scheme of settlement been broken up midway in consequence of the attitude of Great Britain growing out of the bringing forth of indirect claims on the part of the United States, no man now living could have foreseen the direful effects and consequences of such a rupture. It was to prevent that that this tribunal sat. It was not to pass—and I say it with all respect to the learned Senators who reported this bill—upon private rights, but it was to pass upon the right of the United States to recover from Great Britain for a breach of international duty, no matter what the sum awarded in damages might be. Had it been but $10, the consequence would have been the same. It was not a question of money, as is clearly shown by the proceedings before the tribunal. We know very well as a matter of history that the indirect claims, as they were called, were put forth for the express purpose of having them ignored. Mr. Fish admitted that pecuniary compensation was not desired, and, said he, it is more important to the interests of this great neutral nation to have them rejected than affirmed, even at the price of a large sum of money. They were put aside, and that principle of international law was affirmed in accordance with the ideas and the judgment of the statesmen of this country.

When it came to other matters, all coming under the same title, I respectfully submit, a money award was made to the United States of $15,500,000, which came into our hands uncoupled with any but a general trust to give it to those who in our judgment are most deserving of it under the principles of justice and equity and according to their sufferings in the particulars complained of. But the tribunal at Geneva only inculpated three cruisers instead of ten or more; and having taken jurisdiction and gone into an examination of the evidence, they found that Great Britain had only violated her international duties with respect to three cruisers. That was part of the evidence in the case; the paramount title to recover lay behind it; but this was the evidence brought forth by the United States to sustain her cause, and instead of inculpating ten or fifteen vessels the tribunal only inculpated three, and awarded damages on account of that inculpation. But this was no part of the case, except what you find in the daily trial of a cause where a man brings forth a vast volume of testimony to sustain his case, and he recovers upon a part. I need not appeal to the lawyers who are within the sound of my voice to ask them how disappointed have they been in their professional lives in respect to testimony which their clients instructed them to bring forward to sustain their case, how often it has happened that instead of finding every witness swearing up to the full standard of expectation he has gone back on them, and in the end they were driven to the necessity of relying on a very partial testimony to recover when they had the expectation of being able to present a fuller quantity.

Here the recovery was had upon proof relating to three inculpated cruisers and the others were excluded; but the effect of the award was just the same as if all the cruisers had been inculpated instead of three. The power of the Government to deal with the fund is just the same unless you adopt the absurd notion that the testimony given in a cause brought forth by the plaintiff to sustain his case and presented to the jury is after its verdict is rendered to control the final disposition of the fund which the plaintiff receives.

That is just the case. The United States sued Great Britain in an international court before international judges. She presented her testimony; she presented the case, as I think, of thirteen or fifteen cruisers, and the court only found that her case was good with respect to three; but under the provision of the treaty authorizing the tribunal to give a sum in gross, a gross sum was given, and the title of the United States to that fund and to distribute it at her discretion stands upon the very same ground that it would stand on if every single exculpated cruiser had been inculpated.

My friend from Delaware [Mr. BAYARD] the other day, in discussing this question, called our attention to the tenth article, which provides for a board of assessors. The argument has been made very frequently that because that article provides in one alternative for a board of assessors, which never came into life, that concludes the question; that if that board of assessors had been created under the provision of the tenth article of the treaty there could be no question as to those cruisers; that the underwriters in that case would have their claims established and they would have received their money. There is no authority whatever for that. Had that board of assessors been brought into life they would have had power under the treaty to have disregarded every claim of every underwriter. There is not one word in the treaty, from beginning to end, which provides for any class of individual rights to be protected under it. It authorizes, it is true, the examination of claims, but what claims? It does not say, "such claims as may be presented to it by the Government of the United States." Under the treaty the Government of the United States had it in its power to put aside the claims of the underwriters altogether and never to have submitted one of them to that board.

Mr. KERNAN. But did not the United States submit the claims of the underwriters to the board?

Mr. JONES, of Florida. There was no board ever brought into existence.

Mr. KERNAN. No; to the tribunal.

Mr. JONES, of Florida. Yes; everybody went. As is usually the case, everybody went; but, as Mr. Cushing says, all were not acted upon. All this talk that we have heard about the tribunal ignoring the claims of the war-premium men in my judgment is not well made. We have been told here that the claims of the war-premium men were put aside at Geneva. I deny it. I say that no individual's claim was put aside or recognized at Geneva. I say that the tribunal held that the claims for enhanced insurance set forth by the Government ought not to be received. But why? Because there were already claims there for the very property to which the insurance claims related. If Great Britain could have been called upon to give value for the ships and cargoes, and also for the cost of enhanced insurance, any man in his senses must see that she would have been liable to a double claim. It was to guard against double claims, and not to decide against individual war-premium men, that the action was taken respecting enhanced insurance. They said: "Here are a hundred ships and their cargoes that have been confessedly destroyed by confederate cruisers. What is the value of that property? Beyond that we have nothing to do. We do not intend to submit to your getting the value of the property and also the claim for enhanced insurance on the part of the owner side by side with it." The logic of the tribunal was: "We will not submit to that, but we will give you the value of the ship and the cargo; take it for what it is worth; and then you must go to your domestic forum and settle the private equities between your own citizens in your own way, whether they relate to mortgages, to conditional bills of sale, to war premiums, to underwriters, or to anything else."

Mr. THURMAN. The Senator, as I understand him, says that the Geneva tribunal decided against war premiums for the purpose of preventing double claims.

Mr. JONES, of Florida. I think that was the logic of their action entirely.

Mr. THURMAN. They expressly said the contrary, that they did not exclude them upon that ground.

Mr. JONES, of Florida. That they were indirect?

Mr. THURMAN. Yes, that they were not a subject of recognition.

Mr. CONKLING. It said in so many words that they were not embraced within the treaty.

Mr. KERNAN. I will read that exact language from the record here.

Mr. JONES, of Florida. I should rather the Senator would wait until I get through.

Mr. CONKLING. Let us hear that now.

Mr. KERNAN. I will not interrupt the Senator from Florida.

Mr. JONES, of Florida. The Senator from New York will have plenty of time.

Mr. CONKLING. The Senator from Florida is not talking merely to make a speech, but talking to make people understand the question. Let us hear it read for common instruction.

Mr. JONES, of Florida. I have no objection. [To Mr. KERNAN.] Go on and read it.

Mr. KERNAN. In the proceedings of the 19th of June, 1872——

Mr. JONES, of Florida. What does the Senator read from?

Mr. KERNAN. I read from volume 4 of Message and Documents, Department of State, part 2, 1872–'73:

Record of the proceedings of the tribunal of arbitration at the fifth conference held at Geneva, in Switzerland, on the 19th of June, 1872.

* * * * * * *

Count Sclopis then, on behalf of all the arbitrators, made the following statement:

* * * * * * *

The arbitrators wish it to be understood that in the observations which they are about to make they have in view solely the application of the agent of Her Britannic Majesty's government, which is now before them, for an adjournment, which might be prolonged till the month of February in next year; and the motives for that application, namely, the difference of opinion which exists between Her Britannic Majesty's government and the Government of the United States as to the competency of the tribunal, under the treaty of Washington, to deal with the claims advanced in the case of the United States in respect of losses under the several heads of: First, the losses in the transfer of the American commercial marine to the British flag; second, the enhanced payments of insurance; and, third, the prolongation of the war.

This being so, the arbitrators think it right to state that, after the most careful perusal of all that has been urged on the part of the Government of the United States in respect of these claims, they have arrived, individually and collectively, at the conclusion that these claims do not constitute, upon the principles of international law applicable to such cases, good foundation for an award of compensation or computation of damages between nations, and should, upon such principles, be wholly excluded from the consideration of the tribunal in making its award, even if there were no disagreement between the two governments as to the competency of the tribunal to decide thereon.

That excluded them entirely, under international law, as not competent to be taken into consideration or computed.

Mr. JONES, of Florida. Whatever may have been their reasons for their action, I have not now the book at hand, but that is one of the questions open to controversy. Those claims were excluded, I suppose, because they were remote and not falling on that account within the terms of the treaty, although they retained another class of claims for damages for the pursuit of the confederate cruisers, which was not settled at that particular time, but afterward when they came to render their judgment. But, however that may be, the claims before the tribunal were for property actually destroyed. If I understand one thing better than another as resulting from the entire proceedings of that great council, it is that they never attempted to pass upon individual rights; they treated the one hundred and thirty-five ships destroyed just as if the title to them had been vested in this nation. I am not without authority in that, because when one nation deals with another in an international way everything that is put forward is grounded upon the right of the nation. What does Vattel say upon this subject?

Even the property of individuals is, in the aggregate, to be considered as the property of nations with respect to other states. It, in some sort, really belongs to her, from the right she has over the property of her citizens, because it constitutes a part of the sum total of her riches and augments her power. She is interested in that property by her obligation to protect all her members. In short, it cannot be otherwise, since nations act and treat together as bodies in their quality of political societies, and are considered as so many moral persons. All those who form a society, a nation being considered by foreign nations as constituting only one whole, one single person—all their wealth together can only be considered as the wealth of that same person.

That is the law of nations; so that when the United States went before this tribunal with these private claims, as they are called, she had a right to elevate them to the full standard of nationality, and say: "This property was my property, and it is before this tribunal for the purpose of decision, and I ask a verdict for it. If there is anything to be done with respect to the rights of my citizens, that you have nothing to do with; I deal with you so far as we are concerned. This is my property and I want recompense for its destruction. You have nothing to do with the corporations or the individual citizens of the United States. When this fund comes into my hands as their sovereign I will deal with them in my own way, because they are subject to my jurisdiction, and you cannot be permitted to treat with them at all."

Mr. CONKLING. Does the Senator understand that anybody has made an argument contrary to that?

Mr. JONES, of Florida. I think I have heard it.

Mr. CONKLING. I never have heard it.

Mr. JONES, of Florida. I think I have. I think I have heard it reiterated time and again that the decision rendered at Geneva by the international board ought to be observed in the distribution of the money that is now in the public Treasury. Unless I am greatly mistaken I have heard that reiterated time and again, and I say that that principle cannot be upheld before this tribunal at least.

In dealing with questions of law I bring to them as much professional pride as any of my brethren of the profession who from time to time are called upon to debate the nice questions of jurisprudence which are constantly agitating this high body; but, sir, I cannot but confess that the discussion thus far with respect to this great question has been entirely too technical for me. I do not think that we sit here to administer the common law. I do not think that the Senate of the United States ever was brought into life to act the part of a *nisi prius* court. There are some things that a court of justice organized to enforce legal principles must do. It is bound down by the shackles of its own narrow life and existence, beyond which it cannot move, and it must take notice of legal niceties. Sometimes a court of equity is equally bound to take notice of equitable principles. But we are bound by neither.

Mr. CARPENTER. By neither law nor equity?

Mr. JONES, of Florida. I refer now to equity in the technical sense. I say we are bound by principles of eternal and undefined justice, and that we have got no narrow legal standard to measure what we may do in dealing with a question of this kind. I have no doubt there are a great many Senators within the sound of my voice who have been interested in the discussion of the doctrine of subrogation, and a great many of the representatives of the people, no doubt, who were sent here to represent their great interests, never heard of subrogation until they heard it in connection with this question. I do not think I am exaggerating when I say that. Still, we have had learned arguments from the distinguished jurist who usually sits before me [Mr. DAVIS, of Illinois] that would puzzle the mind of the nicest lawyer on the continent to comprehend.

I do not complain of this at all, but I say, lawyer as I am, and recognizing my duty to the profession, that I think when I am called upon in the Senate to deal with a great question like this, I am under no special obligation to apply to it the doctrines or the principles that are applicable in a court of law. I think I have authority here, sitting under this great Constitution of ours, to take a broader vision than even the Supreme Court would be permitted to take if the case was before it. I do not think that the oath which I have taken requires that I should get down on my knees to the little, narrow, legal doctrines which prevail in every little court in the land, but that in dealing with a question of this kind we must go to its justice, to its right, to its inherent equity, and administer justice, which, as my friend from Wisconsin [Mr. CARPENTER] knows, is not always law.

The whole claim of the underwriters has been predicated upon the doctrine of subrogation. If we take away from them that doctrine and bring the case down to an ordinary legal standard, and convert ourselves into a regular court for the purpose of administering the law, there is not a lawyer in the Senate who can say that there can be any foundation to it after that doctrine is taken away.

Mr. THURMAN. The Senator will allow me to correct him as to a matter of fact. At least ninety-nine out of one hundred of these claims that the insurance companies paid as for a total loss were assigned by the insured to the insurance companies.

Mr. CARPENTER. But the assignment is as immoral as subrogations, according to this argument!

Mr. THURMAN. Subrogation was enough, but in addition to that a party perfectly competent to contract made a formal and regular assignment in at least ninety-nine out of every one hundred cases.

Mr. JONES, of Florida. In consideration of what?

Mr. THURMAN. It does not matter; it was a sufficient consideration, between parties able to contract.

Mr. JONES, of Florida. I disagree with the Senator about that. I do not regard those assignments as any more effectual than an assignment that would take place by operation of law.

Mr. THURMAN. Then, will the Senator allow me to ask him one question? Does he propose to pay those ship-owners who were paid by the insurance companies? If these assignments were void and there was no subrogation, why does he not pay the original owners?

Mr. JONES, of Florida. I do not propose to pay anybody who has already made pocketfulls of money out of this business, I do not care whether they are war-premium men or underwriters or anybody else. If I vote intelligently I shall not vote to recompense any man who has made profits.

Mr. THURMAN. Will my friend allow me to interrupt him right there, because I want to correct his mistake? Would he pay a war-premium man who upon his business in which he paid war premiums made lots of money? That is the point.

Mr. JONES, of Florida. I will support the McDonald amendment on that point. That is my answer to the Senator, and I think that covers it.

Mr. THURMAN. But that amendment does not put any such test at all; it only applies it to insurance companies. I will ask my friend another question. A ship was captured and destroyed by one of the exculpated cruisers. The owner of that ship by running her made far more than the value of the ship, far more than what he lost, in the course of business during the war. Would the Senator exclude him?

Mr. JONES, of Florida. No, I would not; I would pay him.

Mr. THURMAN. Then the Senator's rule will not apply at all.

Mr. JONES, of Florida. I think the Senator is getting too remote; that is an indirect case. I think he is getting off too far.

Mr. BLAINE. If the Senator from Florida will permit me a moment to interrupt him I wish to state that the Senator from Ohio has asked a question which has no basis in fact whatever in any point involved here.

Mr. JONES, of Florida. It is abstract.

Mr. BLAINE. It is not abstract even. He has stated a case that does not exist in the heavens above, or the earth beneath, or the waters under the earth.

Mr. THURMAN. That is a question upon which there is a difference of opinion. Will the Senator leave that to the tribunal which we are to establish?

Mr. BLAINE. Entirely.

Mr. THURMAN. The Senator is willing to do that?

Mr. BLAINE. Entirely. I do not want to interrupt the Senator from Florida by taking his time, but I can demonstrate that the Senator from Ohio is on a tack which has not any existence at all, as a matter of fact, not the slightest; and I shall demonstrate it when I have the right to the floor.

Mr. JONES, of Florida. The answer of the Senator from Ohio that there was a written assignment here of the rights of the assured under these policies, in my judgment, amounts to very little, because the parties at law had that right without it. I am not here to dispute the legal principle that when an underwriter pays for the value of the property insured, he becomes subrogated to the rights of the owner with respect to everything growing out of that property, but I did say a while ago that in my humble judgment the doctrine of subrogation, as it is called, is not applicable to this case. Will anybody pretend that an underwriter cannot waive his right of subrogation? May he not enhance his premium in special cases and abandon all right to the thing? From the very nature of the case there could be no subrogation. These were all special contracts growing out of a special class of cases. The ordinary commercial policy, as we know, carries with it the implication that if there is a partial loss the owner may abandon and the assured take what is left of the property, if the damage amounts to more than one-half, paying for a total loss and becoming subrogated to the rights of that party.

I say that is implied in every ordinary commercial policy of insurance. Where a man goes to insure his ship and cargo he says to the underwriter, "I want an insurance against the perils of the sea; I pay you so much money for a policy; if my loss amounts to more than one-half you shall have a right to what is left; I shall abandon and claim for a total loss, and you can take the rest." I say that implication is as strongly embodied in every contract of ordinary marine insurance as if it was written upon the face of the contract itself, and that the possibility of partial loss arises out of every contract of that kind and goes to diminish proportionately the amount of the premium. But in these cases what was the contract? In every case it was a policy taken out against absolute destruction, out of which there could have been no subrogation, and the premium was charged accordingly. The insurer became his own insurer by the amount of premium that he levied upon the ship-owner.

Mr. THURMAN. May I interrupt my friend one moment? I wish to get his argument exactly right. Do I understand him to assert that there is no subrogation where the property has been utterly destroyed?

Mr. JONES, of Florida. I say that when there is nothing in fact to attach subrogation to, it cannot exist.

Mr. THURMAN. Does the Senator say that the right of subrogation does not extend to all remedies that the owner of the property would have in his own right against any tort-feasor or person guilty of negligence?

Mr. JONES, of Florida. Is the Senator through?

Mr. THURMAN. Yes. The Supreme Court has so decided.

Mr. JONES, of Florida. I know what the Supreme Court has decided about that. I will answer the Senator. Yes, he has all the rights of action that may grow out of the destruction of the thing. The Senator from Ohio has asked me the old question, have not the underwriters a right to go to those who have been instrumental in destroying the property by tort or by illegal action of any kind.

Mr. THURMAN. Or by negligence.

Mr. JONES, of Florida. Any shape of a tort. Let me say to the Senator that when the underwriters issued their policies they warranted the vessel insured against destruction by a belligerent power exercising all the authority of war, and that they charged proportionately. It was not a case of a collision on the high seas; it was not a case of barratry; it was not a case of the application of the torts by the master in fraud of the underwriter; it was not a fraudulent stranding or anything of that kind, but on the face of their policy they insured against capture by a belligerent power. Let me ask, in all seriousness, what claim did the owner have against the belligerent power?

Mr. THURMAN. Great Britain was not a belligerent power.

Mr. JONES, of Florida. I know that Great Britain was not. What did the underwriters become subrogated to under the doctrine of the honorable Senator from Ohio? They had no more claim in my opinion than the man whose property was destroyed by a land force of the confederacy with arms imported through the blockade from the Kingdom of Great Britain. There was no award ever made in their favor. There is where I and the Senator differ. No record shows any such award. No individual right was recognized by Great Britain. No subrogation could possibly exist. It was a public capture out of which the property was destroyed before even a treaty was in embryo. At the time the high commission sat in Washington every vestige of this property had been swept away by the hand of belligerent war. What right survived? The underwriter had pocketed his millions growing out of his enhanced premiums against the ship-owner. The ship-owner suffered as all citizens suffer who happen to have their fates identified with a country at war. The Government stood behind both with a residuary power of reclamation which was only capable of being enforced by "the dogs of war." There was no tribunal to which the property-owner could appeal. There was no authority to which the ship-owner could go. Everything was swept away, not by a tort-feasor, not by barratry, not by any of those acts which are distinctly mentioned in every decision which was read by the honorable Senator from Illinois [Mr. DAVIS] and the honorable Senator from Arkansas, [Mr. GARLAND.]

This is an exceptional case. There is nothing like it. I have yet to hear of a case or to hear it read which will meet it as a question of law; that is, when the property of the assured is destroyed by public war, upon the high seas or upon land, whether the owner of such property under any system of jurisprudence can come forth and make claim for it against any government or any power. If the property is destroyed by an illegal capture; if as in the case in 1 Peters, when the country is at peace the cruiser of a neutral power intrudes upon the rights of your citizen, then the action becomes illegal, absolutely so, and the right of reclamation ensues. But I need not tell the Senate, certainly not the lawyers in it, that from the very inception nearly of our great civil struggle both parties to the terrible contest through which we have passed recognized the principles of public law and public war as governing that contest. It is a credit to the American name that it was so; and I rejoice when I read of the humanity that emanated and sprung from that terrible civil struggle.

The captured vessels were destroyed on the high seas, not by tort, but as Judge Story said in one of his elaborate judgments in a prize case, the right to destroy goes hand in hand with the right to condemn. If by reason of blockade or otherwise the capturing power did not make his prize available and in an extreme case destruction was resorted to, it grew out of the same hostile nature of belligerent right. Where can we find a case on record, I ask, where property was destroyed by a belligerent party in war that the owner thereof was heard before any tribunal asserting legal rights for compensation?

Independent of that question are the rights of the nation to which the citizen belongs. Behind this, therefore, as I said a while ago, rested the residuary power of reclamation on the part of the nation against Great Britain, and she exerted it in an international court. The Government got her award; she holds that money to-day by as good a title as any other that is in the Treasury. I say that it stands there coupled with a high moral trust, not a legal trust such as is set up here in behalf of the underwriters, growing out of subrogation, but a high moral trust to dispense it among actual sufferers, if they can be found. If they cannot be found, I have no hesitation in saying that the Government would be perfectly justifiable in covering every dollar of it into the Treasury and holding it, for under no circumstances can I ever be brought to believe that Great Britain would be lawfully entitled to a dollar of it again.

But we are asked here to enforce a special trust. We are asked here to confine ourselves to a certain class of claims and a certain class of losses. That argument will not do. The Government never intended to turn its back upon any of its own citizens. It never submitted to the tribunal at Geneva the question whether any of its citizens had a demand upon their own sovereignty. The question submitted was the right of this Government to reclamation from Great Britain, leaving all ulterior questions growing out of rights of property between this Government and its own people, and so intelligent are the British public that they realized that distinction.

Mr. CARPENTER. Will the Senator allow me to ask him a question at that point?

Mr. JONES, of Florida. Yes.

Mr. CARPENTER. If it can be shown from the proceedings of the arbitrators at Geneva that the money which was paid to the United States was paid on account of a certain class of claimants and that the rights of other claimants were rejected and excluded by that court, would the Senator maintain that we should pay the money which we received on account of the claims allowed to those claimants or should take it from them and pay it to somebody whose claim was rejected, provided that can be shown from the record?

Mr. JONES, of Florida. Is that all?

Mr. CARPENTER. That is enough I guess for the present.

Mr. JONES, of Florida. I have no hesitation in answering that question. I say most emphatically that nothing that happened at Geneva previous to the rendition of the award, nothing in the way of production of evidence, no consideration of any particular class of claims, no interlocutory judgment of the tribunal, in my view, can affect in the least the power of this Government to deal absolutely with this fund.

Mr. KERNAN. How as to the moral right, suppose we have the power, to put it into the Treasury?

Mr. JONES, of Florida. When you come to moral right, that is a pretty hard thing to define. The human mind is so fearfully made that the moral standard of men is not the same, and I suppose it varies with governments.

Mr. CONKLING. I know the Senator will let me supplement the Senator from Wisconsin in his question. Suppose, as the treaty expressly provided it might, the tribunal had referred it to a board of assessment to assess damages, and that board had gone on and counted up, one by one, these ships, so much each, and made a total, and on that made a report, would that restrain the Senator at all in doing what he pleased with this money?

Mr. JONES, of Florida. It would not.

Mr. CONKLING. The Senator is logical; he is frank.

Mr. JONES, of Florida. I stand on broad ground in regard to this fund. I said when I set out in my argument, that in no case within my knowledge was evidence adduced in a cause ever permitted after the judgment to control the disposition of the fund realized. I said that this was a great lawsuit beween two nations in which $15,500,000 was recovered by the United States; and that it has the power to deal with that fund at its own pleasure.

Mr. President, this proposed legislation is very remarkable. The bill undertakes to do what I do not remember ever knowing or hearing of having been done before. It may have happened, but my experience is very limited. The law of 1874, as I understand, expired by its own limitations. It is now dead for all legal purposes. It is as if it had never existed. The bill of the Judiciary Committee proposes to revive that law for the purpose of repealing one of its most essential provisions. I think it is well enough to let a dead lion alone. In 1874 the Congress of the United States in the exercise of its wisdom passed a statute, now upon the statute-book, regulating and controlling and defining the principle of distribution applicable to at least a part of this fund. That law was carried out honestly, faithfully, and I believe to the satisfaction of everybody so far as it went. Why should it be revived in order to be killed? If it was the purpose of the Judiciary Committee to establish a new principle of distribution, why not do it? But here the statute is revived and made to live for a moment just for the privilege of killing it. "The twelfth section of the act of 1874," says this bill, "is hereby revived;" and the moment it comes into life the bill then says, "it is hereby repealed." Why is that? What is the logical and legal purpose of that proceeding? It might raise a very nice question for a court to pass upon, that this dead statute which put aside the claims of the underwriters in 1874 is suddenly revived with that principle of distribution limited, and when the Senate gets it up here, it knocks it in the head as if it were in the power of impotent man to annihilate the past. That is beyond the power of the Almighty. Why not leave the record as it is? The tribunal which decided on these claims no doubt will want in after ages to see the authority for their enactments. They do not want to see that the statute under which these underwriters were excluded was repealed by a subsequent Congress after all the judgments had been rendered and their duties fully completed. Mr. President, it does seem to me a most extraordinary proceeding, to be serious about it, that this learned committee should revive an old statute, or at least a section of an old statute, for nothing in the world but to turn around and repeal it the instant that it is brought into being.

Last evening's discussion was a little instructive; and when the Senator from Maine reminded the Senators from Ohio and Delaware that in one part at least of this bill they were departing from their own principle of distribution, I do not think he went far enough. I do not think he stated that that very provision of the act which was intended to bring in losses occasioned by exculpated cruisers was in effect a provision essentially intended, as I think, to give the whole fund to the underwriters.

Mr. BLAINE. That is very plain on the face of the bill. I concur with my friend from Florida that it is $2 to the insurance company and one possible dollar to the ship-owner.

Mr. JONES, of Florida. After providing for the first time that this fund shall go, at least $8,000,000 of it according to the lowest calculation, into the coffers of the underwriters on account of losses for which compensation was refused under the act of 1874, it then proceeds to give them a right to get $2,000,000 or more additional out of losses sustained by the exculpated cruisers, so that in effect the bill would give the whole of this fund to these corporations, notwithstanding a little equity might be supposed to be intended to come from the last provision in behalf of the poor fellows who suffered by the exculpated cruisers and who had no insurance.

Mr. THURMAN. The Senator misunderstands the bill, if he will allow me to correct him, when he supposes that in regard to vessels destroyed by the exculpated cruisers the bill gives the insurance companies any preference whatever.

Mr. JONES, of Florida. It gives them no preference; I did not say "preference;" but it gives them a standing, after giving a preference to them to the amount of $8,000,000 in the first class, for they come in and get nearly the whole there. Then in regard to this little pool that is left, they are permitted to come in then, side by side with the poor, uninsured, exculpated losers—I do not know how else to call them.

Mr. ALLISON. How much would be left?

Mr. JONES, of Florida. Two or three million dollars. I think the first provision of the bill, or that part which recognizes the underwriters as the first class, would give them $8,000,000; and then I suppose $3,000,000 would be left, and they would get $2,000,000 of that, leaving $1,000,000 for the fellows on the outside. I supposed from the debate which occurred here yesterday evening that this residuary fund was intended to go altogether to the exculpated losers; but in that I was mistaken.

Mr. President, I do not look for absolute consistency in anything in this life. I am one of the men who take a practical view of everything; and when so much is said about the terrible charges that have been paid in war premiums, I ask in all seriousness if these very underwriters have not received payment for war premiums under the act of 1874? They were permitted to come in under the act of 1874 and show that their losses exceeded their receipts from all sources. If they could show that their losses, even by the exculpated cruisers, exceeded their war premiums, they had a right to go before the commission and prove up the difference. They did go, many of them, but there are very few that could make the showing. I have got the record of one case here which they proved up under the act of 1874. The Commercial Mutual Insurance Company got a judgment for $45,247.12, the difference between the amount of their losses, including captures by all the cruisers, and the amount of the receipts on war premiums. The balance in their favor was $45,247.12. In this item they recovered $30,599.83 for war premiums on reinsurance. Of course lawyers all know what that means. After having taken risks on vessels subject to capture by confederate cruisers, they then went and reinsured their own risks, dividing them up, upon which they paid war premiums, and they included those premiums in their demands under the act of 1874, and got them paid out of this Geneva fund.

Mr. CONKLING. Will the Senator let us understand him there? Does he mean anything more than that in making up a balance-sheet of profit and loss they took into the account those payments?

Mr. JONES, of Florida. That is enough for the purpose of my argument.

Mr. CONKLING. I submit to the honorable Senator that it was of course a necessity for them to do that unless they meant to make up a false account, on the single issue of whether they made profits or not, and if so how much. How could they make a trial balance without putting in the honest increment of cost and elements of profit?

Mr. JONES, of Florida. That may all be true. I was arguing to show that the Government had dealt fairly with them in permitting them to do that.

Mr. CONKLING. I understood the Senator to say that they made a claim and recovered for that.

Mr. JONES, of Florida. It was included in their bill of losses. In making up their bill of losses they said, "we paid $30,000 or more for war premiums on reinsurance, and we want it back;" and they got it back. That is the whole of it.

Mr. THURMAN. What company was that?

Mr. JONES, of Florida. The Commercial Mutual Insurance Company. There were several of them that did the same thing.

Mr. THURMAN. Some of them that lost money.

Mr. JONES, of Florida. There were a few that lost money. I think there were $111,000 altogether paid out to the forty-five insurance companies engaged in this business. There were two or three that lost, and they were permitted to come in and show their losses and get the difference. I think that after this they ought not to be permitted to come in again. I think that if we recognize any law here, we ought to recognize the principle of *res adjudicata*, and that those claimants who accepted the provisions of the law of 1874, proved up under it, received their balances, and gave their receipts in full, ought not now to be permitted to have a new law passed for their benefit and to set on foot a set of distinct claims against this fund to the exclusion of other parties.

Mr. President, this question, so far as it respects the duties and the powers of the Government over the fund, narrows itself down to a question of comparative equity between the claimants. I have no hesitation in saying that in my opinion there is no equity, there is no law, under which the underwriter can maintain a claim to this fund. On the other hand, I do think that so far as the citizens who suffered losses by the exculpated cruisers are concerned, those who have not made money during the war, and those who have paid large war premiums, they are entitled to consideration. In dealing out this fund, which I think it is the duty of the Government to do, I would recognize the rights of those men who had no insurance upon their ships which were captured by confederate vessels of war and destroyed, and if there was enough left after that I would give it to that class of citizens who were compelled, as has been well said, to maintain themselves in competition with the commercial powers of the world at an enormous sacrifice in the way of war premiums.

I have some private papers in my possession now which I will not detain the Senate by reading, which go to show that during that period the ship-owner was not only required to pay heavy war premiums upon his vessel, but he was required to pay war premiums upon the shipper's goods, that he could not do his business in competition with Great Britain, with France, with any power on earth that had a commercial marine not subject to capture, unless he paid a high

war premium upon his vessel, and in addition to that paid the insurance premium upon the goods that he carried, and then performed the service at a less rate. I say that a man who did that is entitled to consideration; he is an actual loser; he has an equity which the insurance companies have not; and I understand that they have made no concealment of their vast gains from this special business of marine insurance during the war.

It has been intimated time and again that these poor ship-owners reaped a golden harvest. How was it possible for them to have done it? Seven-eighths of the commerce of the world was against them; there was a bare one-eighth under the American flag; and is it possible that one-eighth of the commerce of the world could control seven-eighths of it under foreign flags and could dictate terms and make vast sums of money? That is the argument, that if they had not made money they could not have kept their ships afloat. I do not think there is much in that; and that class of claims from every view that I have given to this subject are entitled to equitable consideration before Congress; and where the family ship, as she has been called, built in coparcenary by the sons and the father and the son-in-law, and named after the family, was kept afloat at the sacrifice of high premiums at a time like that, no matter how much we may have differed in the past about the war or the causes of the war, when it comes to equity and justice, the man who kept that ship afloat under his flag on the high seas by the payment of exorbitant premiums into the coffers of the insurance companies, out of which they grew rich—I say in competition with other claims that claim has a superior equity on this fund, and so far as I am concerned, so far as my vote goes, I will endeavor in the passage of any bill looking to an equitable disposition of this fund to carry relief home only to those quarters where actual suffering and actual loss occurred.

Mr. CARPENTER. Mr. President, the speech of the learned Senator from Florida, [Mr. JONES,] who has just taken his seat, is a fortunate contribution to this debate. He is a good lawyer, he is a good logician, and his speech is a frank confession that upon every principle of common honesty heretofore known and recognized among men, upon every principle of law and equity, as administered in the courts of all civilized countries, these insurance companies are entitled to the money this Government received on their claims. To escape that conclusion, which he has determined to do at all events, he is driven to say that the Senate of the United States in distributing this fund is bound neither by law nor equity. This reminds me of a letter I received during the war from Colonel Saunders, of the Nineteenth Wisconsin Regiment, who had been appointed a judge of some military court created by General Butler at Norfolk, in which he wrote me that he was the judge of a court with undefined jurisdiction and unlimited power; that he rendered his judgments in the morning and his corporal and his guard enforced them in the afternoon.

This is substantially the jurisdiction the Senator from Florida deliberately and calmly declares the Senate should exercise in disposing of this fund.

The speech of the honorable Senator from Illinois, [Mr. DAVIS,] more like the opinion of a judicial tribunal than a campaign speech, (for it lacked all the clap-trap which the latter must always contain,) seems to have carried conviction to the Senator from Florida as a lawyer, that these insurance companies were entitled to the money which the Government had received on their account. He was therefore driven, in order to justify a vote against their right, to deny that we, in distributing this fund, are bound to consider whose money it is, or for whom we received it.

Now, without going over the same ground covered by the Senator from Illinois, let me say that his speech upon the right of the insurance companies to be paid the money which we received for them, or, at all events, on their claims, I indorse fully; indeed it seems to me to be unanswerable. I am confirmed in this opinion from the fact that nobody has attempted to answer it.

The Senator from Massachusetts, [Mr. HOAR,] in two very able, ingenious, and scholarly speeches, has contested the right of insurance companies upon the ground, as I understand him, that the award was made to the United States as a nation, and that the claims of the insurance companies, and indeed all individual claims, were presented to the arbitrators in aggravation of damages, or as a measure of damage suffered by the United States as a nation at the hands of Great Britain during our late civil war. The Senator from Vermont, [Mr. EDMUNDS,] who always speaks like a lawyer, contests the right of the insurance companies to any part of this fund upon the ground, as I understand him, that Great Britain was a belligerent of the United States in regard of the inculpated cruisers, and consequently the award was made as indemnity to us in our national character, and not for or on behalf of private claimants. It will thus be seen that the real difference between the Senator from Illinois and these Senators is one of fact, the Senator from Illinois contending that the award was made upon individual claims; while they contend for the contrary.

I shall endeavor to show that the theory of the Senator from Illinois is the correct one, and if this can be shown no lawyer will contend against the conclusions at which the Senator from Illinois arrived. I submit to the Senate that the speech of the Senator from Illinois was not only correct as to the facts of the case but is sound in law, as it certainly is perfect in style. This question ought not to be disposed of by main strength. We have the power—drawing the proper distinction between power and right—to do what we please with all the money in the Treasury. We may give it to a foreign nation, we may give it to the poor, we may pay it to pensioners, we may do anything we please with it so far as the mere question of power is concerned; but when we come to consider the principles of equity applicable to this case and the moral obligation that rests upon us in every act we perform, different questions are presented; and the speech of the Senator from Illinois was an appeal to the reason and the conscience of the Senate. It was not addressed to the galleries. I do not remember that it elicited any of that applause which so constantly attends the *legal* arguments of some Senators upon this question; but it did find a lodgment in the mind of every man who thinks that the Senate ought to consider this question and dispose of it according to the recognized principles of common honesty.

Now, Mr. President, at the risk of being somewhat tedious I intend to show that the $15,500,000 awarded by the Geneva tribunal and paid by Great Britain to us was for and on account of the private and individual claims of citizens of the United States, and for nothing else; that these claims were specifically stated, were presented to the tribunal, and formed the basis of the award. The money was paid to us, and a large part of the money is now in our possession, on account of the claims of individual claimants.

In the first place, what was our claim against Great Britain? Were we making a claim against her as a belligerent power, and did she submit to that claim and go to arbitration, and pay us fifteen and a-half millions of dollars in her character as a belligerent, as a fine imposed by the court upon her in her belligerent character? Was Great Britain a belligerent? Her minister was at our capital, our minister was at her court. The commerce between the two nations was uninterrupted. We were constantly appealing to her for redress upon the ground that we were at peace with her. When did Great Britain ever, in her character as a belligerent, submit to a fine imposed upon her without a fight? Great Britain, as a belligerent nation, coming to her knees without the loss of a man, or a blood spot upon the deck of her ships, will not be believed. Can anybody in his senses maintain that we were dealing with Great Britain as a belligerent? It would be hardly more disgraceful to her than it would be to us to assume that we dealt with her as a belligerent upon such principles and in such a manner. Why did we not sue the rebels of the South during those years, and ask them to appoint arbitrators to hear the issue between us, and determine how much they should pay? That was not the way we dealt with them. We recognized them as belligerents and went for them; we found them, and conquered them. So we would have treated England if we had regarded her as a belligerent.

But passing from the general aspect of the question, which is sufficiently conclusive, let us look at the record of this case; and here I must apologize to the Senate for pursuing, perhaps, somewhat the methods of a lawyer. I know it is an offense to be a lawyer in the opinion of some Senators; and my friend from Maine [Mr. BLAINE] always has his opponent at a disadvantage when he can charge him with being a lawyer. He knows nobody can retaliate that charge upon him. He has two or three times in this debate singled me out for ridicule for being a lawyer. Mr. President, what is the law? What are the principles of law and equity as administered in the courts? And what are lawyers? The law and the principles of equity recognized among all civilized nations are the result of centuries of human experience in the earnest endeavor to arrive at those principles which are indispensable to the enforcement of common honesty among men. The most upright and learned men of all civilized nations, especially of England and America, have long been devoting their best efforts to this subject, and the law is the result of their labors. And what is a lawyer? I do not speak of a pettifogger, a shyster, or a rogue, but of one who may point to his past record, and without blush or shame say, "I am a lawyer." What is he? He is one who has devoted his best abilities, whatever they are, to the investigation of those principles which will insure honesty in the dealings of men, the best methods of ascertaining the truth in regard to a particular transaction, and the application of the general rules of law to the facts when ascertained.

Now, is not that what we want to do here? Do we not wish to ascertain what are the facts of this case? Do we not want to know what common honesty requires us to do? If we do not propose to fold our arms like the Senator from Florida and say that by main strength, without regard to justice or equity, we will do what we please, then the method which I propose to pursue will not be condemned by the Senate.

Turning now to the record in this case, how does it stand? Here let me refer to a letter of December 30, 1862, from Mr. Adams, our minister to England, to Earl Russell, found in volume 3 of the Claims of the United States, at pages 94 and 95:

> Having, for particular reasons, forborne to use all the means in our power for the restitution of the three vessels mentioned in my letter of August 7, the President thought it incumbent on the United States to make compensation for them; and though nothing was said in that letter of other vessels taken under like circumstances and brought in after the 5th of June, and before the date of that letter, yet, where the same forbearance had taken place, it was and is his opinion that compensation would be equally due.

To explain this letter I should have stated in advance that Mr.

Adams bases our claim upon the principles declared by Great Britain in regard to depredations upon her commerce from our shores in 1794:

From these words the deduction appears to be inevitable that the principle of compensation in the case derived its only force from the omission by the United States to prevent a wrong done to the commerce of a nation with which they were at peace. So, likewise, may be it reasonably urged in the present case, that the omission of Her Majesty's government, upon full and seasonable notice, to carry into effect the provisions of its own law designed to prevent its subjects from inflicting injuries upon the commerce of nations with which it is at peace, renders it justly liable to make compensation to them for the damage that may ensue.

That the British government of that day did consider itself equitably entitled to full indemnity, not simply for the hostile acts of Frenchmen in American ports, but for the loss and damage suffered on the high seas by reason of assistance rendered to them by citizens of the United States, will clearly appear by reference to the fourth article of the project of a treaty proposed by Lord Grenville to Mr. Jay, on the 30th of August, 1794. The words are these:

"And it is further agreed, that if it shall appear that, in the course of the war, loss and damage has been sustained by His Majesty's subjects by reason of the capture of their vessels and merchandise, such capture having been made either within the limits of the jurisdiction of the said States, or by vessels armed in the ports of the said States, or by vessels commanded or owned by the citizens of the said States, the United States will make full satisfaction for such loss or damage, the same being to be ascertained by commissioners in the manner already mentioned in this article."

If, by the preceding representation, I have succeeded in making myself clearly understood by your lordship, then will it, I flatter myself, be made to appear that in both these cases, that in 1794 as well as that in 1862, the claim made rests on one and the same basis, to wit, the reparation by a neutral nation of a wrong done to another nation with which it is at peace, by reason of a neglect to prevent the cause of it originating among its own citizens in its own ports.

The high character of Lord Grenville is a sufficient guarantee to all posterity that he never could have presented a proposition like that already quoted, except under a full conviction that it was founded on the best recognized principles of international law. Indeed, it is most apparent, in the face of the preamble, that even the statute law of both nations on this subject is but an attempt to give extraordinary efficacy to the performance of mutual obligations between States which rest on a higher and more durable basis of justice and of right. It was on this ground, and on this alone, that Lord Grenville obtained the concessions then made of compensation for damage done to her commerce on the high seas by belligerent cruisers fitted out in the ports of the United States. I shall never permit myself to believe that Her Majesty's government will be the more disposed to question the validity of the principle thus formally laid down, merely from the fact that in some cases it may happen to operate against itself.

So, Mr. President, it will be seen that in this letter from Mr. Adams, our minister in England, to Earl Russell, the very ground upon which we based our claim against Great Britain was, not that she was a belligerent, but that she was a neutral power, and had not performed her duties as a neutral power, and we enforced our argument by showing that in the time of the French revolution England made precisely the same claim upon us, and we yielded to that claim and indemnified England for the damage to her commerce committed by ships that were fitted out on our shores. Regarding the letter of Mr. Adams to Earl Russell, Mr. Seward wrote to Mr. Adams, in the same volume, page 113, fully indorsing the doctrine which Mr. Adams laid down in the letter to Earl Russell.

Mr. Seward says:

You have properly replied to Earl Russell's note, and cleared up the argument of the case by a paper which seems to the President as convincing as it is calm and truthful.

The next thing entitled to consideration in the record of this case is the treaty itself. The treaty contains three principles which the parties stipulated should be taken to be the rules upon which Great Britain should stand or fall in the controversy before the arbitrators. Great Britain claimed that it was not an exact statement of the law of nations as previously recognized, but she agreed to be bound by those rules in this case.

These rules were:

A neutral government is bound—

First, to use due diligence to prevent the fitting out, arming, or equipping, within its jurisdiction, of any vessel which it has reasonable ground to believe is intended to cruise or to carry on war against a power with which it is at peace; and also to use like diligence to prevent the departure from its jurisdiction of any vessel intended to cruise or carry on war as above, such vessel having been specially adapted, in whole or in part, within such jurisdiction, to warlike use.

Secondly, not to permit or suffer either belligerent to make use of its ports or waters as the base of naval operations against the other, or for the purpose of the renewal or augmentation of military supplies or arms, or the recruitment of men.

Thirdly, to exercise due diligence in its own ports and waters, and, as to all persons within its jurisdiction, to prevent any violation of the foregoing obligations and duties.

These were the principles which the treaty itself established for the government of the tribunal, and they all relate to the duties of a neutral nation. We were proceeding in that arbitration against Great Britain as a neutral nation, not as a belligerent, and for that reason all the argument based upon belligerency goes for nothing.

Again, it should be remembered that if we had been treating Great Britain and proceeding against her as a belligerent at that arbitration, the claims which were finally decided to be indirect claims, that is the enhanced war premiums, the cost of carrying on the war, the cost of destroying these cruisers, &c., would have been the direct claims. We have an illustration of this in the late war between Germany and France. Germany having got the advantage of France made her demand for the expenses of the war. She decided the question as a belligerent, against France as a belligerent, and enforced it with gunpowder, not by argument. She did not call for an arbitration; she declared how much would compensate her for the cost of the war and demanded it of France, and with her guns trained on Paris the treaty was concluded and the money was subsequently paid.

Before the Alabama treaty was made, immediately after the termination of our civil war, the State Department issued a circular to all claimants for injuries committed by foreign nations; and as it is an important document, I will ask the Clerk to read it:

The Chief Clerk read as follows:

DEPARTMENT OF STATE,
Washington, September 2, 1865.

Citizens of the United States having claims against foreign governments, not founded on contract, which may have originated since the 8th of February, 1853, will, without any delay which can be avoided, *forward to this Department statements of the same, under oath, accompanied by the proper proof.*

The following rules, which are substantially those which have been adopted by commissions organized under conventions between the United States and foreign governments for the adjustment of claims, are published for the information of citizens of the United States having claims against foreign governments, of the character indicated in the above notification; and they are advised to conform as nearly as possible to these rules in preparing and forwarding their papers to the Department of State.

Each claimant should file a memorial, setting forth minutely and particularly the facts and circumstances from which the right to prefer such claims is denied by the claimant; and it should be verified by his or her oath or affirmation.

The memorial and all the accompanying papers should be written upon foolscap paper, with a margin, of at least one inch in width on each side of the page, as in this circular, so as to admit of their being bound in volumes for preservation and convenient reference; and the pages should succeed each other like those of a book, and be readable without inverting them.

When any of the papers mentioned in Rule 11 are known to have been already furnished to the Department by other claimants, it will be unnecessary to repeat them in a subsequent memorial. *Nor is it necessary, where several vessels have been captured by the same cruiser, to repeat in each memorial the circumstances in respect to the equipment, arming, manning, flag, &c., of such cruiser, which are relied upon as the evidence of the responsibility of a foreign government for her tortious acts.* A simple reference to and adoption of one memorial in which such facts have been fully stated will suffice.

It is proper that the interposition of this Government with the foreign government against which the claim is presented should be requested in express terms, to avoid a possible objection to the jurisdiction of a future commission on the ground of the generality of the claim. Claims of citizens of the United States against this Government, growing out of the late insurrection, are under the cognizance of our Departments, of the Court of Claims, or are the subjects for an appeal to Congress.

RULES.

In every such memorial should be set forth—

1. The amount of the claim; the time when and place where it arose; the kind or kinds and amount of property lost or injured; the facts and circumstances attending the loss or injury out of which the claim arises; the principles and causes which lie at the foundation of the claim.

2. *For and in behalf of whom the claim is preferred*, giving Christian and surname of each in full.

3. Whether the claimant is now a citizen of the United States, and, if so, whether he is a native or naturalized citizen, and where is now his domicile; and if he claims in his own right, then whether he was a citizen when the claim had its origin, and where was then his domicile; and if he claims in the right of another, then whether such other was a citizen when the claim had its origin, and where was then and where is now his domicile; and if, in either case, the domicile of the claimant at the time the claim had its origin was in any foreign country, then whether such claimant was then a subject of the government of such country, or had taken any oath of allegiance thereto.

4. Whether the entire amount of the claim does now, and did at the time when it had its origin, belong solely and absolutely to the claimant; and if any other person is or has been interested therein, or in any part thereof, then who is such other person, and what is or was the nature and extent of his interest; and how, when, and by what means, and for what considerations the transfer of rights or interests, if any such was made, took place between the parties.

5. Whether the claimant, or any other who may at any time have been entitled to the amount claimed, or any part thereof, has ever received any, and, if any, what sum of money, or other equivalent or indemnification, for the whole or any part of the loss or injury upon which the claim is founded; and, if so, when and from whom the same was received.

6. All testimony should be in writing, and upon oath or affirmation, duly administered according to the laws of the place where the same is taken, by a magistrate competent by such laws to take depositions, having no interest in the claim to which the testimony relates, and not being the agent or attorney of any person having such interest, and it must be certified by him that such is the case. The credibility of the affiant or deponent, if known to such magistrate, or other person authorized to take such testimony, should be certified by him; and if not known, should be certified on the same paper upon oath by some other person known to such magistrate, having no interest in such claim, and not being the agent or attorney of any person having such interest, whose credibility must be certified by such magistrate. The depositions should be reduced to writing by the person taking the same, or by some person in his presence having no interest, and not being the agent or attorney of any person having an interest in the claim, and should be carefully read to the deponent by the magistrate, before being signed by him, and this should be certified.

7. Depositions taken in any city, port, or place without the limits of the United States, may be taken before any consul or other public or civil officer of the United States resident in such city, port, or place, not having any interest, and not being agent or attorney of any person having an interest, in the claim to which the testimony so taken relates. In all other cases, whether in the United States or in any foreign place, the right of the person taking the same to administer oaths by the laws of the place must be proved.

8. Every affiant or deponent should state in his deposition his age, place of birth, residence and occupation, and where was his residence and what was his occupation at the time the events took place in regard to which he deposes; and must also state if he have any, and, if any, what, interest, in the claim to support which his testimony is taken; and if he have any contingent interest in the same, to what extent, and upon the happening of what event, he will be entitled to receive any part of the sum which may be awarded. He should also state whether he be the agent or attorney of the claimant or of any person having an interest in the claim.

9. Original papers exhibited in proof should be verified as originals by the oath of a witness, whose credibility must be certified as required in the sixth of these rules; but when the fact is within the exclusive knowledge of the claimant, it may be verified by his own oath or affirmation. Papers in the handwriting of any person who is deceased, or whose residence is unknown to the claimant, may be verified by proof of such handwriting, and of the death of the party, or his removal to places unknown.

10. All testimony taken in any foreign language, and all papers and documents in any foreign language, which may be exhibited in proof, must be accompanied by a translation of the same into the English language.

11. When the claim arises from the seizure or loss of any ship or vessel, or the cargo of any ship or vessel, a certified copy of the enrollment or registry of such ship or vessel should be produced, together with the original clearance manifests,

and all other papers and documents required by the laws of the United States which she possessed on her last voyage from the United States, when the same are in the possession of the claimant, or can be obtained by him; and when not, certified copies of the same should be produced, together with his oath or affirmation that the originals are not in his possession and cannot be obtained by him.

12. In all cases where property of any description for the seizure or loss of which a claim has been presented, was insured at the time of such seizure or loss, the original policy of insurance, or a certified copy thereof, should be produced.

13. If the claimant be a naturalized citizen of the United States, a copy of the record of his naturalization, duly certified, should be produced.

14. Documentary proof should be authenticated by proper certificates or by the oath of a witness.

15. If the claimant shall have employed counsel, the name of such counsel should, with his address, be signed to the memorial and entered upon the record, so that all necessary notices may be served upon such counsel or agent respecting the case.

Mr. CARPENTER. Immediately after the treaty was concluded the Department issued another circular, which I ask the Secretary to read.

The Chief Clerk read as follows:

DEPARTMENT OF STATE,
Washington, September —, 1871.

SIR: I have to acknowledge the receipt of your letter of the — instant and its inclosures.

In reply, I inclose a copy of the treaty concluded with Great Britain on the 8th of May last and general instructions as to the proof of claims prepared for the use of claimants in the absence of rules by the tribunal which may pass upon the claims.

In the absence of rules and in anticipation of the action of the tribunal, this Department cannot assume to determine what claims it may or may not be proper to prefer under the first eleven articles of the treaty, nor to direct what form or extent of proof will be necessary to establish them, nor the effect of insurance upon the question of right to compensation. It will present to the tribunal at Geneva, to be taken into account in estimating the sum to be paid to the United States, "all" claims growing out of the acts committed by the several vessels which have given rise to the claims generically known as the "Alabama claims," which may be presented to the Department in time to enable it to do so. Persons desiring to lodge claims in the Department for that purpose are requested to do so without delay, in such form and sustained by such proofs as they may be advised or think proper to rest their claims upon, as the time for presenting the case of the United States expires on the 16th day of December next.

I am, sir, very respectfully, your obedient servant,

HAMILTON FISH,
Secretary.

Mr. CARPENTER. The object of issuing these circulars was to inform claimants of the steps they must take to secure the intervention of our Government on their behalf. The proof was to be taken by the claimants at their own expense and furnished to the Department. Is it not a cruel sarcasm upon these claimants now to declare that this expense was to be borne by them, not for their benefit but for the benefit of the nation at large? Is not this adding insult by us to the injury they have suffered from foreign nations? The laws of Congress authorize our citizens to enter into negotiations with foreign nations for indemnity against injury suffered at their hands. (Revised Statutes, section 5335.) It is certain that no individual claimant would hereafter be listened to by Great Britain in regard to a claim presented by our Government, adjudicated by the tribunal at Geneva, and paid by Great Britain. And yet it is claimed that, although they are estopped by the award and its payment, still they are not entitled to the money awarded and paid to our Government in full satisfaction of their claims, and that our Government is under no obligation to pay them. A more flagrant scheme for confiscation could not be suggested.

After these circulars were issued and the claimants had presented their claims and proof to the Department our Government made up and submitted to the arbitrators a statement of our case against Great Britain. That case embodied—and I read from the condensation made by the Senator from Illinois in his speech, which will not be disputed by anybody—the following claims:

First. Claims on behalf of the Government of the United States itself, to wit:

A. Claims for the destruction of vessels and property belonging to the Government.

B. The national expenditures in the pursuit of the cruisers.

C. The loss in the transfer of the American commercial marine to the British flag.

D. The prolongation of the war, and the addition of a large sum to the cost of the war and the suppression of the rebellion.

Second. Claims on behalf of individuals, namely:

A. Claims for the destruction of vessels and property belonging to individuals.

B. Claims for damages or injuries to persons growing out of the destructions of vessels.

C. The enhanced payments of insurance, or war premiums.

The claims on behalf of the Government and the claims on behalf of individuals were separately presented to that arbitration. In volume 7 of the appendix to the case of the Geneva arbitration, on page 117, is a detailed statement of the claims on behalf of the United States as a nation, which were submitted as part of our case to that tribunal. Then on page 149 is another detailed statement of the claims of individual citizens of the United States presented to the tribunal, and this statement is prefaced from the State Department with the following note:

NOTE.

In presenting the following list of claims, interest has not been calculated or stated. The United States will ask the tribunal to award them interest on all claims which may be allowed, to be calculated from the date of *damage done to each claimant* to the date of final payment.

When a paper is herein referred to as a protest, invoice, bill of lading, assignment, &c., the original paper so referred to is on file in the Department of State at Washington. When a paper is referred to as a sworn memorial or affidavit the original is on file in the Department, with a notarial certificate or other proper proof that the person signing the same has made oath that the same is true; and where the words "certified copy" are used, they imply that a copy of the original is on file in the Department, duly certified before a notary public, or other public officer qualified to give such certificate under his hand and seal.

DEPARTMENT OF STATE,
Washington, October 4, 1871.

The claims presented in the name of the United States as a nation amounted to $3,400,887, as will be found in volume 7 of this appendix, at page 147. The claims of the citizens of the United States presented in a separate list amounted to $19,021,428.61, as will be found at page 247 of the same volume. Great Britain objected to the indirect claims and asked for an adjournment before the arbitration for the purpose of attempting by negotiation to obtain a modification of the treaty. This negotiation was begun before the third meeting of the abitrators at Geneva, and while progressing Mr. Fish wrote Mr. Schenck as follows, and this letter may be found in volume 2 of papers, pages 475, 476:

APRIL 23, 1872.

* * * * * * *

Neither the Government of the United States, nor, so far as I can judge, any considerable number of the American people have attached much importance to the so-called "indirect claims," or have ever expected or desired any award of damages on their account.

* * * * * * *

The United States now desire no pecuniary award on their account. You will not fail to have noticed that through the whole of my correspondence we ask no damages on their account; we only desire a judgment which will remove them for all future time as a cause of difference between the two governments. In our opinion they have not been disposed of, and unless disposed of in some way they will remain to be brought up at some future time to the disturbance of the harmony of the two governments.

The United States are sincere in desiring a "*tabula rasa*" on this Alabama question, and therefore they desire a judgment upon them by the Geneva tribunal.

This letter was written while negotiations were pending between Great Britain and this Government for a modification of the treaty so as to exclude them. Mr. Fish here distinctly declared that neither our Government nor any considerable portion of our people make any claim on that account. That is the Government demands nothing on the indirect claims, but wishes to have them disposed of by the judgment of the arbitrators, so as to remove them as a disturbing element in the relations between the two nations. The arbitrators on the 19th of June, 1872, made their decision excluding these claims; and now I ask the Secretary to read, commencing on page 19, the decision made by the arbitrators upon these indirect claims which our Government said we were simply anxious to have disposed of so that they would be no longer a bone of contention between the two nations.

The Chief Clerk read as follows:

The application of the agent of Her Britannic Majesty's government being now before the arbitrators, the president of the tribunal (Count Sclopis) proposes to make the following communication on the part of the arbitrators to the parties interested:

The arbitrators wish it to be understood that in the observations which they are about to make they have in view solely the application of the agent of Her Britannic Majesty's government, which is now before them, for an adjournment, which might be prolonged till the month of February in next year; and the motives for that application, namely, the difference of opinion which exists between Her Britannic Majesty's government and the Government of the United States as to the competency of the tribunal, under the treaty of Washington, to deal with the claims advanced in the case of the United States in respect of losses under the several heads of, first, "the losses in the transfer of the American commercial marine to the British flag;" second, "the enhanced payments of insurance;" and third, "the prolongation of the war, and the addition of a large sum to the cost of the war and the suppression of the rebellion;" and the hope which Her Britannic Majesty's government does not abandon, that if sufficient time were given for that purpose, a solution of the difficulty which has thus arisen, by the negotiation of a supplementary convention between the two governments, might be found practicable.

The arbitrators do not propose to express or imply any opinion upon the point thus in difference between the two governments as to the interpretation or effect of the treaty; but it seems to them obvious that the substantial object of the adjournment must be to give the two governments an opportunity of determining whether the claims in question shall or shall not be submitted to the decision of the arbitrators, and that any difference between the two governments on this point may make the adjournment unproductive of any useful effect, and, after a delay of many months, during which both nations may be kept in a state of painful suspense, may end in a result which, it is to be presumed, both governments would equally deplore, that of making this arbitration wholly abortive. This being so, the arbitrators think it right to state that, after the most careful perusal of all that has been urged on the part of the Government of the United States in respect to these claims, they have arrived, individually and collectively, at the conclusion that these claims do not constitute, upon the principles of international law applicable to such cases, good foundation for an award of compensation or computation of damages between nations, and should upon such principles be wholly excluded from the consideration of the tribunal in making its award, even if there were no disagreement between the two governments as to the competency of the tribunal to decide thereon.

With a view to the settlement of the other claims to the consideration of which by the tribunal no exception has been taken on the part of Her Britannic Majesty's government, the arbitrators have thought it desirable to lay before the parties this expression of the views they have formed upon the question of public law involved, in order that after this declaration by the tribunal it may be considered by the Government of the United States whether any course can be adopted respecting the first-mentioned claims which would relieve the tribunal from the necessity of deciding upon the present application of Her Britannic Majesty's government.

Count Sclopis added that it was the intention of the tribunal that this statement should be considered for the present to be confidential.

Mr. CARPENTER. Bear in mind that Mr. Fish writes to Mr. Schenck that we do not expect any damages for these indirect claims, but we merely want them disposed of; then the solemn decision of the arbitrators themselves that they were not claims that could be considered, but must be rejected by them; then that the United States submit to that as a definite and final determination of all those

claims, including the enhanced war premiums. Now read what Mr. Bancroft Davis said to the arbitrators on page 21.

The Chief Clerk read as follows:

The declaration made by the tribunal, individually and collectively, respecting the claims presented by the United States for the award of the tribunal for: first, "the losses in the transfer of the American commercial marine to the British flag;" second, "the enhanced payments of insurance;" and third, "the prolongation of the war and the addition of a large sum to the cost of the war and the suppression of the rebellion," is accepted by the President of the United States as determinative of their judgment upon the important question of public law involved.

The agent of the United States is authorized to say that, consequently, the above-mentioned claims will not be further insisted upon before the tribunal by the United States, and may be excluded from all consideration in any award that may be made.

Mr. CARPENTER. Now the Senate will see distinctly the decision of the arbitrators that these enhanced war premiums were not a proper claim against Great Britain and must be excluded; then the statement made by our Government through its agent, Mr. Davis, that they would not further be pressed upon the arbitrators, that the President accepted the decision as a final determination of our right to make claim on their account. All Senators will see that that ended all claim for indirect damages including the claim for enhanced war premiums, and eliminated them from the case before the arbitrators. So if nothing else had occurred it would be perfectly clear that the award which was made was not intended to include war premiums. They were excluded; and whatever doubts there may be as *to what was* included in the award, there can be no doubt that war premiums were expressly excluded and that our Government made no further claim on their account.

At the next meeting of the arbitrators—and this is found in volume 4 on page 22—

Count Sclopis, on behalf of all the arbitrators, then declared that the said several claims for indirect losses mentioned in the statement made by the agent of the United States on the 25th instant and referred to in the statement just made by the agent of Her Britannic Majesty, are, and from henceforth shall be, wholly excluded from the consideration of the tribunal and directed the Secretary to embody this declaration in the protocol of this day's proceedings.

That certainly ends with intelligent and honest men all pretense that these enhanced war premiums entered into that award. They were expressly excluded by the preliminary decision of the arbitrators, then expressly waived by our Government, and then again authoritatively declared by the arbitrators to be no longer before them. So, as I said, whatever difference of opinion there may be about what is included, there can be no difference of opinion as to what was excluded, and this war-premium business was excluded from the consideration of the arbitrators, and forms no part of or basis for the award. That much is too plain for controversy.

Quotations have sometimes been made from the argument made on behalf of the United States before the arbitrators to show that we did claim payment for these indirect damages. That argument was submitted to the arbitrators on the 15th of June and after they had considered it for five days they made their decision on the 19th of June saying they had carefully considered everything that had been urged on behalf of the United States and then proceeded to decide that the indirect claims were invalid. After that we withdrew the claims, and subsequently the arbitrators themselves formally declared that those claims were no longer before them. So that whatever may be said upon the question of our right to pursue Great Britain for these indirect claims, the answer to it all is that the argument was made, was considered by the tribunal to whom we had given jurisdiction to settle it, was decided against us, we submitted to the decision, withdrew the claims, and the arbitrators thereupon declared that those claims were no longer before them, expressly including in their rejection these enhanced war premiums. Nothing can be more certain than that the war premiums were no longer before the board of arbitrators and form no part of the award of fifteen and a half millions which was subsequently made.

The decision of the 19th of June, as the Senate will see, rejected claims for—

First, the losses in the transfer of the American commercial marine to the British flag; second, the enhanced payments of insurance; and third, the prolongation of the war and the addition of a large sum to the cost of the war and the suppression of the rebellion.

On the 19th of August, 1872, the arbitrators having suggested that the United States should present a statement of figures relating to the claims which were still before them, such statement was presented. The entry in the protocol is as follows:

In compliance with a request of the tribunal, Mr. J. C. Bancroft Davis, as agent of the United States, and Lord Tenterden, as agent of Her Britannic Majesty, respectively, presented to the tribunal tables of figures relating to the losses for which compensation is claimed by the United States, with explanatory statements and observations.—*Papers*, vol. 4, p. 35.

This statement will be found in what is called the third volume of Papers at page 579, and I will ask the Secretary to read the introductory remarks made by our counsel in the statement itself, which was submitted to the tribunal at their request.

The Chief Clerk read as follows:

In accordance with the instructions of the tribunal, the agent and counsel of the United States have caused tables to be prepared, showing the differences which exist between the statements of claims and losses submitted to the tribunal on the part of the United States, for the estimates based on these statements which have been presented on the part of Great Britain.

The claims presented by the United States are supported by sworn statements presented by those who possess the necessary information, and they exhibit in detail the items which go to form the sum total, and the names of all who have made reclamation, whatever may be the sum which the tribunal may see fit to award. The claims on the part of private individuals thus computed, verified, and submitted are supported by all the guarantees of their good faith and their validity, as well for their general amount as for the other facts concerning them which governments are in the habit of requiring, in such cases, from their own citizens. It thus appears that these computations show the entire extent of all private losses which the result of the adjudications of this tribunal ought to enable the United States to make compensation for.

Mr. CARPENTER. It should be stated in this connection that this statement of claims upon which we were to proceed does not contain a single reference to anything but individual claims, including the claims of these insurance companies. That statement was objected to by Lord Tenterden on the part of Great Britain. Mr. Davis, in reply to the objection, in the fourth volume of the Papers, page 39, spoke in French, and I have had a Frenchman translate it, and I will read it:

(*a*) The treaty comprehends all the claims of the United States which are designated under the generic title of "Alabama claims."

(*b*) The tribunal, by its preliminary opinion, has limited the generality of the expression, in striking out certain claims for national losses made by the United States.

But, according to that opinion, the tribunal retains jurisdiction of the question of all the claims made by the United States *in the interest of individual losers*, and comprised under the generic title of "Alabama claims."

The losses of the officers, and in general of the crews, of captured ships are no less valid than those of the owners and *insurers*. Doubt is impossible in that regard.

Again, on page 40 of the same volume, he says; I read the translation:

The United States make claim for all the individual shares of ships, whether the owner of the share, however small, makes claim or not, *because the United States will be obliged to indemnify all the owners*—

Mark the language—

Because the United States will be obliged to indemnify all the owners in case the tribunal shall award a gross sum to the United States. If this were not done there would be an evident injustice. The object of the treaty is to indemnify the United States for all losses *suffered by their citizens*, and not to impose a part of that indemnification upon the United States themselves.

Our statement of the amount due our citizens, the individual claims, was $14,437,000, as is found in the fourth volume of Papers, so called, page 44. The English statement, criticising this, claimed that the amount to be allowed upon that statement for individual losses should be $7,074,000. That was the issue finally made up between Great Britain and the United States, and related solely to the amount which ought to be allowed on the statement of *individual losses* which Mr. Davis had presented to the arbitrators, at their request; Great Britain claiming that it should be reduced to seven million and over, and we insisting upon the fourteen and a half million. Thereupon these statements were taken into consideration by the arbitrators, and constituted the only remaining subject for their determination.

I will not criticise the language of some Senators in regard to what subsequently took place. Here were these arbitrators, men of distinction and character from different nations sitting under a treaty which was intended to be the harbinger of peace to all nations and the prediction of better times to come to all the world, acting on their honor and their conscience. The Senator from Maine says that they did not know anything about it. They took the two statements of the claims, varying seven millions in amount, they went up into a mountain and chalked on a barn-door, and split the difference, and brought in an award of fifteen and a half millions against Great Britain. Why, Mr. President, if this was done, the arbitrators ought to be impeached, if they were the subjects of impeachment. They are disgraced and condemned in the opinion and by the voice of all honest men, if that is a fair statement of what they did. They were perpetrating a gross fraud. They were pretending to two independent nations that they were acting carefully and conscientiously in arriving at the precise amount that should be allowed for these individual claims presented by the United States against Great Britain, and after three months' examination of the claims, aided by experts, they fixed on the sum of fifteen and a half million dollars as the proper allowance. But it is said this amount was arrived at not by careful consideration of the case, but by blundering, guessing, chalking on a barn-door, and splitting the difference.

The best opinion I can form from the statements furnished and the award is that the arbitrators allowed 6 per cent. interest. We pay but 4 per cent. either under the act of 1874 or as proposed in this bill. The difference between the 4 and the 6 per cent. will reduce the surplus probably to $100,000, showing with what accuracy the arbitrators made their calculation, and scanned the exact merits of the claim which we presented against Great Britain.

In this connection let me refer to the remarks of Mr. Pierce in the House of Representatives, made on the 29th of June, 1876. It is a short paragraph, and I will read it. Mr. Pierce was a member of the other House from Boston, a man whose integrity will cheerfully be vouched for by every Massachusetts Senator. He said, speaking of this subject:

And in this connection I may be permitted to state that I have the word of one of the arbitrators at Geneva that the claims of the underwriters formed the basis of the award paid to this Government by Great Britain, and that the records of the court clearly show that fact.

Then as far as I have gone, Mr. President, I claim to have shown that the claim for enhanced war premiums was first declared by Mr. Fish to be of no consequence, and that it was pressed before the arbi-

trators only for the purpose of having it removed as a bone of contention between the two nations, and that we never expected any damages in consequence of it; then that the arbitrators themselves solemnly decided it to be invalid; next that Mr. Davis before the arbitrators withdrew them, or at all events submitted to the decision and said they would not be further insisted upon; then the public announcement of the arbitrators themselves that these claims would no longer be considered; and then, on the authority of Mr. Pierce, the declaration of Mr. Adams—I have no doubt he referred to Mr. Adams—that the claim of the underwriters formed the basis of the award and that the records of the court would show it.

Mr. BUTLER. If the Senator from Wisconsin will yield, I wish to move for an executive session.

Mr. CARPENTER. I give way.

Mr. BUTLER. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After forty-seven minutes spent in executive session the doors were reopened, and (at five o'clock and twelve minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *April* 16, 1880.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

SOLDIERS' REUNION AT MILWAUKEE.

Mr. BOUCK. I ask unanimous consent to take from the Speaker's table for consideration at this time the Senate joint resolution No. 102 authorizing the Secretary of War to loan certain tents, flags, and camp equipage for the use of the soldiers' reunion at Milwaukee, in the State of Wisconsin, in June, 1880.

There being no objection, the joint resolution was taken from the Speaker's table, read three several times, and passed.

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

The latter motion was agreed to.

INSANE ASYLUM IN DAKOTA TERRITORY.

Mr. BENNETT. I ask unanimous consent to report from the Committee on the Public Lands for consideration at this time the bill (H. R. No. 5502) granting to the Territory of Dakota section 36, in township No. 56 north, of range No. 94 west, in the county of Yankton, in said Territory, for the purposes of an asylum for the insane, and granting to said Territory one section of land, in lieu of said thirty-sixth section, for school purposes. This is a bill of great local interest and importance to my Territory just now.

The SPEAKER. The bill will be read, after which objections will be in order.

The bill was read, as follows:

Be it enacted, &c., That section 36 in township No. 56 north, of range No. 94 west, in the county of Yankton, Territory of Dakota, be, and the same is hereby, granted to said Territory for the purposes of an asylum for the insane; and that there be, and is hereby, granted to said Territory one section of land, in lieu of said thirty-sixth section, for school purposes; said section to be selected by the governor of said Territory from any of the public lands subject to private sale or entry. Such selection, when so made, shall be certified by the said governor to the surveyor-general of said Territory and to the officers of the local land office of the district in which such land may be situated; and from the filing of such certificate said land shall be withdrawn from private sale or entry, and shall be held as a portion of the lands granted to said Territory for school purposes.

There being no objection, the bill was received, ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

Mr. VALENTINE 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.

ROGER A. PRYOR.

Mr. HERBERT. I ask consent to take from the Speaker's table for action at this time Senate bill No. 1489, to remove the political disabilities of Roger A. Pryor, of New York.

There being no objection, the bill was taken from the Speaker's table and read a first and second time.

The SPEAKER. The accompanying petition will be read.

The Clerk read as follows:

To the honorable Senate and House of Representatives of the United States of America:

Your petitioner, Roger A. Pryor, a citizen of the State of New York, respectfully represents that by reason of the provisions of section 3, article 14, of the amendments to the Constitution of the United States he is under political disabilities; that he is and has been since the close of the war of the rebellion a peaceable and quiet citizen of the United States; that he submits to and obeys the Constitution of the United States and the laws of Congress in all respects. Therefore, your petitioner prays that his said disabilities incurred by reason of his participation in the said war may be removed.

And as in duty bound, he will ever pray, &c.

ROGER A. PRYOR.

NEW YORK, *March* 8, 1880.

The bill was ordered to a third reading, read the third time, and passed; two-thirds voting in favor thereof.

KIMBERLY BROTHERS.

Mr. GOODE. I ask unanimous consent to have taken from the Private Calendar for present consideration the bill (H. R. No. 3290) for the relief of Kimberly Brothers.

The bill was read, as follows:

Whereas Kimberly Brothers, of Norfolk, Virginia, made a contract with the Secretary of the Navy for supplying the Marine Corps with rations for eight stations, to wit: Portsmouth, New Hampshire; Boston, Massachusetts; New York, New York; Philadelphia, Pennsylvania; Annapolis, Maryland; Washington, District of Columbia; Norfolk, Virginia, and Mare Island, California, said contract bearing date the 11th day of June, 1879, and being for the supplying of such rations for the fiscal year commencing July 1, 1879; and

Whereas since making the said contract there has been an advance of the price of all articles entering into the rations thus to be supplied of about 50 per cent., so that the said Kimberly Brothers are now filling the said contract at a loss to them of about $50 per day: Therefore,

Be it enacted, &c., That the Secretary of the Navy be, and he is hereby, authorized and directed to examine the accounts and vouchers of said Kimberly Brothers, and to make an allowance to the said contractors, above the contract price, as he may, under the circumstances, deem just and equitable.

Mr. BREWER. I desire to reserve a point of order on this bill.

The SPEAKER. The gentleman from Michigan [Mr. BREWER] objects.

Mr. GARFIELD. When this bill was up before I asked for its reference to the Calendar simply because I then wanted to get to public business. I know something about the merits of this bill, and I think we ought to consider it. I withdraw any objection I made at that time.

The SPEAKER. This bill is in the Committee of the Whole on the Private Calendar. Hence the point of order of the gentleman from Michigan would be equivalent to an objection.

Mr. GOODE. I hope the gentleman will withdraw his objection. There is immediate necessity for action by the House, if we intend to act at all on this bill. These parties are now suffering a loss of $50 a day.

Mr. BREWER. I have not examined this matter at all; but it seems to me it ought to be considered in Committee of the Whole. I shall object for the present.

CONDEMNED CANNON FOR MARION ARTILLERY, SOUTH CAROLINA.

Mr. DIBRELL. I ask unanimous consent to have taken from the Calendar of the Committee of the Whole House on the state of the Union the bill (H. R. No. 5041) to authorize the Secretary of War to turn over to the governor of South Carolina four pieces of condemned cannon for the use of the Marion Artillery. This bill is in the exact language dictated by the General of the Army.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War be, and he is hereby, directed to deliver to the governor of the State of South Carolina four Napoleon guns, or other condemned cannon now in said State, for the use of the Marion Artillery Company in said State: *Provided*, That before said delivery shall be made the Secretary of War will take such obligation from the governor as will insure the return of said guns to the United States whenever they may be demanded.

Mr. ALDRICH, of Illinois. I object.

Subsequently the objection was withdrawn, when the bill was ordered to be engrossed for a third reading, was accordingly read the third time, and passed.

Mr. DIBRELL 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.

SETTLERS ON PUBLIC LANDS.

Mr. VALENTINE. I ask unanimous consent that the Committee of the Whole House on the state of the Union be discharged from the further consideration of the bill (H. R. No. 4227) for the relief of settlers on public lands, that it may be taken up for consideration.

Mr. ATKINS. Let us hear it read.

The SPEAKER. The right of objection will be reserved.

The bill was read, as follows:

Be it enacted, &c., That when a pre-emption, homestead, or timber-culture claimant shall file a written relinquishment of his claim in the local land office, the land covered by such claim shall be held as open to settlement and entry without further action on the part of the Commissioner of the General Land Office.

SEC. 2. In all cases where any person has contested, paid the land-office fees, and procured the cancellation of any pre-emption, homestead, or timber-culture entry, he shall be notified by the register of the land office of the district in which such land is situated of such cancellation, and shall be allowed thirty days from date of such notice to enter said lands: *Provided*, That said register shall be entitled to a fee of $1 for the giving of such notice, to be paid by the contestant.

The amendment reported by the Committee on the Public Lands was read, as follows:

At the end of the bill add the words, "and not to be reported."

Mr. ATKINS. Does this bill come from the Committee on the Public Lands?

Mr. VALENTINE. Yes, sir; it is a unanimous report from that committee.

Mr. DUNNELL. It is a very important bill.

Mr. PAGE. Let the report be read.

The SPEAKER. The report will be read.

The Clerk read as follows:

The Committee on the Public Lands, to whom was referred bill H. R. No. 4227, make the following report thereon, recommending certain amendments to be adopted, and that the bill do then pass:

Under the law and rulings of the General Land Office now in force, if a claimant