the Soldiers' Home at Dayton, Ohio—to the Committee on Military Affairs.

By Mr. MORSE: The petition of Philo S. Shelton and others, for the passage of the French spoliation claims bill—to the Committee on Foreign Affairs.

By Mr. OATES: The petition of James J. Rogers and others, citizens of Dale and Henry Counties, in the State of Alabama, for legislation to regulate charges for railway transportation—to the Committee on Commerce.

By Mr. O'NEILL: The resolution adopted by the Vessel-Owners' and Captains' Association of Philadelphia, urging the passage of the Reed bill providing for the distribution of the Geneva award—to the Committee on the Judiciary.

By Mr. PAUL: The petition of Frank P. Murphey, relative to a contract to furnish 20,000 cubic yards of stone used in the jetties at Charleston (South Carolina) Harbor—to the Committee on Commerce.

By Mr. PEELLE: The petition of Rev. Robert McCrary, Alfred Hanson, and 37 others, colored citizens of Indianapolis, Indiana, for the passage of a bill authorizing the appointment of a commission of colored citizens to inquire into the material, industrial, and intellectual progress of the colored people in the United States since the war of the rebellion—to the Committee on Education and Labor.

By Mr. PEIRCE: The petition of Lucas Nebeker and 78 others, of Fountain County, Indiana, asking for a provision in any bankrupt law that may be passed providing that when a majority of the creditors of a bankrupt desire it, settlement of such bankrupt's estate shall be made in the circuit court of the county in which said bankrupt resided—to the Committee on the Judiciary.

By Mr. RITCHIE: The petition of William Reynolds, a soldier in the Mexican war, for a pension—to the Committee on Pensions.

By Mr. SCRANTON: The petition of citizens of Pittston, Pennsylvania, for the repeal of the tax on banks and the two-cent stamp on bank checks—to the Committee on Ways and Means.

By Mr. SHALLENBERGER: Papers relating to the pension claim of William R. Perdue—to the Committee on Invalid Pensions.

By Mr. SPAULDING: The petitions of 94 citizens of Pontiac and of 50 citizens of Rochester, Michigan, protesting against the passage of the bill to authorize the Commissioner of the General Land Office to sell certain overflowed and unsurveyed lands in Saint Clair County, Michigan—severally to the Committee on the Public Lands.

By Mr. SPOONER: The petition of Amanda M. Hessville and Ellen Sophia Chandler, for the passage of the French spoliation claims bill—to the Committee on Foreign Affairs.

By Mr. TAYLOR: The petition of Sherman B. Worthway and others, for the passage of a bill granting pensions to soldiers and sailors of the late war who were confined in confederate prisons—to the Committee on Invalid Pensions.

By Mr. WALKER: The petition of honorably discharged soldiers, residents of Williamsport, Pennsylvania, praying for the passage of the bill to establish a soldiers' home at Erie, Pennsylvania—to the Committee on Military Affairs.

By Mr. WATSON: The petition of the owners of vessels navigating the western lakes, remonstrating against the extension of the steam grain-shovel patent—to the Committee on Patents.

By Mr. YOUNG: The petition of distillers of Cincinnati, Ohio, for speedy action on the bill for the revision of internal-revenue laws—to the Committee on Ways and Means.

---

## SENATE.

### TUESDAY, *April* 11, 1882.

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

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

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting a report of Major C. R. Suter, Corp of Engineers, of a survey of the Nishnabotana River, from Hamburgh, Iowa, to its junction with the Missouri, made in compliance with requirements in the river and harbor act of March 3, 1881; which was referred to the Committee on Commerce, and ordered to be printed.

#### PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented resolutions adopted at a meeting of survivors of Andersonville and other Southern military prisons, in favor of the passage of the bill (H. R. No. 3386) granting pensions to certain Union soldiers and sailors of the late war of the rebellion who were confined in so-called confederate prisons; which were referred to the Committee on Military Affairs.

Mr. JONES, of Florida, presented a memorial of the mayor and common council of Fernandina, Florida, in favor of an appropriation for the improvement of the harbor at that place; which was referred to the Committee on Commerce.

He also presented a petition of citizens of Apalachicola, Florida, praying for an appropriation for the improvement of the harbor at that place; which was referred to the Committee on Commerce.

He also presented a petition of the master and wardens of Escambia Lodge, No. 15, (Free and Accepted Masons,) of Pensacola, Florida, praying Congress to donate to them a certain lot on which their building was erected and has stood for many years; which was referred to the Committee on Public Buildings and Grounds.

Mr. GROVER presented the petition of F. R. Smith and others, citizens of Salem, Oregon, and the petition of John O'Brien and others, citizens of Lane County, Oregon, praying Congress to pass a law to prevent extortions and unjust discriminations by corporations in fares and freights; which were referred to the Committee on Commerce.

Mr. GEORGE. I present a petition of citizens of Mississippi, in favor of the passage of the bill for the construction of the ship railway across the Isthmus of Tehuantepec.

The PRESIDENT *pro tempore*. The petition will be referred to the Committee on Foreign Relations.

Mr. VEST. Let the petition lie on the table. The bill has been reported, and is now on the Calendar.

The PRESIDENT *pro tempore*. The petition will lie on the table, then.

Mr. GEORGE presented a petition of Salem Grange, No. 508, of Coffeeville, Mississippi, praying for the passage of the bill for the construction of the ship railway across the Isthmus of Tehuantepec; which was ordered to lie on the table.

Mr. MAXEY presented the petition of John K. Rankin, of DeWitt County, Texas, a soldier of the war of 1812, praying for an increase of pension; which was referred to the Committee on Pensions.

Mr. PLATT presented the petition of George H. Watrous and 500 others, citizens of New Haven, Connecticut, praying for the passage of a bill for the improvement of the civil service of the United States; which was referred to the Committee on Civil Service and Retrenchment.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House insisted upon its disagreement to the amendments of the Senate to the bill (H. R. No. 4185) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1883, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and had appointed Mr. THOMAS RYAN of Kansas, Mr. L. B. CASWELL of Wisconsin, and Mr. BENJAMIN LE FEVRE, of Ohio, managers at the conference on its part.

The message also announced that the House had passed a bill (H. R. No. 1132) in relation to the port and harbor of New York and the waters near the same; in which it requested the concurrence of the Senate.

#### ENROLLED BILLS SIGNED.

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

A bill (S. No. 1361) to provide additional accommodations for the Department of the Interior; and

A bill (H. R. No. 3045) to authorize the Secretary of the Treasury to remit certain customs dues and custom-house charges to Consul-General Alfred E. Lee.

#### REPORTS OF COMMITTEES.

Mr. JACKSON, from the Committee on Pensions, to whom was referred the bill (S. No. 1486) granting a pension to Mary A. Dougherty, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. HARRIS, from the Committee on Finance, to whom was referred the bill (S. No. 1513) for the relief of Orville Horwitz, trustee for C. D. De Ford & Co., reported it with an amendment; and submitted a report thereon, which was ordered to be printed.

Mr. MCPHERSON, from the Committee on Finance, to whom was referred the bill (S. No. 1459) for the relief of the North German Lloyd Steamship Company, submitted an adverse report thereon; which was ordered to be printed.

Mr. GORMAN. I ask that the bill be placed on the Calendar.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar with the adverse report of the committee.

Mr. GROVER, from the Committee on Military Affairs, to whom were referred the bill (S. No. 1144) to authorize the Secretary of War to ascertain and report to Congress the claims respectively of the States of Kansas, Nevada, Oregon, and Texas, and the Territories of Idaho and Washington, for repelling invasions and suppressing Indian hostilities; the joint resolution (S. R. No. 10) to authorize the Secretary of War to ascertain and report to Congress the amount of money expended and indebtedness assumed by the State of Oregon in repelling invasions, suppressing insurrection and Indian hostilities, enforcing the laws, and protecting the public property; and the joint resolution (S. R. No. 13) to authorize the Secretary of War to ascertain and report to Congress the amount of money expended and indebtedness assumed by the State of Nevada in repelling invasions, suppressing insurrection and Indian hostilities, enforcing the laws, and protecting the public property, reported a bill (S. No. 1673) to authorize the Secretary of the Treasury to examine and report to Congress the amount of all claims of the States of Texas,

Oregon, and Nevada, and the Territories of Washington and Idaho for money expended and indebtedness assumed by said States and Territories in repelling invasions and suppressing Indian hostilities; which was read twice by its title.

Mr. MCMILLAN, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 1420) for the relief of Howard University, reported it with an amendment; and submitted a report thereon, which was ordered to be printed.

Mr. MORRILL, from the Committee on Finance, to whom was referred the bill (S. No. 1604) to establish an assay office at Deadwood, in the Territory of Dakota, reported it without amendment.

Mr. HAMPTON. I am directed by the Committee on Military Affairs, to whom was referred the bill (H. R. No. 909) for the relief of D. T. Kirby, to report it favorably without amendment. A Senate bill on the same subject passed the Senate, and this bill was referred to the committee to investigate some rumors. The Senator from Missouri [Mr. VEST] wishes to have the bill considered at this time.

Mr. VEST. I ask for the present consideration of the bill.

Mr. INGALLS. I object.

Mr. VEST. Will the Senator from Kansas allow me to make a statement?

Mr. INGALLS. Certainly.

Mr. VEST. A similar bill was reported by the Committee on Military Affairs and passed the Senate. This bill passed the House of Representatives just about the time the Senate bill was passed by this body, and the bill having passed both Houses, when this bill came from the House it was placed on the Calendar without reference. When the bill was called regularly on the Calendar, the Senator from New Hampshire [Mr. ROLLINS] objected to its consideration and moved its reference to the Committee on Military Affairs on account of some personal charges alleged against this officer. The bill was sent to the Military Committee upon that statement. Those charges were examined and found to be without foundation. It would be a matter of gross injustice to this officer that the bill should go to the foot of the Calendar when he is found to be perfectly innocent. The bill ought to be treated as retaining its regular order on the Calendar. Under these circumstances, I do not think any member of the Senate will object to taking up the bill now and passing it.

The PRESIDENT *pro tempore*. Is the objection insisted upon?

Mr. INGALLS. Yes, sir.

The PRESIDENT *pro tempore*. The objection is insisted on, and the bill goes on the Calendar.

Mr. VEST. Who makes the objection? I want to know.

The PRESIDENT *pro tempore*. The Senator from Kansas [Mr. INGALLS] objects.

Mr. VEST. Then I move that the bill be taken up.

Mr. INGALLS. If the Chair will read the rule, it will be found that no report can be considered on the day it is made without unanimous consent. It would require a change of the rule to have a bill otherwise considered, and the rule cannot be changed without a day's notice.

The PRESIDENT *pro tempore*. Of course the bill cannot be considered to-day if there is objection.

Mr. INGALLS. A bill cannot be considered unless unanimous consent is given on the day it is reported.

Mr. CAMERON, of Pennsylvania, from the Committee on Military Affairs, to whom was referred the bill (S. No. 532) for the relief of William S. Hansell & Sons, reported it without amendment; and submitted a report thereon, which was ordered to be printed.

Mr. PLUMB, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 795) for the relief of Arthur W. Eastman, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 1589) for the relief of Joseph F. Wilson, reported it without amendment.

Mr. BLAIR, from the Committee on Pensions, to whom was referred the bill (H. R. No. 130) granting a pension to Ann Atkinson, 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. 1485) granting a pension to Ann Atkinson, asked to be discharged from its further consideration, and that it be indefinitely postponed; which was agreed to.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, to whom was referred the petition of Ben Holladay, praying compensation for spoliations by Indians on his property while carrying the mails of the United States, submitted a report thereon, accompanied by a bill (S. No. 1683) for the relief of Ben Holladay.

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

### DISTILLED SPIRITS.

Mr. BECK. The Committee on Finance have instructed me to ask leave of the Senate to have a tabular statement relative to the production and consumption of distilled spirits from 1863 to 1881 printed for the use of the committee.

The PRESIDENT *pro tempore*. The printing will be ordered, there being no objection.

### A. HOEN & CO.

Mr. ANTHONY. I am instructed by the Committee on Printing, to which was referred the bill (S. No. 1601) authorizing the Public Printer to pay A. Hoen & Co., of Baltimore, Maryland, for the lithocaustic illustrations made by them, to report it with amendments. The bill does not make an appropriation, but renders available an appropriation heretofore made, the payment of which has been arrested on purely technical objections. The work is necessary to the completion of the Agricultural Report and the report on the Diseases of Domestic Animals, for which there is considerable anxiety. I venture to ask for the present consideration of the bill.

By unanimous consent, the bill (S. No. 1601) authorizing the Public Printer to pay A. Hoen & Co., of Baltimore, Maryland, for the lithocaustic illustrations made by them, was considered as in Committee of the Whole. It directs the Public Printer to pay, out of money heretofore appropriated for the public printing, to Messrs. A. Hoen & Co., of Baltimore, Maryland, for the lithocaustic illustrations executed by them for the Diseases of Domestic Animals, and for the lithocaustic illustrations for the report of the Commissioner of Agriculture for 1880, in accordance with their contract of July 2, 1881, entered into by them with the Public Printer, as authorized by the Joint Committee on Printing in their letter to the Public Printer dated March 1, 1881.

The bill was reported from the Committee on Printing with amendments.

The first amendment was, in line 6, after the word "Maryland," to insert the words "the sum of $80,000, being the balance of."

The amendment was agreed to.

The next amendment was, at the end of the bill to insert the following proviso:

*Provided*, That said payment shall be in sums of $16,000 each upon the delivery to the Public Printer of said illustrations in lots of 50,000 each.

The amendment was agreed to.

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

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

### BILLS INTRODUCED.

Mr. COKE asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1674) to establish a post-route in Texas; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

Mr. MAXEY asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1675) to establish a post-road in the Indian Territory; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

Mr. ROLLINS asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1676) to amend section 1402 of the Revised Statutes, relative to the appointment of naval constructors and assistant naval constructors in the United States Navy; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. MCDILL asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1677) to amend the act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts; which was read twice by its title, and referred to the Committee on Finance.

Mr. VEST asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1678) for the relief of the legal representatives of the owners of the steamer Sultana; which was read twice by its title, and referred to the Committee on Claims.

He also asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1679) to authorize the construction of bridges across the Missouri River between its mouth and the mouth of the Dakota or James River, and across the Mississippi River between the port of Saint Paul, in the State of Minnesota, and the port of Natchez, in the State of Mississippi, and across the Illinois River between its mouth and Peoria, in the State of Illinois; and to prescribe the character, location, and dimensions of the same; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Commerce.

Mr. CALL asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1680) granting a pension to Ann Leddy; which was read twice by its title, and referred to the Committee on Pensions.

Mr. SLATER asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1681) to authorize the Oregon Pacific Railroad Company to construct one or more bridges across the Willamette River, in the State of Oregon, and to establish them as post-roads; which was read twice by its title, and referred to the Committee on Commerce.

Mr. PLATT (by request) asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 1682) explanatory of section 25 of the act approved July 8, 1870, entitled "An act to revise, consolidate, and amend the statutes relating to patents and copyrights," and of section 4887 of the Revised Statutes of the United States; which was read twice by its title, and referred to the Committee on Patents.

Mr. CALL asked and, by unanimous consent, obtained leave to introduce a joint resolution (S. R. No. 57) for the continuance of

work under the river and harbor act in certain cases where the appropriation has been expended; which was read twice by its title, and referred to the Committee on Commerce.

HELEN M. FIEDLER.

The PRESIDENT *pro tempore*. If there be no further morning business the Senate will proceed to the consideration of the Calendar under the Anthony rule.

Mr. MORGAN. I call up the concurrent resolution submitted by me on the 14th of March last, and now on the Calendar, in relation to the claim of Helen M. Fiedler against the Government of Brazil.

The Senate proceeded to consider the resolution, as follows:

*Resolved by the Senate, (the House of Representatives concurring,)* That the President of the United States be requested to bring to the attention of the Emperor of Brazil the claim of Helen M. Fiedler, executrix of Ernest Fiedler, deceased, against the Government of Brazil, growing out of a contract alleged by said claimant to be obligatory on that Government for the hire of the ship Circassian to transport emigrants from the United States to Brazil in the year 1867, with a view to ask said Government to consider the said claim and to provide for the allowance and payment of such sum as shall be found just to such claimant,

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution.

The resolution was agreed to.

THOMAS G. CORBIN.

The PRESIDENT *pro tempore*. The bill (S. No. 14) for the relief of Thomas G. Corbin, which was under consideration yesterday, is before the Senate as in Committee of the Whole, and open to amendment.

The bill was reported to the Senate as amended.

Mr. SHERMAN. I ask that the bill be read as it now stands.

The PRESIDENT *pro tempore*. One amendment was made as in Committee of the Whole, the amendment inserted on motion of the Senator from Wisconsin, [Mr. CAMERON.] The amendment will be stated.

The PRINCIPAL LEGISLATIVE CLERK. In line 5, after the word "Navy," where it last occurs, the Senate, as in Committee of the Whole, inserted the following proviso:

Provided that he successfully pass the required examination.

So as to make the bill read:

*Be it enacted, &c.*, That the President of the United States be, and he is hereby, authorized to restore Thomas G. Corbin, now a captain on the retired list of the Navy, to the active list of the Navy, (provided that he successfully pass the required examination,) to take rank next after Rear Admiral J. W. A. Nicholson, with restitution from December 12, 1873, to November 15, 1881, of the difference of pay between that of a captain retired on half pay and that of a commodore on the active list on waiting-orders pay, and with restitution from November 15, 1881, of the difference of pay between that of a captain retired on half pay and that of a rear admiral on the active list on waiting-orders pay, to be paid out of any money in the Treasury not otherwise appropriated.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment made as in Committee of the Whole.

Mr. CAMERON, of Pennsylvania. I hope the amendment will not be concurred in.

Mr. ANTHONY. Mr. President, are we going to promote a man from captain to admiral without the examination which every officer has to undergo? It seems to me to restore this man at all is to condone insubordination and disobedience of orders; and this is to reward him for it, to encourage insubordination and disobedience of orders. A man who is to be regularly promoted must pass an examination. Shall this man, who is to be irregularly promoted, who is to jump over every commodore in the Navy and two admirals, be put in his place without having the examination which every other officer has to submit to? I think it would be monstrous.

Mr. CAMERON, of Pennsylvania. The only answer to that question is simply that the board violated the law, did injustice to this man and kept him out of the Navy, so that now, on being restored, he simply asks to be given the place to which he is entitled.

Mr. ANTHONY. He was not entitled to promotion unless the board recommended him. If the board made an illegal order for him, then let another board be convened, and let him be examined as every other officer is examined. He can be excused because I understand he is a proud man——

Mr. CAMERON, of Pennsylvania. And an able man, and a good one.

Mr. ANTHONY. And I understand he knows ten times more than the board which is to examine him. On that ground he may be excused from coming personally before the board, but he is not to be excused from an examination certainly.

Mr. CAMERON, of Pennsylvania. He interpreted the law, as I think, properly.

Mr. ANTHONY. Does he so interpret the law that he is not to have any examination at all?

Mr. CAMERON, of Pennsylvania. I do not think there was any right to examine him beyond a physical one.

Mr. ANTHONY. Then let him have a physical examination.

Mr. CAMERON, of Pennsylvania. He did have that.

Mr. ANTHONY. But that was eight years ago.

Mr. CAMERON, of Pennsylvania. It cannot be said that he is physically disabled now.

Mr. ANTHONY. It cannot be said he is not and it cannot be said he is. We do not want to put him in the Navy as an admiral because we do not know that he is not physically able; we must know that he is physically able.

The PRESIDENT *pro tempore*. This debate is irregular.

Mr. ROLLINS. If the Senators will pardon me one moment, I want to call the attention of the Senate to the real condition of this case. I am not personally acquainted with the officer whose case is before the Senate, but what I have heard of him is very much to his favor. I believe he is a gallant officer, and I want to go just as far as it is possible for us to go in order to relieve him of the difficulty in which he has involved himself.

Now, what is the case? The regulations of the Navy Department, founded upon the law, require a board of examination; and no man can be promoted from one grade to another grade without passing an examination. That has been the law, and is in accordance with the regulations of the Navy Department, for many years past. Within a few days officers of the Navy have been summoned here from Boston and elsewhere to pass an examination. In my judgment, it is wise that such a board should be provided. The regulations of the Navy Department have been sanctioned by Congress. I have before me a copy of the regulations of the Navy Department, and upon the fly-leaf will be found the following:

The orders, regulations, and instructions issued by the Secretary of the Navy prior to July 14, 1862, with such alterations as he may since have adopted, with the approval of the President, shall be recognized as the regulations of the Navy, subject to alterations adopted in the same manner.

This will be found on page 264 of the Revised Statutes.

I desire to call the attention of the Senate to the following sections of the Revised Statutes, which, to my mind, justified the action of the Navy Department in establishing this board:

SEC. 1496. No line officer below the grade of commodore, and no officer not of the line, shall be promoted to a higher grade on the active list of the Navy until his mental, moral, and professional fitness to perform all his duties at sea have been established to the satisfaction of a board of examining officers appointed by the President.

SEC. 1497. In time of peace no person shall be promoted from the list of commodores to the grade of rear-admiral, on the active list, until his mental, moral, and professional fitness to perform all his duties at sea has been established as provided in the preceding section.

SEC. 1503. No officer shall be rejected until after such public examination of himself and of the records of the Navy Department in his case, unless he fails, after having been duly notified, to appear before said board.

I also read the order establishing the regulations of 1876 for the government of the Navy:

NAVY DEPARTMENT, WASHINGTON,
*August* 7, 1876.

The following regulations are established, with the approval of the President of the United States, for the government of all persons attached to the naval service. All circulars or instructions from any of the bureaus of this Department not in contravention with these regulations are to be considered as still in force, and will be obeyed accordingly.

GEO. M. ROBESON,
*Secretary of the Navy.*

Therefore these regulations of the Navy Department have been sanctioned by Congress and have the force of law. This officer had the right to go before the board, and he was asked to go before them in accordance with the regulations. He refused to go before them and was guilty of insubordination.

Mr. BUTLER. May I ask the Senator from New Hampshire just one question there?

The PRESIDENT *pro tempore*. Does the Senator yield? If so, it will be taken out of his time.

Mr. ROLLINS. Certainly.

Mr. BUTLER. I simply wish to ask the Senator if he thinks the board has the right to inflict retirement upon an officer as a punishment for not going before the board? Is that the position he takes?

Mr. ROLLINS. The regulations have been sanctioned by Congress, and they provide that unless the man appears when summoned he may thus go upon the retired list. He had the option. He could go before the board, but he said, "No, I will not go before the board." I believe that the regulations establishing this manner of examination are conducive to the best welfare of the Navy, and all ought to comply with them.

I want to say that there is no other instance since these regulations were promulgated, since these laws were passed, where an officer of the Navy has not been compelled to comply with the regulations. Yesterday the case of Captain Fairfax was quoted. I thought then I was right, and I know now that I was right, in thinking that there never was any law whatever passed in reference to Captain Fairfax. He refused to obey the summons of the board, he refused to go before the board for examination, how long? Until two brother officers had passed over his head. Then what did he do? Then he complied with the regulations of the Navy Department; then he complied with the law, and went before the board and was examined for promotion. But now, if we pass this bill without the amendment pending, we simply say to every officer in the Navy, "You may disobey hereafter and in all coming time these regulations of the Navy Department; they are not binding upon you; disobey them at your will, and Congress will relieve you from all embarrassment."

I say if we pass this bill without this clause in it we shall have done more to demoralize the Navy and more to upset its regulations than anything else which could be accomplished by Congress. For the

good of the Navy, notwithstanding my regard for this officer, notwithstanding my hearty wish to do everything that can be done properly, I say that we ought not to pass the bill unless the amendment is in it. I understood yesterday that the Senator from New Jersey, the Senator from Pennsylvania, and other members of the committee thought that it was fit and proper that the amendment should be ingrafted into the bill. I think so now, and I think we shall do a wrong to the Navy unless we put it on.

[The President *pro tempore* rapped with his gavel.]

Mr. CAMERON, of Pennsylvania, and Mr. McPHERSON addressed the Chair.

The PRESIDENT *pro tempore*. The Senator from New Jersey.

Mr. McPHERSON. I yield to the Senator from Pennsylvania.

The PRESIDENT *pro tempore*. The Senator from Pennsylvania has spoken once.

Mr. McPHERSON. Then I should like to ask the Senator from New Hampshire, who has quoted the case of Commodore Fairfax, if Congress did not subsequently pass an act restoring Commodore Fairfax to the number that he lost by reason of the alleged insubordination?

The PRESIDENT *pro tempore*. The Senator from New Hampshire has no right to answer the Senator from New Jersey, because his time is out.

Mr. ROLLINS. It did not.

Mr. McPHERSON. Then I will answer the question. An act was subsequently passed by Congress restoring Commodore Fairfax to the number he lost by reason of his alleged insubordination.

Mr. ROLLINS. If the Senator from New Jersey will look into the acts of Congress he will find that he is entirely mistaken about it.

Mr. McPHERSON. I cannot use my time now upon that, but I will state that Captain Corbin addressed a very courteous letter to the board which had his case under examination; and the argument he made before the board I will ask the Secretary to read in lieu of any argument that I might make myself.

Mr. ROLLINS. Will the Senator allow me to ask him a question while he has the floor? Will he tell me why there should be any different course pursued in this case than that in regard to every other officer in the Navy.

The PRESIDENT *pro tempore*. The Senator from New Hampshire is out of order.

Mr. McPHERSON. There should be no difference.

The PRESIDENT *pro tempore*. The Senator from New Jersey is out of order.

Mr. ROLLINS. I will ask the Senator from New Jersey to yield to me for one moment.

The PRESIDENT *pro tempore*. The Senator from New Hampshire had five minutes and his time expired; and the Senator from New Jersey had no right to ask him a question, because he could not answer it.

Mr. ROLLINS. I asked the Senator from New Jersey to yield to me for a question out of his own time, and not out of mine.

The PRESIDENT *pro tempore*. That he can do.

Mr. ROLLINS. Therefore I submit I am in order.

Mr. McPHERSON. The Senator from New Hampshire asked me a question, and I believe, occupying the floor in my own right, I am at liberty to reply. I answer again the Senator from New Hampshire that there was an exception made in Corbin's case; that Mr. Corbin, for some malice or other motive on the part of the board, was required to do what no other captain of the Navy is required to do. He was required to personally appear before the board when his record was good. Now, I ask to have his own argument read as part of my remarks, occupying my time.

The Principal Legislative Clerk read as follows:

Before examining the purport of the law, it is to be observed that the board is to be governed solely by the act of Congress itself, which confers no other power upon the executive department of the Government than to appoint the members of the board. In this respect it differs from some other acts of a similar character; as, for instance, the act of February 28, 1855, which directed the board of officers "to perform their duty under such regulations as shall be prescribed by the Secretary of the Navy." Accordingly, the Secretary embodied his "instructions" in a letter to the board, dated June 20, 1855, acting, as he expressly said, under the power conferred by Congress. The act under consideration gives no such power, and therefore there is no right in the Secretary of the Navy or the President to prescribe rules for the government of the board. They must be governed by the act, and the act alone.

Taking up the act itself, it seems clear that the normal mode of procedure was intended to be without the presence of the party whose fitness is to be investigated.

1. The first section is evidently intended to embody all that was expected to be usually essential for the decision of the case. It says nothing of the presence of the party, or of any such thing as a literary, quasi-scientific, or professional interrogation of the officer himself. It looks entirely to the ascertaining of the officer's fitness by examination of witnesses and records.

2. That a decision in this matter was thought possible, and was expected, also, to be the usual mode, is made manifest by the third section, which states explicitly that any officer to be acted on by said board shall have the right to be present, if he desires it. How could it be made more clear that, if he does not desire it, he need not appear?

The right to appear is evidently based upon the supposition that something may occur to make it desirable for him to rebut testimony unfavorable to his professional character. In that case he is given the right to make his own "statement of his case," to call witnesses, and to have the statement, the testimony of the witnesses, and his own "examination" "recorded." This is the only "examination" mentioned in the whole act (except where the first section speaks of examining records) and it most clearly points to his examination as a witness in regard to some fact or facts then under consideration. It has no relation at all analogous to that in the new civil-service system.

3. If such an examination as that just referred to had been in contemplation of the act, it would certainly have clearly prescribed the nature and scope of the different subjects to be taken up for the different classes of officers, and, in various ways, have expressed such a purpose.

4. The last clause of section 3 requires a word of comment. It must be noted that it expressly looks to the case of an officer declining to appear, after notice, and it does not say that his failing to appear shall be *ipso facto* ground for an unfavorable verdict, nor even for censure. Its meaning is simply this. It says to the officer, "Something has turned up in this investigation which it was thought you might wish to explain or deny, and you were notified to appear. You preferred to remain absent, and you are estopped from any objection on that score." His absence, after notice, is not to enter into consideration at all as an element in making up the judgment of the board.

The PRESIDENT *pro tempore*. The time of the Senator from New Jersey is out.

Mr. SHERMAN. Mr. President, I have no feeling whatever about this case, although it seems to excite others. I see nothing in it except a pure question of law, and it seems to me to be a very plain one. The first section of the act referred to in the report plainly gives to a board so organized the right to examine into the merits of a naval officer, the right to examine witnesses and to obtain testimony without limit or restraint. Can any judge in reading that section doubt the right of the board, if they choose to do it, to examine the person most interested, the man himself, whose examination would disclose his mental qualities and, to some extent, his moral responsibility? His record is disclosed by the official papers. It seems to me as plain as day that under that section the board had the right to call Captain Corbin before them and examine him. It is true the third section of the act also provides that Captain Corbin shall have the corresponding right to be examined; but that is entirely consistent with the absolute right of the board to call Captain Corbin before them.

Mr. BUTLER. May I ask the Senator——

Mr. SHERMAN. I have but five minutes, and I would rather not yield; it interrupts me.

It is perfectly plain as a question of law that Captain Corbin was rightly called before that board. He seems to be a man of spirit; he seems to be a good officer; no one says anything against him; but he did violate his duty as an officer in that he was insubordinate, in that he refused to allow the board to do its duty. The board had a right to examine him, and he had the right to be examined if he chose to be examined. It was a mutual right. The board had a right to have a personal examination of Captain Corbin, and Captain Corbin had a right to claim to be examined by the board.

It seems to me that after the lapse of nine years, after this gentleman has been on the retired list, it may be, engaged in other pursuits, rendering no service to the country, to restore him back to the date of 1874, with full pay and with all the promotion he would have had if he had retained his position, is an act of injustice to other officers of the Navy. On that ground I shall vote against the bill. The conduct of this gentleman seems to have been good, his reputation is good, he was a brave and gallant officer, and he probably did this act hastily or under a wrong construction of the law; but he ought to suffer for it; he ought not to complain of that. I would vote with great cheerfulness to restore him to the position he occupied before in the Navy or to do anything else that is reasonable. He has been very severely punished for this act, and I would be willing to condone that punishment, to do everything that is right; but to put him above some twenty-five or thirty officers seems to be an act of injustice.

Mr. PLUMB. And giving him pay also for the time he was out.

Mr. SHERMAN. And then giving him $5,000 or $10,000 for back pay for services which he did not perform, as it is said, for a line of duty which he could not perform. Therefore, now to relieve him from the examination which the law especially provides, would it not be a still greater act of injustice? It is simply to take sides with him and say that Captain Corbin was perfectly right in all this matter, and that this was an act of gross injustice done by the Navy Department, by the President, and by the board of his brother officers. It seems to me that it would be grossly unjust to them. While we might relieve him from the burden by placing him back on the list where he was before, we certainly ought not to put him over the heads of officers who have been performing their duties and who have been earning their pay.

It seems to me, therefore, that this bill goes too far, and that the friends of this gentleman—and he appears to have very warm friends—ask too much of the Senate to place him in the position he would have occupied if he had been in the full discharge of duty for the last nine years and had never violated his duty in refusing to go before the board to be examined.

Mr. BUTLER. Mr. President, I know very little about this case—I have seen the report this morning for the first time—but it seems to me those opposing the bill lose sight of a very important fact. The Senator from Ohio has just stated that this officer had suffered already a very serious punishment, and he thought perhaps he ought to have been punished for insubordination. I do not know what the powers of the examining board are, but it certainly is the first time in the history of the naval establishment or the military establishment of this country where a board authorized by law to examine an officer for promotion could inflict punishment. My idea has always been that where an officer was insubordinate, where he disobeyed an

order which his superior had a right to give, he could only be punished by a court-martial, or by being put under arrest; but it seems that this board has gone further; that it has absolutely punished this man for what the Senator from Ohio says was an act of insubordination.

Mr. ANTHONY. The board did not put him on the retired list. The board could not do that. It was done by the President.

Mr. BUTLER. What did the board do, then?

Mr. ANTHONY. The board omitted to recommend him for promotion.

Mr. BUTLER. The result of the action of the board was to put him on the retired list by way of punishment by failing to recommend him.

Mr. ANTHONY. He could not have been put on the retired list except by the order of the President.

Mr. BUTLER. Precisely; but that does not affect the proposition I was suggesting. The board itself declined to recommend him for promotion, the practical effect of which was to put him on the retired list by way of inflicting punishment for refusing to appear before them. That is a difficulty which strikes me as being in the way.

Mr. McPHERSON. The board failed to report favorably on his promotion.

Mr. BUTLER. And the failure to report favorably, I understand, was made by reason of his having been insubordinate. They punished him for insubordination. I do not believe the board has any right to do anything of the kind. Under the rules and regulations for the government of the Navy he could be punished by nothing but a court-martial, or an arrest for insubordination or disobedience of orders. It seems to me that that is the hardship under which this gentleman is laboring, and which Congress has not only the right to correct, but which it is its duty to correct in the form of this bill.

It appears that this officer was under the opinion, honest from all we know, that he was not required to go before the board and that his failure to go before the board would not result disastrously to him; but the board seems to have taken a different view, and to have absolutely inflicted a punishment upon him for a disobedience of orders or for insubordination. I submit that the board of examination had no right to do anything of the kind. If injustice has been done him, if punishment has been inflicted, which the Senator from Ohio says has been the case, it certainly is the duty of Congress to correct that; and it cannot work an injustice to officers who are now above him to have a wrong corrected.

Mr. ANTHONY. The argument of the Senator from South Carolina——

The PRESIDENT *pro tempore*. The Senator from Rhode Island is not in order.

Mr. ANTHONY. I have not spoken to the pending amendment.

The PRESIDENT *pro tempore*. The Senator from Pennsylvania [Mr. CAMERON] spoke in favor of the amendment a few words, and then the Senator from Rhode Island had three or four talks.

Mr. ANTHONY. I think, with great deference, that I have not spoken on the amendment.

Mr. INGALLS. I move to commit the bill, which takes precedence of the motion to amend.

The PRESIDENT *pro tempore*. On that motion the Senator from Rhode Island has the floor.

Mr. ANTHONY. I do not wish to take advantage. I only wanted to say that the argument of the Senator from South Carolina goes against the bill, not against this amendment, because if Captain Corbin is a captain, as he is, upon the retired list, and he is to be promoted to commodore, he would have to pass an examination. This provision only requires him to do what every other officer is required to do. But it is proposed that he shall be rewarded for a mistake, as the Senator calls it, which he has made; that he shall be exempt from examination. Why should he be exempt from examination, which every other officer has to submit to? I should think that the friends of this officer would demand an examination rather than shrink from it. Is he not capable of passing an examination? Certainly the eagerness with which the examination is opposed would seem to imply as much. I have no doubt that he is capable of passing an examination, and certainly he should not be exempt from it.

Mr. JONES, of Florida. I wish to say one word in reply chiefly to what was said by the Senator from Rhode Island [Mr. ANTHONY] yesterday in relation to a party as distinguished from a witness under this law. I should like to know where can be found the principle to authorize any tribunal to call a man before it under our system to make any statement which either directly or indirectly can be construed as prejudicial to himself. There are some countries where that practice prevails. But the reason of the law here does not go to the party; it only extends to witnesses, and it speaks of witnesses; and, therefore, that provision of the law cannot embrace the parties about whom the witnesses are to testify.

What would be the effect of this man's going before the board? Would it be competent for them, in the absence of any law on the subject authorizing it, to interrogate him about matters the answers to which might involve his own reputation, his own character, his own standing in the Navy? Is there any principle of jurisprudence in our system which would authorize that to be done by implication? And that is what is contended for here, that he did not go before the board to satisfy the board that his own reputation was right when the record showed the whole case.

Mr. McMILLAN. Mr. President, I think the argument of the Senator from Florida goes a little too far in this case. There was no proposition here on the part of this board to ask this officer anything that would tend to criminate himself, and that is the extent of the rule to which the Senator from Florida refers, and which he would invoke in this case. It seems to me there can be no doubt whatever that this board had the power to call before them this officer for examination, and they could call other witnesses. The court in this case called the officer before them, and he refused to come; so that the question here assumes this shape, whether this officer could refuse to obey the mandate of a board to examine him for promotion.

Mr. BUTLER. Right there I should like to ask the Senator——

The PRESIDENT *pro tempore*. Does the Senator from Minnesota yield?

Mr. McMILLAN. No, sir; I just rose to occupy a few minutes.

Mr. BUTLER. Suppose the officer refused——

The PRESIDENT *pro tempore*. The Senator from Minnesota refuses to yield.

Mr. McMILLAN. The examination was not made because this officer refused to appear before the board, as they required him to do, and because the examination was not made to the satisfaction of the board they did not recommend him for promotion. He stood upon what he regarded as his rights, and he took the chances in doing that. If he takes that position, why should he not stand upon it and take the consequences of it manfully? If he makes the issue here which is presented in this debate that this board was wrong and that he was right, then we as the Senate must determine that question, and for my part I have no doubt whatever that the board were entirely right in their position, and this officer has put himself in a position of insubordination, and by passing this bill we indorse his position and say that an officer in the Navy may assume this position and defy a board authorized to examine him. That is not discipline in the Navy, and the Navy is a place where discipline is essential. When such an issue is presented, as it is here, I can only take one course, and that is to sustain the authorities in the position which they have taken.

Mr. VOORHEES. Mr. President, I have the law in my hand under which it is said Captain Corbin was insubordinate, and I challenge any Senator here to point out a word in that law that authorizes that board to order him before it. I will pause and let any Senator do it who will undertake it.

Mr. McMILLAN. I will give the Senator——

Mr. VOORHEES. Give the language.

Mr. McMILLAN. The act provides—I have it before me also——

Mr. VOORHEES. So have I.

Mr. McMILLAN. It says:

That no line officer of the Navy upon the active list below the grade of commodore, nor any other naval officer, shall be promoted to a higher grade until his mental, moral, and professional fitness to perform all his duties at sea shall be established to the satisfaction of a board of examining officers to be appointed by the President of the United States. And such board shall have power to take testimony, the witnesses, when present, to be sworn by the president of the board, and to examine all matter on the files and records of the Department in relation to any officer whose case shall be considered by them.

Mr. VOORHEES. Now, Mr. President, I decline to yield further.

Mr. McMILLAN. That is just the law.

Mr. VOORHEES. That is just the law, and there is not one word in that section, as every Senator knows, that authorized this board to compel the attendance of Captain Corbin. I say that in the Senator's answer it is not shown by a single word or letter of the law that in that section the board had the power to compel the attendance of this man at all, nor had anybody else the power.

Mr. McMILLAN. I should like——

Mr. VOORHEES. The Senator knows I would yield if I could, but I cannot. He knows that perfectly well. The only language in this law from beginning to end touching the presence of the party to be examined is the third section. I repeat it; the only place where his presence is mentioned is the third section, and in that it says:

That any officer to be acted upon by said board shall have the right to be present, if he desires it.

That is all. He could be examined behind his back. It leaves him an option; he has the choice to go there or stay away, and that is the construction put on this act by that able officer of the Navy Department, Mr. Fox, in a letter which I have in my hand that I would read if I had time. That was the construction placed on the law in a letter from Mr. Fox to the Senator from Vermont, [Mr. EDMUNDS.] So that this is no strained construction; it is the construction placed by the head of the Department at that time on this legislation, that it was an option that an officer could exercise if he saw fit to stay away and trust his strong and meritorious record as Captain Corbin did; and it should not injure him. He had a right to lie back, or if he felt that he was weak and desired to brace himself up by a personal relation to the board he could go before it and talk for himself. That was all there was of it. Captain Corbin, after more than a generation of service, felt that it was not necessary for him to do so, and he exercised his plain right as I say. He was not insubordinate, he obeyed the law; the board did not.

The PRESIDENT *pro tempore*. The question is on concurring in the amendments made as in Committee of the Whole.

Mr. BAYARD. Mr. President, I am very averse to making a breach in a general public law because of the hard case that it is intended to meet and alleviate; but there are some features connected with martial law and the law of the Departments which I have adverted to before, and must again, as placing them outside of the ordinary exercise of that which is known to the Constitution as judicial power. Judicial power means deliberate trial of a case with full power to retry, to examine, to cure mistakes, to open judgments, to repeal errors, to correct them in every shape. The proceedings under the rules of the military service in both branches are necessarily summary. Now I find in this report the remarkable fact stated that this officer has applied and applied in vain to obtain a copy of the report and the proceedings upon which he was retired. Is it or is it not a matter of fact that he was retired because he refused to submit to an oral examination? If he was retired for that reason, can there be a doubt that his retirement was invalid, unlawful, that it was *ultra vires* in the fullest sense of the term? They had no more right to punish him by retiring him under that law than they had to deprive him of his pay under that law. If he had sinned by refusing to obey an order, there certainly was in the naval service the means to compel obedience to every proper order. But is there in this law a power given to a retiring board to refuse to furnish the man on trial at the time he applies for it, with a copy of their proceedings? Such seems to be the case; it is in the report of the House committee. It is there stated what seems to be scarcely credible for an American citizen to ask for and not obtain:

Captain Corbin then preferred a request to be furnished with a copy of the report of the examining board, and of all matter on the files and records of the Department touching his case, which was refused.

So far as I know, that refusal has been extended to Congress, for no such report has been spoken of by any member of the committee; and therefore, what is the Senate to assume? It is that this man, having refused to submit to an oral examination, professing himself at the same time ready to answer any question that touched his record, has been placed upon the retired list against his will. Therefore you have a refusal, qualified in the way I have mentioned, punished by a board that had no power to punish it. How are you going to come at these things? The President, it is true, has the power of examination; that is all; but has not Congress the power to remedy injustice? Has not Congress the power to remedy injustice in all these cases of summary proceeding, whether by naval or by military courts or by military boards? I will never, for my own part, relinquish my share of the legislative power to remedy an injustice which is done to a man for want of having a tribunal that has the power to re-examine its errors and to rectify its mistakes. None of us are safe unless there shall be not only the power to try and to hear, but the power to re-examine, open, set aside a judgment which has proved to be unjust.

Mr. BECK. Mr. President, I happened yesterday to say that I had read this report and was prepared to vote to restore Captain Corbin. I had never seen him, nor the report, nor anything connected with the case until the day before yesterday, when I looked over the report, and it seems to me so far as I am able to understand it that the board is the really guilty party and not the man who is now before us. He has been a meritorious officer. They certify to that. His record was before the board. They had the right to summon all the witnesses they saw fit. He had a right to appear before them if he chose, but he did not choose to do so. Thereupon they retired him. Mr. Fox, the Assistant Secretary of the Navy, said in reference to this law:

This legislation was for the purpose of raising the spirit of the Navy, by removing from the active list the drunkards and imbeciles. It had no reference to and was not intended to act upon officers whose record was blameless.

Commodore Rodgers was asked the question—

Do you or not consider Captain Corbin to be mentally, morally, and professionally a fit officer to perform all his duties at sea in a higher grade?

And his answer was—

I do so consider him eminently qualified.

Now, as I understand the law, he had to appear before the board and show that he was physically fit; then he had to submit his public record. They had a right to examine into it. The third section of the law, instead of requiring him to come and answer any questions they might see fit to put to him, provided as a matter of right to the officer himself that he should have the right to be present if he desired it; and if anybody said anything against his character, moral or professional, it gave the officer the right to be heard. All the testimony shows that there was nothing said against him morally, professionally, or in any other way that required him to speak. He was physically competent; he was present for that purpose, and his examination was satisfactory to the medical board; his public record was satisfactory, everything was satisfactory, and he was not required by law to appear before the board; and when they undertook to make him appear they themselves were the wrong-doers.

The Senator from Rhode Island spoke of them yesterday as his superiors. They were not his superiors; they may have been officers higher in grade, but they were a board bound by the act of Congress. He was before them, and had all the rights that the act of Congress gave him; and when they undertook by any act of their own or by any regulation of the Department to establish a rule different from that which the act of Congress prescribed they were usurping authority, and Congress ought to condemn them for usurping authority not given them by act of Congress; and any departmental ruling in violation of the act of Congress requiring a man to do what the law did not require him to do, and usurping powers not given to them, ought to be condemned by Congress; and the man who resisted them was a man who was doing well in obeying the laws of his country and refusing to be dictated to by a set of men who constituted themselves by departmental order or authority judges with power beyond what the law really gave them. That was the way it struck me when I looked at the case, and it is the way it strikes me now.

I know that all the departments of the Government and all the bureaus, when they have an opportunity, decide everything to increase and magnify their own power, and want to make a man obey what they say. Fortunately the act of Congress that binds them applies to him as well, and the question before Congress is who was right and who was wrong. As far as I see, the man was right.

Mr. ANTHONY. I should like to ask the Senator from Kentucky one question, granting all he says——

The PRESIDENT *pro tempore*. The time of the Senator from Kentucky is not quite out, and he can answer the question.

Mr. ANTHONY. Granting that this officer was improperly retired, granting that the board retired him, (which the board did not do and could not do,) still should he be promoted without passing through the examination that every man above him and every man below him has to pass?

Mr. BECK. I voted for the amendment to make him appear before a board, and I shall do it again.

Mr. CAMERON, of Wisconsin. That is the amendment now under consideration.

Mr. BECK. I shall vote for that; I voted for it yesterday. We can make a law requiring him to go before a board.

Mr. MAXEY. I have but a very few words to say in regard to this bill. What was the power of the board? That is the first question to be determined. Whatever power it had was given to it by the law. The first section of the law of 1864 granted to the board the power "to take testimony, the witnesses, when present, to be sworn by the president of the board, and to examine all matter on the files and records of the Department in relation to any officer whose case shall be considered by them." That gives the power and the whole power which the board had.

Then by the third section there is a privilege granted to the officer. That privilege is:

That any officer to be acted upon by said board shall have the right to be present if he desires it; and his statement of his case on oath and the testimony of witnesses and his examinations shall be recorded.

Here the board had the right to take testimony, to examine the record. That was its power. It would have no power to examine witnesses of itself. The officer has by the third section a privilege. That privilege is to appear, if he sees proper, and to be examined on oath if he demands it. Now suppose he does not exercise this privilege. I ask any lawyer if he can be condemned because he does not exercise a privilege when the law does not grant the power to the board to compel him to appear or to be examined?

The PRESIDENT *pro tempore*. Does the Senator from Kansas withdraw his motion to commit?

Mr. INGALLS. Yes, sir; if no one else wants to speak on it.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment adopted as in Committee of the Whole.

Mr. CAMERON, of Pennsylvania, and Mr. VOORHEES called for the yeas and nays; and they were ordered and taken.

Mr. PLATT. I am paired with the Senator from West Virginia [Mr. CAMDEN] on political subjects, but I conceive this is not a political subject, and unless some Senator on the other side thinks it to be so, I will vote "yea."

The PRESIDENT *pro tempore*. The Chair thinks it is not.

The result was announced—yeas 28, nays 21; as follows:

YEAS—28.

| | | | |
|---|---|---|---|
| Aldrich, | Harrison, | Miller of N. Y., | Saunders, |
| Anthony, | Hawley, | Mitchell, | Sawyer, |
| Bayard, | Hill of Colorado, | Morrill, | Sherman, |
| Beck, | Ingalls, | Pendleton, | Teller, |
| Blair, | Kellogg, | Platt, | Vance, |
| Cameron of Wis., | McDill, | Plumb, | Walker, |
| Davis of Illinois, | McMillan, | Rollins, | Windom. |

NAYS—21.

| | | | |
|---|---|---|---|
| Butler, | Gorman, | Maxey, | Vest, |
| Call, | Grover, | Johnston, | Voorhees, |
| Cameron of Pa., | Hampton, | Jonas, | Williams. |
| Coke, | Harris, | Morgan, | |
| Farley, | Jackson, | Pugh, | |
| Garland, | Jones of Florida, | Slater, | |

ABSENT—27.

| | | | |
|---|---|---|---|
| Allison, | Edmunds, | Hill of Georgia, | Mahone, |
| Brown, | Fair, | Hoar, | Miller of Cal., |
| Camden, | Ferry, | Jones of Nevada, | Ransom, |
| Cockrell, | Frye, | Lamar, | Saulsbury, |
| Conger, | George, | Lapham, | Sewell, |
| Davis of W. Va., | Groome, | Logan, | Van Wyck. |
| Dawes, | Hale, | McPherson, | |

So the amendment was concurred in.

Mr. PLUMB. I call for a vote on the amendment which I proposed in committee, striking out all after line 6.

The PRESIDENT *pro tempore*. That was disagreed to in committee. The Senator can offer it again in the Senate.

Mr. PLUMB. Then I now offer the amendment which I proposed in committee, striking out all after line 6. I will simply say that the only effect of this amendment is to prevent the giving to this officer of pay for services which he has not rendered.

Mr. BAYARD. He would have earned the money if you had given him the chance.

Mr. McMILLAN. I should like to ask the Senator from Kansas if this gives him back pay, pay for the time he has not been in the Navy.

Mr. PLUMB. The bill as it stands will give nine years' pay for services this man never rendered.

Mr. CAMERON, of Pennsylvania. That was not his fault.

The PRESIDENT *pro tempore*. The amendment is to strike out all after line 6. The words proposed to be stricken out will be read.

The Principal Legislative Clerk read as follows:

With restitution from December 12, 1873, to November 15, 1881, of the difference of pay between that of a captain retired on half pay and that of a commodore on the active list on waiting-orders pay, and with restitution from November 15, 1881, of the difference of pay between that of a captain retired on half pay and that of a rear-admiral on the active list on waiting-orders pay, to be paid out of any money in the Treasury not otherwise appropriated.

The PRESIDENT *pro tempore*. The amendment is to strike out the words which have just been read. The question is on the amendment.

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

Mr. ANTHONY. I believe that this is entirely without precedent. No officer in the Army or Navy, within my recollection, has ever been restored with back pay. The Senator from Delaware says it was not the officer's fault that he did not earn it. It is not the fault of a great many men that they are not in our seats, but they are not entitled to pay.

Mr. BAYARD. It seems to me that the payment to this officer of the difference between the pay which we have just declared by a vote he is entitled to and the pay to which he was assigned by the arbitrary and as I think invalid act of the retiring board——

Mr. ANTHONY. What invalid act?

Mr. BAYARD. Any act of the board that was beyond its authority, in my judgment was invalid. I understand from all the facts we can get at in this case, that because this officer did not appear before the board they proceeded to punish him by placing him on the retired list.

Mr. ANTHONY. No, Mr. President, the board could not place him on the retired list. All the board did was to decline to recommend him for promotion.

The PRESIDENT *pro tempore*. Does the Senator from Delaware yield?

Mr. BAYARD. The amount of it is this: he was placed on the retired list because of their refusal to promote him; the one followed the other; if not the logical result, it was the actual result. But it is clear that if you by this vote shall restore him you decide that his being placed on the retired list against his will was an act of injustice. You can set it right, and if you set it right you must set it right in respect to the pay as well as anything else.

Mr. McPHERSON. I wish to notice a remark made by my friend from Rhode Island to several Senators while upon the floor, to the effect that the board did not place Captain Corbin upon the retired list. The answer to that is this: if he fails to pass the examination in the opinion of the board, if he has not the certificate of the board, the law places him upon the retired list. The law says he shall be retired unless they recommend him for promotion. Now, the board, with all the records of the Department showing nothing against Mr. Corbin, showing his record to be as perfect as that of any officer who had ever occupied a place in the Navy, finding nothing against him, yet determined that he should come there in person because they demanded it contrary to law, contrary to right, contrary to reason, reported adversely, and the law retired him. That is the whole state of the case. If they had found in the archives of the Department something militating against the record of Captain Corbin, if they had found him unworthy from the records which he cited them to examine, preferring not himself to appear before the board unless they found him disqualified by the record, he would have come; but the president of the board himself declared his record to be unimpeachable, declared that Captain Corbin was eminently qualified; and yet they reported adversely to his promotion, and the law retired him. The statute says that unless he is reported by the board favorably he shall be placed on the retired list.

Mr. HAWLEY. I think that the Senator from Delaware is in error in saying that because we have voted already that this offense shall be condoned, and Captain Corbin shall be restored, therefore we ought to vote to give him his pay. We have not yet passed on the question of restoration. Some of us voted and a majority of the Senate voted to put in the amendment providing that he shall first pass an examination, because we desire that the bill shall be as nearly perfect as possible. It does not follow even that we shall vote for the bill at all, but if we shall vote for it, if the bill shall be passed, it will be the better because of that amendment. We have not yet passed final judgment on the case.

Somebody has said here that this was a hostile board. That is a very great mistake. I have personal knowledge that some at least of that board were then and are now the warmest personal friends of Captain Corbin and speak in the very highest terms of his personal and professional character. I think there is a gross injustice in proposing to give him pay for the past nine years, which will amount to something like $10,000. I do not know that we have ever done it, and it is said we have not. We are acting, if we shall pass the bill at all, as a court of equity, precisely as the Senator from Delaware suggested a while ago that we had a right to do, to correct injustice, to revise erroneous or harsh judgments. If this bill shall be passed, I shall regard it, not as going upon the strict law of the case, but as an act of kindness and generosity on the part of Congress to a man who has certainly been a very gallant officer. And personally I have no objection to his going upon the retired list with the rank that he would have held; but I will not vote for a bill which shall say that the Secretary of the Navy and the President were wrong in the judgment they made in the case. They interpreted the law correctly, and I say that there was nothing else left for them to do on his persistent disobedience to the law. But his record was good; he was an honorable man. This was a mistaken freak of temper on his part, I think. He has been nine years on the retired list, which is punishment enough, if you regard it as punishment, for his offense, and I am entirely willing he shall go on the retired list—he is about the age for that now—with the rank he might have held; but I am opposed to any action that shall censure the Government for what it has done, or that shall pay him $10,000 for services he has never rendered.

Mr. ANTHONY. The Senator from New Jersey I think misapprehends the law. Section 1447 of the Revised Statutes says:

When the case of any officer has been acted upon by a board of naval surgeons and an examining board for promotion, as provided in chapter 4 of this title, and he shall not have been recommended for promotion by both of the said boards, he shall be placed upon the retired list.

Corbin was recommended for promotion by the board of naval surgeons who examined him. My recollection is that Fairfax, who also refused to go before the board, and who afterward did go before the board, and who was restored to his former place on the active list, was not retired; I think he remained on the active list, and our act was to restore him. That is my recollection. I may be mistaken. The Senator from Florida can correct me if I am wrong.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Kansas, [Mr. PLUMB,] on which the yeas and nays have been ordered.

The yeas and nays were taken.

Mr. MILLER, of New York, (when his name was called.) I am paired with the Senator from Maryland, [Mr. GROOME.]

Mr. MORGAN, (when his name was called.) I am paired with the Senator from New York, [Mr. LAPHAM.]

The roll-call was concluded.

Mr. FRYE. I am paired with the Senator from Georgia, [Mr. HILL.]

Mr. SAULSBURY. I am paired with the Senator from Michigan, [Mr. FERRY.] I do not know how he would vote, and therefore withhold my vote.

The result was announced—yeas 20, nays 26; as follows:

YEAS—20.

| | | | |
|---|---|---|---|
| Aldrich, | Harrison, | McDill, | Saunders, |
| Anthony, | Hawley, | McMillan, | Sawyer, |
| Blair, | Hill of Colorado, | Morrill, | Sherman, |
| Cameron of Wis., | Ingalls, | Platt, | Teller, |
| Davis of Illinois, | Kellogg, | Plumb, | Windom. |

NAYS—26.

| | | | |
|---|---|---|---|
| Bayard, | Garland, | Jonas, | Vance, |
| Beck, | Gorman, | Jones of Florida, | Vest, |
| Butler, | Grover, | McPherson, | Voorhees, |
| Call, | Hampton, | Maxey, | Walker, |
| Cameron of Pa., | Harris, | Pendleton, | Williams. |
| Coke, | Jackson, | Pugh, | |
| Farley, | Johnston, | Slater. | |

ABSENT—30.

| | | | |
|---|---|---|---|
| Allison, | Fair, | Jones of Nevada, | Morgan, |
| Brown, | Ferry, | Lamar, | Ransom, |
| Camden, | Frye, | Lapham, | Rollins, |
| Cockrell, | George, | Logan, | Saulsbury, |
| Conger, | Groome, | Mahone, | Sewell, |
| Davis of W. Va., | Hale, | Miller of Cal., | Van Wyck. |
| Dawes, | Hill of Georgia, | Miller of N. Y., | |
| Edmunds, | Hoar, | Mitchell, | |

So the amendment was rejected.

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

Mr. PLUMB. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered and taken.

Mr. FRYE, (when his name was called.) I am paired with the Senator from Georgia, [Mr. HILL.]

Mr. MORGAN, (when his name was called.) I am paired with the Senator from New York, [Mr. LAPHAM.]

The result was announced—yeas 26, nays 17; as follows:

YEAS—26.

| | | | |
|---|---|---|---|
| Bayard, | Garland, | Jonas, | Slater, |
| Beck, | Gorman, | Jones of Florida, | Vest, |
| Butler, | Grover, | McDill, | Voorhees, |
| Call, | Hampton, | McPherson, | Walker, |
| Cameron of Pa., | Harris, | Maxey, | Williams. |
| Coke, | Jackson, | Pendleton, | |
| Farley, | Johnston, | Pugh, | |

NAYS—17.

| | | | |
|---|---|---|---|
| Aldrich, | Hawley, | Morrill, | Teller, |
| Anthony, | Hill of Colorado, | Platt, | Windom. |
| Cameron of Wis., | Ingalls, | Plumb, | |
| Davis of Illinois, | McMillan, | Saunders, | |
| Harrison, | Mitchell, | Sherman, | |

ABSENT—33.

| | | | |
|---|---|---|---|
| Allison, | Fair, | Kellogg, | Rollins, |
| Blair, | Ferry, | Lamar, | Saulsbury, |
| Brown, | Frye, | Lapham, | Sawyer, |
| Camden, | George, | Logan, | Sewell, |
| Cockrell, | Groome, | Mahone, | Vance, |
| Conger, | Hale, | Miller of Cal., | Van Wyck. |
| Davis of W. Va., | Hill of Georgia, | Miller of N. Y., | |
| Dawes, | Hoar, | Morgan, | |
| Edmunds, | Jones of Nevada, | Ransom, | |

So the bill was passed.

The PRESIDENT *pro tempore*. The Chair would inquire whether the title of the bill should not be changed. In the body of the bill the name is Thomas G. Corbin, and in the title it is Thomas C. Corbin.

Mr. ANTHONY. I think it ought to be entitled "A bill to reward insubordination and disobedience of orders."

The PRESIDENT *pro tempore*. In the title of the bill it is "for the relief of Thomas C. Corbin," and in the body of the bill it is "Thomas G. Corbin." Which should it be?

Mr. VOORHEES. I am informed that the middle letter is "G."

The PRESIDENT *pro tempore*. The title will be so amended.

ACCEPTANCE OF FOREIGN DECORATIONS.

Mr. WILLIAMS. It is a quarter of an hour before the expiration of the call of the Calendar, and I should like——

The PRESIDENT *pro tempore*. The Senate is proceeding under the Anthony rule, and the Calendar will be proceeded with unless the Senate otherwise direct. The next business in order will be announced.

The next business on the Calendar was the joint resolution (S. R. No. 6) authorizing Lieutenant-Commander Charles Dwight Sigsbee, United States Navy, to accept a decoration from the Emperor of Germany; which was considered as in Committee of the Whole.

Mr. WINDOM. I am instructed by the Committee on Foreign Relations to offer the following as an addition to the joint resolution:

Permission is also granted to Joseph R. Hawley to accept from the Governments of the Netherlands, of Spain, and of Japan certain decorations tendered him as president of the United States centennial commission.

The amendment was agreed to.

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

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

The PRESIDENT *pro tempore*. The title should be amended.

Mr. PENDLETON. By adding "and for other purposes."

The PRESIDENT *pro tempore*. The Chair thinks it should embrace the name of Joseph R. Hawley. The title will be amended by the Secretary to correspond with the body of the resolution.

The title was amended so as to read: "A joint resolution authorizing Lieutenant-Commander Charles Dwight Sigsbee, United States Navy, to accept a decoration from the Emperor of Germany, and also authorizing Joseph R. Hawley to accept decorations from the Governments of the Netherlands, of Spain, and Japan."

ISAAC R. TRIMBLE.

The bill (S. No. 1210) for the relief of the trustees of Isaac R. Trimble, of the city of Baltimore, Maryland, was considered as in Committee of the Whole.

Mr. McMILLAN. Is there a report accompanying the bill?

Mr. MAXEY. Yes, sir.

The bill was reported from the Committee on Military Affairs with an amendment, after the word "render," in line 9, to strike out "such;" and after the word "judgment," in the same line, to strike out "as justice and right between the claimants and the said Government may require" and insert "therein."

The amendment was agreed to.

Mr. INGALLS. Let the bill be read now as amended.

The PRESIDENT *pro tempore*. It will be read as amended.

The Principle Legislative Clerk read the bill as amended, as follows:

That the claim of the trustees of Isaac R. Trimble against the United States for the construction and use by the War Department of Howe's patent truss in the bridge over the Potomac River be, and the same is hereby, referred to the Court of Claims for hearing and adjudication; and to that end jurisdiction is hereby conferred on said court to proceed as a court of equity, and to render judgment therein.

Mr. McMILLAN. Let the report be read.

The PRESIDENT *pro tempore*. The report is lengthy, and perhaps the Senator would be satisfied with a statement.

Mr. McMILLAN. Let the Senator making the report make a statement of the case.

Mr. MAXEY. The report is somewhat lengthy, but I do not know that I can shorten it. I examined the case very carefully, with all the papers before me, and the Senate will find in the report a full statement of the case by the Judge-Advocate-General of the Army, dated July 1, 1876; also the report of M. I. Ludington, quartermaster, United States Army, and they will find what probably would weigh a great deal, a letter from George W. McCrary, at that time Secretary of War, now a United States circuit judge. After full investigation, the conclusion at which Secretary McCrary arrived was that the claim might he submitted to the Court of Claims. Among other letters is one addressed to the late Senator Whyte, in which the Secretary of War says:

WAR DEPARTMENT,
*Washington City, November* 21, 1878.

SIR: In answer to your postal inquiry respecting the claim of Isaac R. Trimble, of Maryland, for the use of the Howe truss by the Government, I have to advise you the last action, as shown by the records under date of November 24, 1877, was a letter to Hon. J. Morrison Harris, of Baltimore, informing him of my willingness to transmit the case to the Court of Claims, if the claimant should so desire. It does not appear that any answer to this letter was received.

Very respectfully, your obedient servant,

GEO. W. McCRARY,
*Secretary of War.*

Hon. WM. PINKNEY WHYTE, *United States Senate.*

The report, I think, will show, if any Senator desires it read, fully that the trustees of Isaac R. Trimble have been found by the Supreme Court of the United States, in the case which is quoted in the report of the Committee on Military Affairs from tenth Wallace, to have the title to the Howe truss bridge, and that it so belonged to the trustees of Trimble prior to the time the bridge over the Potomac was built. A question was raised as to the loyalty of Trimble. That question was decided by the Supreme Court, and it was decided that it had nothing to do with it because the claim had been transferred to parties who had been proved before the court to be loyal parties, and that claim had been transferred prior to the war.

That is about the substance of the case. It is a mere question of leaving it to the Court of Claims to settle it.

Mr. INGALLS. How much money is involved in this matter?

Mr. MAXEY. I think about five thousand or six thousand dollars is the entire amount of the claim.

Mr. McMILLAN. I did not hear the bill read, and I will ask the Senator from Texas if the bill changes the legal rights of the parties at all.

Mr. MAXEY. Not in the slightest degree, but conforms them to the rights set forth in the decision in tenth Wallace in the case referred to in the report, and follows that case. The report is based on that case.

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

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

The PRESIDENT *pro tempore*. The Chair would suggest that the title of this bill, "for the relief of the trustees of Isaac R. Trimble," does not indicate what its purpose is.

Mr. MAXEY. Then I will add "and for other purposes."

The PRESIDENT *pro tempore*. It might say "to refer the claim of the trustees of Isaac R. Trimble, of the city of Baltimore, Maryland, to the Court of Claims."

Mr. MAXEY. Very well.

The PRESIDENT *pro tempore*. The title will be so amended, in conformity with the body of the bill.

KANSAS AGRICULTURAL COLLEGE LANDS.

The joint resolution (S. R. No. 2) to authorize the Secretary of the Interior to certify lands for agricultural college purposes to the State of Kansas, was considered as in Committee of the Whole.

The preamble recites that by act of Congress approved July 2, 1862, there were granted to the several States "which may provide colleges for the benefit of agriculture and the mechanic arts" an amount of public land equal to 30,000 acres for each Senator and Representative in Congress to which the States were respectively entitled by the apportionment under the census of 1860; and that the State of Kansas, having at the time two Senators and one Representative, and having complied with the provisions of the act, was entitled to 90,000 acres; but in consequence of one list of 7,682 acres having been selected from among the public lands which afterward proved to be within the limits of a railroad grant there were actually certified to the State only 82,318 acres. The resolution therefore directs the Secretary of the Interior to certify to the State of Kansas 7,682 acres of land, in lieu of an equal amount selected by the State in pursuance of the act of Congress approved July 2, 1862, as aforesaid.

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

The PRESIDENT *pro tempore*. The question now is on agreeing to the preamble.

The preamble was agreed to.

TIMBER CULTURE ACT.

The bill (S. No. 1286) amending "An act to amend the act entitled 'An act to encourage the growth of timber on Western prairies,'" approved March 13, 1874, was considered as in Committee of the Whole. It proposes to amend section 9 of the act of March 13, 1874, so as to make it read:

SEC. 9. That any person who has made, or shall hereafter make, an entry or claim of land under the provisions of this act, or of any amendments thereof, shall have the right to transfer, by warranty against his own acts, any portion of said land or claim for church, cemetery, or school purposes, or for the right of way of railroads across said land; and the transfer for such public purposes shall in no way vitiate the right to complete and perfect the title to said land or claim.

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

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 5801) to provide a deficiency for the subsistence of the Arapahoe, Cheyenne, Kiowa, Comanche, Apache, and Wichita Indians, in which it requested the concurrence of the Senate.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had this day approved and signed the following act and joint resolution:

An act (S. No. 667) to authorize the Secretary of War to sell the military barracks and the lands upon which they are located in the city of Savannah, Georgia; and

A joint resolution (S. R. No. 37) authorizing the Secretary of War to supply artillery and camp equipage to the soldiers' and sailors' reunion at Topeka, Kansas.

HOUSE BILLS REFERRED.

The bill (H. R. No. 1132) in relation to the port and harbor of New York and the waters near the same was read twice by its title, and referred to the Committee on Commerce.

The bill (H. R. No. 5801) to provide a deficiency for the subsistence of the Arapahoe, Cheyenne, Kiowa, Comanche, Apache, and Wichita Indians was read twice by its title, and referred to the Committee on Appropriations.

SAINT LOUIS AND SAN FRANCISCO RAILWAY COMPANY.

The PRESIDENT *pro tempore*. The hour of two o'clock having arrived, the Chair lays before the Senate the unfinished business.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 60) ratifying the act of the general council of the Choctaw Nation of Indians granting to the Saint Louis and San Francisco Railway Company right of way for a railroad and telegraph line through that nation, the pending question being on the amendment proposed by Mr. INGALLS to section 10 of the amendment reported by the Committee on Railroads.

The PRESIDENT *pro tempore*. The Senator from Kansas [Mr. INGALLS] is entitled to the floor.

Mr. INGALLS. Let my amendment be read.

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

The PRINCIPAL LEGISLATIVE CLERK. The proposed amendment is to add as a proviso at the close of section 10 of the reported substitute:

*And provided further*, That this act shall not go into effect without the consent of the general councils of the Choctaw and Chickasaw Nations.

Mr. INGALLS. I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. MAXEY. I trust the Senate will vote that down; it is a practical abandonment of the power of Congress to legislate for the regulation of commerce among the Indian tribes.

Mr. HAWLEY. I supposed that the Senator from Kansas [Mr. INGALLS] was going to submit some remarks on this point. If not, I desire to say a few more words before the debate on the bill shall close. I spoke early in the discussion and have listened with great interest to what others have said. It has been remarked that this is substantially the bill that was first reported. That allegation I traverse emphatically.

Mr. PLUMB. Will the Senator permit me a moment? For the purpose of possibly curing an objection which he may make in regard to the bill, I want to suggest that I shall move an amendment in section 4 giving to the councils of these two nations the right to appeal from the compensation provided in the bill, providing another method substantially for determining what that compensation shall be.

Mr. HAWLEY. If the Senator from Kansas [Mr. PLUMB] proposes to permit these two councils to say "yes" or "no" to this act, then my objections to the bill will be very largely removed; but that is substantially the question involved in the amendment moved by his colleague, and on that I desire to say a few words.

I do not wish the Senate to be misled by the remark that this is substantially the bill originally reported. That bill was entitled a bill "ratifying the act of the general council of the Choctaw Nation of Indians granting to the Saint Louis and San Francisco Railway Company right of way for a railroad and telegraph line through that nation." It is utterly impossible to permit this bill to go on record with that title to it. It is intended to change the title. It is no longer a bill ratifying the act of the general council of the Choctaw Nation of Indians, and does not profess to be. It goes on the statute-book without any word indicating such purpose or intention or character; and the intent to base the bill on any supposed or needed consent by that council is absolutely denied by all its advocates here. It does not enter into the bill at all. They deny that it is necessary to consult the Indians with regard to the disposal of the lands which stand by solemn treaty guaranteed to them forever.

That is where we stand now, expressly and explicitly avowing that we are going to violate a treaty, that we have a right to do it by the power of eminent domain, and that we have a right to pass a law in contravention of any treaty whatever with anybody. That is the ground.

This bill is in a certain sense based on the bill which is alleged to have passed the Choctaw council; but it is an extraordinary way of ratifying the bill of another legislative body to take it and change its terms entirely. The original bill recited that act, and said whereas the general council of the Choctaw nation did pass a bill in the following words, therefore we enact a ratification of it. The present bill drops all that form and puts into the shape of independent legislation certain conditions imposed on that nation, seizes their land without asking their consent. The unselected lands of that Choctaw territory, all the unselected lands that are needed for this railroad are seized and appropriated, and a certain award is to be paid the Indians, without asking them whether it is enough or without providing any system whatever of adjusting the rate of compensation. That is the bill you are asked to pass.

If this bill does proceed on the theory that the Choctaws have granted a right it ought to say so; but it does not say so. Even the pretense is out of the bill now. It could not say so and tell the truth. Its advocates deny that it is necessary to consult them. It was intimated by the Senator from Missouri [Mr. VEST] in his remarks that the protesting Indians who came here were hired by rival companies to come here; and he said they have disappeared. Some of them have; but the only inference to be drawn from that is that the railroad companies are satisfied with the present bill, and well they may be; for it goes very far beyond what either of them ever asked or what any of the railroad companies have ever claimed in regard to that Territory.

As I said the other day, the best statement of that question that I have seen from the railroad side is by an attorney of the Atlantic and Pacific Railroad, whom I do not know; and I have not the pamphlet here at this moment, but probably many members interested in the question have it. It does not relate directly to this case, but it refers to some rights of the Atlantic and Pacific Railroad Company through other sections of the Indian Territory. It does not claim a right to legislate in defiance of the Indians or without asking their consent. It does propose a new departure for the Government. It proposes that we shall enter upon a new policy and shall wipe out the national or tribal relation there and open that Territory to settlement; and that we might do upon proper consultation with the Indians and with others. It should not be done by a bill that pays no regard to the chief people in interest.

The Chickasaws passed a deliberate and carefully drawn act through their council, appointing commissioners to come here to Washington and protest against this bill in behalf of their treaty rights and appropriating a thousand dollars to pay their expenses; and I presented here yesterday to the Senate a memorial by the lawful agents and attorneys of the Seminole, the Cherokee, and the Creek Indians, a formal protest by the other three of the five nations occupying the Indian Territory against this bill and the principle of it.

Mr. VEST. May I ask the Senator from Connecticut what interest the Seminoles and the Creeks and the Cherokees have in it?

Mr. HAWLEY. I cannot without looking at the book of Indian treaties state what precise interest they have in it. They have a landed interest. I should have stated that two of these nations, the Creeks and the Cherokees, have rights there as nations.

Mr. VEST. I have the treaties here, and I undertake to say that they have no more interest in that land than I have or the Senator from Connecticut.

Mr. HAWLEY. That, as a question of legal right, I am not prepared to admit.

Mr. VEST. They could not possibly have; here are the treaties.

Mr. HAWLEY. They are settled in that Territory, and they have certain rights in the land.

Mr. VEST. Not a bit of it.

Mr. HAWLEY. They are enjoying separate lands there; settled on—their lands.

Mr. VEST. They do not pretend to hold their lands in common with the Choctaws. The Chickasaws do claim that under the treaty they do hold one-fourth interest, but these others never pretended to have any interest in that land.

Mr. HAWLEY. Certainly the Senator should not misunderstand me. I do not claim that the Cherokees or the Creeks or the Seminoles have any direct interest in the land in question here. This is the interest of all these nations, and especially of the Cherokees and Creeks, that the Government shall not entirely overturn its Indian policy and claim a right to take their lands without consulting their council, disregarding the treaties. That is the ground on which they base their protest.

Mr. MAXEY. I desire to state, with the Senator's consent, that neither the Creeks, nor Cherokees, nor Seminoles, have anything on earth to do with this land. This land lies entirely south of all those nations, and they never did have, directly or indirectly, remotely, collaterally, or contingently, any interest whatever in the land covered by this bill.

Mr. HAWLEY. Mr. President, I have not claimed that they had one dime's interest in the identical tract of territory through which this road is to pass, but the Cherokees and Creeks hold their lands from the Government under titles almost identical with the title under which the Choctaws and Chickasaws hold theirs, and anything that completely upsets the treaty rights in the Choctaw and Chickasaw territory is simply a precedent and an invitation to do the same with the Creeks and the Cherokees. That is what I said and that is what this memorial of these Indians sets forth.

It is said Congress has a right to pass a law in contravention of a treaty. I do not deny what is called in common language a right to do this thing, but I make a great distinction, nevertheless, between right and power. I do not deny the power. That is what I mean. I admit the power of this Congress to pass any such law as it pleases completely overriding all the treaties with these Indian tribes, but I deny its right to do it in the proper sense of the word. I said the other day, on another question, that the best definition I had seen of this disputed matter was contained in some remarks by a member of the lower House, [Mr. TUCKER, of Virginia,] who said once that right equaled power plus duty, putting it in the form of an equation. Right equals power plus duty. You have a right to pass this, perhaps; that is to say, while you have the power you have not the duty, and hence it would be wrong for you to do it. Therefore, you have not got the right in any proper, moral, equitable, legal sense of the word. You have the right, as gentlemen have been using that word, to pass a law here that shall contravene any of your treaties with Great Britain. I can conceive an emergency in which it would be not only a legal right but a moral right to do that, but the proper interpretation of international law requires you before you deliberately violate a treaty to exhaust all your other remedies under this treaty; you should go to the nation and set forth your wrongs, you should go to the nation and ask the privilege you are after.

Now I deny that the right has been exhausted here. One application was made to the Choctaws. It came near passing. It passed the Senate and it was a tie vote in the House. The chief of that nation certified that the bill passed. It is denied by others of the nation that it did pass, and I do say that it was testified before the committee by Indians, and it has been said by them unofficially in various ways, and is said in this memorial by other nations, that they did not expect to stand in the way of railroad companies through that Territory. They desire to have railroads go through. They are willing to approve of charters. They deny in this memorial that they are to be rightly called obstructionists. They simply claim that in accordance with the practice of this Government with them for one hundred years they have a right to be consulted before their territory is confiscated, and that right is in my opinion indisputable. We should never think of passing a law like this if we had such relations with any power that was able to resent it. We should never think of taking any such action as this under some treaty with Great Britain or any of the great and formidable European powers. We should in the first place negotiate. We have reserved certain rights in these lands previously by treaty; we have done just what I ask this Congress to do in the case of the railroad companies already chartered. We reserved a right for a railway north and south and a railway east and west, and when an additional railroad privilege was required what course was taken by the railroad lawyers who knew what it was right to do in this case? They went to the Secretary of the Interior and asked him to appoint a man to go down there and negotiate a treaty. Both the railroad companies asked him to do it; and they laugh at this bill, it is so much more than they ever thought of asking. It shovels out to them in advance of their asking. Just such powers have the railroad companies from the Government of the United States!

I say both of these companies asked for the appointment of an agent, and an agent went down there, and it is in the official report that the Senator from Texas, who is the warm advocate of this bill, was himself in the Choctaw territory before the Choctaw Legislature asking that legislature to ratify a bill which would give a right to go through the territory. He went there himself, and, to use an expression which I do not mean to use disrespectfully, because he went in a perfectly honorable way, he went there and lobbied with the Choctaw council to get permission for his friends' railroad to go through, and so did the lawyers representing both these companies, and all the railroad interests were represented there.

That is not all. I want to quote here from the official report. This Government, through a Cabinet officer, in accordance with uniform unbroken precedent and treaty right, sent a man down there to negotiate. He gives a full report in Executive Document No. 15 of what he did, and of the anxiety and timidity of the Indians. They wanted to understand precisely what this proposed charter meant; they wanted to make sure that their rights in the real estate would be regarded, that there would be a proper appraisal of the land. They wanted to make sure of good tribunals in case of disputes about lands and disputes about other matters. They did not fancy the idea of being carried off one hundred and seventy-five or two hundred and fifty miles to Fort Smith to be brought before a court there, and the speaker of the Choctaw house came to this agent of ours sent down there properly to guard their rights, and desired certain answers to certain questions propounded by him in order, as he said, to satisfy certain members of the nation who feared that a menace was intended in case of refusal to grant the right of way. Here are the questions submitted by the speaker of the Choctaw council to our Governmental agent.

Question. Is it the United States or a railroad company that wants this right of way?

Answer. A railroad company. The instructions of the President and honorable Secretary of the Interior are to negotiate an agreement for a right of way for the use and benefit of the railroad company. Having presented it, it is the instruction that no effort be made on the part of the agent of the United States to influence the action of the Choctaw council.

We were behaving as gentlemen. We had sent there a man to negotiate a treaty, and he had the written instructions of the Secretary of the Interior not to try to influence or govern that council, and now we are trying to pass a bill that denies the necessity of saying a word to them, but which claims the right to take what land we want and go about our own business.

Another question by this simple-minded Indian, who did not know about all we might do:

In case the council fail to grant the right of way, will it be violating any treaty or law that we have with the Government of the United States?

The agent of our Government answers—

It will not.

The speaker then asks:

Will we still have the same protection from the United States that we have enjoyed heretofore?

Answer. So far as the laws and treaties are concerned you will.

The agent answered rightly basing his answer on the uniform practice of the Government, but there being a little bother about getting that bill through properly, and the companies having omitted to ask the permission of the Chickasaws who have a one-fourth right, around turns the Congress of the United States, not requested even by the railroad companies, and overrides all these answers that its lawful agent made and overrides all its policy heretofore, and sets aside a strip of that country for the railroad.

I am not protesting against this bill because of the Indians alone; they have no representative here; I am sorry to see them wronged; but my chief concern is that my Government shall not do that for twenty thousand Indians down there that it would not dare to do if it were dealing with Great Britain. I want Uncle Sam to be a gentleman. That is all I ask.

I wish now to ask permission to have printed in the RECORD the brief memorial which I presented yesterday and which was referred to the Committee on Railroads, signed by Daniel H. Ross and R. M. Wolfe, Cherokee delegation; Pleasant Porter, Creek delegation; John F. Brown, Seminole delegation, and William A. Phillips, special agent and counsel of the Cherokee Nation. They set forth in clear, simple, and properly expressed language the legal and moral argument in behalf of their rights and respectfully protest against any such legislation as this bill makes.

Mr. INGALLS. Why not have it read at the desk?

Mr. HAWLEY. I shall be very glad to have it read or I will read it myself. I should be very glad indeed to have it read and I will ask to have it read, and of course then it will go into the RECORD. It ought to go in as part of the permanent record of this case.

The Principal Legislative Clerk read as follows:

WASHINGTON, D. C., *April* 6, 1882.

*To the Congress of the United States:*

GENTLEMEN: We have watched with deep interest and solicitude the discussions upon the different bills before you to grant right of way through the Choctaw Nation to a railroad company or railroad companies. The principle involved is the same to all these governments, and we regret to see a new departure urged by many speakers and a change of policy on the part of the United States involving the destruction of time-honored precedents, denying us the right to a voice in the management of our own affairs and undermining and overthrowing the jurisdiction of the governments we have so long labored to build up, and violating the treaties you have made with us, upon the good faith of which we have so far rested.

We most respectfully call attention to the confusion of ideas that has arisen on this question. In the first place, the United States sends its own officer to the session of the Choctaw Legislature. He presents the question of granting right of way to a certain road. The proposition was properly entertained, for the government of the Choctaw Nation was almost equally divided on it. It passed one house and only failed by one vote in the other. An effort is made by an irregular proceeding to consider the bill passed. A bill is introduced into Congress predicated on the theory that the consent of the legislatures of the nations interested had been obtained. Becoming involved in these intricacies, those who favor the scheme report a substitute which entirely ignores the jurisdiction or assent of the local legislature. An attempt is made to pass this subversive measure, thus creating a dangerous and fatal precedent, and it is urged in argument for this measure that the Indian legislature has given its consent. Such is the strange history of the case.

Is there anything in law or treaty warranting this assumption? Congress has granted right of way and even grants of land through the public lands of the United States. It has never attempted to dispose of individual rights in States where governments of the people have been recognized or set up. In the admission of all the modern States an ordinance or agreement is entered into between such State and the General Government by which the State bargains for certain grants of public lands not to tax the lands of the United States. The power of these States to do so is fully recognized, and the logical results of the arguments used for this bill would overthrow them.

What powers has the Government of the United States recognized in these five nations? In the first place their lands are their own, theirs by a fee-simple title, so declared by the highest United States tribunal. In the case of Holden *vs.* Joy (17 Wallace, page 242) the Cherokee title is held to be a fee-simple title, and a conveyance under it good. The others of the five nations hold their lands by similar titles. It must not be confounded with Indian occupancy title. The Government, having first obtained the title by cession and purchase, under the authority of the act of Congress of May 28, 1830, proceeded to divest itself of it and so conveyed it for a consideration. There is neither law nor precedent which would warrant it in disposing of it again.

All of these nations are recognized as governments by a long succession of treaties. Whether they be styled independent nations or domestic dependent states, their power to govern the persons and property of their own people has been fully recognized. The language of the treaties in which the United States solemnly pledges its maintenance is the best measure of that authority.

We offer but a few specimens of which our treaties are full. The fifth section of the Cherokee treaty of 1835 says:

"The United States hereby covenant and agree that the lands ceded to the Cherokee Nation in the foregoing article shall in no future time, without their consent, be included within the territorial limits or jurisdiction of any State or Territory; but they shall secure to the Cherokee Nation the right, by their national councils, to make and carry into effect all such laws as they may deem necessary for the government and protection of the persons and property within their own country, belonging to their people, or such persons as have connected themselves with them: *Provided, always,* That they shall not be inconsistent with the Constitution of the United States and such acts of Congress as have been or may be passed regulating trade and intercourse with the Indians."

Will any one pretend that the proviso gives the United States any power to take or dispose of the property of these people? Is it to be invaded under the clause of the Constitution which gives Congress the power to "make all needful rules and regulations respecting the territory and other property of the United States?" (Revised Statutes, page 26.)

The thirteenth article of the Cherokee treaty of 1866, while it provides that a United States court may be established in the Indian country, with similar jurisdiction to the court at Fort Smith, also provides:

"That the judicial tribunals of the nation shall be allowed to retain exclusive jurisdiction in all civil and criminal cases arising within their country, in which members of the nation by nativity or adoption shall be the only parties or where the cause of action shall arise in the Cherokee Nation."

The United States court at Fort Smith has only a criminal jurisdiction in cases between members of these nations and white men; has neither by treaty or law any civil jurisdiction. We would have you note that even this jurisdiction was a concession or stipulation of treaty. We are not left in doubt, even by the United States statutes, as to how much that includes. (See Revised Statutes United States, page 374.) There the question of United States jurisdiction is limited and defined. In section 2145 we find that it only applies to "crimes committed in any place within the sole and exclusive jurisdiction of the United States," &c.; and in section 2146 it is explicitly provided that such jurisdiction shall not extend "to any case where by treaty stipulation the exclusive jurisdiction over such offenses is or may be secured to the Indian tribes respectively."

Such are the governments, now existing with all the requisite machinery, which this substitute proposes to revolutionize and invade. Under those governments these people are progressive, peaceful, and happy. Who shall say they are inconsistent with the economy of your institutions? The system was conceived and fostered by the enlightened and patriotic efforts of the founders of the Constitution, and encouraged into being by such men as Washington, Jefferson, Madison, and Monroe. Who shall accuse these men of any thing inconsistent with the principles and genius of the American Government.

In all our intercourse with the United States for half a century our rights have been respected. Roads were authorized to be built by treaty stipulations. In the decision of Chief-Justice Marshall in the Worcester case, (6 Peters, 583,) he says: "Except by compact we have not even claimed a right of way through the Indian's lands." So of military posts. By the treaties of 1866 the United States asked the right of way for one road east and west, and one north and south, through each of these nations, and got all they asked without a consideration. Who shall pronounce us obstructionists? When have we refused, when fairly asked, anything that was needed for the business or commercial interests of the country? The method is by treaty negotiation or agreement. Shall we, as well as the adjacent States, have no right to fix the limits of what we give, or ask that the roads we give valuable considerations to, in turn accommodate us? On all railroad questions our rights have been recognized by treaties. In article 43 of the latest Choctaw treaty, that of July 10, 1866, we find:

"Or to prevent the legislative authorities of the respective nations from authorizing such works of internal improvements as they may deem essential to the welfare and prosperity of the community."

We therefore earnestly and respectfully ask you to pause ere you proceed to violate your treaty obligations with us. There is at present neither excuse nor apology for it. Have railroad corporations grown so omnipotent as to menace the rights of the people, and even ask the Congress of the United States to violate the pledged faith of the nation?

Again, we ask you that our rights be not trampled on, nor our property disposed of without our consent.

Very respectfully,

DAN'L H. ROSS,
R. M. WOLFE,
*Cherokee Delegation.*
PLEASANT PORTER,
*Creek Delegation.*
JNO. F. BROWN,
*Seminole Delegation.*

WM. A. PHILLIPS,
*Special Agent and Counsel Cherokee Nation.*

Mr. HAWLEY. I hope the amendment offered by the Senator from Kansas may be adopted. I have no further remarks to make.

Mr. JONAS. Mr. President, I was a member of the Committee on Railroads which reported the bill now before the Senate, and desire to say a few words upon it before the vote is taken.

If the amendment offered by the honorable Senator from Kansas [Mr. INGALLS] shall be adopted, it will in my opinion defeat the whole bill, because it would place in the hands of the Chickasaw Nation the power to veto and defeat the bill, an object which their delegation before the committee intimated plainly they intended to accomplish.

We devoted a great deal of time to the investigation of this matter. It was reported to the Senate and recommitted after these Indian protests had been filed. A long and lengthy examination of witnesses was had and a large amount of testimony was taken and printed, which perhaps few members of the Senate have read, and which contained but little that was useful or instructive. We had before us a large delegation of Indians, some of them in advocacy of the bill, but the most of them opposed to it.

As has been stated by the honorable Senator from Missouri, [Mr. VEST,] the delegations, especially those from the Chickasaw Nation, after opposing the bill with great earnestness for a few days, disappeared as soon as a rumor spread around that the railroad interest had been concentrated and that the Missouri, Kansas and Texas road had acquired a controlling interest in the Saint Louis and San Francisco road, which was asking Congress to ratify the agreement made by the Choctaw Nation granting them the right of way to build through their territory; but before they had disappeared we heard these conflicting witnesses. The witnesses from the Chickasaw Nation, the lobby from the Chickasaw Nation, boldly avowed that the Chickasaws did not want this road built, and they contended that the consent of their nation must be acquired before it could be built, and the consent of that nation never would be given. We believed, I think every member of that committee believed, that this delegation was there not in the interest of the Chickasaw Nation, but in behalf of some corporation which had an interest to oppose the passage of this bill. We believed they were controlled by that interest, whatever it was. They were brought on the stage with that view, and they were removed from the stage when their assistance was no longer needed.

But, Mr. President, the Railroad Committee came to the conclusion that the Chickasaw Nation had no interests whatever to maintain in relation to this right of way. It is true that the Chickasaws and Choctaws hold their property in common and have stipulations respecting the disposition of that property; and their treaty provides that when any of that property shall be sold or otherwise disposed of, the proceeds, whether of real estate, of royalties, of the proceeds of mines, or of any other property, shall be divided, and that one-fourth shall be given to the Chickasaw Nation and three-fourths to the Choctaws. But the Choctaws do not propose to dispose of any of the property of their nation by sale. They merely grant the right of way to this railroad company to build their road through their territory. Not one inch or foot of this road touches the lands of the Chickasaw Nation. A mere right of way or easement is granted over the land, and under the treaty the Chickasaw Nation have no right to interfere with or dispute the grant. But the original bill made a provision that one-fourth of the proceeds, that is, one-fourth of the amount which is to be paid by the railroad company as an annuity for this privilege, shall be given to the Chickasaw Nation, and this was amplified by the committee; the total was increased from $2,000 to $3,000, one-fourth of which is to be paid to them.

Now, Mr. President, the Chickasaw Nation had no interest in this bill. The road does not traverse their land; the road does not interfere with them. They came here with a dog-in-the-manger policy. They were unwilling to let the road go through the Choctaw Nation, or else they sought to blackmail somebody, because they asserted that they intended to fight the bill to the last extremity, unless the consent of the Chickasaw Nation was obtained, and indicated that that consent would never be obtained. We found that the consent of the Choctaw Nation had been obtained. I deny the assertion of the honorable Senator from Connecticut, [Mr. HAWLEY,] that we are proceeding to grant this right of way without the consent of the Choctaw Nation.

Mr. INGALLS. Does the Senator intend to say that the Choctaws consented to the passage of this bill we are now considering?

Mr. JONAS. I say that the Choctaw Nation assented to the passage of this bill. I say that the act under seal of the Choctaw Nation, the act of their legislature, certified to us under the seal of their secretary of state and their governor, shows that they had consented to grant this right of way.

Mr. INGALLS. But the bill that we are now considering is an amendment offered by the committee.

Mr. JONAS. I will come to that shortly. The Choctaw Nation had granted the right of way to the Saint Louis and San Francisco Railway Company to build this road through their territory on a certain line. I know it is said that the bill giving their consent did not pass one house; but we had no right to inquire into that. What is the evidence that it did not pass? The simple-minded Indian that the honorable Senator from Connecticut speaks of, the speaker of the house, a man as white as he or I, with every characteristic of the white man—if he has a drop of Indian blood in him it is not evident in his looks, his education, or his characteristics—was here before us to testify that he did not vote at first, and that he afterward defeated the bill by his casting vote. In order to contradict this record, this act of the legislature under seal, a sleepy, stupid-looking Indian was brought before us, who put his hand in his pocket and took out two or three scraps of paper, which he said were the minutes of the Choctaw Legislature. He said he was their secretary, and he proceeded to read what appears in the printed record as minutes of the Choctaw Legislature. This act, which we had under seal, certified to be correct by the governor and the secretary of state, was attacked in this way.

Mr. HAWLEY. I wish to correct a question of fact there; Senators ought not to be led into error. He did haul from his pocket the original memoranda taken at the time, from which he afterward wrote out his journal, and he produced a very decent-looking certi-

fied copy of the journal. There were some errors of grammar in it. That certified copy is printed in the report. I read the certified copy here, and it is now entered in the RECORD.

Mr. JONAS. A written copy or a printed copy?

Mr. HAWLEY. A written copy, a written certified copy. The scraps taken out by him were his original minutes.

Mr. JONAS. That copy was not before the committee; at least I never saw it. It may have been put on the record since, but I never saw it. I saw those memoranda, which it is said were the memoranda from which he wrote out the minutes. We have no information as to when he wrote out his minutes, or where; and he is the only witness to prove the correctness of them.

I say if the Choctaw Nation is a nation, as the Senator asserts it is, we are bound to give full faith and credit to its legislative acts when they come here to us certified and under seal. If it is not a nation, and has no power to enact laws and send them to us under seal for our information or our approval, then it has no power to stand in the way of Congress and to prevent the grant of a right of way to a railroad company to build a railroad through its territory.

Mr. President, the evidence is that the Choctaw Nation gave their consent. I am aware that there was a movement got up afterward to destroy the effect of that consent and to defeat the bill in Congress. It was evident to every one that that was promoted by a rival railway corporation. But the committee found that the Choctaw Nation, the only nation in interest, had given their consent, not to the sale of this land, but to grant the right of way to this railroad company to build a road through their territory. We found that the Chickasaw Nation had no rights, and that they were amply protected, if they had any, by the bill, but they had no rights which they could assert in contravention of the wish of the Choctaw people to have this road built. We found by the evidence that it was the wish of the Choctaw people that this road should be built through their territory because the very question had been submitted to them at the polls, and their state ticket had been elected at the preceding election on this very question, and every man on the state ticket favoring the grant of the right of way was elected, and every man opposed to it was defeated.

Now, Mr. President, finding that the right had been granted by the Choctaws, the only people in interest, finding that this road was one of great public importance, finding that it was a road which was necessary to the people, necessary to intercourse between the States, which might be necessary to the Government in time of war, which was a great engine and motor of civilization, which interested the States of Kansas, Missouri, Texas, Arkansas, and Louisiana, we thought it proper not to take away rights from the Indians but to ratify the action of the Choctaw Nation by which this right of way had been granted.

But, Mr. President, when it appeared that the conflicting interests, whatever they were, between these rival railroads had been settled, when it became evident that some great opposing interest had been removed, that the Chickasaws had been sent to their homes, that the Choctaws opposing the grant to this road had gone to their homes, that there was no longer any real opposition to the passage of the bill, the committee deemed it possible that if the interest originally opposed to this road had now purchased the control of it, the road might not be built. Therefore the committee, not, as the Senator from Connecticut has intimated, being under the influence of railroads, but being desirous that that road should be built, and in the interest of the people determined to amend this bill so as to provide, not that another road should be built, but that this road should be built on this line, through that Territory, the very identical road; and hence we provide that if the Saint Louis and San Francisco Company having different interests should seek to pocket this bill, the conflicting interest which appeared before us should have a right not to build another road, but to build this identical road, and the committee reported the bill with an amendment granting the privilege to the Chicago, Texas and Mexican Central Railroad Company to build it if the Saint Louis and San Francisco Company did not, and that any other road should have the privilege of building on this line, and should have the same right of way provided that company did not avail itself of its opportunity, also granting the right of way over the road to all railroad companies which should desire to enter that Territory and go along the same track and the same route.

There is nothing in the way of the passage of this bill except a sickly, morbid sentiment. There is, I am satisfied, no real Indian sentiment against it. We have heard here a protest read from the representatives of other tribes who have not a particle of interest in this road, or interest in the Territory over which it is to run, and we have no evidence that that protest comes from the nations themselves. What evidence is there that it speaks by authority for the Cherokee Nation, the Creeks, or the Seminoles? I am aware that it is signed by distinguished gentlemen who represent those nations, dangling around Washington, and I am aware it is signed by counsel whom they have employed. But how do I, or how do you, or how does the Senate know but that it was drafted by the same counsel who have been opposing this bill as representing the interests of the Chickasaw Nation, of the malcontent Choctaws, of the people who are behind them pulling the strings and directing their movements? We have no action of the councils of those nations expressing any opposition, and if we had, those councils are no more interested in it than is the State of Connecticut or the State of Rhode Island. It does not touch their people or impinge on their rights; their rights are not threatened or invaded, and they have no right to come here and assert for the Choctaw people what the Choctaw people do not assert for themselves, that we are seeking to ratify a law which they never passed or grant rights of way which they never conferred.

I say there is nothing in the way of this; it is a road which is beneficial to interstate commerce, the trade and the intercourse of four or five of our great Western States, which binds them closer together with hooks of steel, which improves and develops the country, brings nearer and nearer their postal communication, which connects the great Northwest and the great Southwest; it is a new and a great artery of commerce which should not be broken by Indian rights even if Indian rights exist, when it is sought to assert those rights to prevent the march of civilization.

Why, Mr. President, this little Chickasaw tribe, if this thing is to prevail, could forever block the progress of any road through the Indian Territory. We no longer make treaties with the Indians, consequently we cannot make a new treaty; and if we have no right to build a road or grant a right of way through that Territory, no matter how great the public interest, except by consulting the Choctaw Nation and the Chickasaw Nation and obtaining their consent, the Chickasaw Nation could block the way of progress forever by refusing its consent and it would be impossible to acquire new treaty rights or build any road whatever without consulting them if they refuse their consent, or else, as I shrewdly suspect, being compelled to pay to their legislators and governing officers far more than roads are in the habit of paying even in more enlightened communities for the purpose of securing rights of way.

Mr. HAWLEY. I should like to suggest to my friend from Louisiana that before saying it is necessary to take this land without asking, before saying that they stand in the way and will not grant it, it would be well to ask the Chickasaws just once whether they are willing to make a treaty for a railroad.

Mr. JONAS. I do not think it is any more proper or right to ask the Chickasaws than to ask the people of Connecticut. I say the Senator from Connecticut has a right to say whether this right of way shall be ratified or not, because he is a Senator in Congress; but the Chickasaws have no right to be called upon for their consent, because they have no interest whatever, and no right of theirs is invaded or threatened, and I say that it was boldly announced by the chief of the Chickasaw delegation that they were opposed to this road, and under no circumstances would they ever grant the right of way if they could avoid it and if they could block the way.

Mr. HAWLEY. I do not find any such thing in the evidence given by the Chickasaws. I refer him to the treaty, which says in so many words explicitly to the Choctaws and Chickasaws this land is guaranteed forever.

Mr. JONAS. Forever?

Mr. HAWLEY. Provided that if the Indians run out or abandon the land it shall revert to the United States. It is guaranteed forever, reserving the right to certain railroads, which has been exhausted.

Mr. JONAS. When they sell the proceeds are to be divided. The doctrine asserted by the Senator from Connecticut, if carried out, would prevent the Choctaw Nation from building a high road through their territory without consulting the Chickasaws. I contend that under this treaty they have the reserved right to use their portion of the Territory as they please, provided they cannot sell it without the consent of the Chickasaw Nation; but they have the right to use it as they please, to cultivate it, to build roads over it, or make works of internal improvement without consulting the Chickasaws and without committing themselves to the power of that small and insignificant tribe.

Mr. PLUMB. Mr. President, I suggested at the opening of the remarks of the Senator from Connecticut an amendment which I should offer to section 4, which obviates, I think, some of the objections that have been expressed to this bill, inasmuch as the amendment provides an appeal from the compensation provided for in that section. I have not, however, concerned myself especially about the details of this bill, being concerned far more in regard to the assertion by the Government of the right of eminent domain through the Indian Territory. I am prepared to say that I will vote to give any railroad company having a practical status, and whose line may be necessary for postal and commercial purposes, that right of way which the laws of my State confer upon every railroad company seeking to build its line under the law of its incorporation, and I regard the assertion of this right at this time as not only opportune but necessary.

It seems to me entirely out of keeping that we should assert the right of these Indians to prevent the crossing of their Territory by railroads, and that we should fail to assert, upon proper opportunity being presented for that purpose, the right of the Government to exercise that power of eminent domain which is exercised everywhere else throughout the entire country. I am satisfied that a large portion of the division of sentiment we find existing here, and which seems to divide the two sections of country, the East and the West, from each other, grows out of a misapprehension of fact.

Somehow or other the section of country that has no Indians, for

the reason that it disposed of them at an early day, is now the special guardian not only of the *corpus* but of the property and of the rights of the Indians who remain in the country, but who have receded until they are wholly out of proximity to those who are their most earnest defenders and special champions.

I do not think this state of difference grows out of anything except a misapprehension of the facts, as I said. There seems to be an opinion extant east of the Alleghany Mountains that every man who lives west of them, if he deals with an Indian, is bound to deal with him partially and unjustly. And so instead of confidence there is suspicion and misunderstanding. This is unfortunate, both for the country and for the Indian, for we need the wise counsel and cooperation of all concerned in the treatment of the delicate and interesting subject of our Indian policy. I have been led into that reflection to some extent by an article which appeared a few days ago in the Boston Herald, a leading influential newspaper, and which I will read to show the meat upon which Eastern sentiment is fed; to show the basis upon which are gotten up societies designed to keep the Government in mind of its treaty obligations with the Indians, the assumption that such treaties are habitually violated, based upon the theory that these treaties have been systematically and openly violated. I ask the Secretary to read the article which I send to the desk.

The Principal Legislative Clerk read as follows:

On the principle that men hate most those whom they have most injured, it is easy to account for the animosity toward the Indians of Senator PLUMB and other representatives of the frontier sentiment. In none of the Western States has it proved more true than in Kansas that reservations do not reserve. Tract after tract of land has been taken from the Indians in violation of treaties and promises that the Government should have held sacred. The whole policy of the Government toward even the peaceful tribes can be summed up in the words, "Move on." The Osages were deprived of their entire remaining reserve in Kansas by an act of Congress passed in 1870. This law gave to the State of Kansas, without consideration to the owners, every sixteenth and thirty-sixth section of land for school purposes—a grant amounting to nearly 400,000 acres. "The Indians," said the Government agent, "are not disposed to question the right of the General Government to extend educational aid to the newly-settled States of the West, but they do question the propriety of such magnificent donations made by a great Government to a wealthy State at the exclusive expense of a weak, dependent tribe of Indians, themselves the wards of said Government." The Pomeroys and Plumbs of course saw the "propriety" from a different stand-point. But those who have dealt fairly, honorably, and humanely with the Indians have, with rare exceptions, had no trouble with them.

Mr. PLUMB. Mr. President, it would be hard to put more errors of fact into the same space than are contained in that paragraph. I refer to it not as especially germane to the consideration of this bill, except in the way that I have spoken of as indicating the great lack of information upon the treatment of the Indian question that seems to possess some people. That article charges that the people of Kansas have defrauded the Indians of their reservations, and takes the Osage tribe as a special example of the acquisitive propensity and practice on the part of the people of my State. A brief statement of the facts will be all that is necessary to dispose of all the allegations contained in this article.

The Osage Indians possessed in the State of Kansas about eight million acres of land. By treaty and by act of Congress consented to by the Indians, upon the recommendation of their agent, the Government purchased that land from them at $1.25 an acre, or rather it agreed that it would hold it in trust for them to be sold to actual settlers at that price. It has sold from time to time all the land that settlers were willing to buy, has received the money on account of such sales, and has put it into the Treasury to the credit of the Indians; and when that entire body of land shall have been sold the Osage Indians will have $10,000,000 as the proceeds of those sales, which is about five thousand dollars per head for each member of the tribe, male and female, large and small. They are to-day the richest class of people of their number that I know of in the country anywhere.

It is stated further in that article that the Government took from the Indians 480,000 acres of their land and gave it to the State of Kansas without consideration. By the act which admitted the State of Kansas into the Union it was provided that the sixteenth and thirty-sixth sections of land in each township within its limits should be given to the State for school purposes. The Indian title in that State, as everywhere else, has been recognized by the courts as being only a title by occupancy, and when and at the time that title was removed to Indian reservations in the State by treaty and by act of Congress, the Department held that the right of the State of Kansas at once attached to the sections within the limits of such reservation, and patents were issued accordingly. The land thus patented to the State from within the Osage reservation amounted to about five hundred thousand acres of land as stated, and when the amount was ascertained the Government paid the Osages for it at the stipulated price of $1.25 per acre. So that the Osages not only had full consideration, but they got it much earlier than they would have done had they been required to wait the comparatively slow process of sales to settlers. The foundation of this article upon which was built an appeal to prejudice against the people of Kansas, and myself, as one of their representatives, wholly disappears.

I may go further. There has not been one single acre of land in the State of Kansas taken away from any Indian tribe except with the consent of such tribe, expressed in the usual way, and not an acre except upon the payment of an agreed compensation. Such representations are unfortunate and do not contribute to a just and prompt settlement of the Indian question. It is just such sentiment as that to which the Senator from Connecticut responds when he opposes the bill now under consideration. I believe that if the facts were known and understood, if the people who talk about the Indian with this exuberance of sentiment, and who denounce Western people and Western sentiment, were well posted as to all the facts, and especially if they knew the Indian as he is and always has been, there would be little lack of accord upon what is known as the Indian question, and consequently be able to deal with it more effectively. It is simply a lack of information or rather an abundance of misinformation that keeps the people of the country apart on this question.

Now, the statement is made here that the Choctaw and Chickasaw Indians have the exclusive sovereignty over the lands within their Territory, and that this sovereignty is superior to that of the United States. Could anything be broader than that? I received a patent to a piece of land about twenty-five years ago under the operation of the land laws of the Government. It was as good a title according to the law-books as could be made, nothing superior to it except a grant by act of Congress; and yet when a railroad company came along in my vicinity and wanted a right of way one hundred feet wide through it I was powerless to prevent its going through, and had to content myself with what we propose to give to these Indians—due compensation. My patent was as nothing compared to the superior public right, represented by the public use which a railroad is recognized as being.

The Senator from California [Mr. FARLEY] asks whether they did not compensate me. Certainly they compensated me for it; and that brings me to this, that everything which a man has is supposed to be at the command of the Government after due compensation made, but it is now asserted in opposition to this bill that these Indian tribes have a right of property superior to the right of any white man in this country holding a title under patent or by legislative grant, and a right of sovereignty which is superior to that of the Government of the United States as well, and which is absolutely as much of a barrier to commerce as though the Indian Territory were a French possession as it was before the treaty of Jefferson, and that this sovereignty may stand there not only to-day, but for all time, and say to Government and people, "Up to this border you can come with your railroads, with your immigration, with your commercial agencies, with your interstate commerce, your postal routes, and all that sort of thing, but here you shall stop now and forever." I do not care specially, as I said, about the terms of this bill; I do care for the assertion by the Government of its right to penetrate this Territory in common with all other Territories under its flag, within its limits, subject to its sovereignty, within its jurisdiction, with all the agencies which it may seek to put in motion for the purposes of carrying out the objects of government.

I shall propose at the proper time an amendment to section 4, which I think will obviate some of the objections which have been uttered against this bill. It has been objected that it proposed to give a certain compensation which I believe to be liberal, but which still was not subject to any appeal upon the part of the Indians, and my amendment will preserve to them in their tribal capacity the right of appeal from the allowance made in the bill to a disinterested tribunal whose award shall be final.

With this amendment the right of the Indians will stand upon the same footing precisely that the rights of white men do in reference to their property which may be sought to be taken for public uses; and with this it does not seem to me that there can be any valid objection to the bill. I speak of this not only because of the fact that the State which I in part represent borders this territory, because its interests, large and increasing, require communication through this territory with the States of Texas and Arkansas, but I speak of it because I believe it is an interest for the whole country.

Mr. JONES, of Florida. Will the Senator from Kansas allow me to ask him a question for information?

Mr. PLUMB. Yes, sir.

Mr. JONES, of Florida. Does he propose to charter a road without the consent of the Indian authorities?

Mr. PLUMB. I do not know whether it is with or without the consent of the Indian authorities.

Mr. JONES, of Florida. Does the Senator deny the power of the Indians to grant permission to a railroad company to pass through their territory?

Mr. PLUMB. Not at all. I simply assert for the Indian the power and right I have myself. I can give a valid consent to the building of a railroad through my land and if I do not give such consent the Government can take the property notwithstanding. I regard the Indian as upon the same footing. His patent is just as good and no better than mine is.

The Interior Department has acted upon that theory also in one or two cases, on one reservation I think in Colorado and one reservation in Idaho. They permitted railroad companies in those two cases to deal with the Indians direct, to take their consent, pay them the money that was agreed upon as the price for the right of way, and go through their land.

Mr. JONES, of Florida. The Senator does not contend that the Indians occupy the same relation to the Government as a foreign state?

Mr. PLUMB. By no means. They are not foreign, but domestic and dependent; they are the wards of the nation, dependent in large measure upon it, in no sense independent. The Government may supervise the Indians in many ways with reference to the exercise of their natural rights as it cannot a white man.

Mr. BUTLER. May I ask the Senator from Kansas if he has any objection to stating the amendment which he proposes to offer a little further along?

Mr. PLUMB. None at all.

Mr. BUTLER. I should be very glad to hear.

Mr. PLUMB. I will read the proposed amendment. It will come in as a proviso to section 4:

*Provided*, That if the general councils of the Choctaw and Chickasaw Nations, or either of them, shall within sixty days after the passage of this act, by resolution duly adopted, dissent from the allowance provided for in this section, and shall certify the same to the Secretary of the Interior, then the compensation to be paid for the use and grants in this bill made, for such dissenting tribe, shall be determined as provided in section 3 for the determination of the compensation to be paid to the individual occupants of lands.

Section 3 provides for damages to individual holdings, substantially for damages to personal property, and is to the effect that if an amicable settlement cannot be made "such compensation shall be determined by appraisement of three disinterested referees, one to be named by the Commissioner of Indian Affairs, one by the principal chief of the nation claiming damages or to which the person claiming damages belongs, and one by said company." Further, my amendment reads:

Except that one of said appraisers shall be appointed by the council of the dissenting tribe, and the award made shall be paid as and under the penalties provided for in said section 3.

Mr. BUTLER. Does the bill provide for the amount of compensation?

Mr. PLUMB. The bill provides in section 4 for the payment of $3,000 per annum perpetually as compensation for land taken. My amendment is to the effect that if the Indians are not satisfied with that, they shall within sixty days after the passage of the bill evidence that dissatisfaction by resolution of council, and then the compensation shall be determined by three disinterested parties to be appointed as provided.

The PRESIDING OFFICER, (Mr. ROLLINS in the chair.) The question is on the amendment of the Senator from Kansas [Mr. INGALLS] to the substitute reported by the Committee on Railroads, on which the yeas and nays have been ordered.

Mr. INGALLS. Mr. President, the fundamental error that the advocates of this bill labor under and the fundamental error of those who oppose the amendment that I offered rests in their assumption that the five civilized tribes occupy the same relation to the Federal Government as the wild or uncivilized Indian of the plains. Those who are familiar with the history of Indian administration are aware that about 1824 or 1825, when John C. Calhoun was Secretary of War, the plan of two great Indian reservations was adopted, one for the civilized or southern bands, to be formed west of the Mississippi River, and one for the Dakota or roaming Indians to the northwest; and this arrangement has been substantially carried out, with the modifications rendered necessary by the discovery of gold in California, and the construction of railroads across the continent to the Pacific coast.

Much has been said in this debate about the right of eminent domain which subsists in the Government of the United States over all the territory within its limits. Of course every lawyer is familiar with the law upon that subject. There can be no doubt that the Government has the right to override private considerations, to take private property for public use, due compensation being given and by process of law; but the arguments which have been employed do not apply to this case, and for the reason which I shall state. My colleague in his argument just now said that he was the owner of a quarter-section of land for which he received a patent twenty-five years ago, giving him a fee-simple title to the land; that he stood upon the border protesting when a railroad company desired the right of way through it, but that in spite of his protests the land was condemned and the railroad company obtained its title to a right of way one hundred feet in width through his premises. But there is one element wanting in the contract which the Government made with my colleague that appears in that which the Government made with these Indians. Suppose the Government had made with my colleague a contract, had given him a title to his land evidenced by a patent in which it was expressly declared that no railroad company ever should be entitled to build through the land without his consent?

Mr. PLUMB. Will my colleague permit me to ask him a question?

Mr. INGALLS. Yes, sir.

Mr. PLUMB. Does he mean to assert by his question that those are the terms implied in the conveyance to these Indians?

Mr. INGALLS. That is exactly what I mean to say.

Mr. PLUMB. I should be glad to have that explained.

Mr. INGALLS. That is precisely what I mean to say, and there is the radical vice of this entire argument.

Mr. VEST. It is not in the patent to the Indians.

Mr. PLUMB. Nor in the treaty.

Mr. INGALLS. Of course not in the patent, but I repeat that if the Government had given a patent to my colleague in which it was expressly declared that no right of way should be granted through his land without his consent, then he would have a parallel case to the condition presented by the Indian question.

The Senator from Texas [Mr. MAXEY] said the other day that the Indians were merely domestic, dependent nations, with the right of occupancy; that the Government had merely relinquished to them the possession of this property to occupy it for a certain length of time, giving them the possession until it saw fit to resume it. Certainly, with regard to these Indians, nothing could be further from the truth; it is an absolute negation of the fact. It may be true where land is set apart by executive order, as has been done in various parts west of the one-hundredth meridian and in the northwestern country, that the Government is the owner of that property subject to the possessory right of the Indians. I admit it; but that is not the case with regard to the five civilized tribes in the Indian Territory. They relinquished an empire in 1832 or 1833. They were the owners and occupants of large areas in the State of Georgia and adjacent territory in that portion of the country. The Government treated with them and they moved, in one of the most pathetic journeys of which history gives any account, across the Mississippi and located in their present location. What were the terms of that location? I read from the second article of the "treaty of perpetual friendship" entered into in behalf of the Government of the United States and the warriors of the Choctaw Nation on the 15th of September, in the year 1830:

The United States, under a grant specially to be made by the President of the United States, shall cause to be conveyed to the Choctaw Nation a tract of country west of the Mississippi River, in fee-simple to them and their descendants—

"In fee-simple to them and their descendants"——

Mr. BUTLER. Does the Senator read from the treaty of 1830?

Mr. INGALLS. I read from the second article of the treaty entered into between the United States Government and the Choctaw Nation on the 15th of September, 1830. The closing clause of the article is as follows:

The boundary of the same to be agreeably to the treaty made and concluded at Washington City in the year 1825. The grant to be executed so soon as the present treaty shall be ratified.

Mr. JONES, of Florida. Is that the same title under which the other tribes hold?

Mr. INGALLS. Yes, sir. I quote this as an illustration of the nature of the contract that the Government entered into with these Indians, and as a refutation of the assertion that the Indians known as the five civilized tribes hold merely the possessory right, the right of occupation of the territory, subject to the right of the United States Government to resume at pleasure. This land was conveyed to them and their descendants in fee-simple. It is declared in the treaty itself to be a grant, and it is declared that the grant shall be executed so soon as the treaty is ratified. In pursuance of that treaty, of that conveyance, of that grant, the Government of the United States issued to these tribes a patent on parchment defining this reservation by metes and bounds, and granting it to them and their descendants in fee-simple so long as that nation should endure.

I hope we shall not hear it said hereafter, in view of the language of this treaty, that these Indians, the five civilized nations, are merely half-civilized barbarians, holding a mere possessory title, a right of occupation subject to the power of the Government to resume at pleasure at any time without regard to their rights.

Mr. VEST. In order that there may be no misunderstanding about the patent, let me ask the Senator from Kansas whether I shall understand him to say that the terms of the patent are to the effect that the Indians shall hold that land as long as they exist as a nation?

Mr. INGALLS. That is exactly in the language of the treaty—

To inure to them while they shall exist as a nation.

Mr. VEST. No, sir.

Mr. INGALLS. That is the language of the treaty.

Mr. VEST. But that is not the language of the patent.

Mr. INGALLS. That is the contract between the Government and the Indians.

Mr. VEST. But I speak of the patent, which is the highest evi dence of title.

Mr. INGALLS. The patent is not the highest evidence.

Mr. VEST. Yes, sir.

Mr. INGALLS. The patent is evidence of the contract, like any other instrument of writing. The contract is to be judged by the terms in which it is made. When the Senator assumes that we are to look to the patent for the definition of the rights between the Government and the Indians when we have the original contract before us, he is adopting a new canon of interpretation unknown to the law.

Mr. VEST. I do not like to interrupt the Senator further.

Mr. INGALLS. I am glad to have the Senator interrupt me, because I have no regular speech to make.

Mr. VEST. I simply wish to say that while the treaty, which the Senator from Kansas has properly quoted, makes the provision he has declared here, that they shall hold this land as long as they exist as a nation, afterward that treaty stipulation was crystallized, if I may so say, was made perpetual, was formulated in the shape of a patent, which is the highest evidence of title that can emanate from the Government of the United States.

Mr. INGALLS. It is only evidence.

Mr. VEST. But it is the highest evidence; it is the highest muniment of title.

Mr. INGALLS. Not higher than the treaty.

Mr. VEST. It is higher than the treaty if it is executed under the treaty, because they received that in satisfaction of the terms of the treaty. The treaty was the title bond; the patent is the deed itself, and takes the place of the treaty.

Mr. McMILLAN. What is the language of the patent?

Mr. VEST. It has been asserted here over and over again, I suppose in an æsthetic sort of way, that the patent says these Indians shall hold the land as long as grass grows and water runs. It is no such thing. The patent, which I have read over and over again, (I have it here, and can refer to it if necessary,) says that they shall hold this land so long as they exist as tribes and so long as they occupy it. Therefore if they were to move off that reservation (for it is nothing else) to-morrow the title would go back to the Government of the United States, for it is nothing in the world but a title by occupancy.

Mr. HAWLEY. Will the gentleman please tell me to whom the patent is granted?

Mr. JONES, of Florida. Will the Senator from Missouri permit me to interrupt him?

Mr. VEST. One at a time.

The PRESIDING OFFICER. Does the Senator from Kansas yield?

Mr. INGALLS. Certainly.

Mr. HAWLEY. I should like to ask just to whom the patent is granted?

Mr. VEST. To the five tribes.

Mr. HAWLEY. To the Cherokees only?

Mr. VEST. To the Cherokees, Choctaws, Chickasaws, Creeks, and Seminoles.

Mr. HAWLEY. Have you got the patent there?

Mr. VEST. I can turn toi t.

Mr. HAWLEY. Does it state to all of them? I will say that so far as I am informed, while a patent was offered to many of them, most of them thought it no better than their own treaty, giving them nothing more; and my information is that only the Cherokees ever accepted a patent, and that not as necessary to their rights.

Mr. VEST. The patent is in existence; it is on file in the Interior Department.

Mr. JONES, of Florida. I wish to ask the Senator from Missouri a question. He speaks of the superiority of a patent over a treaty. The Constitution declares that a treaty, whether made with Indian tribes or with a foreign state, shall be the supreme law of the land. We know that in cases where Congress deeds land by act of Congress, that is equivalent at least to a patent, and that a patent is not necessary to pass the title from the Government to a piece of land where Congress gives its assent in a public law. I regard a patent in this case as a matter utterly unnecessary, as being a work of supererogation, and the treaty as higher law, which must govern.

Mr. VEST. Will the Senator from Kansas accord me the courtesy to answer the Senator from Florida?

Mr. INGALLS. Certainly.

Mr. VEST. That is an ingenious argument, but it will not stand in the face of the decisions of the Supreme Court of the United States. In the Boudinot and Stand Wattie case, known as the Cherokee tobacco case, in 11 Wallace, the Supreme Court decided that an act of Congress was superior to a treaty, and that Congress could set aside any treaty made with an Indian tribe at its own volition. But the Congress of the United States by no act can take away my patent to my land. Now which is the highest title? I put that to any lawyer in this body.

Mr. TELLER. I should like to ask the Senater a question. Suppose the scrivener who writes the patent exceeds the statute in the conveyance, does that convey any right?

Mr. VEST. I do not understand the Senator.

Mr. TELLER. Suppose he goes beyond the statute, does that give any rights?

Mr. VEST. That is easily disposed of by the simple enunciation of the fact that the Indians accepted it, and when they accepted it it estopped them from ever disputing the terms of the patent, just as it estops the Government of the United States in equity and good faith from ever denying the title after it passed according to the terms of the patent.

Mr. TELLER. If the draftsman had inserted a grant not provided for by the statute, would not that have been void?

Mr. VEST. No; if it was received by the Indian tribe, and if they went into occupation of it that is the end of it. They are estopped from ever saying anything against the terms of the patent after they receive it.

Mr. TELLER. The Supreme Court is against you.

Mr. VEST. The Supreme Court, with all courtesy and deference to the gentleman as a lawyer, never did decide, I undertake to say, and it can be easily settled if they did, that if I receive a deed or a patent to a piece of land, I am not estopped forever after from denying its terms.

Mr. TELLER. I am not speaking about their denying its terms, but can they claim any more from us than the statute provided?

Mr. VEST. Of course not; I did not understand the Senator.

Mr. TELLER. That was the question I asked.

Mr. VEST. Of course not; they are limited by the terms of the grant. Therefore, I say when they took this patent from the Government of the United States, they took it as the Supreme Court decided in the case I have before me of Joy *vs.* Holden, subject, in the language of the Supreme Court, to the conditions of the patent; and what were they? That they should remain as an integral nation; that they should preserve their tribal organization; and more than that, that they should remain in the occupation of the land. If the Choctaws and Chickasaws moved to-morrow off their land granted to them by the Government of the United States they would lose their title.

Mr. MAXEY. And they cannot sell it.

Mr. VEST. They cannot sell it under the terms of the grant; and yet we are told that this is a title in fee. But I beg pardon of the Senator from Kansas; I do not want to make a speech.

Mr. INGALLS. It is unnecessary for me to say that I approach this question in no sense whatever from the sentimental stand-point. I have no sympathy whatever with the humanitarian idea upon the question of Indian administration. I believe in the rights of white men; but I believe also in the rights of red men and black men. I should be glad, so far as the interests of my people are concerned, to have the existing monopoly of transportation broken up; I should be gratified to have competition in railways through this Territory. I believe that prosperity and wealth and commerce are valuable, but I believe that good faith, honor, and justice are priceless.

In the amendment which I have offered I propose no hostility whatever to any just scheme for securing competition through the Indian Territory, but I ask that it shall be accomplished through the pathway of justice, that the United States shall not be called upon to break its faith solemnly pledged, not with a band of half-civilized savages or barbarians, but with 60,000 men who are to-day civilized, who have a political autonomy, a legislature, laws, language, and literature of their own, a system of common schools, which expends more money than is spent in any other Territory of the United States, a community that has abandoned pagan worship, and that in over two hundred churches every Sabbath listens to the teachings of the Christian religion.

I do not speak in behalf of the United States and of civilization and enlightenment against barbarism, but I speak in behalf of a community that has solved for itself peaceably the Indian problem and is self-sustaining; to whom the Government does not pay and has not for years paid a dollar; to whom the Government of the United States to-day owes millions of dollars, some of it unliquidated; a community that cultivates more than 500,000 acres of land, that in favorable years raises more than half a million bushels of wheat and two million bushels of corn, that has more than 400,000 neat cattle, more than half a million swine, 70,000 head of horses and mules and other domestic animals; a community that has adopted the habits of civilized life, and that stands here before the Congress of the United States asking that a solemn compact that it made with them shall be observed.

As I said, the question of eminent domain, as presented by the advocates of this bill, has no relation whatever to this issue as it now stands before the Senate, because not only do these 60,000 people hold a patent to this land from the United States Government in fee-simple to them and their descendants so long as they exist as a nation, but there is another stipulation made in the treaty of 1866 by which the Government agreed and the Indians consented that one railroad running north and south and one railroad running east and west should be allowed to be built through that Territory, and no others without the consent of those Indians.

Mr. BUTLER. Was not that consent procured from the Indians after the original treaty?

Mr. INGALLS. Certainly; it is a part of the contract made after they had violated their allegiance by going into the confederacy in the war of the rebellion. Their affairs were broken up; part of them went north; some of them were loyal. At the close of the war, in 1866 and 1867, the Government renewed its relations with these Indians, and the subject of railroads then engaging public attention, it was agreed between these parties that one road east and west and one north and south should be chartered, and no others without their consent.

Mr. JONES, of Florida. Will the Senator allow me to ask him for information how that assent is usually obtained?

Mr. INGALLS. I will explain that in just one moment.

Mr. MAXEY. Will the Senator from Kansas permit me to interrupt him at that point?

Mr. INGALLS. Certainly.

Mr. MAXEY. The sixth article of the treaty of 1866 does provide by treaty for a railroad running north and south and one east and west, and a corresponding clause is found in all the treaties made with the civilized tribes during the year 1866; but if there is any clause there that no other road shall pass through, the Senator has found something that I have not, and I have read it very often and very carefully. It is not in the treaty.

Mr. INGALLS. The maxim of law, *expressio unius est exclusio alterius*, applies as well to this as to all other contracts. They affirma-

tively agreed that these things should be done. Did they not therefore agree that the others should not be done until there should be a separate understanding? So again I repeat, that when the argument is made here that because a private citizen is compelled to relinquish a certain proportion of his property under the right of eminent domain that right may be exercised in this case, one important element is left out, and that if a private citizen held a patent in which it was expressly declared that he should have the land described therein, and that no railroad should run through it without his consent, then you would have exactly a parallel case.

That is why I insist that good faith and honor and justice require us to ask the consent of these tribes before exercising the rights of sovereignty and eminent domain. What is there wrong about that? No one knows that this consent would be refused. As a matter of fact, consent has been granted by one of these nations already, and the original bill was based upon the idea that consent is necessary and that it was to be procured. Else why did the Government send its agent down there? Why was the Choctaw council called together? Why was the proposition submitted to them? Why was the bill brought here for the purpose of asking Congress to ratify the act of the council granting this consent unless it was believed to be necessary or at least desirable and proper? Was this trifling with Congress? Was this merely amusement on the part of the gentleman who offered the bill? Why, I ask, unless consent was deemed necessary or unless it was deemed desirable and proper was all this preliminary labor undergone and the act of the Choctaw Nation brought here to be ratified by Congress?

It appeared in the colloquy between the Senator from Missouri and the Senator from Texas, when this bill was last under consideration, that there was something very mysterious about all this business. The bill is equivocal. It is like one of those "juggling fiends" described by Macbeth—

> That palter with us in a double sense;
> That keep the word of promise to our ear,
> And break it to our hope.

Up to a certain time, while it appeared that the franchise of the Saint Louis and San Francisco Railroad was in certain hands, nobody doubted that the consent of the Choctaw Indians was necessary to a right of way through that Territory. The bill was introduced by the Senator who now promotes this one. He recognized the validity of the Choctaw act granting the right of way, and came here and asked Congress to ratify it; but by some mysterious act of prestidigitation, on a certain day, as appears by what the Senator from Missouri said, this franchise disappeared from the hands of one capitalist and reappeared in the hands of another. The celerity with which that bill then disappeared has never been paralleled. It vanished into a profound abyss with an alacrity that has never been exceeded. The friends of the measure moved to recommit the bill and it reappeared after some days of cogitation——

Mr. MAXEY. I desire to say to the Senator from Kansas that the friends of the measure did not move a recommittal. It was moved to be recommitted by one of the most persistent enemies of the bill in this body.

Mr. INGALLS. Who was that?

Mr. MAXEY. The Senator from Connecticut, [Mr. HAWLEY.]

Mr. INGALLS. I do not understand that the Senator from Connecticut is an enemy to this bill at all.

Mr. MAXEY. On his motion it was recommitted.

Mr. HAWLEY. I am very anxious to have that railroad go through the Territory. Honestly, I have no opposition to it in the world. I did not know—it is as much as I could do now to recite the names of all the railroads scrambling here; but the Senator from Texas introduced the bill on the 6th of December, (after having been in the Choctaw council and in their neighborhood working to get them to adopt an act,) sanctioning the act of that council, and he got the bill reported on the 12th of December, six days afterward. It was only on that very day that the official report of the Secretary of the Interior, giving the report of his agent there, came in here. A week or two after that, as soon as they got the knowledge of it, the other Indians came here protesting. When I found that they were protesting, and when I found that the report of the Secretary of the Interior only got here on the 12th of December, at the suggestion of some of the Indians I asked that the bill be recommitted, so that the committee might fairly hear the protestants and might consider it further; but before they got through the Senator from Texas modified his original bill based on the consent of the Indians, and you have this substitute brought in, which does not ask any odds of the Indians.

Mr. MAXEY. If the Senator from Kansas will permit a reply to that, which I think I have the right to ask, I will say that the Senator from Connecticut goes a long ways in his statement; that is all. The bill was introduced by the Senator from Texas on the 6th of December; it was reported favorably from the Committee on Railroads, and placed on the Calendar. The Senator from Texas was anxious to have that bill tried on its merits. The Senator from Connecticut moved to recommit the bill to the Committee on Railroads, of which he is a member; and from the day the bill was recommitted up to the hour when it was reported back the Senator from Texas was never about the committee in one way or the other; never appeared before the committee or had anything to do with it. The framework of the bill as again submitted was such as the committee itself thought proper to present.

As the Senator from Connecticut referred to the matter, I will state that, at the instance and request of the principal chief of the Choctaw Nation and many other of the leading members of that nation, the Senator from Texas did go before their council one day, and that night he addressed the council in behalf of this bill, and he left the next day. He did it at the request of the principal chief and a number of leading men of their nation, because the Senator from Texas believed then as he believes to-day that when these Indians stand across the pathway of progress and civilization improperly, they are standing in their own light. The Senator from Texas has lived about twenty-five years near the Choctaw Nation and happens to know the principal chief and nearly all of their prominent men personally, and therefore it was that they desired him to speak.

Mr. INGALLS. Mr. President——

Mr. JONES, of Florida. I wish to ask the Senator from Kansas a question for my information.

Mr. INGALLS. Certainly.

Mr. JONES, of Florida. I confess I am not well informed about these Indian questions. I for one hold as a general proposition that the Government of the United States has unlimited power to legislate for the territories of the United States, no matter by whom occupied.

Mr. INGALLS. The Senator and I agree about that.

Mr. JONES, of Florida. This Indian country is a part of the territory of the United States, and the sovereign power to legislate for it must reside somewhere. The doubt I have in my mind is whether there is a distinction to be taken in respect to the exercise of this sovereign power on the part of the Government over territory occupied, we will say, by white people and who are part of our own race, and territory that has been ceded to Indian tribes under the stipulations of a public treaty made in conformity with the Constitution of the United States. While I say with respect to Utah, New Mexico, and all the Territories inhabited by our own people that we have unlimited power of legislation, the doubt in my mind is with respect to that territory which has been ceded by the Government of the Union to the civilized tribes of Indians and with whom public treaties have been made, as distinct bodies of men having organizations of their own, and which seems to have been the light in which they were regarded by the framers of the Constitution. The question in my mind is, what is the distinction between the two cases?

Mr. BUTLER. In other words, whether this is part of the public domain just as any other territorial possession.

Mr. INGALLS. I should hardly suppose that any lawyer could have a doubt on that question. The Government has made a direct, positive, specific, definite compact and agreement with these people, which they have lived up to.

Mr. JONES, of Florida. In what power resides the sovereign authority to legislate for them?

Mr. INGALLS. The power to legislate undoubtedly rests in Congress, but it rests in Congress under the Constitution; which declares that no person—and an Indian is a person—shall be "deprived of life, liberty, or property without due process of law."

Mr. VEST. An act of Congress is a "process of law."

Mr. INGALLS. An act of Congress is not "due process of law," as has been repeatedly declared by the Supreme Court of the United States. I do not think any lawyer will dispute my proposition that an act of Congress to deprive a person of life, liberty, or property is not "due process of law." Therefore, admitting that these Indians are persons under the Constitution, that they have been recognized by the treaty-making power of the Constitution, that we have made a compact with them, and that they have rights to liberty, to property, and to life, you cannot deprive them of either of these by an act of Congress without their consent. Consent is a controlling element, and especially in regard to a matter concerning which you have said that you will not legislate without their consent.

Mr. MAXEY. Will the Senator from Kansas permit me to reply to the legal argument which he makes?

Mr. INGALLS. Yes, sir.

Mr. MAXEY. I will do it in the language of Judge Cooley, who is much better authority than I am, but not better than the Senator from Kansas.

Mr. INGALLS. Spare your severity.

Mr. MAXEY. Judge Cooley says:

> The right to appropriate private property to public uses lies dormant in the State until legislative action is had, pointing out the occasions, the modes, conditions, and agencies for its appropriation.

Mr. INGALLS. That is exactly it. The Senator is not as good a lawyer as Judge Cooley; I admit that.

Mr. MAXEY. Judge Cooley continues:

> Private property can only be taken pursuant to law; but a legislative act declaring the necessity being the customary mode in which that fact is determined, must be held to be for this purpose "the law of the land," and no further finding or adjudication can be essential, unless the constitution of the State has expressly required it.

That is the language of Judge Cooley, on page 657 of his work on Constitutional Limitations.

Mr. INGALLS. If the Senator from Texas thinks that is an answer to my legal argument, I must say that his depreciation of himself is strictly warranted, and I should concur with him to the minutest particular. If the Senator believes, after reading that, that an act of Congress can charter a railroad to run through his estate near Paris, Texas, without the intervention of any other agencies, he certainly has a different idea of an act of Congress from what I have.

Mr. MAXEY. The "Senator from Texas" has not said anything of the kind.

Mr. INGALLS. I have said it. I have said that no act of Congress can charter a railroad through the Indian Territory without their consent.

Mr. MAXEY. The Legislature of the State of Texas has the right of eminent domain inherent in it over all the domain of the State within the State of Texas. The Congress of the United States is the Legislature for the territory of the United States, and for every Territorial government in the United States, and has the same right of eminent domain in its Territories that a State has within its territorial jurisdiction. That is what the "Senator from Texas" believes.

Mr. INGALLS. The Senator and I do not differ there at all.

Mr. MAXEY. The principle laid down by Judge Cooley as applicable to a State applies with like force to a Territory belonging to the United States, as the Indian Territory does belong to the United States.

Mr. INGALLS. The Senator from Texas and myself do not disagree upon the proposition that he has stated, but I stated an entirely different one. He read the declaration of Judge Cooley as a refutation of my position, which it was not in any sense whatever, because it does not appear from the statement of Judge Cooley that without the consent of the owner an act of Congress can deprive a private citizen of his title to his property, or his life, or his liberty, and particularly in regard to the Indian country. While there is a different rule of law prevailing with regard to the Territories of the United States generally, yet in this case it is entirely different from either, because, as I have repeatedly said, Congress has agreed with these people, and the contract has never been revoked, that with the exception of the two roads which have been provided for, none others shall be chartered unless the Indians consent to it. The question now is whether you intend to abrogate that agreement without any cause or reason or justification, without asking their consent.

Mr. McPHERSON. May I ask the Senator from Kansas a question in order that I may understand him? I understand him to say that the title to this land has been given to these Indians in fee; that they are the absolute owners of the property.

Mr. INGALLS. In fee-simple.

Mr. McPHERSON. Do I understand the Senator to say that their assent has not been given to this railroad across their territory?

Mr. INGALLS. That is my impression.

Mr. McPHERSON. In the opinion of the Senator from Kansas, what assent is necessary?

Mr. INGALLS. I assume that the assent is necessary which the gentlemen interested in this bill, as it stood originally, endeavored to obtain, and supposed they had obtained, and brought here and asked Congress to pass an act ratifying the same, to wit, the expression of their consent through the general council of the Choctaw Nation authenticated by the great seal of that nation with the signatures of the governor and secretary.

Mr. McPHERSON. In answer again to the Senator, allow me to go still further. I have been almost convinced, whether right or wrong, that the Choctaws, through whose Territory this railroad is intended to run, in their tribal capacity or by their council had given their assent to the railway company crossing their Territory. The Senator avers that I am not correct?

Mr. INGALLS. The Senator is not correct. This bill is an ambiguous and equivocal bill. It is like the piece of furniture which is spoken of in Goldsmith's poem, that was "a bed by night, a chest of drawers by day."

Mr. McPHERSON. Before the Senator gets through I hope he will state the practical part of this question, in order that I may be better informed.

Mr. INGALLS. I will do so. I was about proceeding to that when interrupted by the Senator from Texas or some other advocate of this measure as it stood originally. I was proceeding to say that I assumed that the assent of these nations was necessary from the fact that the gentlemen who desired this bill had endeavored to obtain it, and at their instance the Government had sent down an agent to appear before the Choctaw council, representing the propriety of it and asking them to assent to it. The corporation to which this assent was to be given was the Saint Louis and San Francisco Railway Company.

Mr. McPHERSON. The Government sent an agent there?

Mr. INGALLS. Yes, sir; in October last. It was, if I recollect aright, (and if not the Senator from Texas will correct me,) the Saint Louis and San Francisco Railway Company, owned or controlled by the Seligman Brothers at that time. It was supposed that the consent of the Choctaw Nation had been obtained. The act granting consent was brought here to Washington, and on the first day of the session a bill was introduced by the Senator from Texas proposing to give the consent of Congress to ratify and confirm that act of the Choctaw Nation which was in addition to the rights of way which were recognized by the treaties of 1866 and 1867.

That bill was reported back from the committee and went upon the Calendar. Upon a certain day, which has now escaped my mind, in one of the mysterious transactions of the New York stock market, it became known that the capital stock and the property in the franchise of this road had passed out of the control of the Seligman Brothers into the hands of the syndicate headed by Jay Gould and his associates. Mr. Jay Gould is the owner and controller of the other line of railroad running through the Territory, formerly known as the M., K. and T. road. The object of obtaining this charter was to secure competition and thereby to overthrow the monopoly enjoyed by the M., K. and T.; but as soon as it appeared that the franchise to which the Choctaws had assented had gone into the hands of the men who owned the M., K. and T., it became apparent that competition was at an end; that competition did not compete; that the monopoly had not been overcome.

Then it was that the bill, with the celerity of a prairie-dog going into his burrow, disappeared into the recesses of the committee, and a few days afterward it reappeared under a delusive, fallacious, and deceptive pretense, assuming at the same time that it was known that the road would not be built, to grant the right of way to the same company, to wit, the Saint Louis and San Francisco, which had gone into the hands of the owners of the M., K. and T., but in case they did not within a certain time construct the road, then the charter was to be bestowed upon the Chicago, Texas, and Mexican Central road; and if within a certain time that company did not construct the line, into the hands of any other corporation that first might apply to the President and obtain permission. Meanwhile it was also further understood that in case this road was ever built, every railroad company that might desire to connect with it should have the right, upon a fixed rate, to run over it with its cars and freight and passengers and merchandise, and thereby completely break down and utterly destroy this treaty stipulation and reservation which had been made by the Government with these Indians.

That is, in brief, as I understand, the aspect of this bill. It is a Trojan horse. It pretends that it wants to do a thing that it knows it does not want to do, and that it cannot do. It pretends that it desires to overthrow monopoly by granting a charter to a line that is named, which belongs to the very person who controls the monopoly. It pretends that it desires to violate good faith and honor and justice for the purpose of securing competition, by granting a franchise to a corporation that never will build a foot of railroad.

Mr. President, I do not think that is ingenuous; I do not think that is candid; I do not think that is sincere. This bill does not present itself to my mind in an aspect of such necessity or of such great counter-balancing advantage to be gained as to warrant and justify us in violating our sacred and solemn obligations with these Indians, who have always kept faith with us.

The Senator from Texas and the Senator from Missouri have appealed to one class of argument that in my judgment has no place in the consideration of this question. Why, asks the Senator from Texas, should this quadrangle of territory be allowed to stand as an impenetrable and inseparable wall against the great army of progress? Why should the estate of the Senator from Texas, which I understand is large and valuable, be allowed to stand as a wall against the great army of progress? Why is not his estate opened to white settlement?

Mr. MAXEY. I can state to the Senator from Kansas that without my consent the State of Texas, in the exercise of the right of eminent domain, has run a railroad right square through my place, and I have no right to say one word against it.

Mr. INGALLS. Did the State of Texas agree with you, in the first place, that it would not do it without your consent?

Mr. MAXEY. I claim that every man who holds a patent, I do not care who he is, Indian or white, holds it with an implied condition, and so says the law, that the right of eminent domain is left with the Government to be exercised whenever the needs of the country demand it in connection with commerce among the States or with Indian tribes.

Mr. INGALLS. So do I.

Mr. MAXEY. That is my position.

Mr. INGALLS. The Senator and myself agree fully; but the question is, and I again in answer to the fallacious assumptions of the Senator from Texas ask, admitting all that, if you have once agreed with these people that you will not exercise that right without their consent, what is the objection to asking their consent?

Mr. MAXEY. In reply to that, I will say it is declared on the best authority by every writer on the subject of eminent domain that it is not in the legislative power to barter away the right of eminent domain.

Mr. INGALLS. I will admit that in cases involving the national honor or the national safety there might be some question that would arise where it would be necessary to violate a positive, absolute agreement with a party who always lived up to it in good faith on the other side; but what is the necessity here, what is the reason presented to the Senate, for asking us in this case to violate this agreement and to exercise the right of eminent domain?

Mr. MAXEY. Does the Senator desire an answer?

Mr. INGALLS. Yes, sir; I would be glad to hear the answer.

Mr. MAXEY. I stated on the day I opened this debate that the imperative needs of commerce demanded it; that the power was in Congress to exercise the right of eminent domain, and whenever the needs of commerce demanded that exercise it became an imperative duty in Congress to do it. I then pointed out as clearly as it was possible for me to do the vast increase of wealth, progress, power, population in the great State of Texas which lies south of this Territory, and which needs all the arteries of commerce that we can get to carry the product of the great commercial interests of that State to her sister States.

Mr. INGALLS. Now will the Senator allow me to ask him a question, as he has submitted an interrogatory to me?

Mr. MAXEY. I only answered your question, not that I wanted to interrupt you at all.

Mr. INGALLS. I thank you. If the Senator did not believe that we had agreed with these people not to run a line through their Territory without their consent, and that their consent was desirable or necessary, why did he go before the council of that nation and ask them to grant their consent?

Mr. MAXEY. I concede that their consent was desirable. I believed that their consent was desirable, because it would bring about peace and harmony and quiet; but as to the necessity, there was not a necessity. I explained to those Indians as well as I knew how that whenever they threw themselves athwart the pathway of progress they were doing themselves more injury than anybody else, because they were estranging the best friends they had. I believe the same thing to day. I therefore thought it was desirable to secure their good will and their consent, but as to the necessity the power is with Congress, beyond any doubt, in my judgment.

Mr. INGALLS. The Senator from Texas again repeats his statement that one reason why this bill should pass is because these Indians are arrayed against the great army of progress. When I repeat that these Indians are entirely self-supporting, that they educate their children, that they cultivate the soil, that they have adopted the habits and manners and customs of civilized life, that they are wealthy in flocks and herds, and that they worship God, what character can be necessary to constitute a civilized community, and in the name of civilization how can a community that exists in a condition like that be held to be a barrier to civilization or a wall against human progress?

Mr. PLUMB. Mr. President, I wish to call the attention of the Senate in connection with the remarks of my colleague to article 18 of the treaty of 1855 with these Indians, which is in the following words:

> The United States or any incorporated company shall have the right of way for railroads or lines of telegraphs through the Choctaw and Chickasaw country; but for any property taken or destroyed in the construction thereof full compensation shall be made to the party or parties injured, to be ascertained and determined in such manner as the President of the United States shall direct.

This is an affirmative grant of the right of way through the territory of the Choctaw and Chickasaw tribes made by treaty with them. My colleague says that by the treaty of 1866 Congress limited that right, that it in effect said it would not thereafter exercise it except with their consent, save as to the two railroads named in said last-mentioned treaty. Article 6 of the treaty of 1866, the portion of it which is material, is as follows: "The Choctaws and Chickasaws hereby grant a right of way," (for two railroads, &c.)

That is a present grant, a grant by this treaty, not a right to a grant hereafter to be made by act of Congress, not a grant in favor of some incorporated company hereafter to be created, but a grant made by the terms of that treaty and a grant made for a particular purpose as is expressed in the subsequent portions of the article, and not intended and in no wise qualifying article 18 of the treaty of 1855.

The right of way which was thereby granted was granted upon conditions enlarging the rights of the Choctaw and Chickasaw Indians, giving them the right to subscribe stock, imposing certain burdens and certain duties upon the railroad companies who should build which were not imposed by article 18 of the treaty of 1855, and as I said which in no wise qualified or impaired the absolute sweeping grant contained in article 18 of the treaty of 1855.

There is no doubt in my mind that under these treaties as they stand to-day, according to their letter, according to their spirit, the Government has a perfect and absolute right to grant a right of way to any incorporated company, or to assert the right for itself in any way it chooses for the purpose of building one or more railroads through the lands of these tribes.

It is true that the expression of one thing is the exclusion of another. Bear in mind, however, that when the treaty of 1866 was made the Choctaws had violated by acts of rebellion all the rights which they had under preceding treaties. Here is a treaty, the treaty of 1866, destined to be an act of amnesty for acts of rebellion committed against the United States Government during the war just then closed, and imposing also some new burdens upon them on account of such acts of rebellion. The Government did not intend, certainly could not have intended, to condone the offense of rebellion, and then to contract its own rights as against these Indians, to give up valuable rights it had under the previous treaty. On the contrary, it designed to exact from the Choctaws something which before that time it had not had; something as a penalty for the acts of rebellion in which the Choctaw tribe had been engaged.

When it came to make this contract it simply said that while we have now a right to go through your land ourselves or to give an incorporated company the right to do it, we will now create the present right to build two railroads through this Territory, in a way to be specified, leaving the general right exactly as it was left by the treaty of 1855.

Any one who will read the treaty of 1855 will see that the bulk of the rights of the Choctaw Nation of Indians with reference to the Government depends upon that treaty, and not upon the treaty of 1866. So that if the principle of the assertion of one thing being the exclusion of another, stated by my colleague, is applicable at all to these treaties, it wipes out the treaty of 1855 and substitutes for it solely and only that of 1866, which leaves the Choctaw Nation of Indians without their most precious rights, rights which we have recognized by statute, by acts of appropriation in a thousand ways ever since the date of said treaties. The two treaties are to be considered together, construed together upon the ordinary fair rule of interpretation, and thus construed but one result can follow, as I conceive.

Mr. McPHERSON. Have you the treaty before you?

Mr. PLUMB. I have before me both of them.

Mr. McPHERSON. Please read that clause.

Mr. PLUMB. Article 18 of the treaty of 1855 is as follows:

> The United States or any incorporated company shall have the right of way for railroads or lines of telegraphs through the Choctaw and Chickasaw country.

The remainder of the article simply relates to the method of compensation. That is a right which was thereafter to be exercised requiring legislative authority to carry it into effect, but a right which has always existed in the Congress of the United States; but when they came to the treaty of 1866, then they said: "We will give to you now, by virtue of this treaty, a right to build two specified railroads in a certain way."

Mr. SHERMAN. Is my friend aware that in the law incorporating the Atlantic and Pacific Railroad Company, to which the company named here is the successor, there is an express exclusion of the right of that company to enter upon or exercise any easements or right whatever in the Indian Territory except by the free consent of the tribe named. That is the act of 1866.

Mr. PLUMB. If that be true, as I think it may be, it does not touch this case. This is not that company.

Mr. SHERMAN. This company, as I understand, holds simply the rights granted to the Atlantic and Pacific Company, and can exercise no more.

Mr. PLUMB. Then, if such an exclusion as that were contained, this act of Congress would of course remove it.

Mr. SHERMAN. Congress might violate its law.

Mr. PLUMB. It would be an amendment of that charter; but the answer to that is that this particular company which now seeks to build this road is not the Atlantic and Pacific Company incorporated by act of Congress, but a corporation existing under the laws of the State of Missouri and not a corporation created by the act of Congress of 1866.

Mr. VEST obtained the floor.

Mr. CAMERON, of Pennsylvania. Will the Senator from Missouri give way to me?

Mr. MAXEY. The Senator from Missouri asks me if we can get through with the bill to-night. My great purpose has been to get the bill through. I think the Senate understands it very well. There are some details gentlemen may desire to speak about; but my object is to get the bill through. I do not want to annoy the Senate by holding them in session too long, but it is hardly half past four yet, and I would prefer finishing the bill.

Mr. HAWLEY. I think we can certainly finish the bill. It has been some time on the Calendar.

Mr. FRYE. We want an executive session.

Mr. HAWLEY. We shall not detain the Senate long. I have a single explanation to make on a matter of fact and nothing further.

Mr. VEST. I will say to the Senator from Pennsylvania, who I understand desires to move an executive session, that I want to do what the Senate wish, and I will defer what few remarks I have to make if the Senate wishes to go into executive session. I give way that he may test the sense of the Senate on that motion.

Mr. CAMERON, of Pennsylvania. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to.

### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to some and disagreed to other amendments of the Senate to the bill (H. R. No. 3548) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1883, and for other purposes.

ENROLLED BILLS SIGNED.

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

A bill (S. No. 308) to authorize the construction of a bridge across the Missouri River at the most accessible point within five miles above the city of Saint Charles, Missouri;

A bill (S. No. 699) granting an increase of pension to Saint Clair A. Mulholland; and

A joint resolution (S. R. No. 42) granting the State of Indiana the use of tents on the occasion of an encampment of State troops to be held in said State during the year 1882.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States; which was referred to the Committee on Appropriations, and ordered to be printed:

*To the Senate and House of Representatives:*

I transmit herewith for the consideration of Congress a letter from the Secretary of War, dated the 6th instant, in which he recommends a reappropriation of the unexpended balances of two appropriations of $50,000 each, made in 1880 and in 1881, "for continuing the improvement of the water-power pool" at the Rock Island arsenal, and that the additional sum of $30,000 be granted for the same purpose; also the additional sum of $70.000 "for deepening the canal and for opening six water-ways in connection with the water-power."

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *April* 11, 1882.

EXECUTIVE SESSION.

The Senate proceeded to the consideration of executive business. After twenty-one minutes spent in executive session the doors were reopened, and (at four o'clock and forty-three minutes p. m.) the Senate adjourned.

---

## HOUSE OF REPRESENTATIVES.

### TUESDAY, *April* 11, 1882.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. F. D. POWER.

The Journal of yesterday was read and approved.

AGRICULTURE AND MECHANIC ARTS.

Mr. CARPENTER. I move 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. 5272) to amend the act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts, and that the bill be now put on its passage.

Mr. SPRINGER. I object to the disposal of so important a measure in this hasty way.

MINERAL LANDS.

Mr. CASSIDY. I ask unanimous consent to take from the Speaker's table for present consideration the bill (S. No. 26) to amend section 2326 of the Revised Statutes, in regard to mineral lands.

The SPEAKER. The bill will be read, after which objection will be asked for as to its present consideration.

The bill was read.

The SPEAKER. Is there objection?

Mr. BLAND. I demand the regular order.

Mr. DUNNELL. I would like to have some explanation of this bill.

Mr. RANDALL. I object to its present consideration. We do not know what it is. Let us have the regular order.

Mr. CASSIDY. I will explain, if I can have an opportunity, to the satisfaction of the gentleman.

The SPEAKER. The regular order has been demanded, which is in the nature of an objection.

Mr. RANDALL. This bill proposes to repeal certain statutes of the United States which have not been read.

Mr. CAMP. If the objection has been withdrawn I desire to renew it. I have no objection to the gentleman from Nevada explaining the bill, reserving the right to object.

Mr. BLAND. I insist upon the demand for the regular order.

SAINT MARY'S FALLS SHIP CANAL.

Mr. HUBBELL. I hope the gentleman from Missouri will not insist upon the regular order, but will allow a joint resolution to be read, which I think should be passed immediately.

Mr. BLAND. I have no objection to its being read for information, subject to objection.

The SPEAKER. The Clerk will report the title of the joint resolution.

The Clerk read as follows:

Joint resolution appropriating certain lands for the use of the Saint Mary's Falls Ship-Canal, Michigan.

The joint resolution was read.

Mr. BLAND and Mr. HOLMAN objected.

Mr. HUBBELL. I hope gentlemen will permit me to say that this joint resolution comprises just one acre of ground belonging to the Government which it is necessary to preserve in that way, else when the Government enlarges the canal it will have to pay a vast sum of money in comparison to protect it.

Mr. RANDALL. It is necessary to preserve the regular order.

Mr. HUBBELL. If this is not done it will cost the Government at least $10,000 hereafter.

Mr. WILSON. I hope the objection will be withdrawn.

Mr. BLAND. I insist upon the regular order.

ADDITIONAL COMMITTEE MESSENGER.

Mr. MARTIN. I desire to submit a privileged report from the Committee on Accounts.

The SPEAKER. The resolution will be read.

The Clerk read as follows:

*Resolved*, That the Doorkeeper of the House be authorized and directed to place upon his messenger rolls the name of J. W. Pettit until otherwise ordered by this House, and that he be paid out of the contingent fund of the House.

Mr. PAGE. I want to hear something about the necessity for that.

Mr. HUBBELL. I object to its consideration.

The SPEAKER. This is a privileged report.

Mr. MARTIN. Mr. Speaker, as the House is probably aware, there have been several new committees added to the list in this Congress. The Doorkeeper of the House informed the Committee on Accounts that he had not at his disposal a sufficient number of messengers to attend to the duties required by all these various committees of the House. This resolution was introduced by the gentleman from Pennsylvania [Mr. WARD] and was referred to the Committee on Accounts. The committee sent for the Doorkeeper of the House to ascertain whether there was any necessity for the increase of his force in that connection as proposed by the resolution. The Doorkeeper stated that there was, and further that he had no objection to placing the gentleman upon the rolls as a messenger, knowing his efficiency, having served here in former years—more than six years ago, I will say, Mr. Speaker—and that if the Committee on Accounts saw proper to place this additional messenger under the charge of the Doorkeeper, he was perfectly willing. The committee therefore unanimously instructed me to make a report in the form of a substitute for the resolution that has been read, which I ask the House to adopt.

The SPEAKER. The Clerk will read the substitute reported by the Committee on Accounts.

The Clerk read as follows:

*Resolved*, That the Doorkeeper of the House be authorized and directed to place upon his messenger roll, for the session only, the name of J. W. Pettit, and that he be paid out of the contingent fund of the House, and that the said Pettit be under the control of the Doorkeeper.

Mr. SKINNER. I desire to correct one statement of the gentleman from Delaware, where he states that this was the unanimous report of the Committee on Accounts. The gentleman is mistaken. I dissented from that report.

Mr. MARTIN. I beg the gentleman's pardon. I had forgotten that the gentleman from New York did object to it.

The SPEAKER. The question is on the adoption of the resolution reported from the Committee on Accounts.

The House divided; and there were—ayes 58, noes 26.

Mr. SKINNER. No quorum has voted.

The SPEAKER. The point of order having been made that no quorum has voted, the Chair will appoint tellers.

Mr. SKINNER and Mr. MARTIN were appointed tellers.

Mr. PAGE. Let me suggest to the gentleman from Delaware that he strike out the name of the party in this resolution, and leave the selection to the Doorkeeper. If that is done I think there will be no objection to it.

Mr. MARTIN. I have no authority to make any alteration in the report. I am simply carrying out the recommendation of the Committee on Accounts in presenting this resolution.

I will say to the gentleman from California that I have no interest at all in this appointment. I do not know the man; and I will say further to gentlemen upon the other side that if they are basing their objection to the adoption of this resolution on the ground that this is making a place for a Democrat, they are very much mistaken. There is no doubt of the Republicanism of this appointee, so far as I understand; and if gentlemen are voting under that idea, they are voting under a misapprehension of the facts.

Mr. PAGE. We understand on this side of the House that the party named in this resolution is a Republican; but I object, speaking for myself, to naming anybody in that connection. If it be necessary to make such an appointment, let the Doorkeeper select according to his own judgment and in his own way the person he wishes to fill the place.

Mr. WILSON. If this employé is necessary, why not give authority for his employment?

The SPEAKER. The tellers will take their places, and the Chair will cause the Clerk to read clause 1 of Rule VIII.

The Clerk read as follows:

1. Every member shall be present within the hall of the House during its sittings, unless excused or necessarily prevented; and shall vote on each question put, unless, on motion made before division or the commencement of the roll-call and decided without debate, he shall be excused, or unless he has a direct personal or pecuniary interest in the event of such question.

The SPEAKER. The Chair is of opinion that there is a quorum within the bar of the House.

The House divided; and there were—ayes 93, noes 55.

Mr. SKINNER demanded the yeas and nays.

The yeas and nays were not ordered, eleven members only voting therefor.

So the resolution was agreed to.

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

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. BELFORD addressed the Chair.

Mr. RANDALL. I call for the regular order.

Mr. SPRINGER. I hope the gentleman from Pennsylvania will withdraw the demand for the regular order. I objected to the bill called up by the gentleman from Iowa [Mr. CARPENTER] and now desire to withdraw the objection.

Mr. KASSON. I insist on the regular order; and I move to dispense with the morning hour for the call of committees for reports.

The motion was agreed to, (two-thirds voting in favor thereof,) and the morning hour was dispensed with.

Mr. KASSON. I now desire to move that the House resolve itself into Committee of the Whole House on the state of the Union for the purpose of resuming the consideration of the tariff-commission bill.

INDIAN SUBSISTENCE DEFICIENCY.

The SPEAKER. Yesterday, by unanimous consent, a special order was made for the consideration to-day, immediately after the morning hour, of an appropriation bill. The Chair holds that the consideration of that bill is now first in order. The Clerk will read the bill.

The Clerk read as follows:

A bill (S. No. 1654) to provide for a deficiency in subsistence for the Indians.

*Be it enacted, &c.*, That the sum of $50,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be expended under the direction of the Secretary of the Interior, in subsistence and care for the Indians in charge of the Cheyenne and Arapahoe agency of the Indian Territory.

Mr. RANDALL. Is that a Senate bill?

Mr. SPARKS. Did it originate in the Senate?

The SPEAKER. It is a Senate bill.

Mr. HOLMAN. This is a very unusual thing.

Mr. RANDALL. I must raise the point of order upon the bill.

Mr. McMILLIN. I desire to reserve all points of order.

Mr. RANDALL. The point of order is that this is a Senate bill.

The SPEAKER. The Chair will state that this is a special order, made by unanimous consent on yesterday.

Mr. SPRINGER. I submit that the point of order can only go now to the extent of requiring the consideration of the bill in Committee of the Whole.

Mr. RYAN. I think it has been heretofore held that making a bill a special order waives that.

Mr. SPRINGER. Not at all.

Mr. COX, of New York. I hope the point of order will not be insisted on. We have to take up this appropriation bill some time.

Mr. SPRINGER. What was the order made on yesterday?

The SPEAKER. The Clerk will read from the RECORD.

The Clerk read as follows:

Mr. RYAN. I do not want to antagonize my friend from Ohio by raising the question of consideration. But I give notice now I shall call this up to-morrow morning and ask for its consideration. It has been suggested to me that I should now ask that unanimous consent be given to consider this bill to-morrow morning after the morning hour. I make that request.

The SPEAKER. The gentleman from Kansas asks unanimous consent that the Senate bill No. 1654 be made a special order for to-morrow immediately after the morning hour.

There was no objection, and it was so ordered.

Mr. SPRINGER. That does not waive the point that the bill must be considered in Committee of the Whole.

Mr. McMILLIN. It does not waive any point of order.

Mr. RANDALL. Does the Chair decide that the House having made this a special order, the right to make the point of order against the bill that it originated in the Senate has been practically waived?

The SPEAKER. The Chair has not decided that question. The Chair has only intimated that the special order made by unanimous consent on yesterday sets aside the rule that the bill should be considered in Committee of the Whole House on the state of the Union.

Mr. RANDALL. That is not the point I made.

The SPEAKER. The Chair did not understand the gentleman from Pennsylvania [Mr. RANDALL] to insist on his point.

Mr. RANDALL. The point I suggested was that this was a bill that should have originated in the House, it being part of the general system of appropriations. There has been some doubt expressed whether the Senate have the right to originate bills making appropriations not directly for the support of the Government. But there never has been on the part of the House, so far as I recollect, anything but an affirmation of its own right to originate appropriation bills relating to the support of the Government.

Mr. SPRINGER. However much I might agree with the gentleman from Pennsylvania on that proposition, yet he must certainly concede that that is not a question of order, to be addressed to the Chair, as to whether a bill has originated in the proper House under the Constitution. That is a question for the House, not a question of order to be determined by the Chair. If it were so, the Chair would be left to decide on all questions arising under the Constitution as to whether this House could pass a bill or not. Those are questions submitted entirely to the discretion of the House, not the discretion of the Speaker. The Speaker has to decide whether under the rules of the House this bill is to be considered at this time, and in what way; not whether under the Constitution of the United States the bill should originate in the House and not in the Senate. But the point of the gentleman from Tennessee [Mr. McMILLIN] has not been waived, that the bill must be considered under the rules of the House, notwithstanding its having been made a special order.

Mr. HISCOCK. The gentleman from Tennessee [Mr. McMILLIN] who has made the point intended, as he states to me, to make the same point as has been made by the gentleman from Pennsylvania, [Mr. RANDALL.] I wish to say a single word in reference to this matter, and then the gentlemen can insist on their points if they choose.

It is claimed an Indian war is threatened for want of this appropriation. It is a fact that the general in command of our forces there——

Mr. RANDALL. If the merits of this bill are to be discussed on the question of order, then I want the opportunity to reply on the merits as presented by the gentleman from New York.

The SPEAKER. The merits of the bill, of course, should not be discussed in the consideration of the point made by the gentleman from Pennsylvania.

Mr. RANDALL. I disavow any purpose of promoting an Indian war.

Mr. HISCOCK. The object I had in view was to suggest that the points of order which have been made might not be insisted on at this time, to the end we might have prompt action on this bill. That is my only reason for making the suggestion I did.

Mr. RANDALL. When this thing has occurred before, when the Senate has attempted a like action, we have substituted a House bill from the Committee on Appropriations in exact words of the Senate bill. I recollect two instances when that was done.

Mr. SPARKS. So do I.

Mr. RANDALL. And there would be no objection to a similar action in this case.

Mr. HISCOCK. Very well; the gentleman from Kansas [Mr. RYAN] will offer a substitute.

Mr. HOLMAN. Not a substitute.

Mr. RANDALL. An original bill.

The SPEAKER. The Chair holds that the special order of yesterday did not waive the right of any member to raise the point of order that this bill should have originated in the House and not in the Senate.

Mr. RANDALL. I want to show to the Chair the necessity of close examination of these things. In two instances during this session conference committees in submitting their reports have invaded portions of the bill under consideration, which portions had been agreed to by both Houses. Once, in the instance of authorizing the Interior Department to rent a building for the accommodation of the Land Office; and at another time in the case of a bill to authorize the construction of a bridge across the Missouri River, the gentleman from Minnesota [Mr. WASHBURN] being chairman of the House committee of conference, the language and effect of the bill was changed in a particular where it had been agreed to by both Houses. That shows, therefore, that we must of necessity watch these things carefully. We do not want to impede legislation; on the contrary we want to facilitate action on all appropriation bills.

Mr. SPARKS. I know that in the Forty-fifth Congress several members of the Committee on Appropriations of the Senate insisted that they had a right to originate appropriation bills. That point is now raised here. As the gentleman from Pennsylvania [Mr. RANDALL] has said, the Senate has twice before attempted these things and we obviated it, at least in one case, as it is proposed to do now. Let the House pass a bill identical with the Senate bill, but let it be a House bill and go to the Senate. Let us insist upon our right to originate all appropriation bills, for that is our right.

Mr. McMILLIN. In reserving the point of order it was not my purpose to retard the consideration of this bill nor to complicate it. If it can come as a bill reported by a committee of the House, as a House bill, I am entirely willing that it shall be considered without even going to the Committee of the Whole. But while I would not, as a member of the House, take a single prerogative from the Senate, I would not permit a single prerogative of the House to be

taken away without a protest, even though it involved only one dollar.

Mr. HISCOCK. Does the gentleman make any distinction between this bill and the joint resolution from the Senate which we passed making an appropriation for the sufferers from the overflow of the Mississippi?

Mr. McMILLIN. If the bill making an appropriation for the benefit of the sufferers in the overflowed region is held to be an infraction of our rights, as this certainly is, then I would not vote even for that.

Mr. RANDALL. The case is not analogous.

Mr. McMILLIN. It is not analogous.

Mr. RANDALL. Because this bill is a part of the system of appropriations for the support of the Government, which the Constitution bears upon directly.

The SPEAKER. The Chair does not feel called upon to determine this question any further than to hold that the right is still in the House, notwithstanding the order of yesterday, to reject the bill because it originated in the Senate, if such shall be the judgment of the House. The Chair would not undertake to determine whether in this case the Senate has or has not invaded the rights of the House. It is not called upon to rule upon that question. Therefore, unless it is proposed that some action shall be taken by the House, the Chair will hold that the bill is properly before the House under the special order.

Mr. HISCOCK. There is no desire, so far as I am concerned, and I believe none on the part of any gentleman on this side of the House, either to concede or to antagonize at this time the position taken by gentlemen on the other side. So far as I am concerned I do not care to discuss that question now. I certainly do not concede the correctness of the position taken by gentlemen on the other side. But to the end that no time may be lost this morning in the direction of this proposed legislation, if the point raised can be met by the substitution of a House bill for the Senate bill, perhaps that is the better course for the present.

Mr. RANDALL. Let the gentleman introduce an original bill.

Mr. ROBESON. One remark. Gentlemen will remember, I suppose, that about twenty years ago a Democratic Senate originated all the general appropriation bills for the support of the Government. They were reported to the Senate, I think, by Mr. Hunter, of Virginia, and they were passed by a Democratic Senate. They came to this House and were passed by the House; all the appropriation bills for the support of the Government. And in the last Congress, in the Forty-sixth Congress, the question was raised, and the Committee on the Judiciary of the last House reported that there was no constitutional objection to the Senate originating appropriation bills.

Mr. RANDALL. Yes; but there was a minority report also, and the majority report was not adopted by the House.

Mr. ROBESON. The report was that there was no constitutional objection to the Senate originating these bills.

Mr. BLOUNT. I would like to ask the gentleman from New Jersey——

Mr. RYAN. The time of this House is somewhat precious.

Mr. ROBESON. One moment; I have the floor.

Mr. BLOUNT. I desire to ask the gentleman——

The SPEAKER. Does the gentleman from New Jersey yield?

Mr. ROBESON. I do not. I am not going to interfere with the time of this House. I am not going to take any position here that will restrict the power of this House. But I merely say that this is not a settled question.

Now, for the purpose of facilitating the action of the House, and not antagonizing the settled views of any gentleman upon this question, not taking time to settle the question now and here, I desire to say that I believe our Committee on Appropriations is willing as suggested to report a bill to the House.

Mr. SPARKS. As an original bill.

Mr. COX, of New York. As one member of this House I desire to enter my protest against any doctrine like that laid down by my friend from New Jersey.

Mr. ROBESON. I have laid down no doctrine. I say that a Democratic Senate laid down that doctrine; and the Judiciary Committee of the last Democratic House laid down the same doctrine.

Mr. RANDALL. The House did not sustain it.

The SPEAKER. The Chair has no objection to hearing the gentleman from New York, [Mr. COX,] but in the opinion of the Chair the question of order is disposed of.

Mr. COX, of New York. The Chair will hear me, I doubt not, as it heard the gentleman from New Jersey. I do not care what Robert M. T. Hunter did; I do not care what a Democratic Senate may have done. In the Forty-fifth Congress we debated this proposition for days; and we never waived by one inch the old privilege belonging to the English House of Commons, and drawn by our Constitution from the organism of the British Parliament. The House of Lords to-day cannot originate money bills any more than the Senate can. The House of Lords cannot even amend such a bill in certain particulars, though our Constitution allows the Senate to do so. The reason, sir, that I speak to-day in the way of protest is that the Senate in amending our bills, and notably some which the gentleman from New Jersey will call to mind, has changed them almost *totus teres ac rotundus*—changed them through and through. I am opposed to yielding to the Senate one iota of the prerogatives of the House; and though it is not in order for the gentleman from Kansas [Mr. RYAN] to introduce a House bill as a substitute for the Senate bill—although we will not concede that, and he will not ask it I hope—nevertheless, as he says that an Indian war is imminent, let him in this emergency ask to introduce an original bill; and I doubt not the House will be humane and just enough to grant him this privilege unanimously, thus avoiding this troublesome question.

Mr. RYAN. I have been awaiting an opportunity to do the very thing suggested by the gentleman from New York. I now ask unanimous consent to introduce and have immediately considered the bill which I send to the desk.

The Clerk read as follows:

A bill (H. R. No. 5801) to provide a deficiency for the subsistence of Arapahoe, Cheyenne, Kiowa, Comanche, Apache, and Wichita Indians.

*Be it enacted, &c.*, That the sum of $80,000, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated, to be expended under the direction of the Secretary of the Interior for the subsistence of the Arapahoes, Cheyennes, Apaches, Kiowas, Comanches, and Wichitas in the Indian Territory, the same being a deficiency for the fiscal year of 1882.

The SPEAKER. Is there objection to the introduction and present consideration of this bill? The Chair hears none; and in the absence of objection the bill will be considered as read a first and second time.

Mr. RYAN. I now ask to have read some official communications showing the importance of immediate action on this matter. [Cries of "Vote!" "Vote!"]

The SPEAKER. The Chair suggests that the documents be printed in the RECORD.

Mr. RYAN. Very well.

The documents are as follows:

CHICAGO, ILLINOIS, *March* 23, 1882.

TO ADJUTANT GENERAL OF THE ARMY,
*Washington, D. C.:*

The following telegram from General Pope is forwarded for the information General of the Army.

P. H. SHERIDAN, *Lieutenant-General.*

"FORT LEAVENWORTH, *March* 22.

"ADJUTANT-GENERAL *Division Missouri:*

"Commanding officer Fort Reno telegraphs Agent Miles has received instructions to reduce the beef ration one-third. If immediate action is not taken to supply Indians with same amount of beef heretofore issued, I shall look for trouble.

"RANDALL.

"I concur with Captain Randall that there is likely to be trouble of a serious kind if this reduction is made, and ask that attention of Interior Department be called to the matter before the reduction is made.

"JOHN POPE,
"*Brevet Major-General Commanding.*"

---

WAR DEPARTMENT,
*Washington City, March* 28, 1882.

SIR: Referring to previous correspondence on this subject, I have the honor to invite your attention to the inclosed copy of telegram of the 23d instant from General Pope, communicating one from the commanding officer at Fort Reno, Indian Territory, concerning the beef allowance to Indians near that post, in which he states that serious trouble will occur unless a full allowance of fresh beef is issued to these Indians.

Very respectfully, your obedient servant,

ROBERT LINCOLN,
*Secretary of War.*

The honorable the SECRETARY OF THE INTERIOR.

---

FORT LEAVENWORTH, KANSAS, *April* 3, 1882.

I leave to-morrow for Reno. The situation is plain. The Indians cannot live on the reduced beef rations. There are one hundred thousand cattle grazing not far from them. Rather than starve they will do as we would do, take by force what cattle are needed to keep them and their families from starving; this will provoke Indian hostilities which will lead God knows where. The only legal act that the military can do is to make them starve peaceably; a most inhuman service. Some Department of the Government should assume the responsibilities of spending a few thousand dollars for beef rather than have an Indian outbreak on a large scale. There is no game to subsist Indians in this Indian Territory. Is it really the intention of the Government for such a paltry sum to plunge the frontier into war with Indians, or to assemble a strong military force to force these unhappy creatures to starve in peace? There will be fearful responsibilities somewhere if this matter is not settled now. It can be done in one hour. Should I find nothing done when I reach Reno, I shall probably assume the responsibility myself. I had rather suffer anything myself rather than to see an Indian outbreak so inexcusable, unjust, and fraught with such dreadful consequences.

There is no reason in it. You show this to Secretary of War. The entire cost of making up the deficiency caused by the reduction will only be about twenty-five hundred dollars per month, and during the month Congress can readily appropriate for the deficiency to July 1.

JOHN POPE,
*Brevet Major-General Commanding.*

Major WILLIAM DRUM,
25 *Lanier Place, Washington, D. C.*

---

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
*Washington, April* 4, 1882.

SIR: I think it my duty to call attention again to the absolute necessity for increasing the amount of beef to be issued to the Indians at the Cheyenne and Arapahoe, and Kiowa, Comanche, &c., agencies, Indian Territory.

I am induced to do this because of the continued warnings of the agents and of

the officers of the Army, as disclosed in copies of letters and telegrams herewith inclosed.

In addition to these, I am informally advised this morning by the Secretary of War, through the Secretary of the Interior, that the danger is imminent, and that the alternative is offered of full rations or certain war.

The $50,000 in the deficiency bill, and the $50,000 inserted by Senate amendment in present appropriation bill, making $100,000, only gives a ration of two-thirds beef in addition to other supplies, and this amount is what is complained of. In order to cure the evil complained of, it is necessary to add $30,000 to the $100,000 above named.

Very respectfully,

H. PRICE, *Commissioner.*

Hon. FRANK HISCOCK, *House of Representatives.*

Mr. RANDALL. I wish to ask the gentleman from Kansas a question or two in connection with this appropriation; but before doing so I will say that I mean to support this bill, because I believe it is essential this appropriation be made rather than incur any risk of hostilities with these Indian tribes. But I want to call the attention of the gentleman from Kansas to certain facts, and then ask him to give us the reasons for the action which has been taken on the part of the Interior Department. The amount of the estimate last year for the support of these five tribes, the Cheyennes, Arapahoes, Comanches, Kiowas, and Apaches, during the current fiscal year, was $350,000. The estimate was met by the appropriation, which, so far as my examination goes, was in excess of any appropriation for like purposes in any former year. Yet this amount has been expended in nine months; and $130,000 in excess of the estimate is stated to be necessary, embracing this deficiency. Now when you come to reckon the number of Indians fed from this fund, and compare the amount thus expended per capita with the amount expended by laboring-men of the country for their subsistence, it will be found that the expenditure for the support of these Indians is actually in excess of the sum required per capita for the support of an equal number of laboring-men.

Now, I think that the Department under existing laws has no right to make expenditures in this manner. Yet I am free to say, although an infraction of the law may have taken place, it is incumbent upon us to prevent Indian hostilities; but I do say that Congress ought in some way prevent these abuses. There are already upon the statute-book laws designed to accomplish this end; yet under the administration by the Department they are a dead letter. I hope, therefore, the gentleman from Kansas will tell us whether the recital of facts I have made is correct and where the remedy is, if he has any to suggest—whether in the diminution of rations or in a stricter adherence to the appropriations.

Mr. RYAN. Mr Speaker, the statement made by the gentleman from Pennsylvania is correct; and now, speaking for myself, and also I believe for the Committee on Appropriations, we recommend this appropriation be made at this time more to avert a possible calamity than upon its merits.

It is true, as has been stated by the gentleman from Pennsylvania, [Mr. RANDALL,] that the Government has been giving to these tribes of Indians provided for in this deficiency bill a most extraordinary ration of beef during the past year. I believe I am not overstating it when I say that the ration as issued per capita from the oldest to the youngest of the tribes, from the octogenarian to the infant born but yesterday, is three pounds of beef gross, or not less than one and a half pounds per capita of dressed beef per day. For the purpose of illustration, take a man and his wife and three children, and the Government has been issuing every day of the year to that family seven and one-half pounds of fresh beef and other rations as well, such as flour, lard, bacon, hominy, rice, sugar, and coffee.

The appropriation was made, as stated by the gentleman, for all that was asked for by the Department for the fiscal year ending June 30, 1882. Beef advanced rapidly, but the Department still continued to issue the old ration. It failed, of course, on that appropriation to run it through the year. It was, in fact, exhausted in nine months. The Department, in my judgment, should in the beginning of the fiscal year have made a daily diminution of the ration, and thereby brought the expenditure within the appropriation, and thus have avoided the necessity of any deficiency. When this Congress assembled the Department thought that it could get along with $100,000 deficiency, but when the 1st of April rolled around it had, in order to make that deficiency sufficient for the remaining three months, to reduce the ration one-third. Reducing it one-third would give to a family of the number I have indicated, that is a family of five persons, five pounds of fresh beef every day in the year. That was ample, and there is no family among all the industrial classes of this country that is so bountifully provided for in this respect; but still these Indians have been enjoying more, and taking away from them suddenly and without notice one-third of the beef ration has made them restless and dissatisfied, and the danger of their breaking out into hostilities is declared to be imminent. Therefore, we think it better to make this appropriation than to incur the danger of an Indian war with its consequent atrocities and cost.

In connection with my remarks, Mr. Speaker, I ask to have printed in the RECORD a tabulated statement of the rations which these tribes of Indians have been receiving during the fiscal years of 1881 and during 1882 down to the 1st of April, for the purpose of showing that the Congress of the United States has not been guilty of any inhumanity toward these Indians.

The SPEAKER. The Chair hears no objection, and the statement will be printed in the RECORD.

The statement is as follows:

*Kiowa, Comanche, and Wichita agency—1882.*

| Week ending— | Bacon. | Baking-powder. | Beans. | Beef. | Coffee. | Corn. | Flour. | Hard-bread. | Hominy. | Lard. | Rice. | Salt. | Soap. | Sugar. | Tea. | Tobacco. | Total cost. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | |
| July 4, 1881 | | 154 | | 84,417 | 172 | | 14,621 | | | | | | 23 | 495 | 7 | | |
| July 11, 1881 | | 135 | | 80,955 | | | 13,492 | | | | | | | | | | |
| July 18, 1881 | | 134 | | 80,955 | 665 | | 13,493 | | | | | | | | | | |
| July 25, 1881 | | 156 | | 82,915 | 1,432 | | 14,910 | | | | | | | | | | |
| August 1, 1881 | | | | 82,915 | 332 | | 14,910 | | | | | | | | | | |
| August 8, 1881 | | | | 80,900 | 332 | | 12,900 | | | | | | | | | | |
| August 15, 1881 | | | | 89,955 | 1,080 | | 13,943 | | | | | | | 1,889 | | | |
| August 22, 1881 | | | | 80,955 | 539 | | 13,492 | | | | | | | 995 | | | |
| August 29, 1881 | | | | 80,955 | 540 | | 13,493 | | | | | | | 944 | | | |
| September 5, 1881 | | | | 80,955 | 540 | | 13,492 | | | | | | | 945 | | 135 | |
| September 12, 1881 | | | | 80,535 | 546 | | 13,733 | | | | 30 | | 281 | 961 | 2 | 133 | |
| September 19, 1881 | | 132 | | 80,360 | 549 | | 13,832 | | | 18 | 43 | 286 | 285 | 966 | 2 | 132 | |
| September 26, 1881 | | 131 | | 80,185 | 552 | | 13,933 | | | 30 | 55 | 289 | 290 | 973 | 2 | 65 | |
| October 3, 1881 | | 144 | | 82,672 | 711 | | 14,024 | | | 130 | 112 | 291 | 305 | 1,263 | 6 | 66 | |
| October 10, 1881 | | | | 80,150 | 552 | | 8,600 | | | 30 | 58 | 290 | 291 | 974 | 2 | 65 | |
| October 17, 1881 | | 66 | | 80,115 | 553 | | 7,437 | | | 30 | 60 | 292 | 291 | 975 | 3 | 65 | |
| October 24, 1881 | | 65 | | 80,087 | 554 | | 6,163 | | | 30 | 62 | 292 | 292 | 977 | 3 | 66 | |
| October 31, 1881 | | 65 | | 80,003 | 554 | | 7,528 | | | 30 | 68 | 295 | 295 | 979 | 3 | 65 | |
| November 7, 1881 | | 65 | | 79,954 | 536 | | 7,568 | | | 40 | 71 | 295 | 295 | 981 | 3 | 65 | |
| November 14, 1881 | | 65 | | 79,933 | 553 | | 7,586 | | | 40 | 73 | 296 | 296 | 981 | 4 | 65 | |
| November 21, 1881 | | 65 | | 79,905 | 556 | | 7,609 | | | 35 | 75 | 297 | 297 | 983 | 4 | 64 | |
| November 28, 1881 | 2,594 | 65 | | 79,905 | 1,075 | | 7,609 | | 75 | 35 | | 297 | 297 | 1,891 | 4 | 65 | |
| December 5, 1881 | 2,601 | 65 | | 79,975 | 1,075 | | 7,551 | | 70 | | | 555 | 295 | 1,890 | 3 | 129 | |
| December 12, 1881 | 2,595 | 65 | | 79,919 | 1,075 | | 7,597 | | 74 | | | 556 | 297 | 1,890 | 3 | 130 | |
| December 19, 1881 | 2,643 | 66 | | 80,409 | 1,077 | | 7,195 | | 39 | | | 548 | 284 | 1,890 | 2 | 132 | |
| December 26, 1881 | 2,678 | 66 | | 80,745 | 1,078 | | 6,919 | | 15 | | | 543 | 275 | 1,889 | 1 | 134 | |
| January 2, 1882 | 2,709 | 86 | | 85,286 | 1,289 | | 8,616 | | 38 | 310 | 10 | 566 | 361 | 2,516 | 15 | 133 | |
| January 9, 1882 | 2,630 | 131 | | 85,037 | 1,082 | | 14,014 | | 60 | | | 506 | 293 | 1,901 | 3 | 132 | |
| January 16, 1882 | 2,634 | 66 | | 86,612 | 1,082 | | 7,446 | | | | 58 | 555 | 292 | 1,901 | 3 | 132 | |
| January 23, 1882 | 2,658 | 66 | | 80,857 | 1,083 | | 7,245 | | 40 | | | 552 | 286 | 1,900 | 2 | 132 | |
| January 30, 1882 | 2,650 | 66 | | 80,787 | 1,083 | | 7,302 | | 45 | | | 552 | 288 | 1,901 | 2 | 133 | |
| February 6, 1882 | 2,648 | 132 | | 80,752 | 1,083 | | 7,331 | | | | 47 | 554 | 288 | 1,900 | 2 | 132 | |
| February 13, 1882 | 2,630 | 132 | 60 | 80,777 | 1,082 | | 14,049 | | | | | 556 | 293 | 1,901 | 3 | 132 | |
| February 20, 1882 | 2,618 | 130 | | 80,465 | 1,081 | | 14,114 | | 68 | | | 557 | 296 | 1,901 | 3 | 131 | |
| February 27, 1882 | 2,625 | 132 | 64 | 80,521 | 1,082 | | 14,081 | | | | | 557 | 294 | 1,901 | 3 | 132 | |
| March 6, 1882 | 2,622 | 131 | 65 | 80,507 | 1,081 | | 14,090 | | | | | 556 | 295 | 1,901 | 3 | 131 | |
| March 13, 1882 | 2,620 | 131 | 68 | 84,072 | 1,082 | | 7,561 | | | | | 558 | 295 | 1,901 | 3 | 131 | |
| Total | 42,155 | 2,907 | 257 | 3,016,392 | 29,360 | | 399,479 | | 524 | 758 | 822 | 11,551 | 7,970 | 47,255 | 95 | 3,027 | |
| Cost | $4,138 37 | $755 82 | $10 00 | $102,213 47 | $3,276 58 | | $9,467 65 | | $10 75 | $102 33 | $44 88 | $157 09 | $310 83 | $5,216 18 | $20 90 | $1,305 72 | $127,030 57 |

*Cheyenne and Arapahoe agency*—1882.

| Week ending— | Bacon. | Baking-powder. | Beans. | Beef. | Coffee. | Corn. | Flour. | Hard-bread. | Hominy. | Lard. | Rice. | Salt. | Soap. | Sugar. | Tea. | Tobacco. | Total cost. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | |
| July 2, 1881 | | | | 139,170 | 941 | 10,240 | 10,240 | | | | | | | 2,120 | | | |
| July 9, 1881 | 4,249 | | 1,074 | 130,020 | 910 | | 21,245 | | | | | | | | | | |
| July 16, 1881 | | | | 130,200 | | | 17,085 | | | | | | | | | | |
| July 23, 1881 | 1,885 | | | 145,450 | 2,563 | 21,245 | 15,437 | | 128 | 926 | 38 | 763 | | | 59 | | |
| July 30, 1881 | | | | 127,470 | 1,699 | | 21,245 | | | | | | | | | | |
| August 6, 1881 | | | | 127,470 | 1,699 | | 21,245 | | | | | | | | | | |
| August 13, 1881 | | | | 129,260 | 1,760 | 4,512 | 11,025 | | | | | 882 | | 3,187 | | | |
| August 20, 1881 | | | | 127,220 | 1,760 | 11,025 | 11,025 | | | | | | | 2,882 | | | |
| August 27, 1881 | | | | 124,960 | 1,600 | 11,025 | 11,025 | | | | | 800 | | 3,000 | | | |
| September 3, 1881 | | | | 115,020 | 1,600 | 5,512 | 11,025 | | | | | 882 | | 3,087 | | | |
| September 10, 1881 | | | | 127,430 | 1,787 | 16,002 | 22,348 | | | | | 447 | | 3,280 | | | |
| September 17, 1881 | | | | 128,160 | 1,552 | | 21,960 | | | | | 438 | 438 | 3,004 | | 219 | |
| September 24, 1881 | | | | 127,000 | 1,430 | | 21,960 | | | | | 438 | 438 | 2,860 | | 219 | |
| October 1, 1881 | | | | 109,450 | 1,734 | | 21,675 | | | | | 433 | 433 | 3,034 | | 217 | |
| October 8, 1881 | | 279 | | 164,630 | 2,232 | | 27,908 | | | | | 558 | 558 | 3,906 | | 279 | |
| October 15, 1881 | | 208 | | 120,260 | 1,973 | | 27,358 | | 243 | 377 | 95 | 742 | 676 | 3,699 | 24 | 208 | |
| October 22, 1881 | | 209 | | 119,110 | 1,668 | | 20,853 | | | | | 417 | 417 | 2,919 | | 209 | |
| October 29, 1881 | | 208 | | 130,400 | 1,668 | | 20,853 | | | | | 417 | 417 | 2,919 | | 208 | |
| November 5, 1881 | | 209 | | 129,130 | 1,668 | | 20,853 | | | | | 417 | 417 | 2,919 | | 209 | |
| November 12, 1881 | | 208 | | 123,440 | 1,668 | | 20,853 | | | | | 417 | 417 | 2,919 | | 208 | |
| November 19, 1881 | | 208 | | 122,820 | 1,668 | | 20,853 | | | | | 417 | 417 | 2,919 | | 209 | |
| November 26, 1881 | | 208 | | 134,190 | 1,668 | | 20,853 | | | | | 417 | 417 | 2,919 | | 208 | |
| December 3, 1881 | | 212 | | 124,270 | 1,696 | | 21,200 | | | | | 424 | 424 | 2,968 | | 212 | |
| December 10, 1881 | | 212 | | 128,550 | 1,696 | | 21,200 | | | | | 424 | 424 | 2,968 | | 212 | |
| December 17, 1881 | | 212 | | 104,510 | 1,696 | | 21,200 | | | | | 424 | 424 | 2,968 | | 212 | |
| December 24, 1881 | | 212 | | 131,350 | 1,696 | | 21,200 | | | | | 424 | 424 | 2,968 | | 212 | |
| December 31, 1881 | 38 | 313 | | 120,420 | 2,617 | | 42,527 | | 194 | 813 | 547 | 978 | 938 | 5,509 | 101 | 212 | |
| January 7, 1882 | | 212 | | 114,890 | 1,696 | | 21,200 | | | | | 424 | 424 | 2,968 | | 212 | |
| January 14, 1882 | | 212 | | 125,700 | 1,696 | | 21,200 | | | | | 424 | 424 | 2,968 | | 212 | |
| January 21, 1882 | | 212 | | 118,270 | 1,696 | | 21,200 | | | | | 424 | 424 | 2,968 | | 212 | |
| January 28, 1882 | | 212 | | 114,520 | 1,696 | 10,600 | | 5,000 | | | | 424 | 424 | 2,968 | | 212 | |
| February 4, 1882 | 8,650 | 212 | | 113,970 | 1,696 | 5,300 | 10,600 | | | | | 424 | 424 | 2,968 | | 212 | |
| February 11, 1882 | | 212 | | 116,000 | 1,696 | 10,598 | 10,598 | | | | | 424 | 424 | 2,968 | | 212 | |
| February 18, 1882 | | 212 | | 113,340 | 1,696 | 10,598 | 10,598 | | | | | 424 | 424 | 2,968 | | 212 | |
| February 25, 1882 | 4,230 | 212 | | 138,960 | 1,696 | | 20,104 | | | | | 424 | 424 | 2,968 | | 212 | |
| March 4, 1882 | 4,188 | 206 | | 124,510 | 1,645 | 10,470 | | | | | | 826 | 826 | 2,926 | | 206 | |
| March 11, 1882 | 4,188 | 206 | | 117,390 | 1,645 | | 20,940 | | | | | 826 | 826 | 2,926 | | 206 | |
| March 18, 1882 | 4,130 | 206 | 1,239 | 133,535 | 1,645 | 10,350 | | | | | | | 826 | 2,926 | | 206 | |
| March 27, 1882 | 4,130 | 206 | 1,239 | 120,450 | 1,645 | 10,350 | | | | | | 418 | 418 | 2,926 | | 206 | |
| Total | 35,688 | 5,418 | 3,552 | 4,893,895 | 64,797 | 147,827 | 682,585 | 5,000 | 565 | 2,116 | 680 | 16,921 | 13,967 | 103,281 | 184 | 5,973 | |
| Cost | $3,415 27 | $1,408 68 | $139 42 | $166,770 83 | $7,232 35 | $1,079 14 | $16,177 29 | $193 75 | $12 15 | $285 25 | $37 13 | $230 12 | $544 71 | $11,619 11 | $40 48 | $2,150 28 | $211,335 96 |

*Kiowa, Comanche, and Wichita agency, fiscal year* 1881.

| | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| July 5, 1880 | 159 | 125 | 10 | 87,626 | 651 | | 7,829 | | 5 | 150 | 13 | 276 | 282 | 1,296 | 10 | | |
| July 12, 1880 | | | | 88,494 | 563 | | 7,044 | | | | | 272 | 271 | 1,127 | | | |
| July 19, 1880 | | | 17 | 88,494 | 1,085 | | 7,043 | | | | | 271 | 272 | 2,170 | | | |
| July 26, 1880 | | | | 88,494 | 1,085 | | | | 127 | | | 271 | 271 | 2,170 | | | |
| August 2, 1880 | | | | 86,919 | 1,064 | | 14,350 | | | | | 266 | 266 | 2,168 | | | |
| August 9, 1880 | | | | 88,701 | 556 | | 13,597 | | | | | 272 | 272 | 1,112 | | | |
| August 16, 1880 | | | | 88,011 | 314 | | 6,923 | | | | | 270 | 269 | 58 | | | |
| August 23, 1880 | | | | 88,977 | 573 | | 7,165 | | | | | 272 | 144 | 110 | | | |
| August 30, 1880 | | | | 88,977 | 574 | | 7,164 | | | | | 273 | 108 | 109 | | | |
| September 6, 1880 | | | | 89,859 | 590 | | 7,385 | | | | | 300 | | | | | |
| September 13, 1880 | | | | 89,599 | 566 | | 7,070 | | | | | 271 | | 1,132 | | 136 | |
| September 20, 1880 | | | | 88,284 | 581 | | 7,393 | | | | 15 | 279 | | 1,165 | ½ | 72 | |
| September 27, 1880 | | 37 | | 90,425 | 695 | | 8,377 | | 5 | 165 | 61 | 326 | 42 | 1,469 | 3½ | 68 | |
| October 4, 1880 | | 72 | | 86,933 | 565 | | 7,530 | | | | 49 | 287 | | 1,140 | 3 | 67 | |
| October 11, 1880 | | 71 | | 88,207 | 600 | | 8,045 | | | | 62 | 292 | | 1,212 | 3 | 71 | |
| October 18, 1880 | | 68 | | 87,003 | 579 | | 7,863 | | | | 71 | 292 | | 1,174 | 3 | 68 | |
| October 25, 1880 | 1,356 | 68 | | 86,884 | 582 | | 7,961 | | | | 79 | 300 | 159 | 1,179 | 3 | 68 | |
| November 3, 1880 | | 71 | | 88,487 | 612 | | 8,309 | | | | 75 | 299 | | 1,239 | 4 | 72 | |
| November 10, 1880 | 1,298 | 71 | | 85,750 | 559 | | 7,153 | | | | 79 | 195 | 169 | 1,133 | 4 | 65 | |
| November 17, 1880 | 2,561 | 65 | | 85,606 | 560 | | 7,746 | | | | 85 | 299 | 172 | 1,138 | 4 | 64 | |
| November 24, 1880 | 2,587 | 66 | | 86,492 | 577 | | 7,968 | | | | 86 | 302 | 177 | 1,171 | 5 | 67 | |
| December 1, 1880 | 2,559 | 128 | | 85,652 | 1,067 | | 7,793 | | | | 86 | 554 | 555 | 2,151 | 4 | 128 | |
| December 8, 1880 | 2,559 | 128 | | 85,652 | 1,066 | | 7,793 | | | | 86 | 555 | 554 | 2,150 | 5 | 128 | |
| December 15, 1880 | 2,561 | 129 | | 85,666 | 1,067 | | 7,782 | | | | 85 | 555 | 555 | 2,151 | 4 | 128 | |
| December 22, 1880 | 2,543 | 127 | | 85,211 | 1,061 | | 7,670 | | 88 | | | 552 | 552 | 2,139 | | 127 | |
| December 29, 1880 | 2,666 | 133 | | 86,436 | 1,066 | | 6,664 | | | | | 533 | 534 | 2,133 | 5 | 128 | |
| January 5, 1881 | 2,633 | 139 | | 88,965 | 1,249 | | 9,065 | | 87 | 280 | 16 | 576 | 595 | 2,632 | 4 | 134 | |
| January 12, 1881 | 2,544 | 128 | | 85,218 | 1,058 | | 4,485 | | 87 | | | 552 | 552 | 2,140 | 4 | 127 | |
| January 19, 1881 | 2,545 | 127 | | 85,232 | 1,061 | | 1,023 | | 86 | | | 552 | | 2,139 | 5 | 127 | |
| January 26, 1881 | 2,545 | 127 | | 85,232 | 1,061 | | | | 86 | | | 552 | 552 | 2,140 | 4 | 128 | |
| February 2, 1881 | 2,545 | 128 | | 85,232 | 1,062 | | | | 86 | | | 552 | 552 | 2,139 | 4 | 127 | |
| February 9, 1881 | 2,547 | 127 | | 85,246 | 1,061 | | 7,642 | | 85 | | | 552 | 552 | 2,139 | 4 | 127 | |
| February 16, 1881 | 2,545 | 127 | | 85,232 | 1,061 | | 7,653 | | 86 | | | 552 | 552 | 2,139 | 5 | 128 | |
| February 23, 1881 | 2,547 | 128 | | 85,246 | 1,061 | | 7,641 | | 85 | | | 552 | 552 | 2,139 | 4 | 127 | |
| March 2, 1881 | 2,546 | 127 | | 85,246 | 1,061 | | 7,642 | | 85 | | | 551 | 552 | 2,140 | 4 | 127 | |
| March 9, 1881 | 2,547 | 127 | | 85,246 | 1,061 | | 7,641 | | 85 | | | 551 | 551 | 2,139 | 4 | 128 | |
| March 16, 1881 | 2,551 | 128 | | 85,295 | 1,061 | | 4,412 | | 82 | | | 41 | 551 | 2,139 | 5 | 127 | |
| March 23, 1881 | 2,550 | 128 | | 85,274 | 1,062 | | 7,619 | | 83 | | | 552 | 552 | 2,139 | 4 | 128 | |
| March 30, 1881 | 2,616 | 135 | | 87,482 | 1,226 | | 8,758 | | 100 | 150 | 38 | 334 | 336 | 2,694 | 10 | 63 | |
| April 6, 1881 | 2,551 | 128 | | 85,295 | 1,061 | | 7,701 | | 82 | | 82 | 41 | 41 | 2,139 | 4 | | |
| April 13, 1881 | 2,554 | 127 | | 85,316 | 1,062 | | 7,569 | | | | 82 | 40 | 40 | 2,138 | 4 | | |
| April 20, 1881 | 2,553 | 128 | | 85,316 | 1,061 | | 7,569 | | | | 9 | 40 | 40 | 2,138 | 4 | | |
| April 27, 1881 | 2,555 | 128 | | 85,330 | 1,062 | | 7,557 | | | | | | | 2,137 | 4 | | |
| May 4, 1881 | 2,562 | 128 | | 85,400 | 1,062 | | 7,520 | | | | | | | 2,138 | 3 | | |
| May 11, 1881 | 2,554 | 128 | | 85,316 | 1,061 | | 7,569 | | | | | 40 | | 2,148 | 4 | | |
| May 18, 1881 | 1,904 | 91 | | 60,300 | 770 | | 10,305 | | | | | 32 | | 1,554 | 4 | | |
| May 25, 1881 | 2,920 | 146 | | 97,204 | 1,208 | | 15,770 | | | | | | | 2,429 | 4 | | |
| June 1, 1881 | 2,550 | 128 | | 85,330 | 1,061 | | 10,540 | | | | | | | 2,139 | 4 | | |
| June 8, 1881 | 2,922 | 147 | | 97,234 | 1,207 | | 15,750 | | | | | | | 2,430 | 4 | | |
| June 15, 1881 | 1,278 | 127 | | 85,351 | 806 | | 13,933 | | | | | | | 2,137 | 4 | | |
| June 22, 1881 | | 129 | | 85,386 | 670 | | 13,913 | | | | | | | 2,137 | 4 | | |
| June 29, 1881 | | 128 | | 85,561 | 31 | | 13,828 | | | | | | | 1,101 | 3 | | |
| Total | 81,013 | 4,598 | 27 | 4,499,324 | 45,125 | | 414,729 | | 1,430 | 745 | 1,159 | 15,296 | 12,184 | 89,809 | 172 | 3,055 | |
| Cost | $6,238 00 | $1,195 48 | $0 63 | $118,782 15 | $6,425 80 | | $10,326 75 | | $28 60 | $67 05 | $68 50 | $229 44 | $481 27 | $7,399 05 | $43 86 | $1,191 45 | $152,045 03 |

*Cheyenne and Arapahoe Agency, for fiscal year* 1881.

| Week ending— | Bacon. | Baking-powder. | Beans. | Beef. | Coffee. | Cor | Flour. | Hard-bread. | Hominy. | Lard. | Rice. | Salt. | Soap. | Sugar. | Tea. | Tobacco. | Total cost. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | *Lbs.* | |
| July 3, 1880 | | 27 | | 113,376 | 1,749 | 9,850 | 1,820 | | | 160 | | 427 | 495 | 3,741 | | 194 | |
| July 10, 1880 | | | | 118,600 | 2,294 | 11,950 | | | 1,085 | 1,409 | 925 | 544 | 750 | 4,504 | | 194 | |
| July 17, 1880 | | | | 136,470 | | | | | | | | | | | | 194 | |
| July 24, 1880 | | | | 144,160 | | | | | | | | | | | | 194 | |
| July 31, 1880 | | | | 146,790 | | | 20,492 | | | | | | | | | 194 | |
| August 7, 1880 | | | | 150,700 | | | 20,482 | | | | | | | | | 205 | |
| August 14, 1880 | | | | 144,711 | 1,015 | | 20,490 | | | | | | | | | 194 | |
| August 21, 1880 | | | | 146,810 | 1,610 | | 20,470 | | | | | 400 | | 3,084 | | 204 | |
| August 28, 1880 | | | | 122,892 | 1,638 | | 20,482 | | | | | 408 | | 3,276 | | 204 | |
| September 4, 1880 | | | | 122,892 | 1,638 | | 20,482 | | | | | 409 | | 3,276 | | 204 | |
| September 11, 1880 | | | | 149,246 | 1,638 | | 20,482 | | | | | 409 | | 3,276 | | 120 | |
| September 18, 1880 | | | | 149,170 | 1,638 | | 20,480 | | | | | 409 | | 3,276 | | | |
| September 25, 1880 | | | | 146,709 | 1,632 | | 20,470 | | | | | 410 | | 3,274 | | | |
| October 2, 1880 | | | | 147,810 | 1,640 | | 20,510 | | | | | 408 | | 3,272 | | 204 | |
| October 9, 1880 | | 205 | | 149,500 | 1,632 | | 20,490 | | | | | 409 | | 3,270 | | 204 | |
| October 16, 1880 | | 205 | | 137,110 | 1,638 | | 20,482 | | | | | 409 | | 3,276 | | 205 | |
| October 23, 1880 | | 205 | | 137,380 | 1,638 | | 10,241 | | | | | 409 | | 3,276 | | 205 | |
| October 30, 1880 | | 205 | | 137,800 | 1,638 | | 10,241 | | | | | 409 | | 3,276 | | 205 | |
| November 6, 1880 | | 205 | | 139,940 | 1,658 | | 6,915 | | | | | 409 | | 3,276 | | 205 | |
| November 13, 1880 | | 205 | | 144,948 | 1,638 | | 20,482 | | | | | 409 | 409 | 3,276 | | 205 | |
| November 20, 1880 | | 205 | | 144,940 | 1,638 | | 20,482 | | | | | 409 | 409 | 3,276 | | 205 | |
| November 27, 1880 | | 205 | | 142,842 | 1,638 | | 19,036 | | | | | 409 | 409 | 3,276 | | 205 | |
| December 4, 1880 | | 205 | | 131,315 | 1,638 | | 10,241 | | | | | 409 | 409 | 3,276 | | 205 | |
| December 11, 1880 | | 205 | | 142,448 | 1,638 | | 20,482 | | | | | 409 | 409 | 3,276 | | 205 | |
| December 18, 1880 | | 205 | | 143,200 | 1,638 | | 20,482 | | | | | 409 | 409 | 3,276 | | 205 | |
| December 25, 1880 | | 205 | | 141,302 | 1,638 | 20,482 | | | | | | 409 | 409 | 3,276 | | 205 | |
| January 1, 1881 | | 205 | | 141,330 | 1,638 | 20,482 | | | | | | 409 | 409 | 3,276 | | 205 | |
| January 8, 1881 | | 205 | | 130,660 | 1,638 | 20,482 | | | | | | 409 | 409 | 3,276 | | 205 | |
| January 15, 1881 | 4,522 | 226 | 1,356 | 138,610 | 1,809 | 11,305 | | | | | | 452 | 452 | 3,618 | | 226 | |
| January 22, 1881 | 3,682 | 289 | 2,687 | 116,936 | 2,390 | 18,354 | 17,776 | | | 871 | 46 | 1,152 | 825 | 5,483 | 51 | 184 | |
| January 29, 1881 | 4,522 | 226 | 1,356 | 137,674 | 1,809 | | 11,305 | | | | | 452 | | 3,618 | | 226 | |
| February 5, 1881 | 3,670 | 183 | 1,101 | 117,436 | 1,468 | | 9,177 | | | | | 367 | | 2,936 | | 183 | |
| February 12, 1881 | 4,522 | 226 | 1,356 | 142,866 | 1,809 | | 22,610 | | | | | 452 | | 3,618 | | 226 | |
| February 19, 1881 | 3,670 | 184 | 1,101 | 117,124 | 1,468 | 7,584 | 9,177 | | | | | 367 | | 2,936 | | 183 | |
| February 26, 1881 | 4,672 | 234 | 1,401 | 145,175 | 1,869 | | 5,491 | | | | | 467 | | 3,738 | | 197 | |
| March 5, 1881 | 3,520 | 176 | 1,056 | 111,609 | 1,408 | | | | | | | 352 | | 2,816 | | | |
| March 12, 1881 | 4,673 | 234 | 1,401 | 138,022 | 1,869 | | 17,520 | | | | | 467 | 467 | 3,738 | | 234 | |
| March 19, 1881 | 3,520 | 176 | 1,056 | 110,610 | 1,408 | | 13,200 | | | | | 352 | 355 | 2,816 | | 176 | |
| March 26, 1881 | 4,671 | 234 | 1,401 | 139,615 | 1,869 | | 17,520 | | | | | 467 | 467 | 3,738 | | 234 | |
| April 2, 1881 | 3,520 | 176 | 1,056 | 118,510 | 1,408 | | 14,210 | | | | | 352 | 352 | 2,816 | | 176 | |
| April 9, 1881 | 4,673 | 234 | 1,401 | 137,555 | 1,869 | | 11,681 | | | | | 467 | 467 | 3,738 | | 80 | |
| April 16, 1881 | 3,520 | 176 | 1,056 | 110,610 | 1,408 | | | | | | | 352 | | 2,816 | | | |
| April 23, 1881 | 4,780 | 239 | 1,434 | 141,290 | 1,913 | 1,863 | 12,819 | | | | | 478 | | 3,824 | | | |
| April 30, 1881 | 3,413 | 171 | 1,023 | 109,296 | 1,365 | | | | | | | 341 | 172 | 2,730 | | | |
| May 7, 1881 | 6,850 | 110 | 2,143 | 120,635 | 2,396 | | 26,450 | | 328 | 862 | 230 | 1,146 | 732 | 5,048 | 60 | | |
| May 14, 1881 | 4,096 | | 1,228 | 129,345 | 1,638 | | 10,240 | | | | | 410 | | 3,276 | | | |
| May 21, 1881 | 4,096 | | 1,227 | 127,710 | 1,638 | | 20,480 | | | | | 200 | | 3,276 | | | |
| May 28, 1881 | 4,096 | | 1,228 | 125,495 | 992 | 10,240 | 10,240 | | | | | | | 1,638 | | | |
| June 4, 1881 | 4,066 | | | 128,615 | 1,638 | | 20,480 | | | | | 410 | | 3,276 | | | |
| June 11, 1881 | 4,096 | | | 129,271 | 1,638 | | 20,480 | | | | | | | 3,276 | | | |
| June 18, 1881 | | | | 134,000 | 1,638 | | 20,480 | | | | | 190 | | 3,276 | | | |
| June 25, 1881 | 2,048 | | | 147,345 | 1,090 | | 20,480 | | | | | | | 2,180 | | | |
| Total | 90,832 | 6,391 | 27,068 | 6,979,405 | 79,165 | 132,592 | 698,050 | | 1,413 | 3,302 | 1,201 | 19,242 | 9,212 | 157,062 | 111 | 7,499 | |
| Cost | $6,994 06 | $1,661 66 | $631 59 | $184,256 29 | $190 00 | $901 62 | $3,420 45 | | $42 39 | $297 18 | $70 97 | $288 63 | $363 87 | $13,114 68 | $28 30 | $2,924 61 | $215,186 30 |

Mr. MCMILLIN. Before the gentleman from Kansas takes his seat I hope he will be kind enough to state to the House what excuse the officials in charge of the disbursement of the appropriations for these Indians gives for this extravagant issue of rations?

Mr. RYAN. I wish to say to my friend from Tennessee that the heads of the Department were entirely new when the fiscal year commenced, and they simply continued what had been previously done by their predecessors. I have the assurance of the officials of the Department that it will not be done again. I now demand the previous question.

Mr. MAGINNIS. I ask the gentleman from Kansas to withdraw his demand for the previous question so I may be heard for a moment on this appropriation.

Mr. RYAN. I withdraw the demand for the previous question for that purpose.

Mr. MAGINNIS. An ample appropriation, Mr. Speaker, was made in the last Indian appropriation bill for the Cheyennes, Arapahoes, and the other tribes indicated. Last fall when I was coming to this capital I was informed by General Sheridan that the northern Cheyennes, including nearly all of those who broke out into hostility some years ago and were captured and sent back to the Indian Territory, had been allowed to leave their reservation and agency and go north to the Red Cloud agency, or thereabouts, and that they are now there visiting their Sioux friends and living on them; and consequently by so many as were permitted to go north the Indians at this particular agency were decreased, and the discrepancy as to the amount of rations was so much greater than appears upon the papers or any statement made to this House.

Mr. RYAN. The gentleman's statement is quite correct. Little Chief with his band went north, to the number of about two hundred and fifty, but gentlemen must bear in mind there are more than ten thousand of these Indians.

Now, I hope the House will allow a vote to be taken on the passage of the bill.

Mr. MAGINNIS. That is all very true, Mr. Speaker, but when I read in the newspapers the other day a highly sensational dispatch in regard to the condition of these Cheyennes, and an intimation that an overruling Providence would alone be responsible for the dire result if the writer did not organize a raid upon the surrounding herds of white men's cattle to supply them with beef, it did seem to me as if it was timed to create a sensation. As there may be under the retiring proviso of our Army bill a vacant place among the major-generals, it seemed to me that a great deal was being made out of a small matter, in order that an aspiring brigadier might make a late but timely record on the Indian question. Happily, a vacancy is rarely imminent but a fresh hero springs up to claim it, and if his reputation does not do him injustice, the author of that dispatch never lacked the ability to gather a heavy crop of laurels from the most barren of fields. As I read the swelling sentences, the sensational statements, the patriotic appeals to Heaven which that short telegram contained, I was reminded of the swelling pronunciamientos which came from the same officer during the war, and I recalled the utterances of that wounded and suffering soldier who, lying on his pallet, was listening to the consolations of the Bible as read by the hospital chaplain. When the reverend gentleman, to divert the soldier's sufferings, read the inspiring narrative of Samson's destruction of the Philistines with the jaw-bone of an ass, the dying hero, turning his glance upon his spiritual instructor, said, "Chaplain, look at the bottom, and see if that is not signed by John Pope." [Laughter.]

Mr. SPRINGER. I want to ask the gentleman from Kansas a question in regard to the papers which he sent up to the Clerk's desk to be read and which were ordered to be printed in the RECORD. I see from these papers that General Pope—and I ask the attention of the House to this matter, since these papers were sent up to be read as justifying this appropriation and as furnishing a sufficient argument for passing so large an appropriation—that General Pope does not seem to so regard it as necessary. Now this bill proposes to appropriate $80,000 for the immediate use of these Indians. What do these papers show? That there were $50,000 appropriated under a deficiency bill and that another $50,000 was added to the Indian appropriation bill by the Senate.

Mr. RYAN. That is to be stricken out.

Mr. SPRINGER. By the conference committee?

Mr. HISCOCK. It will be stricken out.

Mr. RYAN. It has no business in there.

Mr. RANDALL. I will say to the gentleman from Kansas that that was what misled me. I knew that $50,000 had been appropriated in the deficiency bill and $50,000 more had been added in the Senate, and therefore that this deficiency should be only $30,000, in place of $80,000.

Mr. RYAN. The whole deficiency, the gentleman from Pennsylvania will observe, is $130,000. Only $50,000 of that has been appropriated. This provides the remainder.

Mr. SPRINGER. I was going on to show that from the papers sent up to be read by the gentleman from Kansas it is stated that the $50,000 in the deficiency bill and the $50,000 inserted by the Senate amendment in the appropriation bill, making $100,000 in all, only gives a ration of two-thirds beef, in addition to other supplies, and this amount is what is complained of. In order to cure the evil it is necessary to add another $30,000 to the amount above named.

Now if there is still pending an appropriation for $50,000, and we have passed $50,000 already, and now one for $80,000 here, the amount will be largely in excess of the requirements.

Mr. RYAN. I wish to say to the gentleman from Illinois that the $50,000 amendment of the Senate to the general Indian appropriation bill for the next fiscal year was non-concurred in by the House, and the conference committee strike that out.

Mr. SPRINGER. That has not been agreed to in conference. Now, then, another question. [Cries of "Vote!" "Vote!"] I think we should give some force to the recommendation of General Pope. In one of the letters which the gentleman from Kansas asks to have printed from General Pope, a letter dated April 3, 1882, from Fort Leavenworth, and addressed to Judge-Advocate-General Drum——

Mr. RYAN. What is the point?

Mr. SPRINGER. I desire to show that there is no such sum as $30,000.

Mr. RYAN. What is the point?

Mr. SPRINGER. I will show the gentleman in a moment. The portion of the letter from General Pope to which I desire to call attention is this:

> The entire cost of making up the deficiency caused by the reduction will only be about $2,500 a month, and during the month Congress can readily appropriate for the deficiency to July 1st.

Now, then, if we need only $2,500 per month to supply this deficiency, that will make the total by the 1st of July only about $7,500 instead of the amount contemplated by this bill.

Mr. RYAN. That is evidently a clerical error or inexcusable ignorance on the part of General Pope. The cost per month of subsisting these Indians during the last nine months is over $40,000.

Mr. SPRINGER. But this is only to make up the deficiency.

Mr. RYAN. I understand that; but if the gentleman will read the indorsement on the back of the communication to which he has referred, he will find that the Secretary of the Interior, Mr. Kirkwood, expressly states that this sum of $2,500 per month to supply deficiency of rations is evidently a clerical error. The original appropriation of $350,000 was all exhausted the 1st of April, leaving the remaining three months wholly unprovided for. I now call the previous question upon the bill.

Mr. SPRINGER. That is the opinion of Secretary Kirkwood, and I see nothing to discredit General Pope in an official communication of this kind.

Mr. RYAN. As a matter of fact $2,500 would not be of any service. It would not supply these Indians two days with their usual beef ration. I now ask the previous question upon the bill.

The previous question was ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being read the third time, was passed.

Mr. SPARKS. Does not this bill require the yeas and nays to be taken upon its passage.

The SPEAKER. It does not. This is not a general appropriation bill, only a deficiency.

Mr. RYAN 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.

### ORDER OF BUSINESS.

Mr. CASWELL. I move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the Senate amendments to the Post-Office appropriation bill.

Mr. KASSON. I ask the gentleman from Wisconsin if it is necessary to go on with that bill this morning? Under the understanding with the Appropriations Committee they were to give us, after certain appropriation bills were disposed of, free and unlimited scope for the consideration of the tariff-commission bill, so far as they were concerned; and I submit to the House whether it is not better that we should go on and dispose of the tariff-commission bill without having these interruptions, which, it seems to me, are not so very necessary.

Mr. CASWELL. I regret to antagonize in any way the discussion of the tariff bill, but the Committee on Appropriations feel it important that the Senate amendments to the Post-Office appropriation bill should be considered in Committee of the Whole to the end that the bill may be returned to the Senate and a committee of conference appointed. For that reason I think we should proceed with it to-day. I hope it will not take more than one or two hours.

Mr. COX, of New York. I hope we will not postpone the appropriation bills for any other subject.

Mr. CASWELL. We have postponed this several times and given the Committee on Ways and Means several days during last week. I feel it is very important we should now proceed with the consideration of these amendments.

Mr. KASSON. The Committee on Appropriations took from the Ways and Means Committee five days for the consideration of the Army appropriation bill, which was not included in the original understanding.

Mr. SPRINGER. Under the order made for the consideration of the tariff-commission bill it was not to antagonize appropriation bills. The gentleman from Iowa therefore cannot raise the question of consideration.

Mr. KASSON. I admit the Appropriations Committee have the preference; but unless there be special urgency I ask that the preference be waived so that we may get the tariff-commission bill out of the way.

The SPEAKER. The gentleman from Wisconsin [Mr. CASWELL] moves that the House resolve itself into the Committee of the Whole House on the state of the Union with the view of considering the Senate amendments to the Post-Office appropriation bill.

Mr. KASSON. And pending that motion I move that all general debate on the bill and amendments be closed in thirty minutes.

Mr. BURROWS, of Michigan. That motion is not now in order.

The SPEAKER. The Chair is of opinion that until consideration is entered upon the general debate cannot be limited by an order of the House.

Mr. HOLMAN. I desire to make an inquiry of the Chair. Have all points of order been reserved upon these amendments? If not, I wish to do so now.

The SPEAKER. The Chair has no information on that subject.

The question being taken on Mr. CASWELL'S motion, it was agreed to.

### POST-OFFICE APPROPRIATION BILL.

The House accordingly resolved itself into Committee of the Whole House on the state of the Union, (Mr. CALKINS in the chair,) and proceeded to consider the amendments by the Senate to the bill (H. R. No. 3548) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1883, and for other purposes.

The CHAIRMAN. The House is in Committee of the Whole for the purpose of considering the Senate amendments to the Post-Office appropriation bill. The Clerk will report the amendments.

Mr. HOLMAN. I wish to know if it is understood that all points of order are reserved on the amendments, and that a point of order may be made when an amendment is reached which is liable to it?

The CHAIRMAN. The Chair will state that under Rule XX, on a point of order made by the gentleman from Minnesota, [Mr. DUNNELL,] the Senate amendments to this bill were referred to the Committee of the Whole House on the state of the Union; but no points of order were reserved on the amendments. Nor, as the Chair is informed, was that necessary; but the point of order may be made when the amendment is read.

The Clerk read the first amendment of the Senate, as follows:

> In line 12, after the word "dollars," add the following:
> "And of this sum $3,000 shall be paid to the chief post-office inspector."
> So that it will read:
> "OFFICE OF THE POSTMASTER-GENERAL.—For mail depredations and post-office inspectors, including amounts necessary for fees to United States marshals and attorneys, $200,000, and of this sum $3,000 shall be paid to the chief post-office inspector."

The Committee on Appropriations recommended non-concurrence.

The amendment was non-concurred in.

The second amendment of the Senate was to insert, after the words "for advertising, $40,000," the following:

> And hereafter, in addition to the advertisement now required by law, the Postmaster-General shall cause a condensed advertisement of all general mail-lettings of each State and Territory and of the District of Columbia, as required by the provisions of an act approved May 17, 1878, entitled "An act to regulate the advertising of mail-lettings, and for other purposes," to be published in the District of Columbia in one daily newspaper of each of the two principal political parties and in one daily neutral newspaper: *Provided*, That the rates of compensation for such service shall in no case exceed the regular commercial rate of the newspapers selected; nor shall any advertisements be paid for unless published in accordance with section 3828 of the Revised Statutes: *Provided*, That the aggregate expenditure under this provision shall not exceed $3,000 per annum.

The committee recommended non-concurrence.

The amendment was non-concurred in.

The third amendment of the Senate was to add, after line 41, the following:

> For supplying fourth-class postmasters, in the discretion of the Postmaster-General, with the necessary implements for canceling stamps and weighing and postmarking mail matter, not to exceed in value $5 to any one office, to be accounted for like other public property of the Government, and to be turned over to the successor in office, $35,000.

The committee recommended concurrence.

Mr. SPRINGER. What is the necessity for this large expenditure?

Mr. CASWELL. This amendment was for the purpose of supplying fourth-class offices throughout the United States with balances in order that they might more properly weigh the mails and adjust the rate of postage.

Mr. SPRINGER. It is not that exactly. It is to supply "the necessary implements for canceling stamps and weighing and postmarking mail matter." I do not think that fourth-class offices are in such great hurry to prepare their mail that they require peculiar facilities of this kind to cost $35,000. I do not see the necessity for this expenditure, unless the gentleman from Wisconsin can assign some special reason for it.

Mr. CASWELL. It is well known these fourth-class offices have not such means of handling their mails as they ought to have; yet they are held responsible for every single act they may do. It was thought to be wise and proper for the House to concur in that amendment.

Mr. SPRINGER. Has there been any recommendation from the Department in favor of this?

Mr. CASWELL. I do not know that there has been. The gentleman from North Carolina [Mr. VANCE] offered that amendment in the House and it was ruled out on a point of order. I ask that gentleman to explain if there is any recommendation from the Department.

Mr. VANCE. I offered the amendment upon the recommendation of the superintendent of the blank agency. It appears there are some ten thousand of these offices that have not been supplied with stamps or with necessary scales for weighing letters; and at the same time if a postmaster did not collect a sufficient amount, particularly on letters connected with the money-order department, he was required to make it good. It is recommended by the Post-Office Department, and I think it is eminently proper that these offices should be supplied so that they can carry on the business of the Government in a proper way. I hope there will be no objection to the amendment.

Mr. SPRINGER. I object to it and hope it will be voted down.

The question was taken upon concurring in the amendment of the Senate; and upon a division there were—ayes 57, noes 6.

So (no further count being called for) the amendment was concurred in.

The fourth amendment of the Senate was to strike out "$4,235,000" and insert in lieu thereof "$4,385,000;" so that the clause would read:

For compensation to clerks in post-offices, $4,385,000.

The Committee on Appropriations recommended concurrence.

Mr. HOLMAN. The amount of this increase is very large, and I hope the gentleman from Wisconsin [Mr. CASWELL] will exaiupl what makes it necessary to increase this item so enormously erov the amount of former appropriations, to the extent of $150,000.

Mr. CASWELL. I will say to the gentleman from Indiana [Mr. HOLMAN] that when this bill was drawn up and reported to the House it contained the exact amount estimated for by the Postmaster-General for this service. If members of the House will turn to page 1894 of the RECORD, they will find a subsequent estimate submitted by the Postmaster-General, in which he asks that $215,000 additional be given for the purpose of meeting what seemed to be the just and fair demands of the post-offices throughout the United States. Instead of allowing the $215,000, which the Postmaster-General requested, the Senate has increased the appropriation by only $150,000. The Committee on Appropriations of this House thought the request was reasonable, and that the service needed the increase of appropriation.

The question was taken upon concurring in the amendment of the Senate; and upon a division there were—ayes 39, noes 12.

So (no further count being called for) the amendment was concurred in.

The fifth amendment of the Senate was to insert the words "under existing law" before the words "of the free-delivery system," &c.; so that the clause would read as follows:

For payment to letter-carriers and the incidental expenses of the free-delivery system, $3,000,000; $100,000 of which may be used, in the discretion of the Postmaster-General, for the establishment under existing law of a free-delivery system in cities where it is not now established.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

The sixth amendment of the Senate was to strike out "$90,000" and insert in lieu thereof "$100,000" as the appropriation for miscellaneous and incidental items in the office of the First Assistant Postmaster-General.

The Committee on Appropriations recommended non-concurrence.

The amendment was non-concurred in.

The seventh amendment was to strike out "$10,655,000" and insert in lieu thereof "$11,155,000;" so that the clause would read as follows:

Office of the Second Assistant Postmaster-General:

For inland mail transportation, namely: For transportation on railroad routes, $11,155,000; &c.

The Committee on Appropriations recommended concurrence.

Mr. HOLMAN. This is an increase of half a million of dollars, and I think certainly requires some explanation. The amount appropriated by the bill originally for this item would seem to be a very large amount. It is now proposed to increase the appropriation from $10,655,000 to $11,155,000, an increase of a half million dollars. That increase is proposed in the face of the provision adopted by the House, and retained by the Senate, that if any railroad company should fail to transport the mails upon its passenger trains under existing contracts, such company shall suffer a very severe and yet reasonable penalty by the reduction of the amount of its compensation. It was objected to this provision originally that the benefit of the fast-mail trains accrued to very small sections of the country, mainly to a few large cities. It would seem that the purpose of this increase of the appropriation is simply for the benefit of certain other cities. Now I submit that this matter of special railroad transportation of the mails is increasing with a startling rapidity, and it seems to be mainly if not exclusively for the benefit of the railroad companies and of certain favored localities. I have heard it said that one object of this provision is to facilitate transportation from cities like Chicago and Cincinnati, perhaps Saint Louis, principally for the purpose of benefiting the publishers of morning newspapers with a view to the early delivery of their papers at distant points. Now I do not think that ought to be done.

Mr. HISCOCK. Is the gentleman quite sure that this appropriation covers the service he is addressing his remarks to?

Mr. HOLMAN. Yes, I wish to address my remarks to this particular provision; not to the one where an extra compensation is given, for I take it for granted that the purpose of this increase is to accomplish the same object had in view by the appropriation in a subsequent paragraph.

Mr. HISCOCK. It is entirely different.

Mr. HOLMAN. It is to facilitate and increase the rate of transportation from certain favored localities. If this is not the purpose of this provision, I should be very glad to be told what the purpose is.

Mr. CASWELL. The amendment proposed by the Senate merely brings the total amount for this service up to the sum estimated for by the Second Assistant Postmaster-General. Gentlemen will find on page 1895 of the RECORD a letter from the present Postmaster-General, calling attention to the estimate submitted by the Second Assistant Postmaster-General, and requesting that the amount there estimated for be allowed.

I think it was generally conceded, when this bill was under discussion in the House in the first place, that the amount reported by the Committee on Appropriations was inadequate for this service for the next fiscal year. We, however, placed in the bill the amount estimated for at that time by the Postmaster-General. Subsequent developments have satisfied us that our apprehensions then were well founded, and that the amount to which the Senate has increased this item of appropriation will be absolutely required for the service during the next fiscal year.

Let it be borne in mind that this compensation is fixed by law, and there can be no variation from it. No harm, therefore, will result if there should be a surplus of appropriation. But I anticipate that even with this increased allowance there will yet be a deficiency, and I can see no harm whatever to come from concurring in the Senate amendment.

Mr. SPRINGER. I desire to inquire whether this increased appropriation for inland mail transportation on railroad routes has not been necessitated by reason of the reweighing of the mails on certain trunk lines, since the estimates were submitted?

Mr. CANNON. Does the gentleman want an answer now?

Mr. SPRINGER. I want it now.

Mr. CANNON. It will take me a minute or so to answer the gentleman. In reply to him, I will state that this amendment of the Senate makes the amount for this item precisely what the Second Assistant Postmaster-General estimated for in October, before any reweighing was made or ordered. I want to say further, that the present Postmaster-General has formally estimated for this increase, sustaining in this respect the Second Assistant Postmaster-General. I will add that this appropriation is necessary to pay the compensation to the railroad companies for transportation under the law. It arises from the increase of railroad mileage, and the increase of mail service. I ask the Clerk to read a telegram which will explain more clearly and significantly than I could do this and other increases.

The Clerk read as follows:

POST-OFFICE DEPARTMENT, *April* 10, 1882.

To Hon. J. G. CANNON:

The revenues of the Post-Office Department for the first half of the current fiscal year were $20,111,107.85. The expenditures were $19,628,787.66. The surplus revenue was $482,320.19.

J. H. ELA, *Sixth Auditor.*

Mr. CANNON. In other words, there is a constant increase in this service; and it has been so great that for the first time since 1865 there is, after the completion of six months of the current fiscal year, a surplus revenue of nearly half a million dollars arising from the increased service and the economical administration of the Department.

Mr. SPRINGER. I ask the Clerk to read an extract from the Washington Post of this morning showing the increased expenditure required on account of the reweighing of these mails.

The Clerk read as follows:

This reweighing has just been completed. The actual figures taken from the books of the Department from an official source to-night show that this increase will foot over $240,000. For this the Government has in return one fast train between Philadelphia and Harrisburgh, upon which Charlie Smith's papers are carried by express. The Department does not even receive the postage upon these papers run into Harrisburgh ahead of time to oblige a friend.

Mr. SPRINGER. The article from which the passage just read is extracted goes on to show how it happened that the reweighing of the mails was ordered by the Department. It explains how much the reweighing cost the Government; and as by reason of this reweighing there was an expenditure of $240,000 over and above what was estimated by the Department as necessary when the estimates were sent to the House, I presume this fact must account in some way for the largely increased appropriation which the Senate has placed on this bill.

Mr. CANNON. I wish to say, as I said when this bill was under consideration before, that I am not here now to defend that order for reweighing. But I wish to add that the law fixes the compensation of the railroad companies by the amount of mail carried. Since the weighing one year or eighteen months ago the service has greatly increased; the reweighing shows this increase, and of course requires increased compensation to the railroad companies. But this is not an increase without service. Neither the gentleman from Illinois nor any one else can say that these railway companies transporting the mails get one cent for service not performed. I again call attention to the telegram I have had read, showing that this increased service has resulted in increased revenues to the Department, so that at the end of six months of the current fiscal year the Department has found its revenues half a million dollars, in round numbers, in excess of the expenditures.

Mr. SPRINGER. I move *pro forma* to amend by striking out the last word. My colleague [Mr. CANNON] says that notwithstanding the reweighing the Government is paying no more for this service than the law requires it to pay; but he fails to state the fact that these mails were weighed a year ago; that it has been the practice of the Department to weigh only once in three or four years; but that to accommodate a friend who desired a special train from Philadelphia to Harrisburgh, a reweighing was ordered upon that road, thus necessitating a reweighing upon the trunk lines leading out of the city of New York. This reweighing, which was not required by law, but was made under a mere regulation of the Department, has cost the Government $240,000, which we must make up by this appropriation, this being, as I understand, the sole reason for the large demand upon this appropriation bill over and above what the House appropriated.

Mr. CANNON. Oh, no. On the contrary, I state to the gentleman again that this amendment of the Senate makes this appropriation accord with the estimate of the Second Assistant Postmaster-General, made in October last, before this reweighing was made or dreamed of, and is not brought about by the reweighing at all.

Mr. SPRINGER. Why, then, did not the Appropriations Committee bring forward in the first place a bill which would carry out the law, these sums being fixed by law, instead of bringing in a bill necessarily requiring the Senate to enlarge the appropriations, unless it wished to pass a measure which would create deficiencies.

Mr. CASWELL. The gentleman from Illinois [Mr. SPRINGER] states that this reweighing was not required by law. I wish to ask him whether it was in violation of law?

Mr. SPRINGER. It was a violation of the usages and regulations of the Department, and was not required by law.

Mr. CASWELL. It was within the discretion of the Postmaster-General to order a reweighing if he saw fit, and in the exercise of this discretion he ordered the reweighing upon these lines alone, not affecting the whole country. Whether it was right or not I am not here to say.

Mr. SPRINGER. I have not asserted that the Postmaster-General violated the law. I am complaining of his discretion, a discretion exercised to rob the Government, instead of being exercised to save the Government.

The CHAIRMAN. Debate is exhausted.

Mr. SPRINGER. I withdraw the *pro forma* amendment.

Mr. CANNON. I renew it in order to say one word in exact fairness to the late Postmaster-General, who ordered this reweighing. My colleague does not complain of the reweighing on the New York and New Haven Railroad. That weighing was made a year ago, the same as upon the Pennsylvania road and the other roads leading to the West. That reweighing was ordered by Mr. James just the same as this, and it resulted in a saving to the Government, on account of the falling off of the service, in round numbers, some twenty thousand dollars. The gentleman does not complain of the exercise of the discretion of the Postmaster-General in that case.

The truth is this was all a matter of discretion, and the law intended that it should be a matter of discretion, so that the companies could be paid from time to time according to the increase or decrease of the service actually performed.

Mr. SPRINGER. Allow me to say that Mr. James's letter expressly stated the expense was increased over the New York Central Railroad by this reweighing.

Mr. KASSON. The New York and New Haven, not the New York Central.

Mr. SPRINGER. I am speaking of the New York Central Railroad, where the service was increased by reweighing to a great extent. The general increase of the reweighing, as was stated by the extract which I had read from the Clerk's desk, was $240,000.

The CHAIRMAN. Does the gentleman desire to have a vote on his amendment?

Mr. CANNON. No; I withdraw my *pro forma* amendment.

The amendment of the Senate was agreed to.

Eighth, ninth, and tenth amendments of the Senate:

Strike out "hereafter when" and in lieu thereof insert "if;" strike out "fails or refuses" and in lieu thereof insert "shall fail or refuse;" and after the word "mails" insert "for which this appropriation is made;" so the paragraph will read:

Office of the Second Assistant Postmaster-General:

For inland mail transportation, namely: For transportation on railroad routes, $11,155,000; and if any railroad company shall fail or refuse to transport the mails for which this appropriation is made, when required by the Post-Office Department, upon the fastest train or trains run upon said road, said company shall have its pay reduced 50 per cent. of the amount now provided by law; and the Postmaster-General is authorized to pay out of the appropriation for transportation on railroad routes, for special railroad service between the union depot in East Saint Louis, Illinois, and the union depot in Saint Louis, Missouri, a sum not exceeding the lowest rate which private individuals, express companies, or others may pay for transportation between said points, but not to exceed for the fiscal year $25,000, including allowance for depot room and transfer service at each terminal; and the act passed June 9, 1880, entitled "An act providing for the transportation of the mails between East Saint Louis, in the State of Illinois, and Saint Louis, in the State of Missouri," be, and the same is hereby, repealed.

The CHAIRMAN. The Committee on Appropriations recommend concurrence in these amendments of the Senate.

The amendments were agreed to.

Eleventh amendment of the Senate:

After the word "sub-contractor" insert "on any contract hereafter made;" so the bill will read as follows:

"For inland transportation by star routes, $7,250,000: *Provided, however*, That whenever any contractor or sub-contractor on any contract hereafter made shall sublet his contract for the transportation of the mail on any route for a less sum than that for which he contracted to perform the service, the Postmaster-General may," &c.

The CHAIRMAN. The Committee on appropriations have recommended concurrence in this amendment.

Mr. HOLMAN. Mr. Chairman, I do not think the Committee on Appropriations should have recommended concurrence in this provision. The idea upon which the Senate seems to have acted was that there was in some degree an impairment of the contract between the Government and the contractor; that if the Government made this general provision it would be unfair to the contractor to say this right of the Government in cases of subletting should apply to present contracts. Now the Government retains the right for any reason to put an end to these contracts, simply by the payment of one month's compensation, according to the terms of the contract.

Mr. CASWELL. In those cases they are entitled to a month's compensation.

Mr. HOLMAN. That is just what I have said. The Senate acted on the idea there is some impairment of the contract between the Government and the present contractors; that in some way there is an impairment of the contract by the Government exercising its right to put an end to a contract by any subletting. The Government retains that power in all the present contracts simply on the payment by the Government of one month's compensation to the contractors. It can put an end to all the present contracts for any reason. This provision repealing the one month's pay provision is prospective and does not apply to the present contracts. So there is no reason why the provision as to the subletting should not apply to the present contractors. It does not do injustice to the contractors, for it was contemplated at the time the contracts were made.

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

Mr. HOLMAN. Certainly.

Mr. HISCOCK. What do you say to the twelfth amendment of the Senate, which provides for the insertion of the words "whenever he shall deem it for the good of the service the Postmaster-General may declare the original contract at an end?"

Mr. HOLMAN. I think number 12 does not change the sense.

Mr. HISCOCK. Then you are in favor of it?

Mr. HOLMAN. That is proper.

Mr. HISCOCK. I do not see any objection to number 11 being non-concurred in, provided number 12 is allowed to stand.

Mr. HOLMAN. A further word. Now, it seems to me, in this connection, that the use of the language "that the Postmaster-General may" was intended to confer a discretion on that officer. I think the word "may," used in that connection, does not necessarily mean "shall." It is not imperative. I think, therefore, whenever he deems it for the good of the service he will declare the original contract at an end. It only carries out the same idea as the original language of the bill.

Mr. HISCOCK. The point I wish to make is this: I think it is a matter of no great consequence to leave the discretionary power to the Government to terminate one of these contracts at the cost of a month's pay. I do not think there is any great point if number 12 is concurred in and number 11 is non-concurred in. The Committee on Appropriations recommended concurrence in number 11 and non-concurrence in number 12.

Mr. HOLMAN. Did the committee construe the language here in reference to these contracts, "that the Postmaster-General may declare the original contract at an end," to be imperative?

Mr. HISCOCK. The committee in considering the matter construed it in this way, that it might possibly be doubtful. I understand what the gentleman says now, as he has stated heretofore that he regarded it as vesting discretion in the Postmaster-General. We

understood it as being doubtful in that connection, and we desired to have it clear and positive.

Mr. HOLMAN. Well, I had desired that it should be made imperative. But I do not know but that the public service would, in some instances, be impaired by its being so; and I think perhaps it would be safer now, in legislating, to leave the discretion with the Postmaster-General. Still I think it desirable that the Postmaster-General should exercise his discretionary power upon the contracts now in force.

Mr. DUNNELL. If we concur in the Senate amendment No. 11, we of course admit that the legislation we were attempting in the bill as it passed the House is not to take effect only as existing contracts expire. Now, one-fourth of the contracts already in force will last for four years; one-fourth for three years; one-fourth for two years, and the remainder for one year. I am unwilling, for my part, to concur in the Senate amendment, for the reason that I think it wholly unnecessary, and because, as the gentleman from Indiana has stated, these existing contracts in which the Government reserved its right to alter, change, or annul, carry with them that right; and I think the power exists now in any contract between the Government and the contractor to carry out precisely what we legislated here when we passed the bill through the House.

Now, by the adoption of this Senate amendment we simply say that our existing contracts shall not be interfered with, although they have to run four years, three years, two years, and one year, as I have shown, and will be compelled to endure all the evils that we sought to rid ourselves of for this long time by the simple insertion of that amendment.

I do insist, Mr. Chairman, that the contracts now existing are ample to allow the Government to protect itself without any impairment of the obligation under which the Government is acting; and I hope the House will not concur in the Senate amendment. If we do we shall have thrown away the results of all our fight in the attempt to regulate this subject.

The CHAIRMAN. The question is on concurring in the amendment of the Senate.

The committee divided; and there were—ayes 19, noes 40.

So the amendment was non-concurred in.

The Clerk read the next amendment, as follows:

In line 100, after the word "may," insert the words "whenever he shall deem it for the good of the service."

The CHAIRMAN. The committee recommend non-concurrence in this amendment.

Mr. CASWELL. I desire to move concurrence in that amendment.

Mr. DUNNELL. Well, Mr. Chairman, I would like to have the gentleman give some reason why we should concur. Now, as a matter of legislation or as a matter of principle in legislation, I do not believe that we want to extend this discretionary power which we vest in our executive officers any further than is for the good of the service. We know that we have already had our difficulties in the Post-Office Department, arising from the exercise of discretionary powers, and whenever we can legislate in a straightforward, plain, unequivocal manner, and say emphatically and specifically what an officer may do and may not do, I think it a far better kind of legislation than to confer unnecessary and unlimited discretionary powers. I hope, therefore, that the gentleman will be able to give us some reason why that clause should remain in the bill.

Mr. CASWELL. Mr. Chairman, I noticed at the time this bill was before the Senate for consideration, and when the discussion had reached the amendment which we have just non-concurred in, a very grave question was raised as to whether Congress had the right to disturb these existing contracts. In order to avoid the constitutional question of the impairment of obligations already in existence, the Senate took what I regard as a wise course, and made it applicable to contracts entered into in the future, so that there should be no entanglement on the part of the Postmaster-General on this question, which seems to me unnecessary, for it is quite clear that nearly all the contracts which are now made have been placed in the hands of the carriers, the men are doing the service, and these contracts cannot be well overturned without great injustice.

Mr. DUNNELL. The gentleman's argument rather goes back——

Mr. CASWELL. A word further and I will yield the floor to the gentleman. If we retain it, leaving it entirely discretionary with the Postmaster-General, it only makes plain what is already contained in the law or the bill. I think it beyond question the word "may" vests discretionary power already; but to put that beyond a doubt it seems the Senate have inserted these words.

Mr. HISCOCK. I move to strike out the last word.

I desire to make this suggestion to the gentleman from Minnesota, [Mr. DUNNELL,] whether he is not perhaps receding a little too far from giving a public officer discretion when he would make it imperatively the duty of the Postmaster-General, whether it is for the interest of the Government or not, to cancel a contract when that contract may have been sublet for the very purpose of procuring the cancellation. Strike out that clause and then the contractor can sublet, the real motive he has being to get rid of his contract, and the Postmaster-General is compelled to forfeit the contract, giving to him the month's pay. We thought if we made it doubtful, or left the law so that it might be construed to be directory—and I have no doubt that was the view of the gentleman from Indiana [Mr. HOLMAN] in putting in the word "may"—we would be giving to the contractor and to the Postmaster-General together a larger discretion to injure the Government if there could be collusion between them than by leaving it in this form, where the Postmaster-General would not be obliged to cancel the contract, and would be on his honor, his integrity, and his responsibility as a public officer in the discharge of his duty.

Mr. HOLMAN. I wish to say a word. It seemed to me inasmuch as this was a new feature of legislation it might be far safer to leave this discretion with the Postmaster-General; though I agree very fully with the view expressed by the gentleman from Wisconsin, [Mr. CASWELL,] that as far as possible discretion should not be left with an executive officer. But I do not at all agree with the gentleman from New York [Mr. HISCOCK] in regard to his proposition that sometimes, if you made this imperative, the contractor would sublet for the express purpose of getting rid of his contract. That could not be in the very nature of things, even if the provision were imperative, because the contractor cannot be released under this provision until a new contract is made at a lower rate; and it is impossible to conceive of a set of facts in connection with a contract where the contractor would be interested in getting rid of his contract by subletting at a lower rate for the purpose of benefiting the Government, which would inevitably be the result; and whether that would be his motive or not it would still benefit the Government, for a contractor is not released until a new valid contract is made and that contract approved in all its requirements in regard to the execution of the bond and the acceptance of the bond by the Post-Office Department. But while for the present, in the light of all that has been said on the subject, it strikes me as the wisest policy to leave the matter to the discretion of the Postmaster-General, I hope the time will come when with further light this may be made imperative.

The amendment was concurred in.

The thirteenth amendment of the Senate was to insert, after line 113, the following:

*And provided further*, That if any person shall hereafter perform any service for any contractor or sub-contractor in carrying the mail, he shall, upon filing in the Department his contract for such service, and satisfactory evidence of its performance, thereafter have a lien on any money due such contractor or sub-contractor for such service to the amount of the same; and if such contractor or sub-contractor shall fail to pay the party or parties who have performed service as aforesaid the amount due for such service within two months after the expiration of the quarter in which such service shall have been performed, the Postmaster-General may cause the amount due to be paid said party or parties and charged to the contractor: *Provided*, That such payment shall not in any case exceed the rate of pay per annum of the contractor or sub-contractor: *And provided further*, That where any person, corporation, or partnership shall have contracts for the performance of mail service upon more than one route, and any failure to perform the service according to contract on any one or more of such routes shall occur, no payment shall be made for service on any of the routes under contract with such person, corporation, or partnership until such failure has been remedied and all penalties therefor fully satisfied.

The committee recommended concurrence.

The amendment was concurred in.

The fourteenth amendment of the Senate was to strike out the following words:

For necessary and special mail facilities on trunk lines, $500,000.

The committee recommended non-concurrence.

Mr. CASWELL. I suggest that the next amendment be read in connection with this one.

The Clerk read the fifteenth amendment, as follows:

Insert the following:

"For necessary and special facilities on railroad lines, $650,000; said facilities to be ratably distributed, as near as may be, on railroad lines leading to and from the principal cities in the different sections of the United States."

The committee recommended non-concurrence.

The CHAIRMAN. The question will be taken on non-concurrence in the amendment of the Senate to strike out the lines first read.

Mr. HOLMAN. Would it not be a better way to put the question on striking out and inserting?

The CHAIRMAN. It would be if it was an amendment offered in the House. But as these amendments come from the Senate, the Chair thinks the vote must be taken on the amendments as the Senate has made them.

The fourteenth amendment was non-concurred in.

The fifteenth amendment also was non-concurred in.

The sixteenth amendment of the Senate was to strike out, in line 147, "$1,650,000" and insert "$1,700,000;" so that it would read:

For compensation to railway post-office clerks, $1,700,000.

The committee recommended non-concurrence.

Mr. PRESCOTT. I call for a division.

The question being taken on agreeing to the recommendation of the committee to non-concur, there were—ayes 16, noes 27.

Mr. CANNON. A quorum has not voted. I call for tellers.

The CHAIRMAN appointed as tellers Mr. CASWELL and Mr. PRESCOTT.

Mr. CANNON. I do not think this question is understood.

The CHAIRMAN. Debate is not in order when the committee is dividing.

Mr. CANNON. I ask unanimous consent that the question be stated.

Mr. DUNNELL. It has been stated very plainly. The committee is thoroughly intelligent on the matter.

The committee again divided; and the tellers reported—ayes 50, noes 49.

So the recommendation of the committee was agreed to, and the amendment was non-concurred in.

The seventeenth amendment of the Senate was to strike out, in line 149, "$1,375,000" and insert in lieu thereof "$1,555,000;" so that the paragraph would read:

For route agents, $1,555,000.

The committee recommended non-concurrence.

The amendment was non-concurred in.

The eighteenth amendment of the Senate was to add, in line 155, the words "and fifty;" so that the paragraph would read:

For mail messengers, $850,000.

The committee recommended non-concurrence.

The amendment was non-concurred in.

The nineteenth amendment of the Senate was, in line 166, to strike out the following:

And hereafter no official stamps shall be manufactured or supplied to any of the Departments or to any officer of the United States, but all correspondence on official business shall be transmitted in penalty envelopes.

The committee recommended concurrence.

Mr. SPRINGER. I hope this amendment will not be concurred in. During the discussion upon this subject it appeared there was no necessity for continuing the use of official stamps for correspondence on official business.

The Government has entered upon the policy of using penalty envelopes for Government officials in the transmission of correspondence on business of the Government. The use of official stamps is simply multiplying and complicating the means of postal communication. There is no necessity for continuing the expense of such official stamps when the necessity for the use of the stamps has passed away. Those stamps were authorized before the Government adopted the policy of using official envelopes. Now that official envelopes have been introduced there can no longer be any necessity for continuing the extravagant practice of using official stamps.

And the use of these stamps is subject to more abuse than is the use of penalty envelopes. It has been objected elsewhere that we could not use a penalty envelope large enough to contain some of the matter sent through the mail in single packages. That objection is not well taken, because, as gentlemen will have observed, on the large packages which they receive labels are placed by the Government, which labels are not larger than an ordinary envelope. Those labels are simply pasted on the wrapper of the large book or package sent through the mails, and they have upon them the information which is printed on the usual penalty envelopes. You therefore can place those labels, which carry with them the effect of penalty envelopes, upon any package, no matter how large. So that there is no use for the manufacture of official stamps for Government officers.

We should adopt the policy of using the penalty envelope for the transmission of all official correspondence, &c., by the officers of the Government. By so doing you will establish a responsibility which no officer of the Government can evade, because he will have before him the provision of law making him subject to a fine of $300 if he uses such an envelope for his private business. That is a notice to every person using these penalty envelopes that they must be exclusively for official business.

I have heard of no complaint. I have heard of no prosecutions under the law since it was passed. So effective has it been, so useful in all the transactions of the Government that there has been no complaint from any source, so far as I know, that such penalty envelopes have been improperly used. I hope, therefore, we will discontinue the use of these official stamps.

Mr. HISCOCK. Has there been any complaint that there has been any abuse in the use of official stamps?

Mr. SPRINGER. Will the gentleman tell me——

Mr. HISCOCK. No; answer my question. The gentleman says there has been no complaint of abuses in the use of the penalty envelope. I ask him for information, that I may vote understandingly, has there been any complaint of abuse in the use of official stamps?

Mr. SPRINGER. I have heard of no case brought into the courts, but information has come to me, not in an official way, but in a way which leads me to believe it, that these official stamps are used in a great many instances for private purposes.

Now I want to ask the committee this question: What is the use of the stamp on the envelope when the envelope with the printed notice on it answers the same purposes? Is it desirable that some person shall be employed to print the stamps and that another person shall be employed to lick them and put them on the envelope? Are these occupations so useful in themselves that they must be continued by the Government when the Government Printer can print on the envelope a notice which will be sufficient?

This abuse has been continued, it seems to me, solely for the purpose of providing another means of using these stamps in order that the contractor may have more work to do in printing the stamps. There is no necessity for these official stamps. The reason for them has passed, and the use of them has passed away. I hope the Committee of the Whole will non-concur in the amendment of the Senate.

The CHAIRMAN. The question is upon agreeing to the recommendation of the Committee on Appropriations, that the amendment of the Senate be non-concurred in.

The question was taken; and upon a division, there were—ayes 40, noes 35.

Mr. SPRINGER. I think we had better have tellers; no quorum has voted.

Mr. HISCOCK. Do not raise that point.

Mr. SPRINGER. If the gentleman will allow this amendment to go to the committee of conference, to be non-concurred in at this time, I will raise no objection.

Mr. HISCOCK. Very well; we have no objection to allowing it to go to a committee of conference.

The CHAIRMAN. If there be no objection the amendment will be regarded as non-concurred in.

There was no objection; and the amendment was accordingly non-concurred in.

The twentieth amendment of the Senate was to insert the following:

And the Secretary of the Senate and the Clerk of the House of Representatives shall have power to use official penalty envelopes authorized by law, prepared by themselves, for all the official business of their respective offices; and the use of such envelopes for any purpose other than such official business shall be punished by the same penalties imposed by law for the illegal use of such envelopes already existing. And each member of the Senate, each Member of the House of Representatives, and each Delegate from a Territory shall have the right to send through the mail any letter or packet containing only printed or written matter, not exceeding two ounces in weight, identified by his autograph signature, without the payment of postage.

The Committee on Appropriations recommended non-concurrence.

Mr. HOLMAN. I desire to raise a question of order on that amendment.

The CHAIRMAN. The gentleman will state it.

Mr. HOLMAN. Under Rule XX of the House this proposition is not in order on an appropriation bill. The House has thought proper to adopt language so broad that the question is now presented whether or not the House can act on a proposition which by its own rules is expressly excluded from an appropriation bill. I ask the Clerk to read clause 3 of Rule XXI.

The Clerk read as follows:

No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress. Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject-matter of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill: *Provided*, That it shall be in order further to amend such bill upon the report of the committee having jurisdiction of the subject-matter of such amendment, which amendment, being germane to the subject-matter of the bill, shall retrench expenditures.

Mr. HOLMAN. I wish to say a word in regard to this point of order. It will be admitted that this amendment of the Senate is new and independent legislation, and as a proposition before the House, reported by one of its committees, or submitted by one of its members, it would very clearly be subject to a point of order. The only question is, and to me it seems to be a very important one, whether the House can consider a proposition which by its own rules it is excluded from considering.

The answer to this is that this is a Senate amendment, and that the rules of the House do not apply to an amendment of the Senate. Why not, when the House itself comes to consider those Senate amendments? This bill is for all purposes a bill of the House at this time, a bill pending before the House for consideration.

Mr. CANNON. I desire to ask the gentleman from Indiana [Mr. HOLMAN] what he would do with this amendment, it being a Senate amendment?

Mr. HOLMAN. Why, sir, I would do with it on the point of order exactly what you are proposing to do by a vote of the House—exclude it from the bill. You have two methods by which to exclude this provision.

Mr. CANNON. Does that get rid of it?

Mr. HOLMAN. Either way gets rid of it. But if simply non-concurred in, it will go to the committee of conference for consideration. I wish to avoid, if possible, the embarrassment of sending this subject to a committee of conference.

Mr. CANNON. Are we not proposing under the rules of the House to non-concur in the amendment and send it to a committee of conference?

Mr. HOLMAN. Certainly; in which case it must come back to the House. But if it can be excluded from the bill upon the point of order—if it is not properly in the bill according to the rules of the House, of which the other branch of Congress is bound to take knowledge by courtesy—then it does not properly go to the committee of conference at all. Thus the object of the House in the adoption of the rule would be completely subserved; otherwise it would not be. I am not aware, Mr. Chairman, that, in late years at any rate, this question has been presented.

Mr. CASWELL. Does the gentleman from Indiana hold that this rule of the House would prevent the Senate from proposing bills or amendments in any such form as they might see fit?

Mr. HOLMAN. I do not quite apprehend the gentleman's question.

Mr. CASWELL. Does the gentleman insist that the rules of the House of Representatives can preclude the Senate from proposing bills or amendments in such form as they may see fit?

Mr. HOLMAN. The Senate undoubtedly may make the amendment——

Mr. CASWELL. Have not the Senate the constitutional right to propose bills or amendments under such rules or regulations as they may adopt?

Mr. HOLMAN. But can either branch of Congress compel the other to consider a measure which under its own rules it declines to consider? Here is a bill appropriating money to carry on the Government.

Mr. HISCOCK. I would like to ask the gentleman a question, in order to make his position clear. If he has the bill before him will he turn back to the thirteenth amendment of the Senate already concurred in? Does he hold that amendment to have been subject to a point of order?

Mr. HOLMAN. I do not at this moment remember what the thirteenth amendment was.

Mr. HISCOCK. It is the proviso beginning "that if any person shall hereafter perform any service," &c.

Mr. HOLMAN. It is certainly sufficient for me to say to the gentleman that no point of order was made.

Mr. HISCOCK. I do not think that is a sufficient answer.

Mr. HOLMAN. I concede that the provision seems to be independent legislation.

Mr. HISCOCK. The gentleman will pardon me for pressing my question in order to make his point clear and distinct. I wish to know whether in his judgment the thirteenth amendment of the Senate was repugnant to the rule.

Mr. HOLMAN. I think that amendment No. 13 was subject to the point of order to which I am now calling attention.

Mr. HISCOCK. Then the point the gentleman makes is that everything in the way of legislation, no matter what may be its character, if placed upon an appropriation bill by way of amendment in the Senate, is repugnant to the rule.

Mr. HOLMAN. I do not exactly understand what the gentleman from New York intends to convey. My own view is that while either branch of Congress may make any amendment it thinks proper to an appropriation bill, the question whether the other branch of Congress will consider it or not is an entirely different question; and the rule of the House applies not simply to House bills but to all propositions coming before the House, including this proposition which, having originated in the Senate, comes before the House upon the report of our committee for consideration.

If this rule is to receive a literal interpretation the effect is simply that the House will not consider this amendment. There is no want of comity between the two branches of Congress in such a view; for each will be expected to pay reasonable respect to the rules of the other branch; and inasmuch as the rule of this House is imperatively against such a "rider" going on an appropriation bill what discourtesy is there if the House says to the Senate, "We cannot consider that subject-matter upon a bill like this for a high public reason—that an appropriation bill is simply designed to carry on the Government, and it is a matter of sound public policy that such a bill should not be embarrassed by extraneous or independent legislation." Thus there is no want of comity between the two Houses if either of them takes the ground I have mentioned.

Mr. VALENTINE. I desire to ask the gentleman under what rule of procedure according to his view this amendment could be considered? If the Chair should sustain the point of order now made, what would become of the Senate amendment?

Mr. HOLMAN. The Senate amendment would be simply ruled out, it would be out of the bill—that is all—just as though it had not been reported to the House by the Committee on Appropriations.

Mr. VALENTINE. Do I understand the gentleman to say that it would go to the conference committee?

Mr. HOLMAN. No, sir; that is where I do not wish it to go. I want it to go just where it would go if it had not been reported by the House committee.

Mr. SPRINGER. My friend from Indiana, who is usually correct on points of order, has been misled in making this point of order by the rule of the House in reference to another question. The rule which governs this case is Rule XX and is as follows:

Any amendment of the Senate to any House bill shall be subject to the point of order that it shall first be considered in the Committee of the Whole House on the state of the Union if, originating in the House, it would be subject to that point.

Mr. HOLMAN. That does not affect the case at all.

Mr. SPRINGER. That is the only rule of the House which authorizes any point of order to be made on a Senate amendment to a House bill. That point is that it must be considered in the Committee of the Whole House if it makes an appropriation. We comply with that rule, for we are considering it in the Committee of the Whole House. This is the place where we can consider an amendment of the Senate making an additional appropriation. Any other rule would authorize the Chair to prevent by his ruling, or to suppress by his ruling rather, the consideration of amendments of the Senate to House bills, a prerogative which the Senate has under the Constitution. The thing guaranteed to the Senate is they shall have the right to amend House bills. Would it be held by the gentleman that the Speaker could say we should not consider amendments of the Senate to House bills because they did not originate in this body? The rule has been complied with, namely, that these amendments should be considered in Committee of the Whole House, and that is all the limitation there is upon the Senate amendment.

The CHAIRMAN. The Chair is ready to decide the point of order, unless the gentleman from Indiana desires to be heard further on the point which he has submitted.

Mr. HOLMAN. I do not.

The CHAIRMAN. The question of order raised by the gentleman from Indiana is not a new one. It is a question how far the Senate may amend House bills and keep within the constitutional restrictions of section 7. The Chair will content itself by calling attention to some preceding decisions in the House. There have been several elaborate discussions of the question in various ways. One in the Forty-sixth Congress will be found in House Reports, third session, volume 1, Report 147, which contains the report of the majority and also the views of the minority of the Committee on the Judiciary. The decision of Speaker Randall, made in the last Congress on an analogous point, is as follows:

The next business on the Speaker's table, being the bill of the House (H. R. No. 4592) to facilitate the refunding of the national debt, with amendments of the Senate thereto, was then taken up.

Mr. CONGER made the point of order that the amendment of the Senate numbered sixteen, under Rule XX must receive its first consideration in the Committee of the Whole House on the state of the Union.

The SPEAKER overruled the point of order on the ground that the said amendment if presented in the House as an independent proposition (bill or joint resolution) would, when reported, have been referred to the House Calendar, and not to the Committee of the Whole House on the state of the Union.

Mr. CONGER made the further point of order that the twenty-fourth amendment of the Senate, under said Rule XX, must receive its first consideration in the Committee of the Whole House on the state of the Union.

The SPEAKER overruled the point of order on the ground that an increase by the Senate of an item of appropriation in a House bill did not bring that item within the scope of Rule XX, the original item having met the requirements of said rule, and the Senate having exercised only its constitutional privilege in increasing the amount appropriated by the House.

While this does not go to the exact point made by the gentleman from Indiana, yet the reasoning applies with great force to the point made by him. That is, that the clause of Rule XXI, which has been read, applies alone to legislation proposed by the House, and cannot be extended to the consideration of amendments proposed by the Senate, when they are within constitutional bounds. To hold otherwise would in effect be to make a rule of the House control all legislation of the Senate proposed by way of amendment. Besides, it would place a dangerous power in the hands of the Speaker or a chairman of the Committee of the Whole. Therefore, the Chair with deference overrules the point made by the gentleman from Indiana, and submits the amendment to the House. The question is on concurring in the amendment. The Committee on Appropriations recommend non-concurrence.

Mr. CANNON. Mr. Chairman, the Senate amendment provides for the restoration of the franking privilege so as to cover letters franked by Members of Congress and Senators not exceeding two ounces in weight. The Committee on Appropriations recommend non-concurrence. I am of the opinion the Committee of the Whole and the House should do something more than formally non-concur in the event non-concurrence is to be had. I think it is just to the House conferees that they should know the real feeling of the House touching this amendment, and hope there will either be an ay-and-no vote or such an expression of opinion as to inform the House, the Senate, and the country what the temper of the House is in reference thereto. It would be well in this connection that the House should understand the cost of extending the privileges of the frank as provided by this amendment. I send to the Clerk's desk a letter from the Superintendent of Railway Mail Service giving certain statistics in reference to the weight of mails, cost of transportation, and the revenues derived by the Department:

WEIGHT OF MAILS.

POST-OFFICE DEPARTMENT,
OFFICE GENERAL SUPERINTENDENT RAILWAY MAIL SERVICE,
*Washington, D. C., March* 23, 1882.

SIR: In accordance with your verbal request of this date I have the honor to submit the following statistics derived from the report of the Postmaster-General for the fiscal year ending June 30, 1881.

It appears from a count of mail made during the first seven days of December, 1880, that the total number of letters mailed in the United States during the past year was 1,053,252,876. (See report of Postmaster-General, page 89.)

It was ascertained during the previous year that 7 per cent. must be added to the total number of letters mailed, in order to obtain the number of single rates or half ounces. Making this addition we have 1,126,980,577 half ounces, or 35,218,143 pounds.

It appears from the same report, upon the same page, that the total number of postal cards mailed during the same time was 324,556,440. The weight of postal cards is six and a quarter pounds per thousand, making the total weight of postal cards 2,028,478 pounds.

From the same table it appears that the total number of packages of transient printed matter, books, circulars, pamphlets, newspapers, &c., mailed was 468,728,312. Estimating these at an average of two ounces for each piece, we find the total number of pounds of this matter to be 58,591,039.

The report of the Third Assistant Postmaster-General (page 354) shows that the weight of newspaper and periodical matter mailed during the last year from regular offices of publication and from news agencies was 69,952,432 pounds.

The number of articles, of packages of merchandise, and other fourth-class matter mailed (see page 89) was 21,515,832; their weight, 8,548,848 pounds.

From this it appears that the total weight of letters and postal cards was 37,246,621 pounds; of printed matter, 128,543,471 pounds; and of merchandise,

8,548,848 pounds. Aggregate, 174,338,940 pounds. It appears from these figures that the second-class matter, newspapers and periodicals sent by publishers and news agents to subscribers and other news agents, constituted about 40 per cent. of the entire weight of mails; and as the expense of transportation upon railroads is based upon weight, the amount of expense caused by the second-class matter must have been a proportionate part of the expense of transportation.

It also appears from the report of the Third Assistant Postmaster-General, (page 354,) that the postage upon second-class matter during the last fiscal year was $1,399,048.64. The total receipts of the Post-Office Department, as shown by the same report upon page 661, were $36,785,397.97, of which the receipts from postage upon second-class matter constitutes 3.8 per cent. Estimating the revenue from third-class matter at 8 cents per pound upon 58,591,039 pounds, we obtain the sum of $4,687,283.12.

The weight of third-class matter, which is transient newspapers and periodicals, books, and miscellaneous printed matter, constitutes about 33 per cent. of the weight of mails and causes a proportionate expense in transportation, while the revenue received from it amounts to a little over 12 per cent. of the total receipts of the Post-Office Department.

According to these figures the transportation of printed matter costs about 73 per cent. of the total appropriation for that purpose, while the receipts derived therefrom amount only to about 15½ per cent. of the gross receipts of the Department.

Very respectfully,

W. B. THOMPSON,
*General Superintendent.*

Hon. J. G. CANNON,
*House of Representatives, Washington, D. C.*

It will be observed that the total weight of mail transported during the last fiscal year aggregated over 174,000,000 pounds, of which 70,000,000 pounds were covered by newspapers and periodicals transported at the rate of two cents per pound, being 40 per cent. of the whole, and which yielded postage to the amount of $1,399,000, or 3.8 per cent. of the revenues of the Department from postage. This substantially gives the franking privilege to all newspapers and periodicals, it being the sense of the law-making power embodied in legislation that this was a proper way in which to promote the education of the people.

It will be observed also that newspapers, periodicals, and other printed matter constitute in round numbers 128,500,000 pounds, or 73 per cent. of all the mail matter transported, and yield 15 per cent. of the revenues, while the letters and postal cards weighed 3,700,000 pounds and merchandise 8,540,000, the two classes together making 27 per cent. of the mail matter, and yielding 85 per cent. of the entire postal revenues.

If the four hundred and three Members and Senators should each frank twenty-five letters a day of the usual weight of half an ounce each, they would amount in a year to 94,302 pounds, or less than one-eighteenth of 1 per cent. of the mail matter transported.

Mr. SPRINGER. How much will this reduce the revenue?

Mr. CANNON. This amount is so small in comparison with the whole that in my opinion the revenues would not be visibly affected. [Here the hammer fell.] I hope I will be allowed a few moments longer.

Mr. BINGHAM took the floor and yielded his time to Mr. CANNON.

Mr. CANNON. In 1873 the franking privilege was entirely taken away. Since that time it has been substantially restored so as to cover all public documents, the CONGRESSIONAL RECORD or parts thereof, and any other matter printed by authority of Congress. I was heartily in favor of such restoration of the franking privilege, it being really the privilege of the people to receive this information free through the mails, they being interested in having full information of the proceedings of their servants. These documents weigh hundreds of pounds where the letters covered by the amendment would weigh ounces.

So far as I am personally concerned, Mr. Speaker, I do not care whether this amendment is concurred in or not. It is true that penalty envelopes under the law are used by the Departments and the clerks thereof, and generally by United States officials to cover official communications, and there is no reason why official communications and correspondence between members of Congress and any persons whomsoever, should go free through the mails, either under the frank of the member or in a penalty envelope, and I would cheerfully support any amendment or modification of the law covering that class of communications.

I believe I have submitted such facts as I desired in reference to this amendment, and I again express the hope that the discussion will be general, and the action of the House pronounced, so that the House conferees, whoever they may be, may not be in doubt as to the wishes of the House in the premises.

Mr. HILL rose.

Mr. ROBINSON, of New York. I understand the gentleman from Illinois to say——

The CHAIRMAN. Debate has been exhausted.

Mr. HILL. I desire to make a formal amendment.

Mr. ROBINSON, of New York. I understood the gentleman to say that he would have these tables read.

Mr. CANNON. I will insert them in my remarks.

Mr. ROBINSON, of New York. I would like to have the statement read now, as I want to make some remarks upon it.

The CHAIRMAN. The gentleman from New Jersey is entitled to the floor.

Mr. HILL. I hope the amendment of the committee will be adopted. This is only a revival of the franking privilege under all its worst features and abuses. It is only nine years ago since that privilege was abolished, and we have not yet had a fair trial of the new system. I believe, sir, the people of this country are opposed to its being revived.

WHEN INAUGURATED.

It was inaugurated at a time when a member of Congress received a salary of only $800 for the short term and $1,500 for the long term; when postage was from twelve and one-half to eighteen and three-quarter cents under four hundred miles, and twenty-five cents over four hundred miles; when the country was not very prosperous and mail routes few and short. If there ever was a necessity for the franking privilege it was then, but that necessity has passed away. Salaries of members of Congress have been increased, and postage reduced to three cents for any distance. The mail routes are far more numerous and lengthy, there being now 344,006 miles of mail routes, and over 188,125,032 miles of annual transportation of mails.

The abolition of the franking privilege has saved the Government a large sum of money, helped to make the Post-Office Department self-sustaining, saved in many ways: in printing, in postage that used to go free, in expense of carrying the mails. It is argued that the mails would have to be carried at all events, but the railroad companies would ask for more compensation if the mails were increased in weight, as they did before.

I remember, sir, when the postal cars were blocked and detained for a day or two in the Baltimore and Ohio depot; when they have been obliged to leave them at Harrisburgh because they could not take them on the train, so much mail and great delay in mail matter. I remember, when I was a member of the Post-Office and Post-Roads Committee in the Fortieth, Forty-first, and Forty-second Congresses, that reports were brought to us that the mails were so heavy out on the stage routes on the plains that they could not carry them, and frequently bags of mail matter were thrown off to fill up mud holes for the stage to pass over.

I remember a railroad president was before the committee complaining of the heavy mail caused by free matter, and he said it did not pay them as much as for carrying coal between Washington and Philadelphia. I have seen in the days when the franking privilege was at its height the Washington City post-office piled full of free matter. At one time during three weeks—ten days of which Congress was not in session—on an average four tons a day of free matter went out; postage on which if paid would amount to several thousand dollars a day, not including any that came in free. About one hundred persons were employed almost entirely on free matter, a large number of horses and wagons with drivers and others bringing in and carrying out free mails; the postage of which if paid would have amounted no doubt to millions a year.

FRAUD AND ABUSE.

The fraud and abuse of the franking privilege was very great when in existence before, and would be so again. We were told at that time by the city postmaster that most of the letters passing through the post-office were franked, and that a great part of the correspondence was free; the abuse of the privilege was very great, and so it would be again.

We remember of seeing in the dead-letter office, or "post-office museum," five bags of law books, sent by a book publishing firm in New York under the frank of an ex-member of Congress. Four bags had gone through to their destination, this one broke open, all of which had been franked several hundred miles through the mails. We have seen there apple-parers, groceries, hardware, hats, caps, clothing, patent medicines, &c.

The whole system is wrong; wrong in principle, wrong in practice, every way wrong. All matter passing through the mails should pay postage.

The franking privilege was abolished in 1873. The next year much money was saved in printing; but few documents ordered to be printed. No doubt a large amount was saved to the United States Treasury. The next year ten cents postage on each book was paid by order of Congress; afterward Congress ordered all documents free. Now it is proposed to make all letters sent by members of Congress free without limit. The postage is not such a very great tax on members; $125 allowed for stationery will help pay the postage on letters. To some it may not be enough, but to very many I doubt not it is ample and will meet all their requirements in regard to postal matters. The people of the country look upon the franking privilege as a privilege granted to a favored few. There should be no privileged few at the expense of the many. I hold in my hand a resolution which I would like to read for the benefit particularly of our friends on this side of the House.

REPUBLICAN PLATFORM.

In the Republican platform adopted at Philadelphia, 1872, it was—

*Resolved*, That the franking privilege ought to be abolished and the way prepared for a speedy reduction in the rates of postage.

Congress abolished the franking privilege in 1873; passed the one-cent postal-card bill about the same time, which has yielded a revenue to the Government since its existence of over $13,000,000, and now nearly five hundred million cards are being sold per year, the last contract for the next four years being for two thousand millions.

TWO-CENT POSTAGE.

Now, Mr. Chairman, what the people want is cheaper and a lower rate of letter postage. I believe they are looking to this Congress to do something for them. We can be justified in giving to the coun-

try cheaper postage. By so doing we necessarily give to the members of both Houses the same, so that no member of either House will feel his postage is a burden.

Business men demand it, workingmen demand it, the farmers, the mill hands, the clerks, and the masses generally demand it. The cheaper the postage and the greater the facility for creating correspondence the greater the number will be who take advantage of it. Let the bill now in the Committee on the Post-Office and Post-Roads reducing postage to two cents be reported to the House and passed. Then the members of Congress and the people at large can all enjoy together the boon of a lower rate of postage. The inaugurating or reviving again of the franking privilege means delay and putting off reduction of postage. I believe the time has come when we can adopt two-cent postage. I have here statements from the Sixth Auditor's department of the Post-Office showing that on the 30th of September, 1881, first quarter of the present fiscal year, the deficiency in the Department was $196,104.01; 31st of December, 1881, second quarter, there was a surplus of $678,424.20; surplus for six months ending December 31, 1881, $482,310.19.

POST-OFFICE DEPARTMENT SELF-SUSTAINING.

It would seem that the way was clear for reduction to two cents; that the Post-Office Department is self-sustaining. Even if we had to bear a small deficiency for the first year it would be borne cheerfully by the people, but I doubt if there would be one. It has been proven in all countries wherein postage has been reduced it has generally rather increased than diminished the revenue to the post-office department, as it was when the one-cent card went into operation and use eight years ago. And so with all other reductions in this country. And it has been shown very strikingly the last few years in England, when they adopted the one-penny postage, two cents of our money, and yields a surplus or revenue and profit to the post-office department of over six millions of dollars.

No branch of the Government so near to the people, no debt more cheerfully borne by them, and certainly no portion of the revenue of the United States Treasury can be better applied in the interest of the people than by giving them lower and cheaper postage. The Department, according to the report made is self-sustaining, and now is the time to inaugurate two-cent postage for the fifty millions of people of America. I believe they will sustain us in such legislation. They certainly will not justify us in restoring the franking privilege and neglecting to give to them cheaper postage for their benefit. I hope, Mr. Chairman, we shall take no steps backward in postal reform, and that the motion of the committee not to concur in the Senate amendment to the bill will prevail.

Mr. TOWNSHEND, of Illinois. I do not think the disapprobation of the people was so much against the franking privilege, if it had been properly used, as it was against the abuse that had been made of it. Members who are acquainted with the manner in which the privilege was exercised in the past are aware great abuses did occur under it, and that the public had a right to complain. I do not see in this bill any safeguard against the practice of the same abuses if this amendment is adopted. I am therefore opposed to the amendment of the Senate.

Like the gentleman from New Jersey, I am in favor of cheaper postage. He presents no new question, however. In the last Congress a bill was introduced by the gentleman from Kentucky [Mr. WILLIS] for this purpose, but it did not meet with favor. Similar propositions have come into this Congress, but no action has been taken on them, because the Committee on the Post-Office and Post-Roads, having them in charge, have made no report on them. But instead of cheapening the cost of postage to the people, we have here in this amendment of the Senate a revival of the franking privilege.

I am inclined to think if the franking privilege had been used strictly for such mail matter as passes between the member and his constituents, pertaining to official business in the Departments and in Congress, there would have been no serious complaint against it by the people. But judging from my knowledge of the practice in the past, I am opposed to any revival of any franking privilege on the part of members of the House. I believe the salaries received by members and the perquisites they enjoy, if they use proper economy, will be ample to defray their annual expenses of living here and at home and of correspondence with their constituents. I therefore see no excuse whatever for a revival of the franking privilege. I have risen for the purpose of entering my protest against any effort in that direction or any legislation in any form that will open the way to the shameful abuses which prevailed a few years ago. I shall vote against this amendment, and sincerely hope the House will vote it down by such a large vote as will discourage any future effort to ingraft such pernicious legislation as a rider to an appropriation bill.

Mr. ROBINSON, of New York. I wish to say that on this subject it seems to me we have a good deal of humbug just now. I learned my lessons, sir, on this and kindred questions in the school of the great reformer, Horace Greeley. But the opposition which he made was 'o giant wrongs. The insignificant thing we are now talking about amounts to nothing compared with the great burden which the law as it now exists imposes upon the country.

As the law now reads we have books that we can send out franked by the members—hundreds of thousands of them. Here is one, (holding up a volume of the RECORD.) I have asked our postmaster to say how much it weighs. Its weight is four pounds and the frank of any member carries it free. I asked him the weight of another document, the Agricultural Report, which I hold in my hand and which we are sending out by car-loads; that is forty-two ounces. How many letters would that cover? How many of these large packages are we putting into the mails every day and crowding them down for wealthy farmers, for professors in colleges, and literary and scientific men to whom we send our costly works? We provided a short time ago on the recommendation of the Committee on Printing for the distribution of 90,000 copies of the first volume of the census report; and that carries the other eight or nine or ten volumes with it. We thus load down the mails for the wealthy. But when you answer a letter from a poor petitioner who is wanting a pension for the blood he spilled on your battle-fields, you will not give three cents to carry that.

The letters that we would write would not average in weight two ounces each. That limitation is to cover our pamphlet speeches, and we cover them already under the law by printing on the wrapper the statement that they are a portion of the CONGRESSIONAL RECORD. Our letters would not weigh a quarter of an ounce each, and there would not be any perceptible difference in the weight of the mails, by the finest scales you could manufacture, between the millions of pounds now carried by the franking privilege and the little that would be added by sending answers to the poor men's letters who are justly and anxiously asking for information about their claims.

I do not know how it is with others, but I receive letters from poor people asking about matters in which they are interested, people so poor that they can hardly afford to pay the postage, and yet they are so generous that they generally send to me a three-cent stamp for the reply.

If any matter goes free through the mails it should be information for the poor soldiers and sailors who preserved our Union.

The postage on these letters is a tax upon the poor people of the country, while we are sending these heavy documents free of postage to wealthy farmers and to wealthy people throughout the country. I take it, therefore, that all this talk about this franking privilege is humbug. We have already established the franking privilege and are carrying it out in regard to these heavy documents. It is in the carrying of these that the great objection to the franking privilege lies.

Now, if I were to make any suggestion at all on this subject it would be to abolish the franking privilege upon documents and all other matter; but if you swallow the camel, why should you strain at the gnat? I would move to abolish all the franking privilege and let those men who want a four-pound document or a forty-two ounce document pay the postage on it just the same as the poor man with his half-ounce letter has to pay the postage upon that.

One word more. My friend from New Jersey [Mr. HILL] says that voting against the Senate amendment will enable us to carry through a reform and a reduction in postage. He introduced early in the present session a bill to reduce the postage on all letters under a half an ounce to two cents. On the same day I introduced a bill proposing to reduce the postage on similar letters to one cent.

Now, whether you adopt this amendment of the Senate or not—and I do not say that I am in favor of it—this other matter of a reduction in the rates of postage on letters is a measure which is proper to be brought before Congress, and I believe it will pass; not the two-cent rate but the one-cent rate. I want the one-cent stamp, with the picture of Washington on it, to carry a letter not exceeding a half ounce in weight to all parts of the country. If you will do that there will be ten letters sent where there is one letter sent now, and the net revenue will be as great at one as at three cents. [Here the hammer fell.] I wish I had more time, but it does not matter now.

The committee rose informally, and the Speaker resumed the chair.

MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was communicated to the House, by Mr. PRUDEN, his secretary, who also informed the House that the President had approved and signed bills of the following titles:

An act (H. R. No. 1776) for the relief of Medical Director John Thornley, United States Navy; and

An act (H. R. No. 5588) to admit free of duty articles intended for exhibition at the national mining and industrial exhibition to be held in the city of Denver in the year 1882.

POST-OFFICE APPROPRIATION BILL.

The Committee of the Whole resumed its session.

Mr. ROBESON. I am opposed to this amendment of the Senate, because it is wrong in principle, as I understand it. That part of the provision of the amendment which is important is in the following words:

And each member of the Senate, each member of the House of Representatives, and each Delegate from a Territory shall have the right to send through the mail any letter or packet containing only printed or written matter, not exceeding two ounces in weight, identified by his autograph signature, without the payment of postage.

Now, it is true that we do send through the mails a great deal of matter free of postage. But we do it upon the principle that it is public matter, and sent through the mails for the purpose of dis-

tributing public information for the benefit of the people of the country. Right or wrong, successful or unsuccessful in the accomplishment of that purpose, this is the principle upon which all the matter which goes free is allowed to go free through the mails; that it is official information sent to the people of the transactions, business, and conduct of their agents and representatives here in Washington.

But this amendment proposes to give a personal privilege to every member of Congress which is denied to every other citizen. It provides that his correspondence, official or unofficial, public or private, and not only his own correspondence but the correspondence of every other person upon which he chooses to put his "autographic signature," shall go free through the mails. That is the prerogative which it is proposed to give to members of both Houses of Congress without the slightest pretense that it is for the public interest or upon public business. There is no word or suggestion in the amendment that such correspondence shall be official.

We pay large sums of money for the transportation of our mails over the railway lines. Why should we not make contracts for special service on those very railway lines such as you propose by this amendment, to carry members of Congress to and fro about the country on their private business? The principle of the one is just as sound as the other. The service under the amendment would not be quite so expensive as the other would be; but it rests upon exactly the same idea of giving a personal privilege to a man who holds a representative office; a privilege contrary to the very spirit of our Government and directly in the teeth of the principles and ideas of our people.

Mr. SPRINGER. I desire to offer an amendment.

The CHAIRMAN. Discussion upon the pending amendment has been exhausted,

Mr. ROBESON. I will withdraw my *pro forma* amendment.

Mr. SPRINGER. I desire to move an amendment, not *pro forma*, but to the text of the Senate amendment. I move to insert after the words "House of Representatives," in line 171 of the printed amendment, the words "and Senators, Representatives, and Delegates in Congress." Also strike out the word "themselves," after the words "prepared by," and insert in lieu thereof the words "said Secretary and Clerk." Also strike out all after the word "existing," in line 177, and insert in lieu thereof the words "such letters or packages shall be identified by the autograph signature of the person sending the same." So that the amendment will read as follows:

And the Secretary of the Senate and the Clerk of the House of Representatives, and Senators, Representatives, and Delegates in Congress, shall have power to use official penalty envelopes authorized by law, prepared by said Secretary and Clerk, for all the official business of their respective offices; and the use of such envelopes for any purpose other than such official business shall be punished by the same penalties imposed by law for the illegal use of such envelopes already existing. Such letters or packages shall be identified by the autograph signature of the person sending the same.

Mr. HOLMAN. I rise to a question of order.

The CHAIRMAN. The Chair will state to the gentleman from Illinois [Mr. SPRINGER] that his amendment had better be read from the Clerk's desk, the right of members to make points of order being reserved.

Mr. SPRINGER. I can state in one word the effect of the amendment much better than it can be understood by the reading from the Clerk's desk. It simply authorizes the Clerk of the House and the Secretary of the Senate to furnish to Senators, Representatives, and Delegates in Congress official penalty envelopes to be used under the same penalties of law now applying to the use of such envelopes by other officials of the Government; in other words these envelopes are to be used for official correspondence only. I quite agree with the gentleman from New Jersey that this privilege ought not to be extended to our private business; but can there be any reason why Senators, Representatives, and Delegates should not use the mails for the transmission of correspondence on public business in just the same way that officials of the executive departments now use them? My amendment if adopted will place Senators, Representatives, and Delegates upon the same footing with officers of the executive departments in the transmission of official correspondence through the mails. I am quite willing to pay for all my private correspondence, and so is every gentleman here; but I see no reason for imposing upon members of Congress the necessity of paying postage upon their correspondence relating to public business.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. SPRINGER] has expired. The gentleman will send his amendment to the Clerk's desk to be reported.

Mr. MOORE. Mr. Chairman——

The CHAIRMAN. The gentleman from Tennessee [Mr. MOORE] will be recognized when the amendment of the gentleman from Illinois [Mr. SPRINGER] has been read from the Clerk's desk.

The amendment of Mr. SPRINGER as already given was read.

The CHAIRMAN. On this amendment the gentleman from Indiana [Mr. HOLMAN] makes a point of order.

Mr. HOLMAN. My point of order is that the amendment violates the third clause of Rule XXI. I submit that it is to be considered as an independent proposition without reference to the Senate amendment; that is to say, admitting it to be germane to the Senate amendment, it is to be considered as an independent proposition; and so considered, it does not retrench expenditures. On that ground I think the point of order must be sustained.

Mr. CAMP. It is new legislation and does not decrease expenditures.

The CHAIRMAN. Does the gentleman from Illinois [Mr. SPRINGER] desire to be heard upon the point of order?

Mr. SPRINGER. No, sir.

The CHAIRMAN. The gentleman from Indiana makes the point of order that this amendment does not retrench expenditures, and is therefore obnoxious to the third clause of Rule XXI.

Mr. HOLMAN. And is independent legislation.

Mr. SPRINGER. The Senate amendment is an amendment to an existing provision of law. This is certainly germane to the Senate amendment and reduces the amount of expenditure under it.

The CHAIRMAN. The Chair does not understand the gentleman from Indiana as making the point of order that the amendment is not germane.

Mr. SPRINGER. But my amendment certainly does decrease the amount of expenditure which would be incurred under the provision of the text. The provision in the text proposes to allow all mail matter to be sent; this amendment restricts it to official business, so that the expenditure is reduced.

Mr. CAMP. The question is, Does it reduce the amount of expenditure contemplated by the bill?

Mr. HOLMAN. Of course this amendment changes existing law, and does not retrench expenditures.

The CHAIRMAN. As the Chair understands the point of order submitted by the gentleman from Indiana, it presents the question, treating the Senate amendment as an original proposition, as if introduced in the House for the first time and decided in order, whether the amendment offered by the gentleman from Illinois would retrench expenditures.

Mr. HOLMAN. The question is whether it retrenches expenditures under the existing law, not under the Senate amendment, because that amendment itself changes existing law.

The CHAIRMAN. The Chair holds that if the Senate amendment is in order (and it has already been so held) this amendment must be treated as an amendment to this proposed legislation, just as if the provision in the text had been proposed in the House and held to be in order.

Mr. HOLMAN. But the gentleman's proposition changes existing law independently of the Senate amendment.

The CHAIRMAN. The Chair holds that where an amendment is proposed which is held to be in order, and upon which the House is compelled to vote, an amendment to that amendment cannot be considered with reference alone to the existing law, but must be considered with reference to the substantive provision to which it is offered as an amendment. Viewing the amendment of the gentleman from Illinois from this stand-point, the Chair is inclined to think that it does upon its face somewhat restrict the use of these envelopes as provided in the Senate amendment and does thus retrench expenditures. The Chair therefore feels inclined to overrule the point of order.

Mr. MOORE. Mr. Chairman, I do not desire to make a speech, but to ask the meaning of this proposition before I vote, so that I can vote intelligently. In line 175 and the two following lines I find this language:

Shall be punished by the same penalties imposed by law for the illegal use of such envelopes already existing.

Now, I wish to know whether this means the envelopes already existing or the penalties already existing. I want to know what I am voting for. I do not understand the grammar of this provision.

Mr. SPRINGER. It is not in order for me to mention the name of a Senator or to refer to proceedings in the Senate, but I will say that the provision, coming here as a Senate amendment, was prepared by a very distinguished gentleman whose official duties are performed not far away from this Hall.

The CHAIRMAN. Does the gentleman from Tennessee [Mr. MOORE] yield to the gentleman from Illinois, [Mr. SPRINGER?]

Mr. MOORE. Yes, I will yield to the gentleman from Illinois for a question.

Mr. SPRINGER. It is not subject to grammatical criticism. The law provides there shall be a fine of $300 imposed on any one who shall use these envelopes for transmission of matter in the mail other than that which is official, notice of which fact is given by the printing.

Mr. MOORE. I am talking of the grammar. I do not know what it means when it says "the envelopes already existing."

Mr. CASWELL. It clearly says the penalties already existing. [Cries of "Vote!" "Vote!"]

The CHAIRMAN. The question is on the amendment of the gentleman from Illinois.

Mr. KENNA. I desire to move an amendment to the amendment of the gentleman from Illinois, which I send to the Clerk's desk.

The Clerk read as follows:

But this provision shall not apply to members of either House of the present Congress before the expiration thereof.

Mr. SPRINGER. I accept that as a modification of my amendment.

Mr. COBB. Mr. Chairman, I am opposed to the further extension of the franking privilege in any sense whatever. It is a system which is so liable to be abused, if extended to the mail matter provided for

in this amendment, which in its letter I know only allows members to frank written and printed matter not exceeding two ounces in weight. Yet you will find, if it become a law, that the privilege will be greatly extended. It will be extended to the friends and relatives of members as it was under the old system. All manner of political documents in time of campaigns will be sent under the frank of members, and the mails will be crowded with franked mail matter. Millions of letters and other matter will pass through the mails under the frank of members that now has under the law to bear its rightful burdens, thus greatly decreasing the postal revenue. The franking privilege as now existing only extends to such matter as is ordered printed by Congress, and which mainly goes through the mails to the people for their information, and cannot be used to any great extent for the personal benefit of members. It is used for the distribution of knowledge among the people, and for the distribution of seeds to the agricultural interests of the country. This privilege I think is well enough. At all events I found it to be the law when I entered Congress, and it seems to give general satisfaction to all classes.

Members frank such books and documents as are ordered printed and send them through the mails to their constituents, who receive whatever benefit there is to be derived from it. This is, I think, as it should be. I do not believe that a member of Congress should have power to frank any matter other than that now provided by law. If I write a letter it is my duty to stamp it, as it is called, by putting a three-cent postal stamp on it. All are alike in this, whether a member of Congress, merchant, lawyer, mechanic, or farmer. All contribute equally in this way to keep up the revenue of the postal service in proportion to the amount of matter sent through the mails. All are equal under the law. Each member of the House and Senate is entitled to $125 each session for stationery. This was intended to be used by us in paying postage and supplying ourselves with paper, ink, envelopes, &c., while here attending to our public duty. And I say that it is ample for the purpose. There is no member on this floor, in my opinion, who uses this sum, unless he includes postal stamps. My correspondence is about as large as the average member in this House, say the least of it; and I know with this $125 I can very nearly pay my stationery accounts. I know members talk about consuming large quantities of stationery, but if they will calculate closely they will find that $25 will furnish about all the paper, ink, and envelopes which they properly use. And these are about all that they need in the way of stationery. This leaves each member $100 for postal stamps.

Mr. Chairman, let the franking privilege extend to the distribution through the mails of the CONGRESSIONAL RECORD, Agricultural Reports, and such other documents as may contain useful knowledge for the people published by order of Congress, and equal justice is done to all. As the gentleman from Illinois, [Mr CANNON,] who is a member of the conference committee which has this matter in charge, desires, as he says, to have full expression of the members of the House on this subject, so that he may know how to act when he gets back into conference committee, I will state that so far as I am concerned I am utterly opposed to the extension of the franking privilege by this Congress or any other. And so far as I may be able to influence him and his colleagues on the committee by anything I may say, I now and here enter my solemn protest against this amendment, and hope the committee will use every reason in their power to cause the Senate to recede from this, its amendment.

It is said that there is not much weight in the mail matter covered by this amendment, when compared with the other matter which passes through the mails. That is true. But this matter pays much more postage in proportion to its weight than other matter. All of which would be lost to the revenue if this amendment is adopted.

Gentlemen say, however, that it is a small matter. Well, if it is why contend for it? The people of the country are sensitive on this question, as they have the right to be. If there is not much in the amendment, why adopt it and thereby disgrace ourselves in the estimation of the country? The newspapers, many of them, now believe that this amendment has become a law, and they are ridiculing Congress for passing it. The people have ever denounced, as they should, any attempt to extend this privilege. They did it only a few years ago when it was attempted by Congress.

I came here and took my seat when the law was as it now is in regard to the pay of members. I want it to remain as it is. I think all are satisfied with it. I expect to take the pay which the law gives me; but I do not intend to vote for any law to increase it. Nor will I take, directly or indirectly, one cent more if I know it. I do not intend so long as I remain a member of this House to vote myself or any other member one cent more than we were entitled to under the law as it stood when I first became a member.

Mr. BROWNE. Does the gentleman expect to take any less?

Mr. COBB. I have answered that question already, if the gentleman had been listening.

Mr. BROWNE. I understand my colleague to say that he now gets $125 more than he is entitled to.

Mr. COBB. I did not say so. I now say I will take what the law gives me as a member of Congress and no more. And I will not vote for any proposition which will give me more. Will my colleague agree to stand by me with his vote in this?

[Here the hammer fell.]

Mr. UPDEGRAFF, of Ohio. Mr. Chairman, the gentleman from Illinois, [Mr. CANNON,] in the course of his remarks upon this Senate amendment, stated that he desired some little expression of sentiment on the part of the committee in regard to concurring in this amendment. I trust that there will be such full and unequivocal expression of sentiment upon it, expression that cannot be misunderstood, that our conference committee will clearly understand that they are directed by this House to say to the Senate that this body at all events is immovably opposed to restoring the franking privilege to members of Congress. It has been admitted by the gentlemen who have just spoken in its favor that it has always been liable to abuse heretofore. They claim that this abuse is the fault of members and not of the law. Now, it may be a fact that this Congress is a better and wiser and more incorruptible one than ever met before, and that no member of it would ever in any way abuse the provisions of such a law; but such a violent supposition is no safe basis for legislation. It is neither modest nor wise for us to act on any presumption that this Congress, though a very excellent one, doubtless, is any better than those which have gone before and by which a franking privilege, when it existed, was always abused.

This Senate amendment does not even confine the matter which may be franked to the personal correspondence of the member, but says he "shall have the right to send through the mail any letter or package containing only printed or written matter, not exceeding two ounces in weight, identified by his autograph signature, without the payment of postage."

Mr. SPRINGER. Is the gentleman speaking to my amendment now?

Mr. UPDEGRAFF, of Ohio. No, I am speaking to the Senate amendment.

Mr. SPRINGER. I thought the gentleman was speaking to my amendment.

Mr. UPDEGRAFF, of Ohio. No, Mr. Chairman, I am not speaking to the amendment of the gentleman from Illinois, for I am taking it for granted that amendment will not pass any how. [Laughter.] But the amendment which the Senate has attached to this bill, and which has been advocated on both sides of the House very plausibly and with much earnestness, I trust will not receive the sanction of the committee. It is not in the line of safe, careful legislation. It has been said that the additional amount of mail made free would be very small compared with the great bulk of public documents so carried now. The difference, Mr. Chairman, is one of principle. This proposes to give a privilege to a member which is a personal perquisite. The franking of public documents is for the benefit of the people. It is in the interest of the public good by the free and general diffusion of knowledge. The present self-supporting condition of our Post-Office Department fully justifies a liberal use of its facilities, but it does not justify making a personal application of them.

It is true that the amount of $125 allowed by the statute for stationery and postage will not generally meet the demands of postage alone if a member attends fully to the demands of his constituents; yet every member understood that at first, and for one I am unalterably opposed to any new liberality toward ourselves while we talk economy about just and needful public demands which are constantly increasing. Instead of any move in this direction, I shall be glad to take prompt action, while the financial condition of our Post-Office Department and of the public Treasury justify it, to reduce letter and newspaper postage, as I believe it ought to be. But this amendment, if it should become a law, as I trust it never will, would only make that beneficent measure more improbable and longer delayed——

The CHAIRMAN. Debate upon the pending amendment has been exhausted.

Mr. BROWNE. I move to strike out the last three words. I am glad to see this exhibition of paroxysmal economy. It is not often that a tidal wave of this kind strikes the House of Representatives. When it comes along I want to get up on the top wave and float with the balance. [Laughter.] The franking privilege, as it now exists, covers everything I think that members of Congress can ask. All you have to do in order to get the benefit of that privilege, and to get what you want for your constituency, is to put it into the RECORD. Introduce it in some shape or other so that it may become printed matter by order of Congress, and then you may send it. We are sending car-loads of stuff every day under our official franks. What more do gentlemen require? We are running a huge printing office down here for the purpose of lumbering up ourselves with that which is only fit, largely, to make bonfires.

Talk about sending "information" to the people! My colleague from Indiana is anxious to get information to his constituency, and they need it, there is no complaint of that. [Laughter.]

Mr. COBB. I would like to ask my colleague a question as to which of his colleagues he refers to?

Mr. BROWNE. I think there can be no question about that. I believe it was Nathan who said unto David, "Thou art the man." [Great laughter.]

But coming back to the question again. In the first place there is a standing statute appropriating $125 per session to cover stationery. Now, my friend and colleague only uses $25 of that, so he is $100 ahead, and of course he will return that into the Treasury. But, seriously, $125 per session to each member amounts to, I believe,

about forty-five thousand dollars, and it pays every penny a member of Congress is called on during a session to expend in the shape of both stationery and postage.

A MEMBER. Not much.

Mr. BROWNE. I hear a gentleman on my right say "not much." Now, I will not say how large my own correspondence is, but I do say, so far as I am personally concerned, that this amount covers all the expenses I incur for postage and stationery during each session, including an opera-glass now and then; and I venture to say to my friend on my right that if he will examine his stationery account he will also find a few articles of that kind in addition to his stationery and postage which swells the aggregate amount.

Again, if you repeal the statute appropriating the forty-four or five thousand dollars allowed members in this way and apply it to the expenses incurred by permitting members to frank their correspondence, it will more than pay the expenses under this proposed Senate amendment. If applied for the transportation of every letter that is made free by the amendment to this bill it will more than pay it all, and if you will abolish this appropriation of $125 to each member I will vote to restore the franking privilege in the direction indicated. Now, if you want to do something for the Treasury of the country, if you want to add money to it or leave money there that is already in it, abolish about 95 per cent. of the printing you order from year to year. The time is coming when that which the people demand shall be printed in the shape of information for the people can be printed and will be printed by private establishments and circulated and sold on the market as other things are sold. Every bill we introduce here, these innumerable bills that die in the pigeon-holes of committees and which were sent there to die, have to be printed. All your reports are printed; it makes very little difference how frequently they have been printed before. You introduce your memorials; they are printed. Your speeches are printed in the RECORD. I do think if the man still lives that invented the CONGRESSIONAL RECORD he ought to be arraigned before a military tribunal, condemned, and shot. [Laughter.]

The CHAIRMAN. The gentleman's time has expired.

Mr. BROWNE. That CONGRESSIONAL RECORD has killed more members of Congress than the Kidwell bottoms. [Laughter.]

The CHAIRMAN. The question is first on the amendment of the gentleman from Illinois [Mr. SPRINGER] to the amendment of the Senate.

Mr. HAWK. What is the amendment of the gentleman from Illinois?

The CHAIRMAN. The amendment has been several times reported; but in the absence of objection it will be again read.

The proposed amendment to the amendment was again read.

The question being taken on the amendment to the amendment, it was not agreed to.

The amendment of the Senate was non-concurred in.

The twenty-first amendment of the Senate was, in line 3, section 2, to strike out "$887,177.90" and to insert in lieu thereof "$1,977,-177.90;" so that it would read:

SEC. 2. That if the revenue of the Post-Office Department shall be insufficient to meet the appropriations made by this act, then the sum of $1,977,177.90, or so much thereof as may be necessary, be, and the same is hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, to supply deficiencies in the revenue of the Post-Office Department for the year ending June 30, 1883.

The committee recommended non-concurrence.

The amendment was non-concurred in.

The twenty-second and last amendment of the Senate was to add as a new section the following:

SEC. 3. That the amount of all money orders which shall have remained unpaid for a period of five years or more, after the date of the issue thereof, which amount is to be ascertained and reported annually by the Auditor of the Treasury for the Post-Office Department, shall be covered into the Treasury. But nothing herein shall be so construed as to prevent the payment, out of current money-order funds, by duplicate issued under the authority of the Postmaster-General, of any money order which has remained unpaid more than five years.

The committee recommended concurrence.

The amendment was concurred in.

Mr. CASWELL. I move that the committee rise and report the amendments with the action of the committee thereon to the House.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. CALKINS reported that the Committee of the Whole House on the state of the Union, having had under consideration the amendments of the Senate to the bill (H. R. No. 3548) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1883, and for other purposes, had directed him to report the same back to the House with the recommendation that the House concur in some and non-concur in others of the said amendments.

Mr. CASWELL. I demand the previous question on the report of the Committee of the Whole.

The previous question was ordered.

The SPEAKER. The question will be first on concurring in the amendments in which the Committee of the Whole recommended concurrence. Is it the desire of the House that these amendments shall be reported to the House separately or that they shall be acted upon in gross?

Mr. HOLMAN. I desire a vote on several of these amendments. I suggest that the numbers be read over, and if there be no objection the action of the committee will be concurred in.

The SPEAKER. Will the gentleman from Indiana indicate the amendments in which the Committee of the Whole recommend concurrence on which he desires a separate vote?

Mr. HOLMAN. I believe the Committee of the Whole recommend concurrence in amendments numbered 15, 16, and 17. If so, I desire a separate vote on those amendments.

The SPEAKER. The Chair is informed the committee recommend non-concurrence in those amendments.

Mr. HOLMAN. Then I call for a separate vote on the twentieth amendment, in which the committee recommend non-concurrence.

The SPEAKER. A separate vote not being asked for on the amendments in which the Committee of the Whole recommend non-concurrence, the question will be taken upon them in gross.

The question being taken, the amendments in which the Committee of the Whole recommended concurrence were concurred in.

The amendments in which the Committee of the Whole recommended non-concurrence were non-concurred in excepting the twentieth, on which a separate vote was asked.

The SPEAKER. The Clerk will again report the twentieth amendment.

The Clerk read as follows:

After line 169 insert the following:

"And the Secretary of the Senate and the Clerk of the House of Representatives shall have power to use official penalty envelopes authorized by law, prepared by themselves, for all the official business of their respective offices; and the use of such envelopes for any purpose other than such official business shall be punished by the same penalties imposed by law for the illegal use of such envelopes already existing. And each member of the Senate, each member of the House of Representatives, and each Delegate from a Territory shall have the right to send through the mail any letter or packet containing only printed or written matter, not exceeding two ounces in weight, identified by his autograph signature, without the payment of postage."

Mr. HOLMAN. I ask for a separate vote on that amendment as an instruction to the committee of conference.

The question being taken on agreeing to the recommendation of the Committee of the Whole, on a division by sound there was no response in the negative, and the Speaker declared that the "ayes" had it, and the amendment was non-concurred in.

Mr. CASWELL. I think we should have a record on this question by yeas and nays.

Mr. CAMP. That is not necessary; the vote is unanimous.

Mr. CASWELL moved to reconsider the several votes by which the House concurred or non-concurred in the amendments of the Senate; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### LEAVE OF ABSENCE.

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

To Mr. THOMAS for two weeks from Thursday next, to attend to important private business.

To Mr. MURCH for two days.

### ENROLLED BILLS SIGNED.

Mr. WARNER, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution and bills of the Senate of the following titles, when the Speaker signed the same:

A joint resolution (S. R. No. 42) granting to the State of Indiana the use of tents on the occasion of an encampment of State troops to be held in said State during the year 1882.

A bill (S. No. 308) to authorize the construction of a bridge across the Missouri River at the most accessible point within five miles above the city of Saint Charles, Missouri; and

A bill (S. No. 699) granting an increase of pension to Saint Clair A. Mulholland.

### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had adopted a resolution, in which the concurrence of the House was desired, requesting the President of the United States to bring to the attention of the Emperor of Brazil a certain claim of Helen M. Fielder, executrix of Ernest Fielder, against the Government of Brazil.

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

A joint resolution (S. R. No. 2) to authorize the Secretary of the Interior to certify lands for agricultural college purposes to the State of Kansas;

A joint resolution (S. R. No. 6) authorizing Lieutenant-Commander Charles Dwight Sigsbee, United States Navy, to accept a decoration from the Emperor of Germany, and also authorizing Joseph R. Hawley to accept decorations from the governments of the Netherlands, of Spain, and Japan;

A bill (S. No. 14) for the relief of Thomas G. Corbin;

A bill (S. No. 1210) to refer the claim of the trustees of Isaac R. Trimble, of the city of Baltimore, Maryland, to the Court of Claims;

A bill (S. No. 1286) amending "An act to amend the act entitled 'An

act to encourage the growth of timber on the western prairies,'" approved March 13, 1874; and

A bill (S. No. 1601) authorizing the Public Printer to pay A. Hoen & Co., of Baltimore, Maryland, for the lithocaustic illustrations made by them.

CONTESTED-ELECTION CASES.

Mr. CALKINS. I desire to give notice that on Tuesday next I shall call up the contested-election cases that have been reported to the House and insist on their consideration.

TARIFF-COMMISSION BILL.

Mr. KASSON. I move that the House resolve itself into Committee of the Whole House on the state of the Union for the purpose of resuming the consideration of the tariff-commission bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole House on the state of the Union, (Mr. CAMP in the chair,) and resumed the consideration of the bill (H. R. No. 2315) to provide for the appointment of a commission to investigate the question of the tariff and internal-revenue laws.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the purpose of considering the tariff-commission bill. The gentleman from North Carolina [Mr. COX] is entitled to the floor.

Mr. JONES, of Texas. As I cannot very well get the floor I ask leave to have printed in the RECORD some remarks I have prepared upon the pending bill.

Mr. SPRINGER. Let general leave be given.

Mr. RANDALL. We might as well make it general.

The CHAIRMAN. Unanimous consent is asked that all members who may desire it shall have leave to print in the RECORD such remarks as they may prepare upon the pending bill.

There was no objection, and leave was granted accordingly.

Mr. COX, of North Carolina. Mr. Chairman, the questions involved in the bill now before the committee and the cognate matters of internal-revenue taxation are incomparably the most important which will be submitted for our consideration during the present session of Congress.

It is well, therefore, that there should be the freest, fullest discussion, because the effect and operation of our various laws for raising revenue should be considered from different stand-points. I therefore offer no apology for the time I may detain the committee in the discussion of these important matters.

It is not to be expected that new facts can or should be laid before the House, because the data upon which our arguments are predicated ought to be official, and not rest upon mere platitudes or bald assumptions. It is the relation of these facts to the business, the progress and general development of the country, that we ought in the main to consider. The manifold demands of this great Government, its civil list, its Army, its Navy, its interest and sinking fund, and its enormous pension-roll, will for all time require a large revenue. It behooves us, therefore, to inquire how an adequate revenue may be raised so as to make it the least burdensome to the men by whose labor has been built the enduring prosperity of this country. Onerous in any aspect, it should be so adjusted as to bear with the least possible weight upon their daily lives. Representatives will do well to hearken to the voice of the people, presenting in all reasonableness their moderate demands, and I am not so uncharitable as to intimate there are any on this floor unmindful of their responsible duties.

REFORM DEMANDED.

The progress of this discussion has disclosed that while members view the questions of tariff from different stand-points there are none bold enough to declare that our present system does not demand great and radical reforms. On the contrary, they concede that the tariff on certain specified objects is burdensome and oppressive. The question then arises, why not proceed at once to reform such abuses of taxation, instead of by one sweeping act postpone the consideration of this whole matter for an indefinite period? The gentleman from Iowa, [Mr. KASSON,] who opened the discussion in favor of a tariff commission, asserted with some plausibility that this was an inauspicious time for Congress to deal with the matter. The Congressional elections, he said, will occur next summer; hence there was danger that this economic question might assume a political character; that it ought to be divested of all partisan taint, and viewed alone from a national stand-point. To accomplish this desideratum, he proposed to transfer to an impartial commission the duty of collecting and arranging such data as may enable us to make all needful changes without injustice to any section, or injury to the various industries which may be affected. These views have been concurred in by some others who have followed in advocacy of this commission.

With due respect for the gentlemen who entertain such opinions, I trust I may be pardoned for entering my unqualified dissent from their conclusions. I confidently assert that the bill before the committee is simply in the nature of an appeal for delay, for there has not been a period within the last twenty years when the House was in better temper to discuss such a measure from a national and non-partisan stand-point than at the present time. The indignation felt and expressed at the assassination of the President, the wave of sympathy which went up from all sections and all countries caused our people to know and appreciate each other better and to feel indeed that we were of one country with one destiny and of a common brotherhood. During the past year various civic and military conventions and industrial expositions have been held in the South, which have been visited by our brethren of the North, common memories revived and new hopes inspired which have strengthened this feeling of confidence and mutual respect.

For the first time since the close of the war the President in his annual message dwelt upon matters of state without any invidious reference to sections. Indeed, so little partisan rancor has entered into the discussions of this Congress, so pleasant have been the personal relations of its members, that it has been fitly denominated an era of good feeling. My mind recalls but one exception, which was when the honorable member from Indiana, [Mr. GODLOVE S. ORTH,] clothed in red, with Godloving stride, moved over to this side of the Chamber, and by an arraignment of the Democracy for its treason sought to revive the bitter antagonisms of the war. But he was soon reminded that he belonged to that class who while invisible in war are invincible in peace, and was rewarded for his valor by a good-natured smile from each side of the Chamber; for on this side was seated one of the most distinguished Union generals of the war, who had received the public thanks of Congress, while near him sat brave Union officers and privates, and the great "war governor" of the North, all fraternizing with the rebel brigadiers, while in the other end of this Capitol the gentleman's own party was led by a read-juster rebel brigadier, whatever that term may imply.

Therefore, Mr. Chairman, I must insist that no time could be selected more auspicious for a full, free, and non-partisan consideration of this whole subject by the House than the present.

Let us consider the practical workings of this bill. It provides that the commissioners to be appointed under it shall make their report not later than the 1st of December, 1882. The members usually absent themselves during the Christmas holidays, and will hardly touch this matter until after their return. If they should reassemble by the 5th, they would not get to work before the 6th; then they would refer the report to the Committee on Ways and Means. With all respect I inquire, who are the chairmen of the respective committees in the two Houses to which this matter would be referred? Able and zealous advocates of protection. And it is but reasonable to suppose from the conflict of views existing in these committees and the usual delay, that a bill need not be expected before the 15th of the month; for they would be required to report a bill for our action, and not simply indorse the action of the commission. Then, as Congress adjourns on the 4th of March, it is beyond question we would not have time to more than carefully consider the appropriation bills and other necessary matters before the session closes. Consequently this report must go over to the ensuing December, 1883. At that time we will have a new Congress, separate and distinct from the present one. It is the beginning of a long session, when it is known, owing to the reorganization of the House, &c., no important business is usually transacted until about the middle of January. The report is not the property of that Congress, and cannot become such except by its adoption. This might provoke protracted discussion.

In the mean time parties will be marshaling their hosts for the Presidential campaign, and during the spring months selecting their delegates to their respective conventions. The Republican party will not be disposed to clearly define its position in regard to the tariff issue until its convention shall have adopted its platform. It will be a year of political excitement, and the measure will necessarily go over until after the Presidential election. So when Congress meets in December it will again be a short term, and as the President will be inaugurated in March, 1885, his friends will not wish to embarrass his administration by anticipating what would be recommended by him when installed in office, consequently this matter will again go over to the ensuing December. Say, then, that the proper reforms should be agreed upon by Congress, who can say the bill would not be vetoed? For we know full well that our Presidents do not always abide by the principles of the platforms on which they are elected. Grant, for the sake of argument, that the new President would approve the measure, we will have lost four years' time before securing these greatly needed changes; and as the benefit to capital by means of a protective tariff is variously estimated at from five hundred to fifteen hundred millions of dollars per annum, we are able to realize the aggregate amount of bonus the people will contribute in this brief period through the instrumentality of the Republican party, who claim to be the especial friends and champions of the workingman.

OBJECT DELAY, NOT REFORM.

I have submitted these views with no disposition to do injustice to the advocates of this commission. I am sustained in the declaration that this bill is only for delay not only by what has occurred in this Chamber but likewise from what transpired during the discussion of the bill in the Senate. I find in the CONGRESSIONAL RECORD of March 29, during the debate in the Senate, the following question and answer. Says

Mr. DAVIS, of West Virginia. I would ask my friend if this commission bill should pass both Houses is there anything in the way of going on and perfecting either the customs duties or the internal revenue?

Mr. ALLISON. I do not so understand. I understand of course that we can, if we choose, go on and legislate on the tariff or on the internal revenue, but it is an open secret that the Committee on Ways and Means of the House, which must originate all tariff measures, have not considered the question of the tariff practically thus far in this session; and if this bill is voted up or voted down every Senator here must know that it is a practical impossibility to consider the tariff question at this session of Congress; and if it is a practical impossibility during the remainder of this session, it is equally impracticable to consider it during the next session, which lasts only three months, when we are pressed night and day for the consideration of appropriation bills. Therefore we may just as well understand here and now that this proposition is a proposition to postpone until the next Congress the consideration of the tariff question, and I shall vote for it with that understanding.

From the remarks of the honorable Senator from Iowa it will be observed he frankly admits that this proposition is a proposition to postpone until a future Congress all consideration of the tariff question and thus leave its incongruities and inconsistencies as burdens upon the people for an indefinite period. Bold and confident, he employs no masks, resorts to no subterfuges. We thus see, stripped of all its æstheticism, a bold proposition to pay a premium of hundreds of millions of dollars to protected capitalists and monopolists by means of this delay. We find from the declarations and admissions of this able advocate of protection that the object of the measure is delay. We ask the great mass of producers, the farmer, the laborer, and the mechanic,

Men, my brothers; men, the workers,

who represent nine-tenths of our people, are they ready to submit to such exactions to keep an unfaithful party in power?

Treating this question of tariff reform as a practical, living issue, I inquire what is to prevent our proceeding at once to remove some of its most glaring inconsistencies and hardships? It would seem there is always time to discuss reforms but never time to correct abuses. I am not in favor of proceeding with such precipitancy as to imperil manufacturing and other protected interests or to create a financial crisis. Nevertheless, I insist we have such material in the possession of the Committee on Ways and Means as with the aid of experts whom we might summon before a committee of the House, if necessary, as to enable us to arrive at judicious decisions. If we committed errors or made mistakes they might be corrected long before a bill formulated upon a report of this commission could be agreed upon. Such has heretofore been the uniform practice in dealing with questions of tariff reform, and I have heard no sufficient reason for the delay.

The dangers and hardships of exacting from the people more revenue than is necessary to carry on the ordinary purposes of the Government have been so forcibly and clearly presented by the Secretary of the Treasury that I cannot do better than to adopt his language as my own. He says:

In view of the large sum that has been paid by the present generation upon the debt, and of the heavy taxation that now bears upon the industry and business of the country, it seems just and proper that another generation should meet a portion of the debt, and that the burdens now laid upon the country should be lightened. It is to be considered, too, whether the seeming affluence of the Treasury does not provoke to expenditure larger in amount than a wise economy would permit, and upon objects that would not meet with favor in a pinched or moderate condition of the Federal exchequer. In some quarters there is already talk of an overflowing Treasury, and projects are put forth for lavish expenditure, not only to the furtherance of public works of doubtful legitimacy and expediency, but in aid of enterprises no more than quasi public in character. And is it a beneficial exercise of governmental power to raise money by taxation in greater sums than the lawful demands upon the Government require, when those demands are of themselves a heavy burden upon the industry and business of the country?

Again, he says:

It is doubtful whether in a government like ours, not designed for a paternal one, these will be held as sufficient reasons for keeping on foot a large public debt, requiring for the management of it, and for the collection of the revenue to meet the interest upon it, many officials and large expense.

His warning against lavish expenditures cannot be too carefully heeded. Already protected monopolists stand ready to make their raids upon the Treasury. The best talent in the land is employed in their service, and both tongue and pen are busy in creating a sentiment in their behalf. Excessive taxes require needless officers for their collection, besides extracting money from the people which might be better employed when left to develop their industries, and it is but robbery to collect more than is required for the legitimate demands of Government.

Again, how are we to obtain this impartial commission to which the gentleman has with so much confidence alluded? It is to be appointed by the President, and we may reasonably suppose it will reflect the views of protectionists. Indeed, the Protectionist, the leading organ of that party, in no equivocal terms has demanded as much. It has declared a "free-trader would be as much out of place upon the tariff commission as an opponent of capital punishment upon a jury in a State where death is a penalty for murder," and similar declarations from other sources but voice the expectations of all protectionists.

It is true the Republican party insists that this commission is only to collect facts which are to be submitted from time to time to Congress, yet the history of trials in courts of justice clearly shows that there is but little difference between advocates and experts. It is but too often the case that the party who introduces an expert expects and does receive the benefit of his services. And since it will be claimed that no one can wisely determine how much duty the manufacturers of iron and steel ought to bear, as those who are engaged in its manufacture, we will in all probability see a chosen band of protectionist brothers invited to reform the tariff. It is not denied that the special knowledge of experts in the various departments to which they have devoted their lives and talents might be of much use in solving the intricate problems which continually present themselves in the adjustment of the tariff; but that very knowledge renders them dangerous to the cause of reform. Each will be but an honest exponent of his specialty. The tender bantling of reform is asked to be gently committed to the commission of expert protectionists to rear it, *quasi agnum committere lupo.*

What is gained by such a commission? Are we, in the language of a distinguished Senator, to swallow without "mastication or deglutition" the report of the commission? Are there any problems so obscure or facts carefully concealed that experts alone can solve or discover them? On the contrary, the facts are annually published in various statistical reports and in our recent thorough and comprehensive census reports, together with the numerous treatises on such subjects in our libraries containing the learning of centuries, which will furnish all the information indispensable to reform the inconsistencies and iniquities of the present system. If anything more was needed, can we not call to our aid the assistance of the very experts whom it is sought to place upon this commission, with the additional advantage for the freest and fullest opportunity for both tariff reformers and protectionists to be heard? Let the test of cross-examination—the true touchstone of truth—be applied to the experts, and we can all receive the benefit of their suggestions and be prepared to take action at the present session. The responsibility should be where the power is, with the Congress of the United States, and the tendency to transfer duties from the House to the committee, from the committee to a commission, has already gone too far. The people are amazed when they see matters of the greatest "pith and moment" neglected or delayed, and their Representativcs shorn of their strength by such legerdemain as has virtually paralyzed the power of the House.

I must confess I am not particularly enamored with the word commission. So far as this country is concerned their creation is a fungus of modern growth, not calculated to commend itself to the confidence of the American people. In regard to the employment of similar bodies in Europe, which has been recommended for our imitation, I will remind the House there is a difference in the character of our institutions. In the aristocratic and paternal governments of the Old World systems of legislation prevail unsuited to the simplicity of ours, which is a government "of the people, for the people, by the people." Even there they are not always efficient. With us the Representative, by short terms and frequent elections, is presumed to be possessed of such local information as to the interests, the feelings, and necessities of his people as will make him a proper exponent of their views, and coming from all sections of this vast and extended country he is better qualified to deal with this question than the most able and impartial commission it is possible to constitute. Indeed, questions of finance are peculiarly subjects which we are expected to legislate in regard to. It would be indeed humiliating to confess our inability to deal with them, for if we are not to treat of such matters, pray what are our duties? Judging from the tone of the press and popular manifestations I had almost come to the conclusion that even the gentlemen across the aisle had begun to believe that the electoral commission of 1876 could not reverse a verdict of history or gloss over the humiliation of the fraud which it accomplished. Still it appears the desire to avoid either responsibility or labor on the part of the representative has popularized such bodies. Within the last few years we have had various commissions, and pray what good has ever been accomplished by any of them? The only beneficiaries are the officers who are appointed to make investigations and reports, which soon encumber libraries or are used as waste paper.

The chief objection to the creation of this commission, as I have already premised, is the delay it imposes in the way of the necessary reform in our law for raising revenue. With all respect I must say that it does appear as if this is the chief merit of the bill in the eyes of its most enthusiastic supporters. In truth, Mr. Chairman, the taxation laws of the United States sit unwelcome guests at every household in this broad land. They rise with us as the piping of the early harbinger of spring calls the sturdy plowman to turn the moist glebe to the welcoming influence of sunshine and shower. They press upon him during the livelong day, and do not leave him as, toilsome and weary, he seeks his bed at night. And is he to submit to this delay in order that the divisions of the Republican party may be healed and the reformers in its ranks captured by the protectionist? I trust not.

We are not here to discuss the abstract questions of absolute free trade, or protection for the sake of protection. The first would destroy all our import duties, and the second would be the destruction of our revenue. We advocate a fair tariff, a just tariff, a tariff for revenue—one which, while giving incidental protection to American industries, should relieve from all needless burdens the producing classes of this country. That the producing class is largely in excess, and therefore entitled to our primary consideration, is shown by our exports for a number of years. Last year there was exported, in round numbers, raw cotton alone to the value of $245,000,000, breadstuffs, provisions, oils, and tobacco, $474,000,000, besides numer-

ous other products of labor embraced in our total exports, which were $883,915,947.

QUESTIONS FOR PROTECTIONISTS.

There are certain questions I now desire to ask the gentleman who last addressed the committee, [Mr. BREWER,] which I would like to have answered either by himself or by any other advocate of a protective tariff who may hereafter appear on that side. They are as follows: protectionists urge that their policy is in the interest of the laboring-man. If in the interest of labor, why is it that there is on this floor no one who has spoken in behalf of protection unless he has an interest in his district that demands exclusive protection? Secondly, why is it that all the advocates of a revenue tariff come from districts where labor is most free from the domination of protected capital? Third, if protection protects the laborer, why is it that all labor disorders and strikes occur in sections where protection prevails, whereas there are no such discontents where monopolies do not exist, to wit, in agricultural districts? Fourth, if all of us are equally protected, as claimed by the gentleman from Ohio, [Mr. MCKINLEY,] who is benefited? What is the necessity of having expensive agents to collect these taxes if they are returned to the parties who pay them? Why not have as near free trade as practicable, to wit, a tariff for revenue? Fifth, if labor is protected by your tariff, why is it that the farmers, who constitute a large majority of the people and who are receiving no protection, are not clamoring for a protective tariff?

It has been asked why, when the Democratic party was in possession of the two Houses of Congress, it did not make the reforms now so strenuously urged. It might be a sufficient answer to inquire whether a failure on the part of that party to discharge its duties will exonerate the Republican party for a like failure on their part. Still we insist that the Government has never been in so favorable a condition to make such needed changes as it is at the present time.

By the wise and judicious economy practiced by the Democratic party while in possession of the House, by the development of our resources and the augmentation of wealth from various causes, we had at the end of the last fiscal year a surplus of over one hundred millions of dollars in the Treasury, and it is anticipated that with judicious economy on the part of the Republicans in the present House there will be an additional one hundred and fifty millions at the close of the present fiscal year.

In the mean time the public debt has been greatly reduced and the rate of interest fixed at 3 and 3½ per cent. on all the bonds which have been renewed. It does not come with good grace for our Republican friends to inquire why the tariff has not been reformed when it is remembered the great body of that party in the last Congress opposed all measures looking to its reduction. It will likewise be recollected that it was in possession of the executive department of the Government, and the Democrats had reasonable cause to apprehend that an adjustment of the tariff to a revenue standard would have been met by the President with a veto. Now, however, this party is clothed with full power by the people. It possesses the three co-ordinate departments of the Government, all of its officers, all of its revenue; and a failure on their part to do their duty will not be condoned by saying the Democrats did so.

In order to present more fully the injustice and hardships of the internal-revenue system, I cannot at this time present as fully as I desire the respective merits of the questions of the high protective tariff and a tariff for revenue. Indeed, these questions have been so fully and ably discussed by the gentlemen who have preceded me, it is not important that I should do so. Still, as this modern Republican party claims to be the exponent of what they term the American system of taxation, I propose to show they are no more sincere in their desire to protect the labor of this country than they are to secure tariff reform by means of a commission. Mr. Clay, who still has numerous admirers and followers among us, was recognized as the great exponent of the American system. He was no advocate of such a system as is urged by the protectionists of this House. In speaking of the tariff he uses these words:

> As far as he could go he would, and that was, not to lay duties for protection alone, but in laying duties for revenue to supply the Government with means to lay them so as to afford incidental protection. He would therefore say to all friends of protection, "Lay aside all attempts beyond this standard, and look to that which is attainable and practicable."

Now, it is clear from the above extract what character of tariff he advocated. He could not go to the extent of its advocates in these latter days, who seem to prefer the more latitudinarian views of Mr. Justice Story, as expressed in his Commentaries on the Constitution.

Judge Cooley, in his able work on the Principles of Constitutional Law, (page 57,) more clearly defines the limitations under which we should act. He says:

> Constitutionally a tax can have no other basis than the raising of a revenue for public purposes, and whatever governmental exaction has not this basis is tyrannical and unlawful. A tax on imports, therefore, the purpose of which is not to raise a revenue, but to discourage and indirectly prohibit some particular import for the benefit of some home manufacture, may well be questioned as being merely colorable and therefore not warranted by constitutional principles.

But we have still higher authority than this, which is nothing less than the decision of the Supreme Court of the United States. In the well-known case of The Loan Association *against* Topeka, 20 Wallace, 657, Mr. Justice Miller, in delivering the opinion of the court, uses the following language, which is so clear and unmistakable it will bear repetition. He says:

> The power to tax is therefore the strongest, the most pervading of all the powers of the Government, reaching directly or indirectly to all classes of the people. It was said by Chief-Justice Marshall, in the case of McCulloch *vs.* The State of Maryland, that the power to tax is the power to destroy. A striking instance of the truth of the proposition is seen in the fact that the existing tax of 10 per cent. imposed by the United States on the circulation of all other banks than the national banks, drove out of existence every State bank of circulation within a year or two after its passage. This power can as readily be employed against one class of individuals and in favor of another, so as to ruin the one class and give unlimited wealth and prosperity to the other, if there is no implied limitation of the uses for which the power may be exercised.
>
> To lay with one hand the power of the Government on the property of the citizen, and with the other to bestow it upon favored individuals to aid private enterprises and build private fortunes, is none the less a robbery because it is done under the forms of law and is called taxation. This is not legislation. It is a decree under legislative forms.
>
> Nor is it taxation. A "tax," says Webster's Dictionary, "is a rate or sum of money assessed on the person or property of a citizen by government for the use of the nation or state." "Taxes are burdens or charges imposed by the legislature upon persons or property to raise money for public purposes."
>
> Coulter, J., in Northern Liberties *vs.* Saint John's Church, says, very forcibly, "I think the common mind has everywhere taken in the understanding that taxes are a public imposition, levied by authority of the Government for the purpose of carrying on the Government in all its machinery and operations—that they are imposed for a public purpose."
>
> * * * * * * *
>
> If it be said that a benefit results to the local public of a town by establishing manufactures, the same may be said of any other business or pursuit which employs capital or labor. The merchant, the mechanic, the innkeeper, the banker, the builder, the steamboat owner, are equally promoters of the public good, and equally deserving the aid of the citizens by forced contributions. No line can be drawn in favor of the manufacturer which would not open the coffers of the public Treasury to the importunities of two-thirds of the business men of the city or town.

It is useless to enlarge on the argument of the court, which is so forcible as to bear conviction to the most ordinary understanding; and when we fail to heed its decisions we are driven amidst darkness in unknown seas.

The decision was made upon the construction of the constitution of a State whose Legislature had more ample powers for their justification than the Congress of the United States would have in attempting to exercise similar powers. We see the Supreme Court clearly prohibits the imposition of a tax for protection, and declares all such taxation null and void.

Now, I do not deny but that a tariff for revenue may have a protective feature, for every duty imposed upon a protected article necessarily prohibits that article to some extent. It serves to give an advantage to the producer of the article as against a party who is not protected. But the primary object of every tax must be for revenue as contradistinguished from protection. The power to discriminate as to the articles to be taxed and the rate of taxation to be imposed upon each is within the discretion of the Government. The limit of the power to tax, with the object of its exercise, should not be confounded. I do not admit the rightful exercise of this power beyond the revenue limit, but within that limit it is conceded to be within its legislative discretion, and while kept within these bounds may be properly exercised. It is well enough to adhere to the limitations prescribed by the Constitution, and never lose sight of those fundamental principles which, while protecting the liberty and property of the citizen, have secured for us unexampled prosperity and made our Government the pride of her people, and won for our free institutions the admiration of the world.

FREE TRADE.

There is much that is attractive in free trade. In general the attempt on the part of the Government to organize and direct its labor violates those natural impulses of freedom to which we instinctively cling, for surely there is no privilege, no right, more dear to any man than that of directing his own labor and capital according to his own discretion. The same principle that applies to the individual applies with equal force to the whole people, and one of the maxims of the fathers was that that is the best government which governs least and leaves the individual free to control his actions and his property as his wishes and tastes may dictate. In government it is true we are compelled to surrender many of our individual views and rights for the blessings of life, liberty, and property which are secured to us, yet be careful that no more are taken away than necessity demands. We submit that a survey of the history of nations discloses the fact that those nations were the most prosperous and civilized whose commerce was most untrammeled and least embarrassed by restrictions upon their commerce. In the language of a distinguished writer on free trade, (Baine,) it is insisted it was free trade that reared the splendors of Tyre upon a miserable islet; that raised the glories of Palmyra in the midst of the sandy desert; that built the marble palaces and churches of Venice on the shoals which scarcely rise above the surface of the Adriatic; that fixed wealth and letters on the frowning rock of Amalfi, and that so overfilled the unwholesome marshes of Holland with riches and inhabitants that the latter built their fine cities on piles and encroached on the domain of the ocean. So England, whose sails whiten every sea and whose commercial prosperity enables her drum-beat to accompany the sun in its daily revolution, has found it for her interests to adopt, in the main, a free-trade policy. As was said by the gentleman from New York [Mr. HEWITT] in his able and instructive speech, it behooves us to be careful that our protective policy does not make us tributary to the greatness of our most enterprising and formidable rival.

Excessive production only stimulates to excessive manufactures. There is a compensation in this as in all other business which as in labor is regulated by supply and demand. High protection and large profits attract too much capital to one pursuit. Profits are reduced, business disorganized, wages unsettled, and labor troubles ensue. Clamorous demands are made for still higher duties, until like rivers confined in too narrow channels, their waters escape and inundation follows. So here by undue stimulating, production increases the excitement, which is followed by panics and bankruptcy. Under such conditions only strong capitalists can survive, while the weaker must go to the wall. This cry of protecting our infant industries will never cease while the old infant now ninety years of age becomes more wily and is encouraged to keep up his wailings. On the contrary, he is but stimulated to cry like the daughters of the horse-leech, "Give, give!" Rather than support this deformity, let him be discarded and turned over to some foundling hospital as an unnatural American offspring.

With all their professed sympathy for the workingman on the part of protectionists it is well known that the bulk of the immigrants instead of seeking employment in protected New England prefer the unprotected pursuits of the great West. My own impression is that the effect of protection tends more to the development of monopolies than the benefit of the people. Instead of the Government deriving an equal proportion of the revenue from such sources the chief part goes to enrich the favored few. As an illustration. let us take the five articles of prime necessity and see the amount of tax paid by the people to the manufacturer and amount paid to the Government on foreign goods. From the census of 1870, if we estimate a regular rate of increase up to 1880, we will find the revenue derived by the Government from duty paid on cotton goods imported would be $9,976,000; on woolen goods, $29,238,000; on iron and steel, $19,180,000; on sugar imported, $42,210,000; on leather and morocco imported, $3,411,000; total revenue, $104,015,000. The bounties paid on these five articles to producers and manufacturers were, on cotton manufacture, $105,536,000; woolen manufacture, $134,466,000; iron and steel, $160,985,000; sugar, $12,822,000; leather, $139,605,000; total bounty, $553,414,000. So that we see from the foregoing summary manufactures derived more than five times as much revenue from the tariff as the Government itself.

It cannot be maintained that the employés of labor advance their wages because their profits are large, but simply when the demand is greater than the supply. Capital is not sentimental, and my connection with an institution of charity leads me to know that the fullest purse is not the soonest opened to appeals for aid. From advance sheets of the Census Bureau I find tables showing the number of persons employed in the manufacture of cotton goods, which, taking their whole number, skilled and unskilled, aggregate 181,628; the amount of bounty paid by the Government to these cotton manufacturers, as I have just shown, is $105,536,000 more than they are worth, or rather more than they might be purchased for without the tariff. If we divide this protection fund by the number of factory hands, we find the result will be that the compensation we pay each one should be $581. Can any one suppose that they get the money? In regard to the $134,466,000 paid to the wool-growers and manufacturers as a bounty not above $28,000,000 go to the Government, which leaves $106,466,000 to the others. According to the census of 1870 the number of operatives employed in these factories was 92,973, and if they increased in proportion to the general ratio we may suppose they must amount at this time to 119,786. If the bounty paid by the people be divided by this number, we find that the share of each would be $880.80. Who supposes they received anything like even half that amount? So I might pursue the calculation in regard to the articles specified, but the above is sufficient for the illustrations I desire to offer.

I wish it distinctly understood I am not the enemy of capital or manufacturers. On the contrary, I believe our country cannot be successfully developed without giving all legitimate protection and encouragement to each. While we wage unceasing war upon monopolies, exclusive privileges are not congenial to our democratic ideas. The great thing we peculiarly need at the South to develop her abundant resources are capital and manufacturers. In my own State every element which enters into successful manufacturing seems to be present. The force of her rivers rushing from her mountain sides are sufficient to turn the spindles of the world. The climate is pleasant and healthy; raw material at the factory door, consisting of iron and coal, wood, cotton, and tobacco, are all awaiting the advent of capital, while our labor is abundant and ready to work. Yet when the improved machinery is sought for the purpose of building up the factories and steel or iron rails to construct our increasing railroads we are met with an unjust and discriminating tariff. While, as I have stated, I am no enemy to capital, and appreciate its great blessings to any country when legitimately employed. I know full well it is able to take care of itself. It is active, vigilant, and aggressive in business enterprises. It readily secures artificial in addition to its material advantages, and by combinations controls the markets of the country and the arteries of travel and commerce, while labor is struggling for its daily bread, segregated and without ability to cope with it.

There is another reason which has great weight with me in urging a speedy consideration of tariff reform by the present Congress. The present system is so inconsistent and incongruous as to produce numberless litigations and bears oppressively upon many whose great desire is to respect the law. The rulings of the Treasury Department are often perplexing, and our statutes are often construed by the Treasurer contrary to the decisions of the court, and large amounts of money are ordered to be refunded to the manufacturer which have been paid to him by the consumer. A well-regulated tariff will probably diminish in a few limited fields the colossal profits of the monopolists, but it will lighten the burden of daily life of the mass of the people. It should reduce the price of many things which now enter into his daily consumption, which can be done and at the same time add to the revenues of the Government. The truth of this has been proven numberless times. A recent example is when the tax on whisky was reduced from $2 to 90 cents the revenue was largely increased, and when the tax on tobacco was reduced to 16 cents the same result followed. A well-adjusted tariff will bring an increased revenue, and we can then take steps to abolish or greatly modify the internal-revenue system. The excise system of taxation, however well adapted to the machinery for the collection of State taxes, is not suited to the Government of the United States, and this not only because of the difficulties of framing a law which would be sufficient and yet not oppressive, but also because of the instruments through whom it is administered. Hence, at the early part of this session I introduced a bill for the repeal of the whole system of the internal-revenue law.

### INTERNAL-REVENUE TAXATION.

This law was adopted during the throes of the saddest, bloodiest war of modern times, while the passions of men were greatly moved and the very destiny of the Union hung trembling in the balance. It was not to be expected that it should be adapted to the times of peace and of general average prosperity.

Year by year we have seen our debt decrease and our taxes increase. We have seen the marvelous development of the country, its railroads, those great arteries of travel and commerce, extend from 33,908 miles in 1865 to 93,671 in 1881, and its industries, large and diversified, in almost as great a proportion. And while we had in the Treasury of the United States at the end of the last fiscal year a surplus of more than $100,000,000, which it is estimated will be augmented during the current year to one hundred and fifty millions, inviting to new enterprises of questionable propriety, and drawing to this center lobbyists and corruptionists, the unjust taxes imposed by the internal revenue are still enforced in many particulars with but slight abatement of their initial rigor, when, if the estimates are correct, they might be now greatly decreased if not abolished altogether. May God speed the day. While the bill I had the honor to introduce embraced many items in which my people have no especial personal interest, in the interest of the country at large I believe that the whole enactment should be stricken from the statute-books. I am pained to think, therefore, that the bill recently introduced from the Committee on Ways and Means on this subject cannot receive my support, believing it to be in the line of bad precedents, as it only decreases the taxes of that class most able to bear them. Still, I will hear what its advocates have to say before fully committing myself against it. If proper amendments are incorporated it will receive my support.

A consideration of the action of the fathers who framed our Constitution and the discussion that arose in regard to the question of taxation are both interesting and instructive. Of this body Lord Chatham said that for himself he must declare that he had studied and admired the free states of antiquity, the master states of the world, but for solidity of reasoning, force of sagacity, and wisdom of conclusions no body of men could stand in preference to them.

From Elliot's Debates we find that in that convention of wise, able, and patriotic men the question of internal-revenue taxation was scarcely alluded to. While the power was not withheld from the Government, it is clear that it was not contemplated this system would be resorted to. They were too jealous of their liberties, too much opposed to the system of spies and informers, who, in the opinion of the Republican party, seem necessary in order to collect excises, to approve a resort to such measures of taxation while others would answer. To meet the heavy indebtedness occasioned by the war Mr. Madison, upon the opening of Congress in July, 1789, introduced a revenue bill providing for the collection of impost duties. But as collections from this source were not adequate to meet the increasing demands of the Government, Mr. Hamilton prepared a bill for the imposition of internal taxes, to which Congress reluctantly consented. This law went into effect in 1792 and was intended only as a temporary expedient. While the people for a time submitted to this tax, yet it was not collected without producing great discontent. These discontents ultimately manifested themselves in armed resistance to the authority of the Government, and constitute what is historically known as the "Whisky Rebellion." So well armed and organized were these confederates that their opposition to what was conceived an unjust and iniquitous law was only composed by great discretion and forbearance on the part of the General Government, which, though it carried an army into the disaffected territory, was careful not to resort to violence until all means of pacification had failed. The Government in the face of such resistance could not at once repeal the law, yet its enforcement was languidly continued

and modifications were made in order that its scope and effect might be disguised. It was finally declared unconstitutional by the Supreme Court of the United States.

In regard to this insurrection Mr. Jefferson, in a letter to Mr. Monroe, dated Philadelphia, May 19, 1793, uses the following language:

The people in the western parts of this State have been to the excise officer and threatened to burn his house, &c. They were blackened and otherwise disguised so as to be unknown. He has resigned and H. says there is no possibility of getting the law executed there and that probably the evil will spread. A proclamation is to be issued; another instance of my being forced to appear to approve what I have condemned uniformly from its first conception.

At the close of the campaign he was still more emphatic in his condemnation of this excise system, speaking of it as an "infernal" one; that the first error was to admit it into the Constitution, and the second to act on that admission. This whole matter is so clearly presented by the honorable chairman of the Committee on Ways and Means, [Mr. KELLEY,] in an address delivered before the New York tariff convention in November last, that I was trusting to have him as my Palinurus in repealing this obnoxious and anti-republican system of taxation until after the recent action of the Republican caucus became known. I am pained to hear that principles for which he had contended on the stump and in Congress for years have been laid aside since he "acquiesced." Rather give me such a leader as the rough Mississippi steamboat engineer, who

Held the nozzle agin the bank
'Till the last soul got on shore.

This law which had caused such discontent was repealed upon the suggestion of President Jefferson in 1802, and during its existence was but ineffectully enforced. During the war of 1812 a similar enactment embodying some of the provisions of the old law was re-enacted, but owing to its unpopularity, on the suggestion of President Monroe, in his first annual message to Congress, it was repealed.

The circumstances of its adoption during our late civil war are familiar to many in this House. The Government was driven to adopt every possible means to maintain her credit, feed the soldier, and preserve the Union. The foe which the soldier confronted in the field was of the same kindred, same race, and equally resolute in maintaining his own cause. The prize for which the Federal Government contended was to maintain the Union, around which clung the many cherished memories of the past and the bright hopes of the future. In the struggle to supply the sinews of war it was found necessary to resort to every constitutional source of taxation. To one familiar with the legislation of that period of anxiety and apprehension, it is manifest it was regarded as only a temporary system. So great were the exigencies of the occasion, Mr. Sumner, the great apostle of freedom, in 1863, introduced an amendment to the law for the purpose of placing a tax on slaves. Nevertheless, it was insisted, even in those times, that never had a tax-gatherer in the history of the Government gone about under Federal authority nor the people been called upon to pay into the Treasury this class of taxes.

Said Mr. PENDLETON, of Ohio, "During the war of 1812 there were some instances in which land taxes were raised, but a tax like this, which goes into every house, into every business, every neighborhood, which taxes everything a man eats and all he wears, which enters into the consideration of every man engaged in every business, had never before appeared in the country;" and similar sentiments were expressed by others. Yet, the exigency was extraordinary; a regard for precedents, and even law, ignored in order to avert impending dangers. The force of the argument, however, was fully appreciated, and so soon as the war ended Congress at once set itself about repealing some of its most obnoxious provisions, for the people were restless under its enforcement. It is not my purpose to dwell upon the trials and hardships and saddened memories of those days, for with us the war is over and we have duties to discharge to the living, while not forgetting the virtues and sacrifices of those who have crossed the river before us. There is a brighter side to this unrelenting struggle, to which it is now my pleasure to turn. It is true our sacrifices were great, our sufferings almost unequaled, yet their consequences were not without their good results. The war gave to our history some of the most illustrious examples of statesmanship and soldierly qualities which adorn the annals of time.

Not to mention the living, I need only direct your attention to the homely and practical wisdom, the kindly heart and infinite jest of Lincoln; the matchless skill, unselfish devotion, and great forbearance of Lee; the heroism and daring of Thomas; the simple faith and military genius of Jackson and their compeers, in confirmation of this assertion. Their deeds and their fame constitute the brightest pages of American history; and the story of their noble lives will inspire children yet unborn to deeds of patriotism and virtue. Again, the military renown of this country became such as to give us perhaps the foremost place among martial nations, while the war acted as a great educator of the people, causing the soldiers of either army to endure hardships, practice forbearance, traverse sections, and become acquainted with people of different States and localities, of which otherwise they would have remained in ignorance. Furthermore, it removed from our midst the great element of sectional discord, elevated labor, stimulated inventions, unified our people, and secured for us, it is to be hoped, peace for many years to come. It is time, therefore, that this tax, the most obnoxious relic of the war, and the spies and informers whom the Republican party seems to think necessary for its collection—an immense army of demoralization and oppression—should no longer be imposed upon the people. This burning shame and national disgrace of employing spies and informers to watch over and interfere with the business of a free people tends not only to humiliate and despoil them but tempts and corrupts the tax-gatherer, who, while clothed with a little brief authority, lords it as if there were none to dispute his right to appropriate to his own uses this green heritage which God has given to man.

OFFICIAL CORRUPTION.

I will not charge that all the officers engaged in the collection of this tax are venal and corrupt. Still enough is known from the famous whisky-ring investigations of the West, made a few years ago, to lead us to suppose that the "trail of the serpent" led even to the door of the White House itself. The people of my State have certainly been greatly cursed by the mode of collecting this tax and the character of the revenue officers sent among them, so much so as to cause a leading temperance paper of the South, the Spirit of the Age, published at Raleigh, in commenting on an editorial in one of the ablest political papers of my section, to use the following language in its issue of December 9, 1881. Under the title The Revenue Law it says:

The News and Observer of this city is not a temperance paper. Therefore what it says about abolishing the internal-revenue system, so far as it relates to whisky, is not said in the interest of temperance, specially, but in the interest of the people, the State, and the country generally.

We heartily agree with that paper in saying of the internal-revenue system, "we want the people of the State relieved from this incubus which sits as a vampire bleeding them at every pore and sapping the foundations of patriotism and independent action."

We write not as a politician but as a temperance man when we declare that, in our opinion, the Government tax on alcoholic liquors distilled in North Carolina is wrong in principle, is an infringement upon the rights of freemen, and, instead of its being a source of revenue to the Government, it goes to the collectors, storekeepers, and hangers-on generally, keeping them in comparative idleness and ease, and many of them in luxury, at the expense of that unfortunate class of people who will spend their money for whisky.

I fully indorse every word contained in the foregoing extract so far as concerns the administration of the law in my State. In discussing a matter of such national importance it is not my purpose to limit my remarks further than is indispensable to any particular locality. Yet, as I am more familiar with the operation of this law in my State than in other localities, I must be pardoned for drawing attention to one of the districts where I am frank to confess there have been more abuses than in all the others combined. As my colleague [Mr. ARMFIELD] resides in this (the sixth) district and has already introduced a resolution into this House asking for an investigation, I will content myself with leaving the matter to him.

However much I may be opposed to sumptuary laws as an unnecessary interference with the individual rights of the citizen, being unwilling to dictate what he shall eat, what he shall drink, or how he shall be clothed, I am not ignorant of the great curse of intemperance. Many a happy wife has been widowed, many a child orphaned, many a useful man ruined, and our jails and almshouses filled with the victims of intemperance. It is a curse which, while I would gladly see it removed from our midst, I believe it must be done not by the strong arm of the law but by moral persuasion and intelligent culture.

But that is not the question we are now considering, but rather whether the system of internal-revenue taxation shall be repealed. There are some who advocate that the taxes collected from spirits should be devoted to the purposes of education. It would be far better to leave the regulation of the matter in the hands of the States where the evil exists and where the subject of education properly belongs.

But I submit, with all respect, that while the Government may aid the States it must not direct the education of these people. We want no such centralizing influence, and certainly it should not seek to draw from this source the money she may contribute for this purpose, which is too uncertain and unreliable, while the law itself is contrary to those principles of freedom which it is her duty to inculcate. If we would see this Government prosperous and happy, it must be by a diffusion of knowledge among the masses of the people. This knowledge can only be acquired by popular education, which gives them the means of understanding and appreciating the character of our institutions and conduct of their rulers, who are, indeed, no more than their agents and trustees; and if their interests and trusts are betrayed or wantonly neglected, they should have intelligence and virtue enough to revoke their authority and constitute others to more faithfully fulfill these duties.

Within the last few days the Senate Committee on Education and Labor gave a hearing to several representatives of temperance societies on the subject of proposed measures to constitute the whisky revenue a national education fund. Before that body appeared Mr. A. M. Powell, of New York, secretary of the National Temperance Society, and Mrs. J. Ellen Foster, representing the National Woman's Christian Temperance Union, and in behalf of their respective associations opposed the passage of any measure to aid education by a tax on whisky. I am gratified to see they were not only unwilling to maintain education by such support but by their opposition struck a blow at this undemocratic system of taxation.

I might show that a great deal of spirits are used in the mechanical industries, of which the people have very little conception, and that the artisan and manufacturer would be greatly relieved by the removal of this onerous burden; but that is not necessary for the argument. One difficulty in the way of securing the repeal of this law is its association with false issues and mere sentiment, and its local character contributes to these troubles. As was truthfully said by the American Protectionist in January last, when seeking the alliance of the advocates of its repeal—

The point has been made that the industries directly concerned in the tax on domestic spirits and tobacco do not demand their abolition; that these taxes were not imposed for the benefit of the manufacturers of whisky or tobacco, but for that of the whole country, and the general interests of the whole country should be considered in regard to their repeal in preference to those of the distillers and cigar-makers. It is also true that the fact that these industries are under the control of the internal-revenue officials may induce reticence as to the abolition of their offices.

In effecting its repeal care must be taken that the manufacturers are justly and generously dealt with; the golden rule should be our standard. One of the greatest hardships which the collection of internal taxes imposes, one which tends more to crush out a respect for law and high sense of honor, and that love of liberty which should inspire every American freeman, is the immunity from punishment which the Federal officer enjoys when violating the most sacred rights of the citizen. It was the boast of a great English statesman that in his country—

The poorest man in his cottage may bid defiance to all the forces of the Crown. It may be frail; its roof may shake; the wind may blow through it; the storm may enter it; but the King of England cannot enter it! All his power dares not cross the threshold of that ruined tenement.

It was a spirit born of such aspirations which caused the gallant Crittenden, who in the ill-starred Lopez expedition was captured and condemned to death, when directed by his captors to turn and kneel to be shot, looking them defiantly in the face, while his eye reflected the sentiments of his dauntless soul, to exclaim: "An American kneels to none but his God, and dies with his face to his foe." It is a spirit such as this that has given to our volunteer army its matchless *esprit du corps*, which makes them irresistible in battle. It is this spirit that caused our public men prior to the war to look upon dishonor as a stain. It was this spirit that caused the private citizen to demand of his representative an honest and faithful discharge of his public duties, and it is this spirit that we must cherish and cultivate among all classes if we would see the affairs of our great and growing country conducted upon those high principles of honor and integrity which alone can give it permanency and continued prosperity.

CONFLICT BETWEEN STATE AND FEDERAL COURTS.

A revenue officer, when indicted in a State court for any crime, upon making affidavit that it was done in the line of his duty can remove his cause to the Federal court, and my mind fails to recall an instance of the conviction of any one who has thus transferred his cause. The greatest outrages are perpetrated in rural sections where the people are simple, honest, and ignorant of the machinery of Federal procedure of which they stand in wholesome fear. They know but little of the General Government, except from their knowledge of the prosecutions they are subjected to for violations of laws which they consider unjust and unnatural. They cannot understand why converting their corn into hominy is permissible, but converting it into whisky may be criminal. They cannot understand why feeding their fruit to their hogs is permitted, yet converting it into brandy may be forbidden. They cannot understand why they are free to raise cabbages, but if they raise tobacco they are to be watched by spies and informers. They cannot understand why their farm products are burdened with such taxes, while the great and growing monopolies of the land must be favored with protection. The consequence is that a spirit of discontent and rebellion is engendered by the treatment these people receive at the hands of the Government in those places where it should be its policy to cultivate feelings of confidence and respect. Not to multiply instances of outrages, of robberies, of murders committed in the name of the law, I will relate but two.

In my State there was an outrage committed upon a young girl of that dastardly character at which the heart of every true man revolts, for which the perpetrator was indicted in the State court. Upon affidavit, singular as it may appear, the case was removed to the United States court. The judge in the State court (a Republican) refused the application for removal, but a writ of *habeas corpus cum causa* was issued by the judge of the Federal court to the clerk, and the case was transferred. In the opinion of some of the best lawyers there is no method provided for the trial of criminal cases thus removed to the Federal courts, and if tried and the parties are convicted, there are no means for punishing them. I am informed that the United States district judge for the western district of my State entertains this opinion. A knowledge of this fact often makes the citizen desperate and he becomes his own avenger. The officer, on the contrary, becomes tyrannical and oppressive. I can speak more frankly about these matters without being amenable to the charge of sectionalism, when it is known that as a judge upon the bench in my State it became my painful duty to decide that a revenue officer had a right under the United States law to remove his case to a Federal court. It was a time of high excitement; the feeling was not dissimilar to that which existed in Pennsylvania during the time of the "whisky rebellion," and but for the confidence generally reposed in the correctness of the decision by the bar, I am of the opinion similar results would have followed; not from any spirit of disloyalty to the Government, for the subjects of these outrages are not confined to party.

I am requested by the honorable member from Georgia, [Mr. SPEER,] who in his speech the other day on this subject related a case of murder recently committed by revenue officers in Georgia, to say that the parties were bound over by a United States commissioner for a simple misdemeanor. And to further state, he has never heard of the conviction of a party whose cause has been thus removed. Indeed, how could it be otherwise? When a party violates a law of the State he immediately becomes invested with all the protection the Federal Government can throw around him. The United States district attorney is no longer prosecutor, but by statute is assigned for his defense. The marshal sympathizes with him, the jury can hardly be said to be impartially drawn, and an attorney who is employed to prosecute is not looked on with favor. The witnesses are treated with indifference and are discouraged. It is held by some United States judges that whatever be the nature of the offense the offender may either go or be carried before a United States commissioner in the first instance, and bound over to appear at the Federal court, which would divest the State court of all jurisdiction. When thus carried before the Federal court, how is the party to be tried? Who is to present the case before the grand jury? Who is to draw the indictment? Who is to confer with the witnesses? The United States attorney appears in an anomalous attitude of appearing for instead of against a criminal.

When as a judge I was compelled to decide in favor of the removal of such causes, I am frank to say it was not done until after a thorough and painful examination of the authorities. I appreciated the great outrage which had been committed upon the citizen and determined at the earliest opportunity to seek at the hands of the American Congress the repeal of a law so destructive of justice and violative of every instinct of our nature. The other case was related to me by a distinguished officer of the Internal Revenue Department in this city, and it is illustrative of other cases I have heard of. A poor man in Texas purchased the establishment of a small liquor dealer, and bought, as he supposed he had a right to do, the license to continue the business. He discovered soon that he was in error, and applied to a marshal to get him a license from the collector, which he did, and for which he paid $25, and then supposed that he was all right, but, as you may perceive, was guilty of a technical violation of the law while selling under the former license. When the Federal court met he was indicted, which fact coming to his knowledge he ran off, leaving his business, and traveled through New Mexico on foot into Colorado. Here he settled down to make his living, when the marshal with the instinct of a sleuth-hound tracked him up, arrested him, carried him back, and thrust him into jail, and for this valuable service to the Government in oppressing a poor inoffensive man who had sought to obey her laws received for mileage and fees $594.

I might point you to other outrages and corruptions, but I am aware the abuses of a law are not always arguments for its repeal; but I do insist that no system of taxation can be devised which is so liable to abuse, unjust, unequal, oppressive, and calculated to crush out the spirit of independence, and grind the faces of the poor as this iniquitous law. Some revenue officers are honorable men, and endeavor to lighten its hardships. As the country has become more quiet, as the people have learned to suffer and be silent, we have had less resistance and fewer conflicts, but the best class of officers are confined to the towns and cities, and are often ignorant or indifferent to the abuses of their subordinates. The chief reason urged for the continuance of this system is that revenue must be had, and had better be raised on luxuries than on necessities. To which I answer, the sole object of government is not to amass treasure, but to consider the means employed to collect a revenue so that it does not destroy but promote the greatest happiness of the greatest number.

Again, I answer in regard to this character of tax, even if a luxury, it contravenes what should be a fundamental principle of our Government, in that it bears unequally and oppressively upon industrial pursuits in particular sections which are least able to bear them. The whisky which is worth $3 per gallon, and drank by the wealthy, pays but 30 per cent., while that which is consumed by the poor man and tradesman, and worth but thirty cents, pays a tax of 300 per cent. The tobacco which is worth eight cents pays 200 per cent., while that which is worth $1 pays but 16 per cent.; but this is not the greatest hardship on the producer of tobacco. He is not allowed to sell except to authorized dealers, and the consequence is, however remote he may be from market, however much his neighbor may wish to purchase it, he is compelled to keep it until it rots on his hands, or sell it to an authorized dealer, else through envy of some one he may be carried hundreds of miles to court to await his trial from term to term, pay his lawyer's fee, and consider himself fortunate if he escapes with the mere payment of costs. I am aware that penalties are usually severe in all excise laws, especially where the taxes are high, for the temptation for their violation then becomes great; but my objection is not so much to its penalties as to the character of the law itself.

I do not insist that the law is unconstitutional, but is unjust and does not bear uniformly, nor even approximate uniformity, in its operation. We all derive the same amount of protection at the hands of the Government, and should be willing to bear our due proportion of its burdens.

INEQUALITIES OF INTERNAL-REVENUE TAXATION.

No law could bear more unequally upon the people of particular sections and upon particular political divisions than our present revenue system, and singular as it may appear the portions of the country which bear the bulk of this burden have fewest protected industries. In illustration of this proposition, let us see from whence the taxes imposed under it are derived. The State of North Carolina, whose aggregate population is about one million four hundred thousand, and whose taxable property by the last assessment is $170,000,000, pays more internal taxes than all the following States combined, namely: Alabama, Arkansas, Iowa, Maine, Mississippi, South Carolina, Vermont, Texas, Kansas, and Georgia, whose aggregate population is over 10,800,000, and whose taxable property is nearly $2,150,000,000. The comparison by States further discloses the fact that while some of them are actually paying a tax equal to $8.37 per capita, namely, Illinois, Mississippi pays only 8½ cents, so that it is seen a great part of the farmers of the United States are actually punished for the nature of the products and the character of the soil they are compelled to cultivate. We learn from the report of the Commissioner of Internal Revenue that during the fiscal year 1880-'81 the people and industries of the Western States paid one-half of the revenues raised; that the three Middle Atlantic States, New York, New Jersey, and Pennsylvania, paid one-quarter, and that one State alone, Illinois, as already stated, paid one-fifth; that Virginia pays three times and Kentucky four times as much as Massachusetts, and twice as much as the Pacific States; that although the real and personal property of Massachusetts alone is valued at $1,753,762,637, while Kentucky has only $356,423,946, the latter State paid more than twice as much as all the New England States combined, and in addition her proportion of the revenue raised by a tariff tax for the benefit of New England's monopolies.

The amount of taxes raised under this law has diminished by over $300,000 in the New England States since 1875, while it has been increased by $25,000,000 in thirty-one other States and Territories, being nearly doubled in Illinois and Indiana alone. What are the facts. The internal-revenue tax raised in Connecticut in 1881 was one-sixteenth of what it was in 1866, while that of Illinois has almost doubled. Vermont in 1881 paid less by one million, and Indiana two millions more; Maine two and three-quarter millions less, and Virginia nearly five millions more; Massachusetts in 1881 paid one-twelfth of what she paid in 1866, while the tax of Kentucky increased nearly twofold and that of North Carolina fivefold. The tax paid by the five New England States was $58,253,446 in 1866, and only $3,933,772 in 1881; but the three Southern States of North Carolina, Kentucky and Virginia paid $28,326,775 in 1866 and $30,524,641 in 1881. These facts demonstrate that the several amendments to the law made since any reduction whatever was attempted have resulted in placing nearly the entire burden of the tax raised ($98,000,000 out of $135,000,000) upon eight States of the Union.

Now, where is the justice in thus discriminating against a man who is driven to raise these articles out of which this revenue is collected while others are untaxed; and when these vast taxes are taken from a State where are the imports to compensate for this loss, and with what equity can a government thus discriminate against one portion of the people for the benefit of others. When all things are considered the system is really more obnoxious than that of a protective tariff, and when I see my people oppressed by such unjust discriminations, vexed and harassed by spies and informers, and left at the mercy of unscrupulous revenue officials, I am ready to sustain a repeal of the whole law, even if the tariff is increased in order to defray the expenses of the Government.

It is shown that the Western and Southern States paid over one hundred millions of the internal-revenue tax of the past fiscal year, while the Eastern and Atlantic Middle States paid about thirty-four millions, being approximately one-fourth the whole amount. It is also shown that while the West and South paid the bulk of this tax, and the amount paid by them is annually increasing in these political divisions, in the other States it is continually diminishing. I will not fatigue the committee with further statistics in regard to the comparative wealth and population of these respective divisions which would make the contrast more glaring, as I desire to pass on to another illustration, which is, that while these States have comparatively few manufactories and are receiving but little protection under the present tariff, yet the New England States and Pennsylvania, which receive the bulk of protection, pay a minimum of internal revenue. The census returns of 1870 (those of 1880 not yet completed) place the amount of capital invested in manufactures in the United States at $2,118,208,769 and value of goods manufactured at $4,232,325,442. These figures are probably largely underestimated, but will answer for the present purpose. New England and Pennsylvania, with $896,487,877 of the above capital, produced more than one-half the whole production, and on this amount the Government grants a bonus, in the way of tariff, of from 35 to 61 per cent. Taking the average at 50 per cent., these seven States took from consumers $1,000,000,000, and paid a minimum amount of tariff duties and internal-revenue taxes. Here is a great want of uniformity. The tariff should be modified so as to require the citizens of every portion to bear their equal proportion for the support of the Government from which they receive protection of life, person, and property. The idea of requiring one man or one community to submit to impositions for the purpose of supporting and protecting another not afflicted by infirmaties or misfortunes is preposterous and iniquitious.

The question may arise, why it is that these things have been submitted to so long when the great West and South by their grain, provisions, and cotton furnish the export which gives character and credit to the Government and enables it to more than maintain the balance of trade? Why is it that such things are permitted? Why has there not been a reform in the system which would afford greater protection to the farming and laboring classes constituting nine-tenths of the people? So far from it, the tariff in many cases places the largest duty on lower grades of goods or such as these classes would be obliged to purchase, thus laying upon them the heaviest burdens of taxation instead of protecting them from the oppression of capital. I quote a few examples:

Blankets—duty on the cheapest, 90 per cent.; on the dearest, 75 per cent.
Hats—woolen—duty on the cheapest, 84 to 92 per cent.; on the dearest, 63 per cent.
Hosiery—duty on the cheapest, 96 per cent.; on the dearest, 55 per cent.
Dress goods—duty on the cheapest, 70 per cent.; on the dearest, 67 per cent.
Bleached cotton—duty on the cheapest, 47 per cent.; on the dearest, 35 per cent.
Flannel—duty on the cheapest, 89 per cent.; on the dearest, 61 per cent.

Of several articles largely consumed by the industrial classes the tariff duty substantially prohibits importation, compels the consumer to pay a price largely in excess of real value as a bonus to our manufacturers, and deprives the Government of a large amount of revenue. I need only cite a few examples:

| In 1881 the tariff duties produced— | |
|---|---|
| On cut nails and spikes | $127 00 |
| On cut tacks | 15 00 |
| On horseshoe nails | 20 00 |
| On lead ore | 89 00 |
| On screws | 4,890 00 |
| On steel wire | 1,761 00 |
| On crude oil | 1 50 |
| On petroleum | 3,403 00 |
| On flannels | 1,129 00 |
| On yarn | 3,000 00 |

Blankets, steel rails, and spool threads are so effectually protected that we are obliged to pay nearly double the price more than we would without excessive tariff restriction. The revenues received from these sources are insignificantly small, because the duties are so high as to prevent or restrict importation. Foreign competition is cut off and the consumer is compelled to pay the domestic producer a higher price than that charged by the foreign producer, and for every dollar paid as duty to the Government on such protected articles thousands are paid in bounty or increased price to the domestic manufacturer. These unjust discriminations of a protective tariff are not in the interests of a majority but of a very small minority of the American people. They do not afford relief to the great industrial and working classes of the country, but a positive wrong. It compels them to pay bounty not only on the articles entering into manufacture but on the manufactured articles as well.

The United States yields more than one-half the world's production of iron; Pennsylvania alone one-quarter. This State in 1880 produced 3,325,925 tons in the various forms of pig iron, steel, rails, nails, &c. Protective duties on iron industries favored her to the extent of $84,989,379, an amount equal to 63 per cent.

But I cannot pursue this subject further, while I am conscious of having omitted matters that might have been properly touched upon. It is not my purpose to legislate for or against any particular interest, nor to condemn the legitimate uses of capital; nor am I here to array section against section. Adopting the idea and slightly changing the phraseology of New England's greatest statesman, I will say we look upon the States not as separated but as united. We love to dwell on that union, and on the mutual happiness which it has so much promoted, and the common renown which it has greatly contributed to acquire. In our contemplation, North Carolina and Massachusetts are parts of the same country, States united under the same general Government, having interests common, associated, intermingled. Hence when California appealed for relief from the burden of transient servile labor which she insisted was jeopardizing her safety, while questioning the policy of such legislation, as a representative of North Carolina I went to the aid of her sister on the Pacific slope. Again, while I detested Mormonism and looked upon it as a fearful curse and a reproach to the American Government, legislating for a great people I was willing to do all within the proper sphere of the Constitution to eradicate it. Yet, believing the bill which was passed to be in the nature of a bill of attainder, and that it condemned the bulk of a peaceful people without a hearing, I could not give it my support. In the same spirit I ask the representatives of all the States to come to the aid of those sections which are suffering from this odious internal-revenue tax, believing they cannot suffer it to remain upon the statute-book without doing manifest injury to the very spirit of our laws, and inflicting corresponding wrong upon all sections of the country.

In conclusion, I inquire now, as I did at the beginning, why should these great questions be delayed from month to month, from year to year, with an immense and increasing surplus in the Treasury, even if protection must be persisted in? The intolerable oppression, not to say crying injustice, of parts of the present tariff in its exorbitant taxation of the prime necessities of life are not denied, and ought to and will condemn any party which persists in disingenuous delay. The attention of the people is being directed to these matters, and sooner or later they will be aroused. Through the might that slumbers in the ballot their voices will be heard, if not through this Congress at least through one better representing their views.

In the interest, then, of a great country, a magnanimous and just people, let us fearlessly do our duty and leave results to those by whose authority we are here.

Mr. HUBBELL obtained the floor.

Mr. KELLEY. If the gentleman from Michigan will yield to me I will move that the committee now rise.

Mr. HUBBELL. I will yield for that purpose.

Mr. KELLEY. I move that the committee now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. CAMP reported that the Committee of the Whole House on the state of the Union had had under consideration the bill (H. R. No. 2315) to provide for the appointment of a commission to investigate the question of the tariff and the internal-revenue laws, and had come to no resolution thereon.

ILLINOIS AND MISSISSIPPI CANAL.

Mr. HENDERSON, by unanimous consent, from the Committee on Railways and Canals, reported back with a favorable recommendation the bill (H. R. No. 2248) to provide for the construction of the Illinois and Mississippi Canal and to cheapen transportation; which was referred to the Committee of the Whole House on the state of the Union, and the accompanying report ordered to be printed.

Mr. SPRINGER. I ask unanimous consent that the bill just reported by my colleague [Mr. HENDERSON] be made a special order for the first Tuesday in May next, not to interfere with existing special orders or with appropriation bills.

Mr. RANDALL. I object.

Mr. BURROWS, of Michigan. That had better not be done now.

Mr. HENDERSON. I desire to state that the minority of the Committee on Railways and Canals desires permission hereafter to submit their views.

The SPEAKER. Without objection, they will have permission to do so.

HOT SPRINGS, ARKANSAS.

Mr. CRAVENS, by unanimous consent, from the Committee on the Public Lands, reported back the special message of the President, transmitting a communication from the Secretary of the Interior relative to an appropriation for the improvement of the Hot Springs reservation in Arkansas; and the same was referred to the Committee on Appropriations, and the accompanying report ordered to be printed.

LIGHTS IN CHICAGO HARBOR.

Mr. DAVIS, of Illinois. I ask unanimous consent for a change of reference of the joint resolution (H. R. No. 186) in relation to lights in Chicago Harbor, Illinois. That joint resolution was reported yesterday from the Committee on Commerce and referred to the Committee on Appropriations. As it involves no appropriation, I ask consent that the Committee on Appropriations be discharged from its further consideration, and that it be placed on the House Calendar.

Mr. PAGE. I desire to state that there was a mistake in the reference. I thought the joint resolution contained an appropriation; it does not.

There was no objection, and it was ordered accordingly.

ORDER OF BUSINESS.

Mr. WISE, of Virginia. I move that the House now adjourn.

The SPEAKER. Pending the motion to adjourn, the Chair desires to submit some executive communications.

WATER-POWER AT ROCK ISLAND ARSENAL.

The SPEAKER laid before the House the following message from the President of the United States; which was referred to the Committee on Appropriations, and ordered to be printed:

*To the Senate and House of Representatives:*

I transmit herewith, for the consideration of Congress, a letter from the Secretary of War, dated the 6th instant, in which he recommends the reappropriation of the unexpended balances of two appropriations of $50,000 each, made in 1880 and 1881, "for continuing the improvement of the water-power pool" at the Rock Island arsenal, and that the additional sum of $30,000 be granted for the same purpose; also an additional sum of $70,000 "for deepening the canal and for opening six water-ways in connection with the water-power."

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *April* 11, 1882.

NAVAL OFFICERS TRAVELING ABROAD.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting a communication from the Fourth Auditor, in relation to the expenses of naval officers of the United States while moving about abroad under orders; which was referred to the Committee on Appropriations.

BOOKS IMPORTED THROUGH THE MAILS.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, recommending the passage of a bill empowering postmasters to administer oaths for custom-house purposes to persons importing books through the mails; which was referred to the Committee on Ways and Means, and ordered to be printed.

INTERNAL-REVENUE OFFICERS AND EMPLOYÉS.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting the supplemental report of the Commissioner of Internal Revenue, in response to the House resolution of January 30, 1882, relative to the officers and employés of the Internal Revenue Bureau who have been killed or wounded in the enforcement of the internal-revenue laws of the United States; which was referred to the Committee on Pensions, and ordered to be printed.

WITHDRAWAL OF PAPERS.

Mr. RANDALL asked and obtained unanimous consent for the withdrawal from the files of the House of the papers in the case of Simon Levy; no adverse report.

The motion of Mr. WISE, of Virginia, was then agreed to; and accordingly (at five o'clock and five 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:

By the SPEAKER: The resolutions adopted by the United States Army and Navy survivors of Andersonville and other southern military prisons, of New York, urging the passage of the Bliss bill, granting pensions to soldiers and sailors of the late war who were confined in confederate prisons and to increase the clerical force in the Pension Office—to the Committee on Appropriations.

By Mr. J. H. BURROWS: The petition of W. S. Morgan and 300 others, citizens of Livingston County, Missouri, for an appropriation of $100,000 for the improvement of Grand River, in Northwest Missouri, and the reclamation of the marsh and swamp lands along the same—to the Committee on Commerce.

By Mr. COOK: The resolution adopted by the city council of Augusta, Georgia, relative to the erection of a public building at that place—to the Committee on Public Buildings and Grounds.

By Mr. CULBERSON: The petition of Rushing Brothers & Co. and others, citizens of Greenville, Hunt County, Texas, for the repeal of the law imposing taxes on banks and the two-cent stamp on bank-checks—to the Committee on Ways and Means.

By Mr. DARRELL: The petition of Frank Morey, relative to expenses incurred in the contested-election case of Spencer *vs.* Morey, in the Forty-fourth Congress—to the Committee on Elections.

By Mr. C. B. FARWELL: The petition of George Scoville, for compensation for services as counsel in the Guiteau trial—to the Committee on the Judiciary.

By Mr. FLOWER: Memorial of the American Meteorological Society, recommending the holding of an international convention to adopt a common meridian—to the Committee on Commerce.

Also, the petition of Mary Cutts and others, for the passage of the French spoliation claims bill—to the Committee on Foreign Affairs.

By Mr. GEORGE: Papers relating to the Indian depredation claim of Kate Nurse—to the Committee on Indian Affairs.

By Mr. A. S. HEWITT: The petition of citizens of the tenth Congressional district of New York, asking for the impeachment of James Russell Lowell, United States minister at the Court of St. James—to the Committee on Foreign Affairs.

By Mr. THOMAS: The petition of John W. Peebles and William Gray, of Illinois, praying that William Gray, late private Company I, One hundred and twenty-eighth Regiment Illinois Volunteer Infantry, be relieved of the charge of desertion—to the Committee on Military Affairs.

---

## SENATE.

### WEDNESDAY, *April* 12, 1882.

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

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

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Interior, transmitting, in response to a resolution of the 5th instant, information concerning the pension-roll.

The PRESIDENT *pro tempore*. The communication will be referred to the Committee on Pensions without printing, as it is a large document.

Mr. PLATT. It is in response to a resolution offered by the Senator from Minnesota, [Mr. WINDOM.] I am not authorized to speak for the committee, but I think it is a document which will be eventually printed, and it may as well be done at once. I move that it be printed.

The motion was agreed to.