of the system as one intended to secure permanent improvement. The main argument upon which the plans were defended before the committee was that there was no apparent reason why works which in the first place secure a deposit should not also be effective to maintain it when obtained. Since this argument is equally good when applied to the causes producing sand bars generally, no one need be at a loss to know that it is fallacious.

Owing to differences in form of cross-section and in the direction of currents at extremes of stage, we find generally that deposits made at high stage are liable to be destroyed at low, and the converse tendency of high stages is to fill low-water channels even more decidedly. There is therefore a known good reason why the works which secure a deposit at one stage are unable to afford it protection at another, for the line of attack is from another and unforeseen direction.

The failure of the system of longitudinal extension with unguarded flank is therefore already manifest. In the works below Saint Louis persistent efforts have been made to obtain solid attachment to the bank and at the same time obtain a deposit of the full width desired. The results prove that a permanent accretion of the breadth necessary to bring the channel to a width which will secure good navigation can not be obtained at one step.

Any one of the wide places where narrowing is required is the result of a process which has run through many years. It is sheer folly to expect that the work of reclamation can be accomplished more rapidly than that of destruction, especially since the natural tendency is in the other direction.

These widenings and the caving-in bends have furnished material for bars, islands, and growth under points, and the commission's own figures show a progressive widening of the river; that is, the sum of eroded areas exceeds that of the fills. This brings into view an absolute practical limit which shuts out the possibility of success from the prosecution of the present system. For not only is unlimited time required, but the material for extended reclamations depends upon corresponding erosions; that is, the reclamation of a thousand acres from the river bed requires that more than a thousand acres be eroded not very far from the locality of reclamation.

The quantity of material brought into the delta section of the river is nearly the equivalent of the material carried out into the Gulf, as shown by the estimates based on sediment observations. This must be the case, else the bed would be gradually filled up or indefinitely enlarged. The perfected channel must discharge this quantity, no more, no less. It is, therefore, certain, first, that this quantity can not furnish an appreciable fraction of the material for reclamations; second, erosions and deposits, by the way, practically balance.

The commission lays down the principle that works for channel correction should progress down-stream; hence, as they attain linear extension, the banks being protected from erosion, the present supply of available material must rapidly diminish and with it the chances of success.

In presenting these unfavorable aspects of the plans and methods now prosecuted it must not be supposed that temporary local amelioration of channel will not be obtained; it has been and will be to some extent. But temporary benefit is not what the commission has promised, is not what is desired by the public who employ and sustain the commission, and is not worth the cost, which, when the field is extended to the whole river, not even the resources of the General Government can sustain. The situation is much as if one undertook to swim across a rapid current; at first, the progress is very promising, but soon the swimmer's strength is spent in holding his own, with exhaustion in near prospect.

Since 1880 several millions have been spent on the Mississippi between the Illinois and the Ohio and other millions below the Ohio; a large sum in the aggregate has also been spent in similar work on the Missouri. Will any one claim that there is even one mile of permanently improved river as a result? What proportion of later expenditures have been for repair and supplementary additions to the work of former years, whereby a *status quo* is barely maintained? What proportion of the works has disappeared? In the light of actual experience for how great a length can such works, as stand at all, be extended until all available resources of money and material must be expended in repairs?

These questions are pertinent and timely when the commissions are asking for additional millions to continue a worthless system.

Y.

Mr. WILLIS. I hope the committee will indulge me in saying the whole of the bill, except Hennepin and the Lower Mississippi portions, can be completed in an hour. Now, in accordance with the agreement when the hour of meeting was changed from 11 to 12, I move that the committee rise.

Mr. HISCOCK. The gentlemen will yield to me for a moment while I send up to the Clerk's desk an amendment to be read.

The Clerk read as follows:

But the mouths of said rivers shall not be rectified upon any plan that, in the opinion of the Mississippi River Commission, will render it necessary to build levees upon the Mississippi from the mouth of the said Atchafalaya River down the Mississippi River.

Mr. WILLIS. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker *pro tempore* having resumed the chair, Mr. HAMMOND reported that the Committee of the Whole House on the state of the Union having had under consideration the river and harbor bill had come to no resolution thereon.

Mr. WILLIS. I move that the House adjourn.

The motion was agreed to; and accordingly (at 11 o'clock and 58 minutes a. m., February 19, 1885) the House adjourned.

PETITIONS, ETC.

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

By Mr. BEACH: Petition of citizens of Scotchtown, N. Y., in reference to the Mormon question—to the Committee on the Judiciary.

By Mr. S. S. COX: Memorial of N. McKay, of New York, as to a navy—to the Committee on Appropriations.

By Mr. EVERHART: Petition of citizens of Pennsylvania, urging the passage of a bill to check the increase of Mormonism—to the Committee on the Judiciary.

By Mr. D. B. HENDERSON: Petition of G. H. Hill and 89 others, citizens of Independence, Iowa, urging legislation on the Mormon question—to the same committee.

By Mr. KEIFER: Petition of W. E. Thomas and 95 others, of Marion, Ohio, praying for early legislation to suppress the evils of Mormonism—to the same committee.

By Mr. LAWRENCE: Petition of citizens of Cannonsburg, Washington County, Pennsylvania, for the passage of any act, now under consideration in Congress, calculated to curtail or suppress polygamy in States or any of the Territories—to the same committee.

By Mr. LOVERING: Petitions of 56 posts of the Grand Army of the Republic, and also of 600 citizens and ex-soldiers, asking for the passage of H. R. bill 6463—to the Committee on Invalid Pensions.

By Mr. MILLER: Petition of citizens of Fredonia, Pa., in favor of legislation to check the increase of Mormonism—to the Committee on the Judiciary.

By Mr. MORSE: Petition of 13 citizens of Somerville, Cambridgeport, and Belmont, Mass., praying for the passage of a bill for the relief of Laura M. Towson, widow of John Towson, late of Company E, Second New York Cavalry—to the Committee on Invalid Pensions.

By Mr. PERKINS: Petition of O. B. Bartlett, James W. Taylor, O. S. McDowell, and 1,805 others, ex-soldiers and citizens of Kansas, asking for the necessary appropriation to purchase ten acres of ground adjacent to the field on which one hundred and thirty-two Union soldiers were massacred by Quantrill's guerrilla band on the 6th day of October, 1863, near Baxter Springs, Kans., and asking that the said ten acres of ground be preserved and maintained as a national cemetery, and the soldiers so massacred, with other soldiers, be buried there—to the Committee on Military Affairs.

By Mr. W. F. ROGERS: Petition of Pratt & Co. and other manufacturers, merchants, and bankers of the city of Buffalo, N. Y., for the passage of the bankrupt bill—to the Committee on the Judiciary.

By Mr. YOUNG: Papers relating to the claims of Ella M. Guy; of Thomas F. Perkins, administrator of Eliza M. Dawson, of Shelby County, Tennessee, and of Patrick G. Meath, of Memphis, Shelby County, Tennessee—to the Committee on War Claims.

The following petitions for the passage of the Mexican war pension bill with Senate amendments were presented and severally referred to the Committee on Pensions:

By Mr. BRENTS: Of citizens of Fairview, of La Center, of Vancouver, of Tacoma, of Dayton, of Spangle, of Theon, and of Colfax, Wash.

By Mr. T. M. BROWNE: Of 116 citizens of Farmland, of 32 citizens of Saratoga, of 62 citizens of Middletown, Ind.

By Mr. W. W. BROWN: Of 72 citizens of Shunk, and of 55 citizens of Hill's Grove, Sullivan County; of 34 citizens of North Bingham, and of 110 citizens of Oswayo, Potter County, Pennsylvania.

By Mr. J. M. CAMPBELL: Of citizens of Wittenburg, Pa.

By Mr. W. W. CULBERTSON: Of 199 voters of Vanceburg, Ky.

By Mr. FERRELL: Of citizens of Goshen, Cape May County, New Jersey; of Leaville, of Alloway, and of Gloucester City, N. J.

By Mr. D. B. HENDERSON: Of L. Stevens and 20 others, citizens of Butler County; of H. A. Dunham and 51 others, citizens of Waterloo, and of 48 citizens of Clarksville, Butler County, Iowa.

By Mr. HOLMAN: Of Wills Johnson and 211 others, citizens of Ripley County, Indiana.

By Mr. HOLMES: Of H. C. Chapin and 49 others, citizens of Hardin County; of G. B. Smith and 44 others, citizens of Steamboat Rock; of A. M. Adams and 57 others, citizens of Humboldt County; of John Van Raden and 63 others, citizens of Hardin County, and of L. H. Trash and 63 others, citizens of Humboldt County, Iowa.

By Mr. LACEY: Of Samuel Pollock and 79 others, of Charlotte, Mich.

By Mr. SPOONER: Of Isaac Crocker and 88 others, citizens and veteran soldiers of Providence, and of George C. Lawton and 236 others, citizens and veteran soldiers of Newport, R. I.

SENATE.

THURSDAY, *February* 19, 1885.

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

Prayer by the Chaplain, Rev. E. D. HUNTLEY, 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 sundry papers regarding the leasing of lands for grazing purposes upon the Crow Indian reservation in Montana Territory, received since his report on the subject of December 30, 1884, in answer to a resolution of December 17, 1884, which, with the accompanying papers, was referred to the Committee on Indian Affairs, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report of the surveyor-general of New Mexico in the case of the New Mexico private land claim No. 117; which, with the letter of the Commissioner of the General Land Office, was ordered to be printed, and, with the accompanying papers, referred to the Committee on Private Land Claims.

PETITIONS AND MEMORIALS.

Mr. MITCHELL presented a petition of the Board of Trade of Erie, Pa., praying for the acquisition by the United States of the Lake Superior and Portage Lake Canals; which was referred to the Committee on Commerce.

Mr. PENDLETON. I present the petitions of sixteen publishing houses in Ohio, praying for a reduction of postage on second-class mail matter, and that a uniform rate of postage be charged on all papers sent out from the houses of publication. I move that the petitions be referred to the Committee on Post-Offices and Post-Roads.

The motion was agreed to.

Mr. PLUMB presented a petition of citizens in the military service of the United States resident at Fort Sill, Ind. T., praying for the construction of a wagon-road from Caldwell, Kans., via Fort Sill and other places, to Wichita Falls, Tex.; which was referred to the Committee on Appropriations.

He also presented the petition of Junction City Post, No. 132, Department of Kansas, Grand Army of the Republic, praying for the publication in Official Records of the War of the Rebellion of certain photographic illustrations; which was referred to the Committee on Military Affairs.

MARBLE BUST OF LA FAYETTE S. FOSTER.

Mr. SHERMAN. I am directed by the joint committee on the Library to report to the Senate that the committee has received a bust of the late La Fayette S. Foster, formerly a Senator from Connecticut and presiding officer of this body, presented to the Senate of the United States by his widow, accompanied with a letter, which I ask to have read.

The PRESIDENT *pro tempore*. The Senator from Ohio reports from the Committee on the Library that the committee has received a bust of the late La Fayette S. Foster, formerly President of this body, with a letter from his widow, and asks that the letter be read. If there be no objection, the letter will be read.

The Secretary read as follows:

NORWICH, CONN., *January* 15, 1885.

MY DEAR SIR: I have the honor to present to the United States Senate, as a memorial of my late husband, Hon. L. F. S. Foster, of Connecticut, who was one of its former members and presiding officers, his marble portrait-bust.

It was executed by Charles Calverly, of New York, in 1878. It will reach Washington in a few days, where I have sent it for that purpose.

May I venture to ask its acceptance, through you, as his last remaining colleague in that honorable body, and as chairman of the Joint Committee on the Library.

Yours, very respectfully,

MRS. L. F. S. FOSTER.

Hon. JOHN SHERMAN, *United States Senator*.

Mr. SHERMAN. The committee direct me also to report resolutions, for which I ask present consideration.

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

The Chief Clerk read the resolutions, as follows:

Resolved, That the Senate accept the marble bust of Hon. La Fayette S. Foster, deceased, formerly a Senator from Connecticut and President *pro tempore* of the Senate, presented by his widow, with thanks to the donor.

Resolved, That, until otherwise directed, the bust be placed on a suitable pedestal in the room of the Vice-President.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the resolutions? The Chair hears none. The question is on agreeing to them.

The resolutions were agreed to.

REPORTS OF COMMITTEES.

Mr. JACKSON, from the Committee on Claims, to whom was referred the bill (S. 2598) for the relief of Mrs. Lizzie D. Clarke, of New Orleans, reported it without amendment, and submitted a report thereon.

Mr. JACKSON. I am also instructed by the Committee on Claims, to whom was referred the bill (S. 688) for the relief of Alexander K. Shepard, to report it with amendments. Accompanying the report are the views of the minority. I ask that they be printed with the report.

The PRESIDENT *pro tempore*. If there be no objection, the views of the minority will be printed.

Mr. SAWYER, from the Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. 2626) for the relief of William E. Blunt, reported it with amendments, and submitted a report thereon.

Mr. PLUMB, from the Committee on Appropriations, to whom was referred the bill (H. R. 8138) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1886, and for other purposes, reported it with amendments, and submitted a report thereon.

Mr. PIKE, from the Committee on Claims, to whom was referred the bill (H. R. 6270) for the relief of John P. Peterson, reported it without amendment, and submitted a report thereon.

Mr. MAHONE, from the Committee on Post-Offices and Post-Roads, reported an amendment intended to be proposed to the Post-Office appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

REMOVAL OF POLITICAL DISABILITIES.

Mr. GARLAND. I am directed by the Committee on the Judiciary, to whom was referred the bill (H. R. 7585) for the relief of M. Gardner, to report it favorably with an amendment. I ask for the present consideration of the bill.

Mr. ALLISON. What is the bill?

Mr. GARLAND. It is a bill removing political disabilities.

Mr. ALLISON. I do not object.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The amendment of the Committee on the Judiciary was, in line 4, after the word "upon," to insert the word "William;" so as to read:

That all political disabilities imposed upon William M. Gardner, a citizen of the State of Georgia, by the fourteenth article of amendments to the Constitution of the United States, be, and the same are hereby, removed.

The amendment was agreed to.

Mr. CONGER. Is there a petition accompanying the bill?

Mr. GARLAND. Yes, there is a petition. The party's accounts with the United States are settled. There is nothing due the Government. Everything has been settled up.

Mr. CONGER. Let the petition be read.

The PRESIDENT *pro tempore*. The petition will be read if there be no objection.

The Chief Clerk read as follows:

To the Senate and House of Representatives:

The undersigned, a citizen of Floyd County, Georgia, and an ex-captain in the United States Army, having served in the late civil war in the confederate army, prays to have his political disabilities removed.

W. M. GARDNER.

DECEMBER 8, 1884.

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

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

The bill was read the third time, and passed (two-thirds of the Senators present voting in the affirmative).

The title was amended to read: "A bill for the relief of William M. Gardner."

Mr. GARLAND. I am also instructed by the Committee on the Judiciary, to whom was referred the bill (H. R. 7584) for the relief of A. B. Montgomery, to report it without amendment, and I ask for its present consideration. It is a bill to remove this man's political disabilities, he being a citizen of Georgia.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed (two-thirds of the Senators present voting in the affirmative).

Mr. GARLAND. I am also instructed by the Committee on the Judiciary, to whom was referred the bill (S. 2623) to remove the political disabilities of Alexander W. Stark, to report it favorably and without amendment, and I ask for its present consideration.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. CONGER. I suppose in all these cases there has been a personal application. I merely make the inquiry.

Mr. GARLAND. Yes, sir; the petition is with the bill, signed by the party applying for the removal of disabilities.

The PRESIDENT *pro tempore*. The Chair will state that it is the inexorable rule of the Judiciary Committee that there shall be a petition in writing of the applicant in proper form, and that his accounts at the Treasury shall be clear.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed (two-thirds of the Senators present voting in the affirmative).

INAUGURATION CEREMONIES.

Mr. ALLISON. I am instructed by the Committee on Appropriations, to whom was referred the joint resolution (S. R. 125) to provide for the expenses of the inauguration ceremonies on the 4th day of March, 1885, to report it with an amendment in the nature of a substitute, so as to change the phraseology somewhat. I ask that the substitute may be read, and I should be glad to have the joint resolution considered now, as I think it will take but a moment.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The PRESIDENT *pro tempore*. The Senator from Iowa asks unanimous consent that the reading of the original joint resolution may be dispensed with, and that the amendment proposed by the Committee on Appropriations may be read. Is there objection? The Chair hears none. The amendment will be read.

The CHIEF CLERK. The Committee on Appropriations report to strike out all after the resolving clause and to insert:

That to defray the expenses incurred under the resolution of the Senate of February 12, 1885, directing a committee of three Senators to make the necessary arrangements for the inauguration of the President-elect of the United States on the 4th day of March, 1885, the sum of $2,500, 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 said committee. And said committee is hereby authorized to have any necessary printing done at the Government Printing Office.

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

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 title was amended to read: "A joint resolution providing for the expenses of the inauguration ceremonies on the 4th day of March, 1885."

AMENDMENTS TO BILLS.

Mr. DOLPH and Mr. FRYE submitted amendments intended to be proposed by them severally to the river and harbor appropriation bill; which were referred to the Committee on Commerce, and ordered to be printed.

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

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

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

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

Mr. VOORHEES submitted an amendment intended to be proposed by him to the legislative, executive, and judicial appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. McPHERSON submitted an amendment intended to be proposed by him to the bill (H. R. 6771) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862; also to amend an act approved July 2, 1864, and also an act approved May 7, 1878, both in amendment of said first-mentioned act; which was ordered to be printed.

Mr. FRYE submitted an amendment intended to be proposed by him to the Post-Office appropriation bill; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 3258) to authorize the construction of a bridge across the Saint Croix River at the most accessible point between Stillwater and Taylor's Falls, Minn.

The message also announced that the House had passed a joint resolution (H. Res. 335) to print 2,000 additional copies of Lieut. P. H. Ray's report of the international Polar expedition to Point Barrow, Alaska; in which it requested the concurrence of the Senate.

COCHECO RIVER IMPROVEMENT.

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

Resolved, That the Secretary of War be directed to communicate to the Senate the report of the engineer, or a copy of the same, for the current fiscal year relative to the improvement of the Cocheco River at Dover, N. H.

DISTRICT TAXES AND EXPENDITURES.

Mr. MORGAN. I rise to offer a resolution, but before doing so I wish to ask the chairman of the Committee on the District of Columbia, the Senator from Kansas [Mr. INGALLS], whether he is informed of any report having been made by the commissioners of the District of Columbia in reply to the resolution of the Senate of the 24th of June, 1884. That resolution reads as follows:

Resolved, That the commissioners of the District of Columbia be directed to report to the Senate the aggregate amount collected from taxation for each of the fiscal years from 1875 to 1884 inclusive, in each of the four quarters of the city of Washington, in Georgetown, and in the county of Washington outside of said cities. Also, the aggregate amount expended in each of said six divisions for each of said ten years for street improvements of all kinds, including the replacement of wood, stone, and macadam pavements, new pavements, laying sidewalks, regulating, grading, and filling up streets, repairs to concrete pavements and macadam roadways, parking, for permit work, and for repairs to streets, avenues, alleys, county roads, suburban streets, &c.

Also, a statement of the taxes that have been assessed or special assessments made against each of the railroad companies in the District of Columbia, whether operated by steam or other power, for each year since 1874, and the amount of taxes collected from each of said companies for each of said years, and the amount remaining uncollected, if any, for each of said years.

Resolved further, That the commissioners of the District of Columbia be required to report to the Senate a statement of the receipts and disbursements on account of the water department, or water fund, for each year from 1878 to 1884, inclusive, stating the amount received from each separate source, and when, where, and for what purpose the money has been expended.

Mr. INGALLS. My recollection is that the commissioners of the District of Columbia responded as far as the books under their control enabled them to do so. The Senator will remember that the form of government was changed about 1874, and that previous to the date when the commissioners took possession the records had not been kept in such form as to make the information accessible. But if the Senator will suspend for a brief space I will make the inquiry and inform him, so that he can offer his resolution later in the afternoon.

Mr. MORGAN. I inquired at the office of the Secretary of the Senate and was informed that no response had been filed there to the resolution, and I suppose that none has been made. I will, however, offer the resolution, and it can go over until to-morrow.

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

The resolution was read, as follows:

Resolved, That the commissioners of the District of Columbia be directed to immediately inform the Senate of the causes that have prevented them from complying with the resolutions of the Senate adopted on the 24th of June, 1884, relating to the taxes collected from 1875 to 1884, and to receipts and disbursements on account of the water department or water fund for each year from 1875 to 1884.

The PRESIDENT *pro tempore*. The resolution will be printed, and go over until to-morrow on the objection of the mover of it.

CONSIDERATION OF LAND-GRANT-FORFEITURE BILLS.

Mr. MORGAN. I desire to make an inquiry of the Chair in regard to the progress of business under the resolution introduced by the Senator from Tennessee [Mr. HARRIS]. As I remember that resolution, it relates to cases that are on the Calendar. I have not a copy of it before me.

The PRESIDENT *pro tempore*. The order adopted on the 14th of February directed that—

The Senate will proceed to the consideration, in their order, of House bills and resolutions on the Calendar favorably reported by a Senate committee, and continue such consideration until 1 o'clock each day, until all of such bills and resolutions have been considered.

Mr. MORGAN. Does the Chair construe that order as requiring those causes to be considered under Rule VIII?

The PRESIDENT *pro tempore*. The order of the Senate suspends one part of Rule VIII, quoting it, and substitutes this in its place, the Chair understands, so that bills taken up will be subject to the five-minute limitation of debate under Rule VIII, and will be subject to a motion to proceed notwithstanding an objection. That is the impression of the Chair. Of course the Chair has no pending question before it to decide. The Chair thinks that the interpretation of the rule is as he now understands it.

Mr. MORGAN. I desire to give notice that with the consent of the chairman of the Committee on Public Lands, who introduced the bill and reported it to the Senate, I shall ask the Senate to consider House bill 3933, forfeiting the land grant of the Texas Pacific Railroad Company, as soon as the hour of 1 o'clock has arrived, and I shall press that motion to-day or on any other day when the Senate shall find itself in a position to consider the question.

The PRESIDENT *pro tempore*. The Chair will state to the Senator that the Chair was notified yesterday by the Senator from Nebraska [Mr. VAN WYCK] that he intended to get the floor this morning at the earliest possible moment to make a motion to proceed to the consideration of the bill forfeiting the land grant of the Texas Pacific Railroad Company.

Mr. MORGAN. The bill is not in my charge; it was reported by the chairman of the Committee on Public Lands. Of course I do not presume to take it out of his hands, but I wish to make a statement in connection with it.

The PRESIDENT *pro tempore*. If there be no objection the Senator from Alabama will proceed.

Mr. ALLISON. I hope the Senator will not take up the time of the morning hour, as the bill will undoubtedly come up at 1 o'clock unless——

Mr. MORGAN. The question which I wish to state involves a parliamentary inquiry, which I think ought to be disposed of at this time. It will take but a moment.

The Chair and the Senate are aware that the committee of conference on House bill 7162, forfeiting the unearned lands granted to the Atlantic and Pacific Railroad Company, made a report to this body. At the moment of making the report the Senate was otherwise occupied in very important business, and I did not insist then on the privilege that I had of having the motion as to whether the Senate would further insist upon its amendments considered. The motion was not made. At a subsequent day I called up the question and claimed that it was a question of privilege. The Chair ruled, however, that the motion for consideration not having been made at the time of making the report, the privilege was lost. That of course did not place the case on the Calendar, and therefore it would not be one of the cases coming within the rule which the Senate adopted on the motion of the Senator from Tennessee.

The PRESIDENT *pro tempore*. The Chair thinks it did place the bill on the Calendar with the report of the Senate conferees on the subject.

Mr. MORGAN. It was not so ordered.

The PRESIDENT *pro tempore*. It is on the Calendar now.

Mr. MORGAN. In that category?

The PRESIDENT *pro tempore*. Yes; it is in the category in its due order on the Calendar, No. 945½.

Mr. MORGAN. I was not aware that it had gone on the Calendar.

Now, one other question in regard to that matter. In referring to the proceedings of the House of the 17th of January, 1885, I find that the conferees on the part of the House reported that bill to the House, and they asked that the House would further insist——

The PRESIDENT *pro tempore*. It is not in order to refer to any proceedings of the House of Representatives.

Mr. MORGAN. I am obliged to refer to what has been done there in order to show that the action of the House has not reached us.

The PRESIDENT *pro tempore*. The Senator can not refer to any action of the House of Representatives that has not been communicated to this body.

Mr. MORGAN. Well, I have the right then, I hope, to refer to the fact that no communication has come from the other House in respect to this bill. That is a fact which the Senate knows. Now, I leave it to the imagination of Senators how that could happen, and I merely ask Senators to refer to a public document, published by authority of Congress, in which they will find that some body of men in the United States have acted upon a bill which they assumed was before that body and which action has not yet come to the Senate. My purpose was to try to get informed myself, by the ruling of the Chair, whether that action of the other House should be waited for or whether we should proceed notwithstanding the action taken by the House.

Mr. FRYE. The Senator does not mean the House, he means that other body.

Mr. MORGAN. I mean that other body, of course; I do not mean the House of Representatives.

The PRESIDENT *pro tempore*. The Chair will state that he thinks it is competent under the principles of parliamentary law for either House of Congress to send a message to the other reminding it of some bill that appears to have been overlooked in the other House that has not been heard from. The Senator understands that allusions to or comments upon the proceedings of the other body are not in order.

Mr. MORGAN. I was not going to comment upon the proceedings in the House, but I was going to state the result that had been attained there as shown by the RECORD; that was all. But of course if I am not in order in doing that, I shall refrain from doing it. Still I have been very much embarrassed in proceeding with this matter, expecting that a communication would come from the House of Representatives in respect to the bill, when I knew the bill was here, however, and knew that it was subject to the jurisdiction of this body. I have not known whether it was my duty as chairman of the committee of conference to call up the bill that is before the Senate and act irrespective of anything that may have been done elsewhere, or whether it was my duty to wait until the action of the other branch of Congress had been communicated to the Senate. That is the awkward situation in which we are placed here.

Now I wish to make progress with that bill whenever I can, and my purpose in rising and making this statement was merely to get the assistance of the Chair in a proper form of parliamentary procedure to bring the question to the attention of the Senate, which of course it is my duty to do.

The PRESIDENT *pro tempore*. If the bill is in the possession of the Senate, as the Chair supposes it to be, as the report of the Senate conferees was made, then it is of course obvious that the only body that can act upon the bill is the body which has possession of it.

Mr. MORGAN. The bill is in the possession of the Senate; it has been here ever since the conference report was made.

Now I wish to say that to save the time of the Senate, which is getting to be very precious indeed, and to prevent a multiplicity of debate upon questions like this, I am willing to consider that question in connection with the Texas Pacific Railroad case, and to allow the decision upon that case to stand as an instruction to the conference committee on the part of the Senate. Of course the Senate conferees wish to do nothing that the Senate does not advise them to do and that it is not the will and pleasure of the Senate to do.

Therefore, when the bill for the Texas Pacific Railroad forfeiture comes up, I shall ask the Senate, by unanimous consent, to consider the disagreement of the two Houses on the Atlantic and Pacific Railroad case along with the other, or, if it can not be done in that way, that it may lie over until the Texas Pacific Railroad case is disposed of and immediately taken up and instructions given to the Senate conferees.

Mr. MORRILL. The President of the Senate has informed the Senator that he was notified by the Senator from Nebraska that he would bring up the Texas Pacific Railroad question, but he neglected to say also that I had notified him that I should endeavor to bring up the trade-dollar bill at the earliest possible moment. That bill was postponed for a day in consequence of the absence at the moment of the Senator from Ohio [Mr. SHERMAN] who had the floor to address the Senate upon the question. It was partly considered, and I feel it my duty to push the bill at the earliest possible moment.

The PRESIDENT *pro tempore*. It is the duty of the Chair to say that there is no question pending before the Senate. The debate proceeds by unanimous consent.

Mr. PLUMB. I ask unanimous consent to make a statement. I understood the Senator from Alabama [Mr. MORGAN] to state that at 1 o'clock he would move to take up the Texas Pacific forfeiture bill.

Mr. MORGAN. If that met the approval of the chairman of the committee in charge of it.

Mr. PLUMB. The Senator from Alabama has stated the fact that the Senate at a previous session adopted his motion against the objection of the chairman of the committee to send the forfeiture question to the courts, and that is the question pending between the two Houses, and the only one that is pending between the two Houses, on the bill mentioned by him. If that were out of the way there would be no difficulty about the passage of that bill, and I hope several others also. I only want to say that I shall support the motion of the Senator from Alabama and hope he will make it at the time named, and not permit the Senator from Vermont or any other Senator to get another measure up at that time.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. CLARK, its Clerk, 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. 1251) to authorize the purchase of a wharf for the use of the Government in Wilmington, N. C.; and

A bill (H. R. 8039) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1886, and for other purposes.

DES MOINES RIVER LANDS.

The PRESIDENT *pro tempore*. If there be no further concurrent or other resolutions that order is closed, and the Chair lays before the Senate the Calendar under Rule VIII.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 1886) to quiet title of settlers on the Des Moines River lands, in the State of Iowa, and for other purposes.

The PRESIDENT *pro tempore*. The pending question is on agreeing to the amendment proposed by the Senator from New York [Mr. LAPHAM].

Mr. LAPHAM. At the time I was taken from the floor yesterday I was considering the extraordinary proposition of the honorable Senator from Iowa [Mr. WILSON], in which he likened this case to the case of a bill forfeiting a land grant to a railroad. When I asked why the owners of these lands who were non-residents of Iowa should be further subjected to prosecution, especially why they should be subjected to prosecutions on behalf of the Government of the United States, the honorable Senator answered me by quoting what I said in reference to the bill forfeiting a grant to one of the Oregon railroads. I accept that as an acknowledgment on the part of the advocates of this bill that it is in truth and in fact a bill to forfeit the titles of *bona fide* purchasers from the State of Iowa under the acts of Congress to which reference has been so often made. That is the theory of the bill. I say this is truly a bill to forfeit the titles of those who purchased the lands from the Des Moines River Navigation Company under the protection of acts of Congress, and it is a significant fact that when I appeal to the advocates of this bill for any authority for including these persons within the provisions of this bill, the only answer that can be made is, why, this is like the forfeiture of a railroad grant. The proposition itself is an argument in favor of the amendment we are now considering that this particular class of Iowa lands, amounting to some one hundred and seventy-odd thousand acres out of over 500,000 acres that were given to the State of Iowa, shall be excepted from the operation of this bill.

Mr. President, I desire to read for the consideration of the Senate in support of this amendment a passage or two from the minority report in the other House in the Forty-seventh Congress. I believe I have a right to refer to that:

> How far the United States will aid unfortunate settlers who have been misled by the opinions of local land officers and settled upon private property supposing it to be public land may deserve the serious consideration of Congress.
>
> But never, it is believed, has Congress done what this bill proposes—authorized suits in the name and at the expense of the United States to endeavor to reclaim the land from prior grantees and private owners of the lands in order to confer it on such mistaken settlers.
>
> The minority are opposed to it, especially as it places the purse and power of the Government upon one side in a private controversy, regardless of title.
>
> * * * * * * *
>
> The minority are not in favor of this bill, because its enactment would have the appearance of providing by law for further litigation by and in support of the titles of parties who have already had the judgment of the Supreme Court upon their cases. It would actually direct new trials in cases now determined, for the names of Hannah Riley and George Crilley are found on House Executive Document No. 25, Forty-third Congress, first session, page 13, as parties to have the benefit of the proposed legislation.

I have already said that this bill in effect is to reverse the judgment of the Supreme Court of the United States against those two claimants, and permit them to institute, with the aid of the Government, a new suit for the purpose of prosecuting the successful parties in each of those suits.

> We do not believe that Congress has the right to compel the holders of its title to go to the expense of further litigation, when they protest against such interference with their rights of private property, and protest against being sent again into the courts, with the purse and power of the United States against them.
>
> The protestants claim that the enactment of any such bill will prolong, and is

designed by the promoters of it to prolong, this controversy, and protect the settlers in continuing their illegal possession of the lands from which they are annually gathering the crops without paying either taxes or rent.

* * * * * * *

The suits provided for in section 2 will not be brought against citizens of Iowa, as the Iowa settlers on the lands are to have confirmation; but they are to be brought solely against the non-resident owners of the lands residing in other States.

It is respectfully submitted that Congress ought not to favor the people of one State to the detriment of citizens in other States.

Again, this measure for instituting the suits proposed by this bill has not been introduced on the recommendation of any head of any Executive Department, nor has the Attorney-General been asked his opinion in the premises.

* * * * * * *

Prior legislation and executive action conferring title to lands have been fully, repeatedly, and unanimously interrupted by the United States Supreme Court adversely to the settlers whom this bill seeks to relieve by enacting an opposite construction of the laws involved, and instructing the United States Attorney-General to unite with the settlers in attempts to enforce this new construction by instituting new suits in the name and at the expense of the United States, but for the sole benefit of litigants defeated and disappointed by the existing judicial decisions. This is, in the opinion of the minority, entirely wrong, and affords sufficient reason why the bill (H. R. 6597) ought not to pass.

Mr. President, there is wisdom and good sense in the position thus taken in this minority report of the House Committee. These owners have for a series of years been subjected to expensive litigation to determine the question of their titles. They have traveled over the whole road of judicial inquiry. They have finally succeeded in establishing their claims as valid by a multiplicity of decisions embracing every possible phase of this question. In suits with settlers on the lands, in suits with railroad companies that became subsequent grantees, in every possible form this question has been litigated in the dozen suits which have come to the Supreme Court and in various suits in the State of Iowa, and everywhere they have been triumphant. Now why should we open again the flood-gates of litigation as to them? Why should we again subject these gentlemen to a retrial of their questions of title? They have been kept out of the use of that portion of the land occupied by these settlers for twenty-odd years without the payment of a farthing of rent or the payment of any of the taxes.

Their road has been a thorny one. They have not realized the dream of the poet that—

> There is a tide in the affairs of men,
> Which, taken at the flood, leads on to fortune.

This has been an expensive business to these owners, but yet they have prevailed and they have the solemn judgments of the tribunals of the country in their favor. All they ask is to be let alone. True, they are open yet to private prosecutions by these settlers; but that they are willing to meet. True, they are open to have the question tried in every case where it has not been already tried; they are willing to meet the case in that aspect of it; but to reverse all that has been done, to declare these lands public lands, as this bill proposes, to reopen the flood-gates of litigation and to take the Treasury of the United States into the scale against them, is a wrong so monstrous that it seems to me the idea of inflicting it ought not to be tolerated for a moment.

I hope, therefore, that the amendment now pending, which is but a modification of that clause of the bill which was stricken out on my motion, will be adopted by the Senate. As it was contained in the bill it declared the title to these lands perfect except where there were settlers on them. I was not willing to accept any such provision as that. As I have it, it excepts these titles from the operation of the bill absolutely. That was the view, I repeat, of an amendment proposed by Senator McDonald, of Indiana, when he had a seat in this body, as one essential, as one demanded by justice, as one which ought to prevail.

I have no desire to multiply words upon this particular amendment. I have said all that I need to say in support of it, and I trust the Senate will see its propriety and vote for its adoption.

The PRESIDING OFFICER (Mr. HARRIS in the chair). The question is, Will the Senate agree to the amendment proposed by the Senator from New York?

Mr. ALLISON. I hope not.

Mr. LAPHAM. That very, very brief speech from the honorable Senator from Iowa has a world of meaning in it. He hopes not.

Mr. ALLISON. I withdraw it, then.

Mr. LAPHAM. There have been extraordinary efforts made on this floor with reference to this legislation. A word is significant. I hope the amendment will prevail. I stand here as the advocate of men whose legal title has been established by Congress and by the courts in every form; and I hope it will prevail. We may as well take the yeas and nays upon this question.

The yeas and nays were ordered; and being taken, resulted—yeas 19, nays 20; as follows:

YEAS—19.

Bayard,	Gibson,	Lapham,	Pike,
Blair,	Groome,	McMillan,	Saulsbury,
Camden,	Hampton,	Miller of N. Y.,	Vance,
Colquitt,	Harris,	Morgan,	Vest.
Garland,	Kenna,	Pendleton,	

NAYS—20.

Allison,	Cullom,	Ingalls,	Plumb,
Bowen,	Frye,	Miller of Cal.,	Pugh,
Call,	George,	Mitchell,	Sherman,
Cameron of Wis.,	Hale,	Morrill,	Van Wyck,
Conger,	Hill,	Platt,	Wilson.

ABSENT—37.

Aldrich,	Edmunds,	Jones of Nevada,	Sabin,
Beck,	Fair,	Lamar,	Sawyer,
Brown,	Farley,	Logan,	Sewell,
Butler,	Gorman,	McPherson,	Slater,
Cameron of Pa.,	Harrison,	Mahone,	Voorhees,
Chace,	Hawley,	Manderson,	Walker,
Cockrell,	Hoar,	Maxey,	Williams.
Coke,	Jackson,	Palmer,	
Dawes,	Jonas,	Ransom,	
Dolph,	Jones of Florida,	Riddleberger,	

So the amendment was rejected.

Mr. LAPHAM. Mr. President, I offer the following amendment as an additional section:

SEC. 3. Before the commencement of any action or actions by the Attorney-General, in pursuance of this act, the person or persons in whose interest and for whose benefit the same is to be prosecuted shall deposit with the clerk of the court a bond or bonds (to be approved by the court or a judge thereof as to the form and penalty of the same) conditioned to pay to the person or persons to be prosecuted all costs and expenses of the defense or defenses of such action or actions in case the plaintiff shall fail to recover therein.

Mr. President, no one can fail to see that the object of this bill is to aid private settlers in the recovery of lands. No one can fail to see that as far as those private settlers have had their rights tried by the courts they have been defeated. No one can fail to see that as to these lands they are not a part of the public domain, but they are the private property of those who purchased and paid for them under the grant to the Des Moines River Navigation Company. What does this bill then propose to do? It proposes first to declare that these lands are public lands. It is, as the Senator from Iowa well said yesterday, a proposition to forfeit the title of *bona fide* purchasers and to restore the lands, which they have purchased, to the public domain.

Mr. WILSON. I ask the Senator from New York to state, if he will allow me to interrupt him, which Senator from Iowa made such a statement yesterday.

Mr. LAPHAM. The honorable Senator who is now addressing me used as the only argument against my amendment the view I took of the proposition to forfeit the Oregon railroad grant.

Mr. WILSON. If the Senator will allow me to reply I will say that I stated yesterday that if he would apply the precedent of his speech on the Oregon railroad grant to this bill it would answer my purpose entirely, because in that he advocated——

Mr. LAPHAM. I did not yield for a speech.

Mr. WILSON. He advocated the propriety of allowing each person interested, no matter how humble he might be, an opportunity to be heard in court. These settlers have not had it. That is all we ask and all the bill does.

Mr. LAPHAM. I said in that case inasmuch as the Government was going to resume the title which had been forfeited for the nonperformance of a condition subsequent, it was the right of every lienholder upon that land to have a day in court. I stand by that position still. This is not such a case as that unless, as I now claim, the effect of this bill is to forfeit an actual grant by the Government to those whose titles have been determined valid. That is the effect of this bill.

When you declare in this bill that these lands are public lands and authorize the Attorney-General in connection with the settlers to bring suits against the owners of the fee, you declare to all intents and purposes a forfeiture of their title, and in addition to that you subject them to a prosecution by the Government of the United States upon whose faith they advanced and paid their money for these lands. I submit before that shall be allowed there shall be a provision in this bill that every settler upon these lands in whose behalf the Attorney-General prosecutes, if he decides to prosecute at all, shall file security to pay the owners of these lands in case they succeed the costs and expense of the litigation.

Take the case of Hannah Ann Riley, take the case of George Crilley, each of whom has tried the question between them and the owners of these lands and been defeated. Now under this bill they with the Attorney-General may again commence action, and I need not say to the members of the Senate that there can be no costs recovered against the Government. This bill makes no provision that the United States shall be liable for costs, and we are driven to the expense of a litigation of precisely the same question we have already successfully litigated. We are driven to the expense of litigating this question at our own expense. Although successful, although we re-establish our title, although we show that these lands are our own and that there is no valid claim against them, as has been so repeatedly decided, although we establish all this, yet we are to be prosecuted by the Government without any redress for the expenses of the litigation on our part.

Mr. President, the object of this amendment is to provide as it reads that before the Attorney-General institutes an action in conjunction with a settler (and as I have said he must institute just as many actions as there are settlers), that settler for whose benefit the Government is authorized by this bill to prosecute shall give a bond in such form and with such penalties as the court or a judge of the court shall prescribe, conditioned that in the event of a failure to recover, in the event of the re-establishment of the title of these purchasers, in the event of a successful resistance to the prosecution, all the costs and expenses of the defense shall be paid to these owners. Who can object

to so fair a provision as this? Why are the advocates of this bill unwilling that there shall be at least this much protection to these purchasers?

Mr. President, I have shown over and over again that those settlers are not *bona fide* settlers. The Judiciary Committee of this body four years ago so found and reported. What is there in their case that should prompt this extraordinary legislation in their behalf? I can not understand why it is that these gentlemen, who are non-residents of the State of Iowa, should again by the authority of this Government be subjected to a renewal of this litigation at the peril of being compelled to defend the actions at their own expense although they succeed, and therefore I urge, and urge with great earnestness, and with great confidence I may say, upon the consideration of the Senate that this amendment, this poor protection to these already vexed land-owners, at least shall be furnished them by the vote of this body if this bill is to become a law.

I have said all that I think it necessary to say in support of this amendment. I commend it to the consideration of the Senate, and ask that at least they will preserve to these settlers the poor right of being reimbursed in case they succeed in the litigation, for the costs and expenses to which they will be subjected by this extraordinary bill, and upon this I ask that the yeas and nays be taken.

Mr. WILSON. Mr. President, I regret to feel called upon to say another word to the Senate concerning this bill. It has already occupied more time than it should have taken, but I do not desire to have a vote taken on this amendment without a fair understanding by the Senate of the issue this bill presents. Now let me read from the first section of the bill its purpose:

That all the lands "improperly certified to Iowa by the Department of the Interior under the act of August 8, 1846, as referred to in the joint resolution of March 2, 1861," for which indemnity lands were selected and received by the State of Iowa, as provided in the act of 1861, are, and are hereby declared to be, public lands of the United States.

What lands? Lands improperly certified to the State of Iowa, not lands to which the parties that the Senator from New York appears for here hold good and valid title, for they can hold no such title if these lands have been improperly certified; nor can the courts hold these lands to be public lands if they have been properly certified, for that means that they shall have been certified in pursuance of law.

What next does it provide? In section 2 it is said:

That it is hereby made the duty of the Attorney-General, within ninety days after the passage of this act, to institute, or cause to be instituted, such suit or suits, either in law or equity, or both, as may be necessary and proper to assert and protect the title of the United States to said lands, and remove all clouds from its title thereto.

That is it. If the lands belong to the Government because they have not been properly certified, the Attorney-General is to ascertain that question by judicial proceedings and this provision of the second section, and that is all there is of it; and if in the progress of the proceeding it shall appear that the parties for whom the Senator from New York pleads to-day hold titles in pursuance of lawful certification, that will make their title doubly sure. But he says that these settlers, who for more than a quarter of a century have been making homes and rearing families on these lands alleged to have been improperly certified, shall have no opportunity for a judicial determination unless they come in and by a bond with sufficient sureties agree to make harmless the New York holders of a certain title to these lands first. Mr. President, if a remedy is to be provided at all under this bill, it goes in the name of the United States for the purpose of asserting the United States title and after that affording these settlers of more than a quarter of a century an opportunity under the laws of the United States to prove up their settlement and interest in the land; and now I am willing to submit this amendment to a vote of the Senate.

Mr. LAPHAM. Well, Mr. President, the honorable Senator has been much more unsuccessful in answering this than he was in answering the amendment that I proposed yesterday. He assumes now—and he can stand upon no other proposition—that these lands which the Supreme Court decided were improperly certified to the State of Iowa so far as they lie north of Raccoon Fork, in the State of Iowa, are still public lands, and his argument has no force unless it rests upon that proposition. Now what is the truth of this case? Iowa has always claimed until this hour that they were not public lands; Iowa has always claimed that they were properly certified to the State, and that Iowa was authorized to grant them to the Des Moines River Navigation Company under the certificates of the officers of the Land Office. They were certified to the State of Iowa as part of this grant; they were conveyed to the Des Moines River Navigation Company, and the Des Moines River Navigation Company conveyed them to those I represent.

Then what have we? We have the resolution of the 2d of March, 1861, a joint resolution of Congress, declaring that the titles to all the lands certified to the State of Iowa north of the Raccoon Fork are, notwithstanding that improper certification, made valid as far as they have become the property of *bona fide* purchasers from the State and its grantees. "Improperly" is not in this question now, sir. There was a time when it was in it. If the joint resolution of the 2d of March, 1861, had not been passed, the position of the honorable Senator would have some force in it; but in the face of that fact that Congress, notwithstanding they were improperly certified, ratified and confirmed them to these purchasers, what is there upon which this bill can stand—I mean so far as that portion of the lands held by these purchasers is concerned? I showed yesterday that there are over 300,000 acres of land within the compass of this bill which are not affected by the question that I raise. I only ask to have taken from the operation of this bill that portion of the lands which were thus conveyed and the titles to which were confirmed by the joint resolution of 1861.

The honorable Senator from Iowa is too good a lawyer and too shrewd a man to be driven to such a position as he has now advanced, that these lands are still in the condition of lands improperly certified to the State of Iowa, as a basis for this legislation. If he had any other position upon which he could possibly plant himself, he is the last man who would resort to such a subterfuge as that, for it deserves no other name than a subterfuge.

These lands were, as the Supreme Court decided, a portion of them improperly certified; but they had been sold by the State; these gentlemen had purchased them and paid for them, and the State of Iowa asked—not these purchasers—but the State of Iowa asked Congress to pass the joint resolution of 1861 confirming their title; and in every case which has been decided by the Supreme Court and by the courts of Iowa the decisions have been put upon the express ground that that joint resolution cured all defects in the titles of these purchasers; that, although the lands were improperly certified, although at the time they were certified they were not within the compass of the grant to the Territory of Iowa, yet the Territory or State having sold them, and they having gone into the hands of *bona fide* purchasers, it was the duty of Congress to confirm their title; and it was the State of Iowa as she was represented then that asked this confirmatory declaration on the part of Congress.

Now, after all this, and after all this litigation determining these questions of title, the proposition of this bill is that the whole question in regard to this title shall be reopened in favor of those who have been occupying the lands without right, so the Supreme Court has said, of trespassers, of wrongdoers, of men who combined in the way I have described, of men who plunder and threaten to kill and burn, of men who do not pay taxes, of men who do not exercise any of the rights of ownership over this property except to occupy it and take possession without giving any compensation. It is this class of men to whom the bill opens the door of litigation at the expense of the Government, and I insist that this extraordinary privilege should not be granted except upon the condition named in this amendment that every one who prosecutes shall file a bond, to be approved by the court, to pay the defendant, in case of failure, his costs and expenses.

If the honorable Senator from Iowa is right that these are public lands, if he is right in the position that they are improperly certified, and occupies that position now, why does he provide for joining the settlers in an action? Does the Government of the United States need the aid of a squatter to establish its title? The theory of this bill is that the Government has no right except what this bill confers; the theory of this bill is that the squatter is the real party and not the Government, and all I ask by this amendment is that before he prosecutes, as we can not recover costs against the Government which is authorized to bring the suit, a bond shall be filed to pay us the costs and expenses of the litigation in case we succeed.

Mr. MCPHERSON. I do not rise for the purpose of discussing the pending question, but only to give notice that to-morrow morning I shall ask a vote of the Senate on postponing the further consideration of this measure and returning to the Calendar of business. There are many public measures upon the Calendar that ought to be considered. We have now only eleven days remaining of this session, and it is useless to waste time on this bill, for I consider it no better, for we certainly can not reach a decision at this session upon this bill with the many divergent views upon the question found in the Senate. It is a Senate bill, and no consideration can be given to it elsewhere, even if it passes the Senate. For six consecutive days the whole morning has been exhausted and wasted, so to speak, in the discussion of a measure which by no possibility can become a law at this session. Therefore I shall move to-morrow morning—I give notice of it now—to postpone the further consideration of this business and return to what seems to me to be the obvious duty of the Senate in considering other bills of an important public character.

Mr. LAPHAM. I will yield to the Senator to make that motion now if he desires.

Mr. MCPHERSON. Very well; I move now that the further consideration of this measure be postponed indefinitely.

The PRESIDING OFFICER. The Senator from New Jersey moves the indefinite postponement of the further consideration of the bill.

The question being put, there were on a division—ayes 22, noes 19.

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

The yeas and nays were ordered.

Mr. ALLISON. I only desire to say one word upon this question. The Senator from New Jersey and the Senator from New York are acting in accord. Here is a bill as much of a public nature and public character as any bill pending in the Senate, and it has been considered. I will not say, because it would be unparliamentary for me to say, that

this bill is debated day after day and day after day by reiteration of old arguments. All that we ask of the Senate is that this bill shall be voted upon in the interest of more than a thousand people who believe they have rights here and ask the privilege of going to the courts of the United States and establishing those rights. That is a poor privilege, I know, but it is a privilege that we ask this Senate to grant these men. Whether or not they be entitled to the rights they claim is a question which the courts will decide. I hope the motion now made will not be adopted.

Mr. MCPHERSON. I do not know what right the Senator from Iowa has to say that the Senator from New York and the Senator from New Jersey are acting in accord. So far as the statement relates to me, I think that up to this moment I have made no motion and have said not a single word in respect to this bill.

Mr. LAPHAM. I beg to say that I have never exchanged a word with the Senator from New Jersey on the subject.

Mr. MCPHERSON. I do not know really how I shall vote upon the bill, and I think that I have voted upon few if any of the amendments that have been offered to it. I have given but little attention to it. I do not know but that I shall vote for the bill. But at the same time I do submit that this discussion, going on here from day to day for six or seven days, consuming the entire morning hour to the exclusion of the proper consideration of other business at this stage of the session, is not right. If the Senator from Iowa can bring the question to a vote, I have no objection to voting upon the bill now, but those Senators can see and really must see that with the number of appropriation bills now pending, with a large Calendar of business unacted upon, a great many pension cases that ought to be passed and sent to the House of Representatives in order that that body may take action upon them before the close of the session, such measures are driven out of the consideration of the Senate practically by the discussion of a bill which under no condition of circumstances does it seem possible for us to reach a vote upon.

Mr. COCKRELL. Let us vote now.

Mr. MCPHERSON. I know nothing about the merits of the bill except what I have heard here on the floor. It is not for any such reason that I am opposing it, but because no vote has yet been reached, and probably none will be for six days to come.

The PRESIDING OFFICER. The question is on the motion of the Senator from New York that the bill be indefinitely postponed, on which the yeas and nays have been ordered.

The yeas and nays were taken.

Mr. CAMERON, of Wisconsin. The Senator from Massachusetts [Mr. DAWES] is paired with the Senator from Louisiana [Mr. JONAS].

The result was announced—yeas 23, nays 34; as follows:

YEAS—23.

Bayard,	Gibson,	McPherson,	Sabin,
Camden,	Groome,	Miller of N. Y.,	Saulsbury,
Cockrell,	Hampton,	Morgan,	Sherman,
Colquitt,	Harris,	Pendleton,	Slater,
Edmunds,	Kenna,	Pike,	Vest.
Garland,	Lapham,	Pugh,	

NAYS—34.

Aldrich,	Coke,	Hill,	Plumb,
Allison,	Conger,	Hoar,	Sawyer,
Beck,	Cullom,	Ingalls,	Vance,
Blair,	Fair,	Jackson,	Van Wyck,
Bowen,	Frye,	Manderson,	Voorhees,
Brown,	George,	Maxey,	Williams,
Call,	Hale,	Miller of Cal.,	Wilson.
Cameron of Wis.,	Harrison,	Morrill,	
Chace,	Hawley,	Platt,	

ABSENT—19.

Butler,	Gorman,	Logan,	Ransom,
Cameron of Pa.,	Jonas,	McMillan,	Riddleberger,
Dawes,	Jones of Florida,	Mahone,	Sewell,
Dolph,	Jones of Nevada,	Mitchell,	Walker.
Farley,	Lamar,	Palmer,	

So the motion was not agreed to.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from New York [Mr. LAPHAM].

Mr. MORGAN. I desire to ask a question of the Senator from Iowa who sets in front of me about this bill. The bill provides that the United States and a citizen or citizens of Iowa may sue other citizens of Iowa or corporations of Iowa, in a suit that is provided for in this bill. I desire to ask the Senator from Iowa if he thinks the Constitution of the United States confers or permits Congress to confer upon any Federal court the right to unite a citizen of Iowa with the United States Government in a suit against a citizen of Iowa in respect to this land. I confess that I have looked as thoroughly as I could, and with some anxiety, to discover that there was some such authority as that, but I have not been able to find it, and I do not believe that the Constitution authorizes any such suit as that to be brought. The language of the Constitution on that subject is that the judicial power of the United States shall extend, among other things, "to controversies to which the United States shall be a party." That is a privilege given to the Government of the United States to sue, or in the event that Congress may give to any citizen the right to sue the United States it is a privilege given to the Government to be sued in its own courts. You can not bring an action in any State court against the Government of the United States, nor can you bring an action in a Federal court against the Government of the United States until some act of Congress expressly authorizes it to be done; but the Government of the United States can sue in its own courts under this provision of the Constitution and also under the provisions of the judiciary act in regard to any matter of controversy that the court would take jurisdiction of where the sum in controversy was sufficient, or perhaps in any case; but I protest that I have not been able to find any case where a lawyer has been rash enough to unite the United States and a private citizen in a suit against a citizen of the same State, or indeed in any suit. I do not understand how it is that the Government of the United States and any private citizen have a joint interest in a tract of land the title of which was in the Government and the title of which has been conceded by the Government, we will say, to a private person, or has not been conceded. I do not understand it. This bill in that respect has always been a puzzle to me. I have not been able to derive the authority through the Constitution, the laws of the United States, or the practice in the Supreme Court or elsewhere, for the joining of these parties, the Government and a private citizen, in an action.

The bill, I wish to say further, is not only entirely new, but in my judgment it involves a line of legislation that has never before been attempted. We declare the existence of title in the Government of the United States by this bill. That title is declared to exist in the Government in those cases where certificates had improvidently and improperly issued to the State of Iowa. After having made that declaration, as I remarked the other morning in discussing this bill, we then authorize the Government of the United States and a citizen to go into the Federal courts for the purpose of determining the value of that title. The Senator from Iowa says it is upon the ground that we declare that those titles are bad, that the certificates have been improperly issued. Well, we open up a question of controversy that really has been settled in ten adjudicated cases in the Supreme Court of the United States. But granting now that it is just and equitable and that we have the power to go back and open up these various controversies and set aside these judgments and decrees——

Mr. LAPHAM. Will the Senator from Alabama allow me to make a suggestion?

Mr. MORGAN. Yes.

Mr. LAPHAM. This bill does not direct that suit shall be brought even in the courts of the United States.

Mr. MORGAN. I know.

Mr. LAPHAM. The Government under this bill may go into the State courts of Iowa.

Mr. MORGAN. I take it for granted that that is the meaning of the bill, although I admit the bill is imperfect in that particular, and I think attention is called to that in the report of the minority against the bill.

But now after having declared the title to be in the United States contrary to these ten decisions of the Supreme Court of the United States, and in the very cases in which the Supreme Court have decided the question, for this bill covers the whole of them, having reversed these decisions by a decree of Congress and put the parties to litigating those rights again, the question arises can the Congress of the United States authorize a citizen of Iowa to join with the United States Government in a suit in Iowa against a citizen of Iowa for the recovery of this land. I maintain that we have no such power. The Constitution gives us no such right, for while the Government of the United States can sue in the circuit or district court of the United States in that State a citizen of Iowa, a private citizen, can not. We can not confer by any law we may enact constitutionally the right upon a private citizen of Iowa to sue another private citizen of Iowa in the district or circuit court of the United States in that State.

Mr. LAPHAM. Now I desire to ask the honorable Senator another question, and that is, can Congress authorize the Attorney-General of the United States to prosecute in the State courts?

Mr. MORGAN. Yes; I suppose Congress could authorize the Attorney-General of the United States to prosecute in the State courts. The Government of the United States can bring a suit in a State court, and therefore Congress can authorize that to be done. But we are now talking about Federal courts, for that is the object of this bill; that is the meaning of this bill, to allow suits in the Federal courts, as I understand; for surely the Congress of the United States would not reverse the decision of the Supreme Court of the United States in these ten cases and then declare that the local courts in Iowa should have jurisdiction to settle and determine the question. That would be reversing the whole order of proceedings so far as the history of Congress on this subject is concerned. But I wish to submit this question to the Senate, to the lawyers of this body, and I should be very glad to hear a more general expression of opinion upon it. I should be glad if some Senator would cite me to a case in which any lawyer had ever been rash enough to attempt to unite a private party with the Government of the United States in bringing a suit for a tract of land. I have not heard of it. It may be that I have overlooked it, but I can conceive of no reason why it should be done.

Mr. President, I disclaim all feeling or interest in this matter.

Mr. LAPHAM. I can tell why it is done. It is done in this case because the Government is weak and needs the aid of a settler to maintain its right of action.

Mr. MORGAN. I repeat that I have not the slightest feeling or concern about this matter at all, except that I have a sympathy for those people in Iowa who have been entrapped into this state of difficulty not by the decision of the courts, but by the legislation of Congress and the decisions of the Interior Department. Many of them have been entrapped into difficulties, into the expenditure of money in valuable improvements on tracts of lands there, but I have regarded this effort to relieve them through this bill as utterly hopeless. The Committee on the Judiciary took this subject into consideration more than four years ago. They bestowed upon it a great amount of labor. They brought their report in here, following another report which had preceded it, and unanimously declared that Congress had no jurisdiction of this subject.

Now, sir, it is more than the Senate dare to do, in my opinion, to deliberately overrule that decision of the Judiciary Committee without assigning upon the record sound, substantial reasons for their judgment; for after all this is the highest legislative tribunal in the United States excepting the House of Representatives, and the decisions of this body will be appealed to for years, and I hope for centuries to come, for their wisdom, for their sedateness, for their soundness upon all questions of this kind; and I really deplore that spirit of aggressive legislation in this body, which, whether moved by sympathy for suffering people or moved by any other cause whatever, leads us to undo the solemn deliberations of the judiciary of this country, and reverse the decrees of the Supreme Court in respect to private questions of title at our own will and pleasure.

ORDER OF BUSINESS.

The PRESIDENT *pro tempore*. The Senator from Alabama will please suspend. The hour of 1 o'clock having arrived, it becomes the duty of the Chair to lay before the Senate the next special order, being Order of Business 500, the title of which will be read.

The CHIEF CLERK. A joint resolution (S. R. 18) proposing an amendment to article 1, section 7, clause 2, of the Constitution of the United States, in relation to the veto power.

The PRESIDENT *pro tempore*. This resolution is before the Senate as in Committee of the Whole.

Mr. VAN WYCK. I move that the Senate now proceed to the consideration of House bill No. 3933, Calendar number 336.

The PRESIDENT *pro tempore*. The Senator from Nebraska moves that the Senate now proceed to the consideration of Order of Business 336, the title of which will be stated.

The CHIEF CLERK. A bill (H. R. 3933) to declare a forfeiture of lands granted to the Texas Pacific Railroad Company, and for other purposes.

Several Senators addressed the Chair.

The PRESIDENT *pro tempore*. Debate is not in order.

Mr. PLUMB. I ask unanimous consent to make a statement.

The PRESIDENT *pro tempore*. The Senator from Kansas asks unanimous consent to make a statement. Is there objection to the Senator from Kansas debating this proposition? The Chair hears none.

Mr. PLUMB. The bill which is under consideration in the morning hour, and which was reported by me from the Committee on Public Lands, has now occupied a number of days during the morning hour in its consideration, and I do not think I offend anybody when I say that there seems to be a determation that it shall run out the remainder of the session and not be brought to a vote. That, of course, is parliamentary. I do not care to say anything in the nature of reflection on anybody, but it manifestly is the opinion of the Senate that some time should be fixed when the vote can be had upon the bill, because the Senate has repeatedly ruled by decided votes not to lay it on the table and not to postpone its consideration, so that it has the right of way in the morning hour.

I designed to make a motion to continue the consideration of the bill now, but not being nimble enough to get up in time and not having vocal organs of sufficient capacity to reach the presiding officer in time, I did not get the floor to make that motion; and I do not design now to antagonize the motion which the Senator from Nebraska has made, because I had given notice that if the Senator from Alabama did not make the motion I would make it myself at this time, supposing perhaps we should go on as we have heretofore, leaving the Des Moines bill to be considered in the morning hour. But I think it is of the highest importance to the business of the Senate that the morning hour should not continue to be absorbed by this bill, and when I say that I do not mean to reflect upon the bill, because I think the bill ought to be passed. I think it is due to the Senate and due to the interests involved that the Senate shall fix some time when a vote shall be taken, or if that can not be done, that the Senate shall agree that it will sit out this bill on some day to be named. I had hoped it might be to-day, because to-day the bill is under consideration and it might go continuously on, but still I do not care about that. If the Senate is willing to fix some other day, I have no objection.

Now, so far as the measure proposed to be taken up is concerned I have nothing to say. The Senator from Nebraska [Mr. VAN WYCK] seems to have taken charge of it, and of course the bill ought to be passed. It has been waiting simply upon the convenience of the Senate in regard to the principle involved in another bill which is pending before the Senate on a report of a committee of conference and the decision of which really settles the question not only as to this bill, but as to another and perhaps still another bill which is back of it on the Calendar. I do not care to antagonize that, but I do hope the Senate will make some order in regard to the bill that was before the Senate until the morning hour expired, which will relieve the Senate from the burden of its continuation during the remaining days of this session in the morning hour to the exclusion of all other business.

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

Mr. LAPHAM. Mr. President——

The PRESIDENT *pro tempore*. Debate is not in order.

Mr. LAPHAM. I ask unanimous consent to be allowed to say a word in response to what has fallen from the lips of the Senator from Kansas.

The PRESIDENT *pro tempore*. The Senator from New York asks unanimous consent to be heard in reply to the Senator from Kansas. Is there objection? The Chair hears none.

Mr. LAPHAM. All I desire to say is this: When this bill was called up objection was made to its consideration. I claimed that it was a bill which should be taken up in the regular consideration of the Calendar, and one that could not properly be debated in the morning hour. I have been compelled to argue the bill piecemeal from morning to morning, whereas I should have had a right, and the Senate should have had a right, to consider this bill in a continuous session whenever it was taken up. The advocates of the bill objected to that, and insisted upon taking it up in the morning hour. They procured a vote of the Senate to that effect, probably under an apprehension on the part of the Senate that it was a short bill and would not occupy much time. Now that we have spent the morning hour for so many mornings on it, the proposition is to do just what I asked to have done in the outset, and I shall certainly resist that now.

Mr. VAN WYCK. Mr. President——

The PRESIDENT *pro tempore*. Debate is not in order.

Mr. VAN WYCK. I ask unanimous consent to make a statement.

The PRESIDENT *pro tempore*. The Senator from Nebraska asks unanimous consent to be heard on this question. Is there objection? The Chair hears none.

Mr. VAN WYCK. The bill which I have moved for consideration is a bill to declare a forfeiture of lands granted to the Texas Pacific Railroad Company, and for other purposes. That bill has been twice displaced already from the Calendar of Special Orders, first by taking up the silver bill when, as many Senators stated, there was a misapprehension as to the effect of the rule. They did not suppose that voting to take up the silver bill would necessarily throw this bill back on the Calendar, which it did. Then this bill was restored again to the head of the special orders, and again it was displaced by a vote of the Senate to take up the labor-contract bill; and in connection with that I may be allowed to say that many Senators believed there was an understanding, express or implied, which they they felt binding on them to vote for the consideration of that bill first before the Texas Pacific forfeiture bill was taken up; but they desire now, I think, that this bill should finally be taken up without any further delay. I merely wished to call the attention of the Senate to this condition of the bill, and to insist that it shall now be taken up.

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

The PRESIDENT *pro tempore*. Debate is not in order from the Senator from Maine.

Mr. HALE. I ask unanimous consent.

The PRESIDENT *pro tempore*. The Senator from Maine asks unanimous consent to debate this subject. The Chair hears no objection.

Mr. HALE. I do not wish to debate the subject; I only wish to say to the Senator from Nebraska——

The PRESIDENT *pro tempore*. That is debate. The Senator has unanimous consent.

Mr. HALE. I so understood and was going on, Mr. President. I wish to say to the Senator from Nebraska that the agricultural appropriation bill has been hanging for a few days and it ought to be passed to-day. I do not wish to antagonize his motion, but I would like to have an understanding if his bill is laid before the Senate that then I may call up the appropriation bill with his consent.

Mr. VAN WYCK. I presume that is the understanding as to appropriation bills.

Mr. HALE. So that I can get it through to-day.

The PRESIDENT *pro tempore*. The question is on agreeing to the motion of the Senator from Nebraska that the bill named by him shall now be considered.

The motion was agreed to.

Mr. HALE. I ask unanimous consent that the bill before the Senate be laid aside informally, and that the Senate proceed to consider the agricultural appropriation bill. It will take but a little time.

The PRESIDENT *pro tempore*. The Senator from Maine asks unan-

imous consent that the pending order be laid aside informally, and that the Senate proceed to consider the agricultural appropriation bill. Is there objection?

Mr. SHERMAN. I object.

The PRESIDENT *pro tempore*. Objection is made. The first amendment reported by the Committee on Public Lands to the pending bill will be read.

Mr. HALE. I do not desire to insist upon the Senate considering the appropriation bill now, if it is the feeling of the Senate that it is better to go on with the bill just laid before the Senate. I will not make any motion at present.

Mr. CULLOM. I do not think the forfeiture bill will take very long.

Mr. HALE. I make no motion.

HOUSE BILL REFERRED.

The joint resolution (H. Res. 335) to print 2,000 additional copies of Lieut. P. H. Ray's report of the International Polar Expedition to Point Barrow, Alaska, was read twice by its title, and referred to the Committee on Printing.

TEXAS PACIFIC LAND-GRANT FORFEITURE.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 3933) to declare a forfeiture of lands granted to the Texas Pacific Railroad Company, and for other purposes.

The Chief Clerk read the first amendment reported by the Committee on Public Lands, which was in line 9, of section 1, to strike out the word "that."

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment which has been read.

The amendment was agreed to.

The next amendment was, in section 1, line 9, after the word "lands," to strike out the word "be;" in line 10 to strike out after the word "to" the words "sale and settlement" and to insert the word "disposal;" in line 11, after the word "under," to strike out the word "existing" and insert the words "the general;" and in line 12, after the words "United States," to insert the words "as though said grant had never been made: *Provided*, That the price of the lands so forfeited and restored shall be the same as heretofore fixed for the even sections within said grant;" so as to make the section read:

That all lands granted to the Texas Pacific Railroad Company under the act of Congress entitled "An act to incorporate the Texas Pacific Railroad Company and to aid in the construction of its road, and for other purposes," approved March 3, 1871, and acts amendatory thereof or supplemental thereto, be, and they are hereby, declared forfeited, and the whole of said lands restored to the public domain and made subject to disposal under the general laws of the United States as though said grant had never been made: *Provided*, That the price of the lands so forfeited and restored shall be the same as heretofore fixed for the even sections within said grant.

The amendment was agreed to.

The next amendment was to strike out section 2, in the following words:

SEC. 2. That in any and all cases, as to any lands embraced within the terms of the act named in section 1 of this act, whenever the Department of the Interior, or its officers, or the local land-officers have treated said lands as open to selection, purchase, or homestead entry, and have allowed purchases, selections, and entries of any of said lands under the general laws of the United States, the acts of the Department of the Interior, and its officers, and the local land-officers in permitting such entries, selections, and purchases, in making such sales, and in issuing patents, certificates, and lists thereon, are hereby ratified and validated; and the rights and titles of parties or persons holding patents or claiming right or title under certificates or lists of lands issued or certified by the Secretary of the Interior or the Commissioner of the General Land Office, or certificates issued by the officers of the local land offices, or who have made homestead entries or pre-emption settlements or claims of any kind upon any of said lands under the general laws of the United States, in any way affected adversely by said grant, are hereby confirmed and made valid to the same extent as though said grant had never been made; and all of said lands embraced within the provisions of said acts shall be restored to the public domain, subject to the saving of rights as provided in this section, as though said grant had never been made.

And in lieu thereof insert:

SEC. 2. That the act of March 3, 1875, entitled "An act for the relief of settlers within railroad limits," is hereby repealed.

The amendment was agreed to.

The PRESIDENT *pro tempore*. This concludes the amendments reported from the Committee on Public Lands.

Mr. MORGAN. I offer the amendment which I send to the desk to come in after the text of the bill.

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

The CHIEF CLERK. It is proposed to add as new sections:

SEC. —. That jurisdiction is hereby conferred on the circuit court of the United States for the northern district of Texas to hear and determine all questions and controversies concerning the rights and equities in said forfeited lands that are claimed or asserted by the United States, or by any person or corporation claiming the same under or in consequence of any law of the United States, or any act of its lawfully authorized agents, and to enforce any judgment or decree, either interlocutory or final, that said court shall render in respect of said lands or any interest therein.

SEC. —. That it shall be the duty of the district attorney of the United States for the northern district of Texas, under the direction of the Department of Justice, immediately to proceed in the circuit court of the United States for the said district, by bill in equity, in the name of the United States of America as plaintiff, against any corporations or persons that claim any interest in the lands hereby declared forfeited, arising under said act of Congress approved July 27, 1866, or under this act, so as to bring before said court for its determination the validity of such claim, whether the same be legal or equitable.

SEC. —. That any person or corporation not made a party defendant in said proceeding, but claiming any interest under the laws of the United States in the lands, or any part thereof, which are declared forfeited by this act, may present such claim by petition in said cause, duly verified by oath; and if the court, upon consideration thereof, shall decide that the adjudication and settlement of such claim are necessary to do complete justice in said cause, the court shall direct that such further proceedings be had upon such petition as that the same may be fully heard and determined, and shall proceed to decree upon the same as fully as if such petitioner had been made a party defendant in said suit: *Provided*, That no such petition shall be filed after twelve months from the date of the filing of the bill in said cause.

SEC. —. That the court, if it shall see fit, may tax all the costs of the suit under the third section of this act against the United States, and shall apportion the costs of any proceeding under the fourth section of this act between the parties according to justice and equity. Any party to the suit instituted under this act shall have the right of appeal from any final decree thereon to the Supreme Court of the United States, in the same manner and under the same conditions as are prescribed by law and the rules of said court for appeals in equity cases; and the Supreme Court shall cause said appeal to be advanced on the docket so that the same shall be speedily determined; but no right of appeal shall exist after six months from the time when said final decree is entered on the records of the circuit court of the United States.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment proposed by the Senator from Alabama.

Mr. MORGAN. Mr. President, in supporting the amendment which I have offered I desire to announce at the outset that I am content to vote for the bill just as it is, and that I shall vote for it even if the Senate does not adopt the amendment which I have had the honor to bring forward.

I believe that this land grant ought to be forfeited. I am quite sure that the Texas and Pacific Railroad Company has not earned one foot of the land embraced in its grant. I believe that the attempted transfer of the land grant by the Texas and Pacific Railroad Company to the Southern Pacific Railroad Company was so far in violation of the laws of the United States and the public policy declared by Congress, that it could not become a valid transfer without the express sanction of Congress. Hence I am prepared, notwithstanding the claim set up by the Southern Pacific Railroad Company to this immense land grant, to vote for a declaration of the forfeiture of these lands to the Government of the United States.

I make this announcement in the outset so that I may avoid any possible misunderstanding, or any possible misconstruction of my individual position. However unimportant that may be, it is a matter of interest to me, of course, that I should not be misunderstood. I desire to present, however, in this amendment an opportunity to the Senate to declare whether it will take these lands into the keeping of the United States Government by an absolute decree of Congress, or whether it will relegate the question of the validity and effect of our act in passing this law to the courts of the United States, there to be passed upon and decided by them within a brief period of time.

I will premise by saying in the presence of the Senate, of every lawyer and every layman in the body, and I ask attention to the remark, that it is not possible for Congress to enact any law affecting private rights of property so as to take away from the judicial tribunals of this country the ultimate right to decide upon them. In that declaration I think I shall have the concurrence of every member of the Senate. I repeat it is not possible that Congress shall pass any law affecting private rights of property which will have an absolute and determinate effect upon those rights of property so as to exclude any person from having the right to raise the question and litigate upon the validity of our action in the courts of the country.

The demarkation in the Constitution of the boundary lines between the co-ordinate departments of the United States Government is so clear and so well fixed that I think there is nobody to be found now in this free Government of ours, this constitutional country, who will assert that Congress can intervene between two private persons or between the Government of the United States and a private citizen and by an act of legislation so far conclude and foreclose a question of title to property as that litigation thereafterward about it shall be impossible. If that is so, when we revoke this land grant or when we declare it forfeited, the immense area of lands which are covered by it will become the subject of litigation. We can not prevent them from becoming the subject of litigation. We can not put up bars before any court, either of the States or of the United States, which will shut out parties in interest in this controversy from coming in and demanding of the judges that they shall hear and determine and adjudicate upon their rights of property.

If these propositions are true, then the question that I present in this amendment is simply one of policy, for the adjudication must come sooner or later. The question is whether it shall come in after years and during a series of years, and at the instance of a great number, it may be, of private litigants and in courts to be selected by themselves, or whether it shall come at once, be determined at once in a court of the United States, all in one suit, which can be taken by an appeal to the Supreme Court of the United States, which that court is required to treat as a cause of emergency and to advance on the docket, so that the litigation may be finally ended as soon as possible in view of the administration of justice.

I will suppose that we pass the bill just as it has come from the committee without adding the provision that I have the honor to offer as an amendment to it, and then let us look at the situation. I have but to refer to the fact that for five or six mornings the Senate has been

occupied in an earnest and an honest endeavor to rectify the evils which have come upon a large community in the State of Iowa, growing out of the fact that we did not provide when the controversies first arose in Iowa a court of competent jurisdiction to hear and determine and settle them. I can refer also to another case upon the Calendar, which is being pressed upon the attention of the Senate for settlement, and which for years has been lingering in this body in one form and another, what is called the Sioux City Railroad case. In consequence of the neglect of Congress to provide a tribunal for hearing and determining the controversy in that case, there has sprung up a litigation between parties, which is spreading itself from one tract of land to another throughout a large domain in the State of Iowa, and which is involving Congress and involving the courts in an infinitude of difficulties and troubles, every one of them the result of the neglect of Congress to provide at an early stage for the settlement of those difficulties by a court of the United States having competent jurisdiction and power to decide them.

Again I refer the Senate of the United States in the State of Michigan to a most laborious, intricate, and involved controversy about the Ontonagon land grants and about the transfer of a land grant from one portion of that State to another, and about the question whether the State of Michigan has been compensated by one grant for what it yielded up, or was supposed to have yielded up, under another—a question of the greatest possible difficulty, which has been argued and reargued before the Committee on Public Lands by the ablest lawyers in the United States, and who have had the opinions of Senators upon it. Yet that controversy is not ended, and every Senator here who is acquainted with the facts of those cases must know that if in the early stages of the controversy jurisdiction had been conferred upon a Federal court for the purpose of calling all parties in interest before the court, including the Government of the United States, a settlement would have been completed long ago and peace and prosperity would have ruled and reigned in a country where there is nothing now but discord and strife.

Mr. President, the Congress of the United States is responsible today for a great amount of injustice and wrong that has been done in various locations in this country from not having provided in cases of controversy for the settlement of those controversies in a court of broad, comprehensive, competent jurisdiction. I could cite to you many other cases of this kind. Some have occurred even in my State. They have occurred elsewhere. They occur continually in regard to the Spanish grants. There is a very important case now in the State of California, where parties are seeking to have Congress intervene after a great many years have elapsed, and to establish a tribunal and give jurisdiction to some of the courts for the purpose of settling those controversies that ought to have been settled long ago. An almost incalculable amount of mischief, of waste and expenditure, of heart-burning between citizens and the Government and between citizens themselves, between railroad corporations and others, is wrought throughout the country simply by our having neglected to take care of this subject in a proper manner.

When I had the honor of going upon the Committee on Public Lands and found that nine-tenths of the time of that committee, most laboriously expended, was occupied in the attempt, a vain one so far, to settle these controversies—for not one of them has yet been settled—when I found that numerous bills for the forfeiture of land grants were coming up, that almost every important railroad in the West was being attacked upon the ground that it had not complied with the act granting the lands, and that therefore they were the subjects of forfeiture, it occurred to me as a duty that I could not avoid to suggest to that honorable committee and to suggest to the Senate of the United States that in the beginning of this system of land-grant forfeitures we should adopt a plan which would cause the speedy settlement of all these questions of litigation and controversy. Hence it was, with no ambitious motive surely, but with a desire simply to perform a very plain duty to my mind, that I brought in an amendment to one of those bills.

More than that, I introduced and had referred to that committee a general bill providing that in all cases of land-grant forfeiture the circuit court of the United States in some part of the land-grant domain should take jurisdiction of these cases and proceed to decide them, calling in all the necessary and all the proper parties. When that bill went before the committee, not connected with any special land grant, a majority of the committee required me to report it back favorably. I felt of course sustained by the committee in that particular, and was very much gratified that they took that view of the subject.

But occasionally it has occurred that in respect of some of these cases the majority of the committee, say five to four, have insisted that the amendment was not appropriate in a particular case, that it was not necessary. I have always contended and believed that if it was necessary in one case it was proper in all. It might not be absolutely necessary, but still it was proper in all.

So the Senate will remember in regard to the Oregon land-grant case, where the two Senators from Oregon concurred that it was not necessary in respect of that land grant, the question arose in the Senate, and the Senate decided against the amendment, doubtless upon the ground that it was not necessary to that bill. In the case of the Atlantic and Pacific Railway Company, when the question arose here, the Senate by a very large vote, upon the call of the yeas and nays and after debate—a vote I think of some 30 or 35 to 11—decided in favor of the amendment.

So the principle of the amendment I now offer has received the sanction of the committee in the general bill; it has received the sanction I believe of four out of five of the committee on this particular bill; and it has received the sanction of the vote of the Senate by the majority which I have just stated upon the Atlantic and Pacific bill. I now offer it to this bill, believing that there is not a single case in all the number that have come before the Senate or that will come before the Senate in which this amendment is more important than it is in this case.

I should very gladly have avoided the labor and responsibility of offering the amendment, for it has caused me to be attacked personally through the newspapers of the country as one who desired to obstruct the forfeiture of land grants, because I pleaded in the Senate that the Government of the United States in instituting a new system of action in regard to the land grants should so provide as that all questions which might arise out of them should be settled early after we had declared the forfeiture, and thereby save to future generations the terrible litigation which has been so expensive and so trying upon a great many communities in this country.

Now, let us consider one category here. The Texas and Pacific Railroad Company have made a transfer bodily of the entire land grant made to them to the Southern Pacific Railroad Company. Arguments were made by men like Hon. William M. Evarts, who talked upon the subject as if he were in dead earnest, and here is his brief—arguments were made by a number of the most important and influential lawyers in the United States—insisting that the Texas and Pacific Railroad Company had the absolute right under the terms of the law to transfer the grant to any purchaser, and that whether they transferred it in a body to a railroad company, or whether they transferred it to mortgagees, as they were authorized to mortgage it, or whether they transferred it by private sale to private individuals in small parcels, made no difference. They insisted that this land grant is property, and that until the Government of the United States had declared the forfeiture of it, that being the only power which can avail itself of the right of forfeiture, the right of the company to transfer the land grant was absolute and perfect. It is provided, they insist, in the act under which the land grant originated that it might be transferred to assigns as well as to mortgagees.

The PRESIDING OFFICER (Mr. HARRISON) rapped for order.

Mr. MORGAN. I am entirely aware that at this stage of a session of the Senate not very much consideration can be given to what is being said in debate, no matter how important the question is. Here is a question which, I understand, involves the title to 20,000,000 acres of land. It is not a question in which I have any personal interest or any motive in the world except that of taking the labor to try and explain it to the Senate. These men claim, whether rightfully or wrongfully, justly or unjustly, lawfully or unlawfully——

The PRESIDING OFFICER. Senators must suspend conversation on the floor. It is impossible for the Senator addressing the Chair to proceed with his remarks.

Mr. MORGAN. I shall not detain the Senate very long. I am as anxious to get through as the Senate is that I should. I am trying now to discuss all these questions in one in order to economize the time of the Senate. That is all that I am trying to do. I do not wish to take up this same question upon every forfeiture bill that arises, and here I am trying now to discuss the question of disagreement between the two House of Congress upon this matter. All that I am anxious to do is to enlighten the Senate as far as I am able upon the propositions that are before it.

It is contended, I repeat, that they have a right to this land, and that they have a right to it under the laws of the United States. It is urged ably and vehemently, and with every apparent mark of sincerity, as I have remarked, by some of the best lawyers in this country, by some of the ablest men in the country, one of whom, a distinguished man from New York, is about to take a seat in this body on the 4th of March, that the Government of the United States conferred by its act granting this land the power to this corporation to transfer it absolutely to the Southern Pacific Railroad Company; that the transfer was made for a good consideration in good faith; and that since the transfer has been made the transferee has given mortgages upon the property to other outstanding persons who are certainly innocent. That is their claim.

Mr. VAN WYCK. Do I understand the Senator to say that the company have given mortgages upon this grant of land?

Mr. MORGAN. So I am informed.

Mr. VAN WYCK. No, sir; nothing of the kind.

Mr. MORGAN. They insist that the mortgages which they gave upon their property include this grant; not that they have since the grant was transferred to them made a new mortgage, but they insist that it inures to the mortgage as part of the mortgaged property. That is what they insist.

I beg the Senate to understand that I am not stating my view of this case; I am stating the view which was insisted upon before the com-

mittee. If the Senate thinks that it is disreputable to insist upon it, let the blame rest upon men like Judge Dillon, Mr. Evarts, and others who make this demand, not upon a Senator who presents it here as a part of the argument that was made before the committee, and which he happened to think was at least worthy of consideration.

I do not set myself up as an infallible judge upon the rights of other men. I do not wish to be a judge of their rights except so far as their rights concern a duty that I must perform; and certainly I do not wish to assume the ermine while I am a Senator of the United States and to undertake to decide judicially upon questions that the Constitution has relegated to a different body of men. But that is claimed in behalf of the corporations here concerned. Suppose it should turn out that the courts of the United States sustain this claim of theirs. I presume Senators here will be wise enough to say that no court ever can sustain it; but suppose it should turn out that they do sustain it, about what time will that judgment ripen and become a matter of record? Probably ten years after to-day. Where will the suit originate in which this matter will be determined? It will originate in any court that the Southern Pacific Railroad Company choose to select. They can originate it in a common pleas court in California, in a district court in California, or in a court of equity in California. They can originate it in any court having jurisdiction of a real action or of a suit in equity in any of the Territories through which the road passes. They can institute it in the State of Texas; perhaps in the State of Louisiana.

They have their choice of States, of localities, and of courts in which to start this proceeding. They begin it. How do they begin it? In some little piepoudre collateral action between A and B about the title to a forty-acre tract of desert land, it may be, or something of that kind—an inconsequential and an inconsiderable piece of land—but the question which grafts itself upon that suit is the whole question in the case. It passes around through court after court, and after awhile it reaches the Supreme Court of the United States, after long delay and great expense and great harassment, and it is there finally decided.

In the mean time the court below pronounces a decision. I will suppose that it pronounces it in favor of the Southern Pacific Railroad Company. After having pronounced that decision the company proceeds to sell its lands, and sells them out to cattle-rangers, to farmers, to vine-growers, to villages, and to towns, until thousands and thousands of people become involved in the question. At the time they are making these sales they have got the decision of a court to back them, which, it will be remembered but a few days back in our debates, was a very important matter in regard to certain grave affairs that have taken place recently in the United States. A court in Kansas, it was said, made a decision that the lands of Oklahoma are public lands open to settlement, and thereupon an army of invasion went into that country and occupied it, demanding and claiming that they had the right, under the decision of that court, to occupy that country. Another army followed, the Army of the United States, with its loaded guns and its bayonets fixed, to drive those men out of that territory.

It has been but two or three days since Senators upon this floor in great anxiety have declared their apprehensions that when the grass springs up again in the Oklahoma country war would be started there because of a dispute between the Government of the United States and the claimants to settlement on the public lands, and that those claimants are backed by a decision of a court and that is enough for them. We understand the force of a tide of immigration, and we understand the demand which the Anglo-Saxon makes for land whenever he gets within reach of it. We have our own examples and our own history to refer to in order to refresh our recollections and to admonish us about matters of this kind.

In view of this case, suppose a court in California, in Arizona, in New Mexico, in Texas, or it may be in Louisiana, shall decide that the Southern Pacific Railway Company did have the right to buy the whole tract of land, and that they have a good title in consequence of the purchase, then your people swarm out upon these lands and buy them, and afterward when that case gets to the Supreme Court of the United States and is reversed, you will have re-enacted upon an immense scale the very controversy which has engaged the attention of the Senate for six mornings in succession, and which would engage it for six more in debate were it not entirely improper to be extended at this late hour of the session.

Suppose the decision is made against the Southern Pacific Railroad Company in the court below, your people spread themselves out into this territory and take up the lands under the laws of the United States under homestead and pre-emption entries. What then? After they have gone upon the lands the litigation is still going on; men are kept in a continual state of agitation; they have not got permanent homes and can not get them in that country, and by reason of that fact that country must necessarily suffer, for a country whose families are located upon possessions that after all are doubtful and disputable as to the right, is a country that can have no real peace and no real prosperity.

Suppose that you want to sell those public lands at private sale, or suppose you want to lease them under an act of Congress to herdsmen and shepherds, your title is embarrassed until the courts have decided. After you have passed your decree in Congress here, any man, it makes no difference what his dignity may be or how little or how much land he may claim, has the right to question the validity of it. That is one of the liberties of the American people of which we can not deprive them. They have a right to question our acts in their courts, and they do question them. Whenever our action is questioned, of course that question agitates the whole length and breadth of the domain that you are proceeding to dispose of.

Here we turn loose an immense domain amounting perhaps to twenty million acres, and because we refuse to put a limitation upon a bill which will give a court a chance to adjudicate these questions in advance and within a year from the date of the act, we leave these questions open as a cloud upon the public domain, forbidding people to go there and unsettling the titles from the moment that they go. How can you get into one of these new Territories a stable population of good and enterprising and peace-loving men when you force them to go in there under a cloud upon the title to the whole country? When you have your public domain left under the influence of the sort of legislation that we are about to enact, the men who go there are the men who rely upon the pistol and upon the bowie-knife to fight their way through, and they are not the peace-loving men who ought to be invited to go to the West everywhere for the purpose of settling up those communities and fixing a nucleus of society there that in after years shall ripen into blessings upon that community and upon the world.

The quiet, peace-loving man who resides in the East or in the South or in the Middle States, who may desire to migrate to the West for the purpose of settling near to one of these railroads to get the advantage of it, would say to himself, "I can not afford to go there and invite litigation; I can not afford to go there merely to become the toy and plaything of lawyers and judges; I prefer to seek some other country." But the fierce, unsettled, wandering man, who thinks that he can make up the time and make it the occasion of some advantage by going there with his bowie-knife and his gun, will go and locate upon a tract of land in that country; and instead of getting a good, steady, honest, and peace-loving population, you get a belligerent, unsteady, dissatisfied set of people there.

In view of the general public policy and in view of the controversies which will arise, in view of the history that we are making ourselves only too familiar with every day through these distressful controversies that come before this body, in view of the experience of the Committee on Public Lands which has sat upon these questions day after day and night after night, not during this session of Congress only but at preceding sessions, I appeal to the Senate of the United States that they will adopt and adhere to a proposition which has truth and right in it, which has repose in it for titles as well as for people.

Mr. President, I do not think that I shall be moved from my desire in this matter by any apprehension that I subject myself to criticism as being the friend of the railroads. No, sir; I am the friend of justice; I am the friend of peace and security for titles. I am the friend of the communities who settle out in that country. I am the friend of the men who go there and who, instead of going under the threat of a lawsuit, want to go under the protection of the law.

What reason is there why a court of the United States can not settle these questions? I have heard but one stated, and that is that judges are not to be trusted. That is about the only one that can be stated. The judges are not to be trusted; the judges are the creatures of the corporations; the judges are the hirelings of the corporations; the judges are under the influence of the corporations! Suggestions like these are prated around continually as arguments why they can not be trusted to administer upon these matters. Sir, you have got to trust judges after all, and the question is, What judges will you trust? I have an almost inexpressible feeling of gratification and gratitude, too, to the founders of our system of government that they did place rights of property beyond the absolute disposal of the Congress of the United States, and that they put these questions in the hands of the judiciary for final settlement.

We have got to trust the judges or else we have got to reverse the whole system of our Government. Then the question is, what judges will we trust? I have confidence in the judges of the United States courts that they will do justice, and in the Supreme Court of the United States that it will do justice. Some Senators may not have that confidence; I can not help it. In my retrospect of the history of that august tribunal I see no reason to challenge its honesty, or its integrity, or its ability, or to abate in the slightest degree by any remark that I might make the just influence which it exerts over the people and over the States of this great Union. Therefore I dismiss that argument. We must trust judges, and I prefer to trust the judges of the United States courts. We must have litigation; we shall have litigation about this case. I therefore prefer that this litigation shall come off immediately and be settled as soon as justice will admit of its being settled.

What is this amendment? It is simply providing that after this declaration of forfeiture is made, after Congress has declared all that it wants about it and all that it can declare about it, the Government of the United States in its own name, under the direction of the Attorney-General of the United States, shall through its local district attorney file a bill or bring a suit in the circuit court of the United States for the northern district of Texas, that being an organized State and one of the

States through which this line of railway runs, and that bill shall call in the claimant to this property, the Southern Pacific Railway Company, and shall call in any person else claiming the property under the act which made the grant of land to the Texas Pacific Railway Company. The amendment further provides that if there are other parties who are not necessary parties, but who are proper parties to be represented in their persons or in their property claims and interests which require to be litigated and settled, the court, as is the practice in equity courts, may call in those parties either by the direct service of process where they reside within the State, or by publication under the rules of practice where they reside out of the State, that they may come in and make themselves parties to the suit, that they may call them in, and if they are unwilling to become parties make them parties.

The amendment further provides that any person who may have an interest, or believes that he has an interest in these lands under this proposed act or under any act of Congress, may come into that court and file a petition and propound his interest; that the court shall examine it, and if it finds that the party has a sufficient interest to justify him in being brought in to have his rights adjudicated, he is made a party. In this way every human being who is in any wise connected with this title can be brought into the litigation, and that, too, at a very light expense, for the court has the right under its rules of practice and under the amendment to classify the petitioners, so that the decision in one case will be the decision in all, or in all of that class, thereby reducing the expense of the litigation, hastening the progress of the suits, and causing an early determination of the rights affected.

The amendment then proceeds further, and has what is in effect a statute of limitations in it. A person is debarred from his right to come in as a party by petition after twelve months from the date of the filing of the bill. If any appeal is taken to the Supreme Court of the United States from the final decree in the cause it must be taken within six months from the date of its rendition, and then the Supreme Court is required to advance that case on the docket so that there may be a speedy hearing and determination of it.

That may not be a perfect system, and yet it is the best one that I have been able to devise, and it is the one that the Committee on Public Lands, after due examination, have recommended in the general bill which I reported to this body as being proper machinery for the purpose of arriving at the speedy adjudication of all these questions and a settlement of the rights of every man who may have an interest in this controversy hereafter.

I have not heard the reasonableness of this plan attacked. I have heard nobody say that it was an inefficient plan. I have heard nobody say anything about it, except some surmises have been indulged that the object in offering it was to delay the forfeiture, to prevent justice, to shelter the railroads, and to keep them from surrendering up this grant which Congress declares they shall surrender.

Let me inquire what more can Congress do in regard to this case than merely to declare the forfeiture? What Senator in this body will assert that Congress can do more than declare the forfeiture? We declare that in consequence of the fact that this railroad company has not complied with the conditions of the act granting these lands, its title is forfeited to the United States Government, and we go further and dispose of it. We go further than really I think we ought to go, but still I shall vote for that feature of the bill. We go further and place it in the category of the public domain and we subject it to the land laws of the United States in respect of its future disposal.

That is all that Congress can do. What is the effect of that? What is intended to be the effect of it? It makes no difference whether we intend as the effect of that to cut off all future litigation and inquiry in respect of our right to do this thing or not; we can not do that; we have not the power to do it. The courts, as I have often remarked during this argument and heretofore, will take the subject in consideration and will adjudicate upon it. Then we go in this bill just as far as we can go; and yet we do not get the title. We can not get the title by an act of Congress. We can only take the necessary preliminary steps to get it, and the question whether we have got it is a question depending upon how the courts shall decide hereafter upon the validity and effect of our act.

I have not been very curious to inquire whether this declaration of forfeiture is a forfeiture which relates back to the date of the grant. It makes no difference as to that. We can not make it relate back, for in the law and according to justice it does not relate back, for if we were to do that we should do by *ex post facto* legislation the wrongful and unconstitutional thing of taking from a man his property without due course of law, and that we can not do. It is a question for the courts to determine whether it relates back or not, even though we should so declare; but in this case that happens to make no difference; for in the view that I take of it, and in the view of those who are opposed to the amendment, if there be such, this act of forfeiture declared by us has the effect under our law of what is termed office-found, and only that.

I have had occasion to expound this several times in the Senate. I need not have done it, because other Senators understand it as well as or better than I do; but I refer to it for the purpose of showing the status in which this property is left after we make this declaration. It is precisely in the condition of a piece of real estate in England that was granted by the Crown to a citizen upon a condition-subsequent, as it is called, a condition upon the performance or non-performance of which would depend the completion of the title in the grantee. The Crown sees cause to try the question of title with its grantee. Thereupon it institutes the prerogative writ to which I have heretofore referred, and sends the writ to a judicial officer, to a coroner. The coroner takes further judicial proceeding by summoning a jury. The old common-law jury comes in, except that the number is not limited to twelve, he may make it thirty if he wants. He hears one side of the case; he hears the case of the Crown. It is an *ex parte* investigation. He charges his jury, and his jury find a verdict.

If that verdict is in favor of the Crown it is reported to one of the courts. Then what? Thereupon, if the citizen from whom the land is taken by this *ex parte* proceeding desires to litigate with the Crown, that citizen brings his petition of right, his writ of right, or he brings his bill in equity, and the court being thus put in possession of the case looks back over the whole question, looks back over that part of it which came under the jurisdiction of the coroner, looks back into the right of the thing, as it is termed in the English law-books; and the court thereupon determines whether the Crown is entitled to the property, or whether the citizen is entitled to the property. If the citizen turns out to be entitled to the property the Crown must not only yield the property to him, but it must also yield to him damages for having interfered with his possessory right. That is English law. That is English liberty. That is the power of a citizen under the English system.

Sir, when you come to compare the boasted powers and rights of the American citizen with those of a British subject upon this topic, the American citizen does not approach him in his liberty. We have never provided in our country that any citizen of the United States might sue the Government when the Government undertook to take away from him the title to a tract of land that it had granted. We have only doled out to our citizens once in a while the poor privilege of suing for money claims in a court of claims; but when you come to address yourself to the rights that the people have as individuals against the Government of the United States in respect of this vast domain of land which extended from the States of Pennsylvania and Kentucky and Georgia all the way to the Pacific coast you can not find upon the statute-books of the United States or in its Constitution the scratch of a pen or the impress of the type to show that there has ever been granted to the people of the United States the liberties and rights in respect of that domain which belong to the British subjects under the Crown of Great Britain.

Therefore, when the Congress of the United States undertakes to take a man's land away against his complaint and his protestation, he has nothing to do but to go into some of the State courts, or if perchance he can find his way into some Federal court where he can not bring his action against the United States, he may bring his action against some other citizen, in which suit the question will arise collaterally and not directly; and in that way, working from court to court, he brings the question before the Supreme Court of the United States, and that court may decide ultimately that the Government of the United States has no title to the land. The British subject can sue the Crown immediately. He can bring his petition of right or his bill in equity and try the question of title with the Crown, whereas the American citizen, this boasted inheritor of all the glory of his ancestry and of the light of the world, must probe his way around, fight his way about the pie-poudre courts, and in a collateral way and in an inconsequential way have this immense question decided between him and the Government of the United States, and then it remains for Congress, by some act or other, to repair the wrong and the mischief which this system has done.

Now, what do I claim in this case? I claim it in behalf of a company that I believe have no legal right, that they shall still have the right to litigate, and inasmuch as I can not keep them from litigating and I know that they will do it if they choose, as they say they mean to do it, I want to draw that company into a competent court at once, and I want that suit prosecuted in the name of the United States Government, so that all controversy may be ended and that this question of title shall be settled.

Perhaps I have not framed the amendment in the best way. The committee agree with me that it is the best way that they could think of. Some Senator may be able to improve it. If he does, I shall thank him for it. But the principle of it is a very clear one to my mind; the duty of enacting it is a very clear one; and as to the public policy of putting it upon the statute-book for the purpose of having these rights considered and tried, I have no doubt.

My own experience teaches me, if I had nothing else to go to as convincing me that the public policy of this country requires that we should have these controversies settled, now that we are setting out to forfeit land grants and this is to become a fruitful subject of litigation, a very harvest of litigation sown in the land, that we should provide in a timely and proper way so that this matter may be settled early, speedily, by high courts, courts having competent jurisdiction and courts that are courts of justice, whatever other Senators may say about them.

Inasmuch as I shall support the bill just as it is, if my amendment is

voted down, I ought to be allowed to state the reason for that. It is one that I state with great modesty and unaffected diffidence, because it is right in the very teeth of the opinions of some of the greatest lawyers in the United States, and I have no reason to believe that they have made any insincere statement of their opinions. They are honorable men, and I believe that when an honorable man comes before a committee of Congress, or a court, and is questioned as to his opinion upon the law, he will make a statement of it that he thinks he can sustain, and he will not be rash enough to state something that is foolish or something that is impossible to fortify or sustain by reasoning or by precedent.

When Mr. Evarts was arguing this case before the committee I asked him the question: "Do you, sir, ask of the Congress of the United States any affirmative legislation to ratify this grant which you claim that you have bought from the Texas Pacific Railroad Company?" He said, "We do not; we think we have got a good title." There I differ with him, and there it is that I venture to state the ground of my difference as justifying the declaration which I make here that I shall vote for this bill even though the Congress of the United States intends to relegate all these questions of litigation to some unknown court and the decision to some unknown period in the future.

What is my reason for it? I will state it briefly. The Texas and Pacific Railroad Company was organized for the great leading purpose of building a railroad about the thirty-second parallel of latitude to San Diego on the Gulf of California. No road was built under that charter to San Diego or anywhere approximating it. The Texas Pacific Railroad Company never broke ground across the border of Texas for the purpose of building the line to San Diego. They did absolutely nothing. While they were building their line out through Texas to El Paso del Norte a very strenuous effort was made in the Senate of the United States and in both branches of Congress to get for them a subsidy, an indorsement of their bonds in addition to the land grant, and that effort was based upon the idea which is entirely a correct one, that the Texas and Pacific Railroad, if built out to San Diego, would be a competing line with the Southern Pacific Railroad, which was then coming from San Francisco by the way of the Mohave Desert along down toward Yuma, and from Yuma on, as was insisted, to the eastern connection.

The great purpose of Congress in granting this land, and the great purpose of those gentlemen who advocated this bounty or this indorsement (and some of the most respected of my friends advocated it), was that they should get a competing line through to connect to the Pacific coast. They were not willing that the Southern Pacific road, which was alleged to be and is in fact a real part of the Central Pacific road, after having received the bounty of the Government from Ogden westward to San Francisco, should avail itself of the money which it made, the power and influence, the capital and credit which it concentrated, to sweep on down the Pacific coast to come back toward New Orleans, making thereby a mere prolongation of the Central Pacific through the name of the Southern Pacific; because they said, "When that is done you only double their powers of monopoly instead of getting up an opposition line in that country."

So my friends here to whom I have referred warmly insisted upon the assistance of Congress to the Texas and Pacific road. It is true I did not go for that. I did not go against it. The question did not come up finally for settlement by Congress, but that makes no difference; I am trying to prove the proposition that one of the great leading thoughts in regard to the Texas and Pacific Railroad, both in respect of the land grant that we are now about to forfeit, and in respect of the donation of public credit that was sought for, was that we should have a line open to San Diego, and that we should have competition in favor of the farmers and commercial men of this country by having two lines instead of one, and having one at least under the direct control of the Government.

While this was going on the Southern Pacific Railroad Company were here by their agents, lobbyists, &c., earnestly insisting that they did not want any grant of land. They opposed our making a grant of credit to the Texas and Pacific Railroad; they did all they could to keep Congress from building up the Texas and Pacific, for the reason that they did not want any competition. They announced here and everywhere that they could build that road out of their own money, and they did build it out of their own money. They built it down to Yuma in time to earn all their land grant; they built it within the time prescribed by the act which gave them the charter and also the public lands. They earned the land grant to Yuma. Then they came on to El Paso del Norte, saying to Congress and to the country: "We do not want a land grant; we are going to build the road with our own money; and more than that, we do not want you to subsidize this other road; it is useless to do it, because before you get your subsidy passed, almost, we shall have the railroad down to El Paso del Norte;" and they did that.

After getting their road down to El Paso del Norte what do they do? They simply buy out the land grant of the Texas and Pacific, and by a doctrine which I may call *cy pres*, by the substitution of one company for another, they claim that they have performed in substance what was intended to be performed by the Texas and Pacific road and what was required by Congress of that road, and in consequence thereof they have the right equitably to the grant. But they say, "Whether we have that right or not, whether there was any equity in our favor, treat us as persons who had never any connection with it at all. Your act of Congress under which you have granted these lands is of such a character that you have put it in the power of the Texas and Pacific Railroad Company to sell the entire grant, and we are the purchasers in good faith and for a valuable consideration."

Mr. President, I confess to you that as a lawyer that has been a very hard proposition for me to wrestle with. That same proposition came up in what is called the Louisiana Backbone grant. There the Backbone Company transferred its grant out and out to the New Orleans Pacific road, and upon the very identical pretext that the Southern Pacific claims the land under the transfer of this great body of property in this case. What was the New Orleans Pacific case? I will state it very briefly. It was that a grant had been made to what is called the Backbone road on the east side of the Mississippi River from the city of New Orleans, via Baton Rouge, up to Shreveport. That road was not built; scarcely a shovelful of earth was ever lifted in its construction. The Texas and Pacific road came along toward the east, and finding that they could get into New Orleans on the west side of the river, not on the east, they bought out the whole line of road there and commenced constructing from the end of that line up toward Shreveport, practically over the very territory embraced in the Backbone land grant. They went on without any aid from Congress; they built their road; they made their connection with Shreveport on out until they connected with the whole Texas and Pacific system. Then they went to the Backbone Company and bought the grant out and out; and that grant was brought before the House of Representatives at this session. A very large majority of the committee reported against its validity, but the House of Representatives on consideration ratified the transfer and refused to forfeit the lands.

Now, sir, shall it be said by Senators on this floor that Mr. Evarts, Judge Dillon, and such men as these had no justification whatever in law or morals for the position which they have taken in regard to this matter, when the House of Representatives by a solemn vote in precisely a similar case has ratified the transfer? I can not take that ground. I must meet it in some other way; yet I do not believe that the transfer was valid. Now, why do I not believe that? The reasons, I can say, are simply satisfactory to myself. I do not know that they will be to anybody else. They are not based upon any given precedent that I can cite, for the reason that a case of the kind has never, within my knowledge, arisen, and I will state the reason.

Here was a great public trust created by this act of Congress for a great public purpose, and these lands were dedicated by Congress to the use of the people; they were taken out of the category of lands that were to be sold for the replenishing of the Treasury, and they were dedicated to the use of the people. What people? Those that then occupied the country and the generations to arise that might occupy it in the future. It is a continuing dedication, as much so as a public highway or a park in this city, or a park in the city of New York or Philadelphia, a dedication for the general use and benefaction of those who may be there to enjoy it, and it is one of those things that Congress did not have it in contemplation to take back as a dedication at all, for in the acts making these grants, instead of requiring that the lands should be returned to the Government of the United States in the event of a failure, it was merely provided that the Congress of the United States should have the power of substituting another agent for the purpose of executing the trust of the dedication. That is all. I do not think it takes much of a lawyer to see that.

I am opposed to recalling this dedication if I can get along in any other way with it, and I would be opposed to it in this bill but for the fact that communication between San Diego and El Paso del Norte has been established, and that to allow these lands to remain subject to that dedication would be a useless thing so far as the general public is concerned; and I do not want this railroad company, which has not got an honest and a fair standing before the country, to come in under the pretext of enjoying this dedication and preserve it for their private advantage instead of for the public good. That is my ground about it.

I believe that they had no right to transfer the grant without the consent of Congress. When a railroad company is selected by Congress for the purpose of receiving a grant of lands and the grant is made to the railroad company, not to the States; for, mark the difference now, when a particular railroad company comes in and receives from Congress a grant of land it must be assumed, for it is true, that Congress would not make that grant to a set of irresponsible or a set of rascally men, men of bad reputation. The dedication being for the general public use, Congress in selecting the trustees to execute this grand trust would never think of accepting a corporation until after it had canvassed the character of the men upon whom and upon whose faith and responsibility, and respectability also, it was willing to confer the execution of the trust. So it selected this Texas and Pacific Railroad Company, named the individuals who were the corporators in the act, or else required them to be named by the States and Territories through which the road was to pass.

What did Congress do there? Select a body of American citizens to execute a great trust for the building of a great highway through the

land for the benefit of a great section of the country. Can that trust thus conferred upon a particular set of men by act of Congress be transferred by them without the assent of Congress to another corporation? If that may be done, they could transfer it to men none of whom were naturalized citizens of the United States; they could transfer it to men who would prefer to lock up the road, for instance, for the purpose of driving all the burden of commerce away from our own shores across the Canadian Pacific. If you can transfer it to any corporation at all in a body you can transfer it to that corporation which controls the Canadian Pacific Railway, or you can transfer it to that corporation which controls the railway across the Isthmus of Panama. Hence I say that in the very nature of the trust, of the duties to be performed by these men, and of the grand public objects to be encompassed by this legislation, it inheres in the very quality of the act itself that this grant can not be transferred to another corporation bodily without the consent of Congress. That is a necessary condition precedent to the transfer.

That is my argument about it. That is the ground I am content to stand on about it. But I must mistrust my judgment, for I can cite no precedent, I can only argue from analogy and from my conception of the objects and purposes of this enactment against the power and right of transferring this grant bodily, as the Southern Pacific Railroad Company claims the Texas Pacific Railroad Company had the right to do; and I acknowledge that I am confronted by difficulties in the argument; I am confronted by the opinions of men whose opinions stand far above mine in the estimation of the people of this country and of this body also.

In that case can there be any reason why we should not have this question adjudicated? Shall we undertake to cut it off when we can not cut it off, to suppress it when we can not suppress it? And shall we merely postpone it because that will give a fairer field to some political upstart or adventurer who may wish to go out in the country and attitudinize as the destroyer of railroads, the David that slew Goliath with a single sling? It would be a pity to deny to any gentleman the opportunity to figure in this extraordinary attitude; at the same time I think in justice to the people of the United States we had better do with this thing what is wise and proper and allow such gentlemen to take care of themselves.

The PRESIDING OFFICER (Mr. PLATT in the chair). The question is on the amendment proposed by the Senator from Alabama.

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

The yeas and nays were ordered.

Mr. BLAIR. Before the question is taken upon this amendment I wish to submit briefly my views upon the bill itself and upon the amendment.

On a great question of this kind it would be difficult for the humblest member of the Senate to address the body if it was present, and under the circumstances I feel very little inclination to undertake to present such views as I have, for the reason that it is of slight consequence to talk to an absent body; and yet I do not feel that a question of this importance ought to be decided, ought to be voted upon, without giving it considerable consideration. It may be that those who are not present during the debate are already thoroughly grounded in all the important considerations which appertain to the decision that is about to be made.

The bill before the Senate proposes to forfeit about 20,000,000 acres of land granted in the year 1871 to the Texas and Pacific Railway for the purpose of assisting in the construction of a transcontinental route to connect Marshall, Tex., a town in the eastern portion of that State, with the Pacific coast, the general course of the railroad to be constructed along the line of the thirty-second parallel of latitude. The line never was constructed by the railroad company that was endowed with this grant. The portion of the line to be located in the State of Texas was constructed by that company or by those who succeeded to its ownership. The portion of the railroad, which I think to be about seven hundred miles in length, situated in the State of Texas, was endowed with a large land grant from that State, a grant, if I am not incorrectly informed, the same in quantity per mile as that which was received from the United States along that portion of the line which was to be constructed within the Territories of the United States, the Territories of New Mexico and Arizona.

The land grant in Texas coming from the State of Texas was, as we are informed, a very valuable grant. Most of the lands, as is true, I imagine, of substantially all the lands in that great State, were very valuable, valuable for agricultural purposes, and I do not know but some portion of them on account of timber, and it may be on account of other resources located upon or within the soil. But even that portion constructed in the State of Texas was not constructed for many years; was not constructed as under the terms and conditions of the original charter it was supposed the road would be constructed. Arrangements had been made by Colonel Scott and his associates for raising the necessary funds for the building of this road, mainly in London, when the panic of 1873 occurred just before the consummation of his arrangements, and the whole matter fell through.

I ought, before proceeding, to state another thing. At or about the same time that this railway obtained authority to construct its line along the thirty-second parallel through Texas and the Territories and the State of California to the Pacific coast, a charter-right from the State of California, which was recognized in this grant to the Texas and Pacific Railroad, was given to what was created as the Southern Pacific Railroad to construct a line from San Francisco to the southwest corner of the Territory of Arizona, intersecting with this proposed line, the Texas and Pacific, at Fort Yuma, in the Territory of Arizona, close to the southeasterly corner of the State of California. The conditions and limitations to regulate the construction of these two roads were substantially the same. They were to be undertaken and to be built with equal steps, so that it was contemplated that when the Southern Pacific Railroad should have reached this point of intersection, Fort Yuma, on the Colorado River, the Texas Pacific would be built westerly and would have arrived at the same point.

Thus a third system of transcontinental railway, connecting with San Diego on the Pacific and by way of the Southern Pacific with San Francisco, a line to be seven hundred miles long of itself, would go, as it was contemplated, into operation substantially together. The Southern Pacific branch, the seven hundred miles, was an exceedingly difficult and expensive road to build. It was endowed by a land grant as well as the Texas Pacific. It was built year by year, in accordance with the terms of its grant, and finally, about the year 1875 or 1876, it arrived at the proposed point of junction, Fort Yuma, having built its entire distance in accordance with the requirements of the laws under which it was chartered in the State of California, and in accordance with the conditions imposed by the General Government in the recognition which it gave to this road in the Texas Pacific grant, and I think also in the Atlantic and Pacific grant. It was constructed at a cost of nearly $35,000,000. That is my recollection in regard to the cost of that road, as I knew it at the time. I may be inaccurate, but not substantially so. When it arrived at the period which I have designated at Fort Yuma, the Texas Pacific had failed utterly in its part of the proposed arrangement. It was still 1,200 miles away at a point called Fort Worth, a little west of the point of commencement, which was Marshall, in Texas, and all this long intervening extent of road was entirely untouched.

Mr. MCPHERSON. How much?

Mr. BLAIR. About 1,200 miles. So that the Southern Pacific road having built in accordance with the laws of the State of California and the laws of Congress, discharging its obligations in every particular, arrived with its investment of $35,000,000 at Fort Yuma, and of course an investment of $35,000,000 through that waste country was utterly lost, unless in some way it could find eastern connection.

Mr. MCPHERSON. Will the Senator allow me right there to ask for an explanation? He speaks of a land grant having been promised or given by the State of Texas to the Texas and Pacific Railroad for that portion of the line running through the State of Texas. Fort Worth, if I understand the geography, is in Texas some distance from the line of New Mexico. Can the Senator tell me whether the State of Texas ever gave the Texas Pacific Railroad Company any lands? Did they earn them and were they surrendered over to the Texas Pacific Railroad Company?

Mr. BLAIR. I was about to approach those facts. I can not answer the question directly. I do not know whether there has ever been any actual transfer of the land grant of the State of Texas to the Texas and Pacific Railroad along the line of that portion of its road which has been constructed in that State. I have no doubt, however, that it has been done. The road was by subsequent arrangement constructed westerly to El Paso, which is on the Rio Grande, and is practically the point of intersection with the road built through the Territories, and I have no doubt that the grant has been made by Texas, as in justice and equity of course it ought to be.

Mr. VAN WYCK. Let me suggest, so that there may be no misunderstanding about the facts as to which the Senator is inquiring, that there was no grant by the United States to the Texas Pacific thrpugh the State of Texas.

Mr. BLAIR. Certainly not. The United States has no public lands in Texas.

Mr. MCPHERSON. I understand that; but the State of Texas itself made a grant.

Mr. VAN WYCK. The State of Texas did make a grant and the company earned that land. The State of Texas gave it to the railroad company. The State of Texas did give the land. That is all the land the company ever earned.

Mr. MAXEY. I can state that the State of Texas grants a certain number of acres to every railroad which completes as much as one hundred miles of railroad in the State. There was a grant to the Texas Pacific Railroad by the State of Texas which owns her own lands. That company completed its road to a point eighty miles from El Paso and up to the point that it completed the road the State of Texas paid to the Texas Pacific road every acre of land promised.

Mr. MCPHERSON. All they earned?

Mr. MAXEY. All they earned. They earned up to within eighty miles of El Paso and there the road stopped, and up to that point the State paid every acre promised.

Mr. BLAIR. May I ask the Senator to state to the Senate the precise geographical location?

Mr. MAXEY. The road for eighty miles between El Paso east to the Texas Pacific was built by the California Southern. That part of the road does not belong to the Texas Pacific.

Mr. BLAIR. Will the Senator be so kind as to state the geographical location of El Paso?

Mr. MAXEY. El Paso is on the Rio Grande at the extreme western boundary of the State of Texas. It is the last town on the east bank of the Rio Grande. Across the Rio Grande is Mexico.

Mr. BLAIR. One question more, because I did not find that definitely stated in such papers as I have seen. There is a distance of about ninety miles where there is a road which is used in common, a connecting link.

Mr. MAXEY. I can explain that in a moment.

Mr. BLAIR. What is the name of that other place?

Mr. MAXEY. The California Southern runs through from San Francisco to El Paso and then eighty miles east, and there it joins the Texas Pacific road. At that point the California Southern turns southeast and runs to San Antonia, Tex., whereas the Texas Pacific runs east from that point to Fort Worth and Marshall, Tex.

Mr. BLAIR. What is the name of that other point of junction?

Mr. MAXEY. I can not recall it to mind.

Mr. VAN WYCK. Sierra Blanca.

Mr. MAXEY. Sierra Blanca; that is it.

Mr. BLAIR. And that is still in the State of Texas?

Mr. MAXEY. Yes, sir. El Paso is the extreme western point in the State on the Rio Grande. Sierra Blanca, where the roads fork—the Texas Pacific running to Fort Worth and then to Marshall—is eighty miles east of El Paso, and therefore is in the State of Texas.

Mr. BLAIR. Mr. President——

Mr. McPHERSON. Will the Senator from New Hampshire yield to me a moment, because I think we all want to understand this question; but I do not wish to interfere with his argument——

Mr. BLAIR. It does not trouble me.

Mr. MAXEY. I beg the Senator's pardon for interrupting him.

Mr. BLAIR. I was very glad of the interruption, because I obtained information which I could not find in the papers.

Mr. McPHERSON. I understand the State of Texas agreed to give the Texas Pacific road, for each and every mile of its railway in the State of Texas, a certain land grant; that as to a part of the line in the State of Texas, the Texas Pacific Company forfeited it because it did not build the road within the time specified, but the Southern Pacific did build a portion of the line within the territory of the State of Texas. Now, will the Senator answer me another question? Did the State of Texas confer upon the Southern Pacific Railroad for that portion of road it built within the State of Texas the same land grant it intended to confer on the Texas Pacific?

Mr. MAXEY. I will answer that in this way: Under the general railroad law of the State every company which would build and equip twenty-five miles of railroad was entitled to a land grant of 10,240 acres per mile; then for every additional section of five miles the same allowance. The Texas Pacific, as I stated, was paid in land to the point to which it built the road, Sierra Blanca. The eighty miles west of that, between Sierra Blanca and El Paso, were built by the California Southern, and I take it, without being able to state on absolute knowledge, that the California Southern got that land under the general railroad law of the State.

Mr. McPHERSON. So that in fact they have received it.

Mr. MAXEY. I suppose so. I do not know that the State owes an acre of land to any railroad company in the world.

Mr. BLAIR. It comes then to this, that on the entire line from Marshall to San Diego and from Fort Yuma by the San Francisco branch to San Francisco, the portion actually constructed by the Texas and Pacific road has received land grants, and received land grants to the same extent that the Southern Pacific claims itself to be entitled to through the Territories.

Mr. McPHERSON. Under the general railroad law of Texas, and not by reason of any right it may have had as the successors of the Texas Pacific.

Mr. BLAIR. I am only speaking of what the Texas Pacific had a right to. I am not alluding to any land grant which comes to the Southern Pacific in the State of Texas, for it appears now that the Southern Pacific, having constructed about eighty or ninety miles of the line within the State of Texas, did receive a land grant precisely the same as the Texas Pacific itself was entitled to, as the Senator thinks, under the general law of that State.

Mr. MAXEY. I will state to the Senator, so that he may understand it, for I do not think he quite gets my idea, that the California Southern not only built those eighty miles of road, but built several hundred other miles of road around to San Antonio.

Mr. BLAIR. So I understand, by the coast.

Mr. MAXEY. But the junction of the Texas Pacific and the California Southern is eighty miles east of El Paso at a place called Sierra Blanca.

Mr. BLAIR. Precisely.

Mr. MAXEY. Without being able to state of my own personal knowledge that the California Southern got its land for building that railroad, I have no doubt on earth of the fact, for I never heard of a company that did not draw its land from the State under the general railroad law.

Mr. BLAIR. It results from all this that the Texas and Pacific corporation, for all the railroad that is actually constructed, has received land grants and land grants per mile commensurate with the amount that the Southern Pacific, which constructed a portion of this same line through the Territories of New Mexico and Arizona, claims that it is entitled to under the law.

Mr. McPHERSON. The Senator stated that the Southern Pacific Railroad Company had also received a land grant. From whom was it? From the Government, or from the State of California?

Mr. BLAIR. I stated in regard to that that the Southern Pacific Railroad as originally created and authorized to construct the line connecting San Francisco and Fort Yuma received a land grant. That line, which is now described as located entirely within the State of California, received a land grant of course within the limits of the State of California. It built its road, as I stated earlier, strictly in accordance with the law year by year, the only land-grant railroad that I know anything of that ever did do it, and it received the patents for its land grant in accordance with the discharge of its duty under the law. When it arrived about the year 1877 at Fort Yuma, the Texas Pacific was still lingering 1,200 miles away in Eastern Texas. The Southern Pacific was there with its $35,000,000 invested connecting with nothing and with nobody, running out into the wilderness, with an absolutely useless waste piece of property, and it must, of course, remain so, this amount of money sunk irretrievably, unless an eastern connection could be obtained.

I state these facts more particularly because I was at the time of the great controversy, that is so often alluded to, a member of the House of Representatives and a member of the Railroad Committee during both those Congresses, and witnessed the struggle between Scott and Huntington and their respective corporations. The failure of Colonel Scott to negotiate his bonds abroad left him without any resources whatever for the construction of the Texas and Pacific road, and he came to the Forty-third Congress, which was before I was a member at all, and proclaimed his utter inability to construct the road without further assistance from Congress. In the Forty-fourth Congress he certainly came and insisted that without a money subsidy or a guarantee of the payment of a large amount of bonds, to be issued upon the road as a security, it was utterly impossible for him to complete the road.

There was a time when public attention was considerably excited over the enormous expanse of the land grants which had been made to various railroad corporations. There had been public scandals connected with the construction of some highways, and there was no inclination then in the public mind, there was no predisposition, to say the least, in the public mind when, as I recollect, the application was here in Congress to favor this pecuniary subsidy. It was perfectly apparent to any man of discretion and sound judgment that the application for a guarantee of $40,000 per mile, which was what Colonel Scott requested in one of his bills, and in another $60,000, and later in the controversy it was reduced to a smaller amount. I say there was no likelihood in the judgment of any impartial-minded person that the subsidy could be obtained.

The Southern Pacific was located as I have stated and situated as I have stated. It appeared in Congress asking to be allowed to build easterly, insisted that it was ruin of its capital not to receive that permission. It asked no help from Congress save as usual it requested the benefit of the land grant which had been made to the Texas Pacific. Sometimes it insisted, in its anxiety for permission to build easterly and form an easterly connection, that it would build it without any subsidy even in land. All that it asked, what it pressed upon the committees most emphatically, as I remember, was the privilege of building easterly to save its capital from ruin. It was able to do it, it said, and would do it, and in justice it ought to receive the land grant; but if it could not receive the land grant it would build any way, such was the stress for the saving of its capital already invested and the establishment of its easterly connection. So the controversy proceeded.

The application on the part of the Texas and Pacific for a pecuniary subsidy, which in its largest amount was more than twice what men were building railroads for among the hills of New Hampshire at that time, naturally to any sensible man amounted to a mere application for delay, and the Southern Pacific was not in a condition to endure delay, and therefore there was a direct and very violent collision between these two great captains of industry, as the chairman of our committee, the honorable Senator LAMAR, frequently expressed it during this controversy; and finally these two men and their corporations came to an agreement that the Texas and Pacific would build westerly as far as El Paso, the Southern Pacific would build easterly as far as El Paso, and there they would form a junction, and they would thus construct the line together, divide the land grant together, and fulfill the obligations which had been contracted on the part of the Texas and Pacific to the United States, and prorate. That bill they tried to force through Congress, but they disagreed between themselves in some way, and it fell through.

The result of it all was that, under the management of Colonel Scott, with the Southern Pacific no arrangement was made, and during those two Congresses nothing was done. But meanwhile the Southern Pacific obtained under a general law the creation of two other corporations in the Territories of Arizona and New Mexico, authorized by the Legislatures of those Territories, under and through which, they furnishing the capital, as I suppose, though I do not know in regard to that, the road was built easterly under the forms of law. Thus it came to pass that they constructed their line as far as El Paso. Meanwhile Colonel Scott had died, and the management of the Texas and Pacific fell into other hands. Mr. Gould and his friends got hold of it, I believe, and they having capital, and better times approaching, they built westerly to El Paso. There the two roads formed a junction, and now are jointly operated as one continuous line.

After these failures to obtain subsidy from Congress had come to pass and it was entirely apparent that no further aid could be obtained from Congress, these corporations got together and came to an understanding that if the Southern Pacific, through these two Territorial corporations, built easterly it should receive all the benefits and privileges, including the land grant through the Territories, that the Texas and Pacific road would have been entitled to when it constructed its line according to its charter. They came to that tacit agreement between themselves, and with that tacit agreement or understanding the construction proceeded through the State of Texas westerly by the Texas Pacific under the management of Mr. Gould and his friends, and proceeded easterly from Fort Yuma by the Southern Pacific under cover of two Territorial corporations as far as El Paso, the point of junction. This tacit understanding was reduced to writing in the year 1881, and was finally and definitely and conclusively passed into the form of a legal agreement between these parties in the month of January, 1882, on the 18th day of that month.

Previous to this time there had been an injunction obtained in one of the Territorial courts on the part of the Texas and Pacific against the Southern Pacific building through the Territories. That had lain along. This understanding had arisen meanwhile, and finally, when a conclusive legal agreement was made between these corporations, as a part of the same, there was a judgment entered in court which carried that agreement by the judgment of the court into effect so far as the judgment of the court could carry it into effect. The time limited for the construction of the Texas Pacific road through to the Pacific Ocean was the 3d day of May, 1882; and thus it came to pass that by the joint effort of these two corporations, the Texas Pacific building westerly as I have stated seven hundred miles to El Paso and the Southern Pacific building in the way they did easterly, the entire line was completed in accordance with the general provisions and purposes of the law and the purposes of Congress from Eastern Texas to the Pacific Ocean—a line connecting San Diego on the original survey.

Subsequently there was an effort made to get across by a shorter line directly from Fort Yuma through to San Diego, but Colonel Scott himself I remember stated that that was an impracticable thing to do and they would be obliged to build over the line of the Southern Pacific northerly toward San Francisco, and then diverging southwesterly complete their line to San Diego. That was a point of controversy, the Southern Pacific resisting their right to go over their line and duplicate the road from Fort Yuma northwesterly one hundred and sixty miles as I think the distance was. But, however, during the period of time within which the road might be completed, it was completed from Eastern Texas through that State and through the Territories into the State of California and so down to San Diego.

Mr. MORGAN. I suppose the Senator is aware that that road from Colton was not built by either the Texas Pacific or the Southern Pacific. It was built by a separate company.

Mr. BLAIR. But leased and operated and controlled by the Southern Pacific.

Mr. MORGAN. It is now the property of the Atlantic and Pacific road under a purchase from a Boston company.

Mr. BLAIR. I do not know how that may be. Very likely that is so. The road is completed and it is in running order, and by running arrangements the cars are making their way to the Pacific Ocean, and that within the period limited by law, over the entire line from Marshall, Tex., to San Diego and to San Francisco.

It is true that the Southern Pacific came to Congress and offered, if it might receive the sanction and approval of Congress, if it might be chartered through the Territories, if the right of the Texas Pacific to build westerly beyond the line of Texas should be taken from it and conferred on the Southern Pacific, to build that line, sometimes without land grant at all, frequently pressed its claims to be permitted to build through the Territories and to receive the land grant, but as a matter of fact nothing whatever was done by Congress and no arrangement was made; and all this that I now speak of, the construction of the road under color of the creation of Territorial corporations and by tacit agreement between the two greater corporations, the Southern Pacific and Texas Pacific, was done without any action whatever on the part of Congress.

The Southern Pacific actually built the road from El Paso westerly precisely the same and complied with the laws just as much as did the Texas Pacific westerly through the State of Texas to El Paso, for which it received by the action of the State of Texas its land grant; and now the Southern Pacific comes to the executive department of the Government and claims that by virtue of the assignment made by the Texas and Pacific of its land grant along that portion of the line actually constructed by the Southern Pacific, it is entitled as the assignee of the Texas Pacific to the land grant. I am not here to say whether that is a just claim or an unjust claim; but I am here to say, because I believe it is justice to say it, that I do not join in the general denunciation of the action, the purposes, and the things really done by the Southern Pacific corporation with reference to the construction of this road.

It found itself, after having complied with the law strictly, with $35,000,000 invested in a way that was likely to be utterly destroyed. It sought of the Government of its country the privilege of building across its Territories easterly in order to accomplish the great public good for the performance of which the Texas and Pacific had been chartered and which it had failed to perform, and admitted its inability to perform. It asked the privilege of building on precisely the same conditions easterly that the Texas and Pacific had been authorized to build westerly and had failed, and admitted that it was impossible to do otherwise than fail without a subsidy which was sufficient to more than twice build every line of the road along which it asked for the subsidy, for roads were then being built in my State at that lower rate. I sent and got the certificates of the men who were constructing a road for less than $25,000 a mile, some $22,500 a mile, in our hard country. Here was a company asking for a subsidy from Congress in addition to its land grant, before it would undertake the construction of the road, of $40,000 a mile in one bill and as I recollect $60,000 in another bill, insisting that it could not construct the road across the Territories without it.

Under these circumstances the Southern Pacific did just what any business man would have done, just what it was its duty to do. It pressed for the opportunity to construct itself the road to form its easterly connections; and finally, no action being taken by Congress, it proceeded to this thing which was indispensable to the prolongation of its rights, to build its road, and built it under color of the law by means of the Territorial corporations to which I have alluded. Within the time limited in the original Texas Pacific grant, by these arrangements and understandings between these two corporations, the highway came to be constructed from Marshall, Tex., to San Diego and San Francisco; and the understanding as to the assignment of the land grant was arrived at years before the completion of the road, and it was formally carried into execution and the articles of agreement delivered and sanctioned by the decree of a court within the time limited for the construction of these roads.

I am aware that there is public clamor, and that we are reminded of various things which may not have been right, and are pointed to things which were not right, yet which are utterly irrelevant to the question now before the Senate of the United States, and which never could be urged and ought not to be urged before a jury sitting to try the great rights of property that exist between these parties; but although we are constantly reminded of these things which are entirely aside from the merits of this case, there is great color of justice, to say the least, in the claim of the Southern Pacific Railroad that it is entitled to hold this land grant. The report of the minority of this committee, drawn by my friend who has just addressed the Senate, and signed by myself with two other members, without its being read by myself, taken on the statement of my friend that it was practically a report in favor of his court amendment, contains at the commencement of it a statement of certain facts with reference to the Southern Pacific Railroad Company from which I take this opportunity absolutely and emphatically to dissent.

I do not believe that there is any lack of equity in the claim of the Southern Pacific Railroad to this land grant. Whether it has a right to it in law I do not know, and I am not in favor of giving this land grant in the present condition of our public lands to that corporation unless it can hold it in law; but if that corporation has the right to the land in law, I believe that its claims are re-enforced by the real equity of the case.

Mr. President, I am not here to argue the legal question. This debate has come on quite unexpectedly to me. I thought it would be later in the session. I proposed to look over the authorities somewhat, and I can now only speak from my general recollection of the law, but I understand that this grant having been made to the Texas Pacific, and its successors, and assigns, and being a grant *in præsenti*, did give to the Texas and Pacific Railroad Company a right to assign the lands along such portion of the line as any other party might construct the road in such way that that party might hold those lands, provided that that party complied substantially with the conditions-subsequent contained in the grant. That these parties have complied substantially with the conditions-subsequent may be a question of fact. I do not know enough about the particulars of the case to say how that is. I do say, however, that it is one of those important questions of fact that should be judicially investigated. I say that it is one of those important questions of fact which the Senate should ascertain by a careful trial, by

summoning and examining witnesses, finding that fact with as much formality as would a court in any case, if the Senate is to act as a forfeiting body and by a legislative forfeiture undertake to settle this entire transaction.

This is patent upon a general view of the subject that in all great essential particulars the Southern Pacific has constructed this road in accordance with the provisions of the law as it was contained in the charter of the Texas and Pacific, that in all essential particulars there has been a compliance with the grant. I know it is said that the Southern Pacific and Texas Pacific do not now constitute what the original act proposed or contemplated, a great competing line with any other through line of railroad that has been constructed. That is a question of fact which is by no means clear. What other through great competing line is there? All the evidence before the committee was to the effect that if any other corporation owned the Southern Pacific Railroad Company it was the Central Pacific, that the capital came by and through and from the Central Pacific and that portion of the Southern Pacific which is within the State of California.

Is the Central Pacific any great through competing line; for it is a through competing line that is spoken of in the act, and consolidation with which is prohibited, and not any line which is partly across the continent and not a through competing line? There was then no other competing line in existence unless it was the Central and the Union Pacific, which were well known then and are now known to be in hostility with each other, although having running arrangements yet still two hostile corporations. The Southern Pacific is really owned by the Central Pacific if it is owned by any other corporation than itself, and to-day the interests of the Central Pacific are more located along the line of the Southern Pacific, if it is all one corporation, than in that portion of its line which connects San Francisco with the Union Pacific.

It has now its connections from San Francisco southeasterly to Fort Yuma seven hundred miles, then through the Territories five hundred and fifty miles, and from there to New Orleans, and then on by through connection to the Chesapeake and Ohio, and more southerly still along the Gulf coast, I think, debouching very near the port of Brunswick. So the real interests of the Southern Pacific or the Central Pacific, which owns the whole, now are located in and along this line of road, and there is no consolidation with any competing through line even upon that state of facts; but what the real state of affairs may be I do not know; it never has been investigated. The fact has never been found for or against the Southern Pacific; but it is a fact that ought to be investigated and ought to be found, for it is of the very gist and essence of the whole controversy, before we undertake to take this land away and put it into the public lands and open it for sale and settlement under the ordinary laws regulating the settlement and sale of the public lands, leading thus the way to indefinite confusion, lawsuits, and litigation in the future.

As I said, Mr. President, I am not sufficiently acquainted with all the details of these matters of fact which are essential to be known and to be determined before there is the final and fatal action with reference to this land grant which is contemplated by the bill. I understand this to be the law, that the assignee of the grantee of an estate upon condition subsequent has only to substantially comply with the conditions in order to be entitled to the benefit of the estate. In fact, the original grantee himself has only to comply substantially. Estates made dependent on conditions subsequent are not favored in law. The estate itself is transmitted at the time of the original grant. New interests are likely to arise; improvements may be made in the estate; the man receiving it hopes and expects to comply with the condition subsequent, and he may make his homestead, he may improve it largely, he may invest large masses of money, so that the courts will not hold him to any but a substantial, not a literal, compliance with the condition subsequent. The manifest justice of this rule of law is apparent to everybody. It has been the rule of law from the beginning; for a thousand years it has been the rule of the law in reference to conditions subsequent, and in these latter days the rule has been even still further relaxed until now a condition subsequent can hardly be maintained by any court in Christendom.

This is true with reference to the construction of this railroad. It was not likely to be built at all but for the action of the Southern Pacific road. It was by the action of the Southern Pacific road constructed within the time limited by law. The Indian question which was costing us millions annually in those two Territories was thus settled, and the expenses of the War Department alone during the existence of this railroad have been reduced in a larger amount than the entire value of this land grant.

Here were these 15,000,000 acres—I believe they put it at 15,000,000 instead of 20,000,000 acres—which were utterly worthless until this road was constructed. By the terms of the law, this road having been constructed, the United States is enabled to open to settlement those two great Territories, and along the line of the road it has now its public lands valued at two dollars and a half an acre, which, prior to that time, were not worth a cent an acre—utterly uninhabitable. The Indian question has been settled. The public lands that in the grant were reserved still belong to the United States, and have been made very valuable, if lands of that kind can be valuable at all. The corporation has done this. It has built the road. Now when it comes here with these formal assignments made within the time limited by law, made as I believe under the rules of the law in such a way as to carry the rights of property possessed by the Texas and Pacific to the Southern Pacific, I think it exceedingly foolhardy, to say the least, for Congress to proceed to a legislative forfeiture without asking any questions, without ascertaining any of the real facts that are in the case, and placing this land grant, after having received the benefits of the construction of the road, back in the domain of the public lands to be sold to settlers under the ordinary rules and regulations that appertain to the same. It is very unjust, it seems to me, not alone to the railroad that wants to litigate but it is very unjust to the settler who is to go to occupy these lands. That territory of course is to be occupied largely by homesteaders in the future. Though very much of it is sandy desert, still there are sections of it I am told which are valuable, and where people will locate, where towns and villages will spring up as soon as this matter is decided so that titles can be obtained without danger of litigation. It is a very important thing to do. Saying nothing further in regard to this railroad corporation, if we really want to do that thing which is beneficial to the people of the United States and to the settlers who will go on these lands, we ought certainly to adopt the amendment which is proposed by the Senator from Alabama opening a way to an immediate, practical, and conclusive settlement of this question as to the title.

While I am opposed to the forfeitures of the Atlantic and Pacific and the Northern Pacific Railroad grants because they are still constructing their highways, making efforts in good faith to complete them and have already very nearly completed them, and are only waiting to be let alone by Congress to raise the funds to actually complete them—while I am opposed to those forfeitures because I believe that the conditions are likely soon to be carried out and the country at large to receive the benefit of those great transcontinental lines completed and in full operation, yet here in regard to this particular case, the road being completed and nothing remaining but the proper judicial inquiries, I am in favor of the grant being forfeited, subject to the action of the courts. And if this amendment can be attached so that the question can be early and finally and conclusively decided, I shall be very glad to support the bill; but unless these parties, who I think have equities, and who, I am inclined to believe, have the law on their side, can have the opportunity to have their litigation settled in the same way that every other citizen of the United States and every other corporation in the United States is entitled to settle its litigation, I shall feel impelled to vote, without any regard to consequences, against this bill.

EXECUTIVE COMMUNICATIONS.

Mr. ALLISON. I ask leave at this time to present a conference report.

The PRESIDENT *pro tempore*. Will the Senator from Iowa suspend for a moment?

The Chair asks leave to lay before the Senate a letter from the Secretary of the Interior, transmitting further information relating to the leasing of lands on the Crow Indian reservation in Montana Territory. The letter will be read.

The Chief Clerk read as follows:

DEPARTMENT OF THE INTERIOR,
Washington, February 19, 1885.

SIR: Referring to my letter of the 17th instant, submitting certain papers relating to the leasing of lands on the Crow Indian reservation in Montana Territory, I have the honor to present herewith a copy of a letter from Agent Armstrong on the subject, dated February 10, 1885, also a report from the Commissioner of Indian Affairs, of January 27, 1885, submitting a proposition made by John T. Murphy to lease lands on said reservation.

I respectfully request that these papers be attached to and printed with the documents sent with my said report of the 17th instant.

Very respectfully,

H. M. TELLER, *Secretary.*

The PRESIDENT *pro tempore of the United States Senate.*

The PRESIDENT *pro tempore*. The letter will be referred to the Committee on Indian Affairs and ordered to be printed with the accompanying papers.

Mr. HARRISON. I notice the request of the Secretary that these papers be printed with another document which has been previously transmitted. If that document has not already been printed, I suggest that the order for printing be in the line of the request of the Secretary.

The PRESIDENT *pro tempore*. If it has not been printed, this will be printed with it as a matter of course. If it has, it would derange matters and make a good deal of additional expense to print this with that.

Mr. INGALLS. The other report came in this morning.

The PRESIDENT *pro tempore*. Then the papers will be printed together as a matter of course.

Mr. HARRISON. Very well.

The PRESIDENT *pro tempore*. The Chair lays before the Senate a letter from the Secretary of the Treasury, informing the Senate of the settlement *pro tanto* of certain claims of the State of Massachusetts for war expenses, and recommending an appropriation. The letter will read.

The Chief Clerk read as follows:

TREASURY DEPARTMENT, *February* 19, 1885.

SIR: At the request of Hons. H. L. DAWES and G. F. HOAR, United States Senate, I have the honor to transmit herewith for the consideration of Congress the report of the allowance by the accounting officers of the Treasury of the tenth installment of the war claim of the State of Massachusetts in the sum of $30,770.39, which has been placed to the credit of the State to await an appropriation for its payment.

Very respectfully,

H. MCCULLOCH, *Secretary.*

The PRESIDENT *pro tempore of the Senate.*

The letter was referred to the Committee on Appropriations, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had agreed to the amendments of the Senate to the bill (H. R. 7585) for the relief of M. Gardner.

The message also announced that the House had passed the bill (S. 1031) for the relief of W. C. Marsh.

The message further announced that the House had passed the concurrent resolution of the Senate to print additional copies of the report of the Senate Committee on Education and Labor on the relations between labor and capital, with amendments in which it requested the concurrence of the Senate.

The message also announced that the House had passed the bill (S. 229) to authorize the Secretary of the Treasury to erect a public building in the city of Key West, Fla., with amendments in which it requested the concurrence of the Senate.

The message further announced that the House had passed a bill (H. R. 3343) for the erection of a public building in the city of Auburn, N. Y., in which it requested the concurrence of the Senate.

CONSULAR AND DIPLOMATIC APPROPRIATION BILL.

Mr. ALLISON. I ask now to present to the Senate the report of the committee of conference on the consular and diplomatic bill.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7857) making appropriations for the consular and diplomatic service of the Government for the fiscal year ending June 30, 1886, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 12, 13, 19, 20, 22, 23, 24, 43, 48, 51, 52, 62, 63, and 64.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, 36, 37, 38, 39, 41, 42, 45, 46, 47, 49, 50, 53, 54, 55, 56, 57, 58, 60, 61, and 65, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert the following:

"For salary of envoy extraordinary and minister plenipotentiary to Turkey, $10,000.

"For salary of envoy extraordinary and minister plenipotentiary to the United States of Colombia, $7,500."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment as follows: In lieu of the sum proposed, insert "$319,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$48,880;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment as follows: Restore the word stricken out by said amendment; and the Senate agree to the same.

Mr. ALLISON. I ask the Secretary to read about amendment No. 44 again.

The Chief Clerk read as follows:

That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment as follows: Restore the word stricken out by said amendment; and the Senate agree to the same.

The PRESIDENT *pro tempore.* That, the Chair thinks, simply amounts to the Senate receding from its amendment.

Mr. ALLISON. That was why I asked the Secretary to read the clause again. I think it does not amount to that, if the Chair will allow me. The House recedes from its disagreement to the Senate amendment, with an amendment which restores the word struck out. If there is any doubt about that——

The PRESIDENT *pro tempore.* The Chair thinks it will bear that construction. If the conference report is agreed to in both Houses the bill will undoubtedly be enrolled in that way.

Mr. ALLISON. The House recedes from its disagreement to the amendment of the Senate and agrees to the amendment retaining in the bill the word "Shanghai."

The Chief Clerk continued and concluded the reading of the report, as follows:

That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment as follows: In lieu of the matter stricken out by said amendment insert the following: "*And provided further*, That no allowance shall be made for the keeping or feeding of any prisoner who is able to pay or does pay the above sum of 75 cents per day; and the consular officer shall certify to the fact of inability in every case;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 65, and agree to the same with an amendment as follows: In lieu of the sum proposed insert $25,000; and the Senate agree to the same.

W. B. ALLISON,
EUGENE HALE,
JAS. B. BECK,
Managers on the part of the Senate.

JAS. N. BURNES,
R. W. TOWNSHEND,
W. D. WASHBURN,
Managers on the part of the House.

The PRESIDENT *pro tempore.* The question is, Will the Senate agree to the report of the committee of conference?

Mr. PLUMB. I should like to ask the Senator from Iowa who has the bill in charge what became of the amendment inserted by the Senate giving to the President a discretionary fund to be used for the advancement of the commerce of the United States.

Mr. ALLISON. That provision is retained in the bill, I will say to the Senator from Kansas, but the amount is reduced from $50,000 to $25,000.

Mr. PLUMB. I should like to ask what became of the amendment inserted by the Senate changing the classification of the consul at Jerusalem.

Mr. ALLISON. The Senate provision is retained, leaving that consul at $2,000.

The PRESIDENT *pro tempore.* Will the Senate agree to the report of the conference?

The report was concurred in.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had, on the 17th instant, approved and signed the following acts:

An act (S. 591) for the relief of the estate of Chester Ashley;

An act (S. 1335) to authorize the settlement of the accounts of the late John V. B. Bleecker, a paymaster in the Navy;

An act (S. 1751) to amend an act entitled "An act to provide a building for the use of the United States circuit and district courts of the United States, the post-office, internal-revenue offices, and other Government offices at Erie, Pa.," and making an additional appropriation therefor;

An act (S. 2034) to remove the political disabilities of Alfred Iverson; and

An act (S. 2139) to remove the political disabilities of E. P. Alexander, of Georgia.

The message also announced that the bill (S. 2278) correcting the military record of Wickliffe Cooper, deceased, late major Seventh Cavalry, brevet colonel United States Army, having been presented to the President February 5, 1885, and not having been returned by him to the House of Congress in which it originated within the ten days required by the Constitution, had become a law without his approval.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. MAHONE. I ask leave to make a report at this time.

The PRESIDING OFFICER (Mr. FRYE in the chair). Is there objection? The Chair hears none.

Mr. MAHONE, from the Committee on Post-Offices and Post-Roads, reported an amendment intended to be proposed to the Post-Office appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. WILSON. I ask leave to submit a report from the Committee on Post-Offices and Post-Roads for the purpose of reference.

Unanimous consent was granted.

Mr. WILSON. I report back from the Committee on Post-Offices and Post-Roads a letter from the Postmaster-General transmitting a report on the subject of the adjustment of postmasters' salaries and the additional temporary clerical force asked therefor; and also an amendment relating to the subject of the letter. I ask that the amendment be printed and that it be referred, with the accompanying communication, to the Committee on Appropriations.

Mr. SHERMAN. I should like to have the amendment read.

The PRESIDING OFFICER. The amendment will be read.

The SECRETARY. After line 26 of the Post-Office appropriation bill it is proposed to insert:

To pay accounts in cases of salaries of postmasters and late postmasters, which have been readjusted and allowed under the act approved March 3, 1883, entitled "An act authorizing and directing the Postmaster-General to readjust the salaries of certain postmasters, in accordance with the provision of section 8 of the act of June 12, 1866, $133,267.43.

To pay accounts that may be found under said act between the 14th day of February, 1885, and the 30th of June, 1885, to be due, $255,436; and to pay accounts that may be found, during the fiscal year ending June 30, 1886, to be due, $328,000. And the Postmaster-General is hereby directed to immediately employ ten temporary clerks, at a rate of compensation not to exceed $1,200 per annum, for the work of adjusting salaries of postmasters under said act until such adjustments shall be completed; and a sufficient sum therefor is hereby appropriated.

The PRESIDING OFFICER. The amendment will be printed, and, with the accompanying letter, referred to the Committee on Appropriations.

TEXAS PACIFIC LAND-GRANT FORFEITURE.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 3933) to declare a forfeiture of lands granted to the Texas Pacific Railroad Company, and for other purposes.

Mr. LAPHAM. I have no desire to occupy any great length of time in the discussion of the questions which arise upon this bill. I find that the original act of Congress passed on the 3d day of March, 1871, after creating the Texas Pacific Railroad Company and naming the corporators, in the ninth section provides—

That for the purpose of aiding in the construction of the railroad and telegraph line herein provided for, there is hereby granted to the said Texas Pacific Railroad Company, its successors and assigns, every alternate section of public lands, not mineral, designated by odd numbers, to the amount of twenty alternate sections per mile, on each side of said railroad line, as such line may be adopted by said company, through the Territories of the United States, and ten alternate sections of land per mile on each side of said railroad in California, where the same shall not have been sold, reserved, or otherwise disposed of by the United States.

Here is, therefore, an express grant by act of Congress to the Texas Pacific Railroad Company, its successors and assigns. There is in this act no clause of forfeiture, no reserved power whatever. It is not like the case of the Northern Pacific Railroad, or the Oregon Railroad, or the Atlantic and Pacific Railroad, where that power was expressly reserved, but it is an unconditional grant. This was passed on the 3d of March, 1871, and the corporation named in the act was the Texas Pacific Railroad Company. On the 2d of May, 1872, a little over a year after, Congress passed another act, in which they changed the name of the road from the Texas Pacific Railroad Company to the Texas and Pacific Railway Company, and vested in the company by its new name all the rights, privileges, and franchises theretofore conferred on the Texas Pacific Railroad Company.

It is plain as any proposition can be that these two grants contemplated the building of a railway from Marshall, in the State of Texas, to San Diego, in the State of California, for governmental purposes. Taking these two acts together, the object of the incorporation was to secure, I repeat, for governmental purposes, because special privileges are given to the Government, the construction of a Southern transcontinental railway, by whatever name you choose to call it. There is now such a road. It is called the Southern Pacific Railroad. The Southern Pacific Railroad Company built a portion of the line. The Southern Pacific Railroad Company, by an arrangement with the Texas and Pacific Railway Company, claims to have become the purchaser or assignee of that company of the lands in question. In the act changing the name from the Texas Pacific to the Texas and Pacific, Congress inserted in the fifth section this clause:

That the said company shall commence the construction of said road from San Diego eastward within one year from the passage of this act, and construct not less than ten miles before the expiration of the second year, and, after the second year, not less that twenty-five miles per annum in continuous line thereafter between San Diego and the Colorado River, until the junction is formed with the line from the east at the latter point or east thereof.

That is the line from Marshall, in Texas. Now Congress provides:

And upon failure to so complete it, Congress may adopt such measures as it may deem necessary and proper to secure its speedy completion.

That is the power that Congress reserved and the only power in all this legislation. This railway company has performed that act, and the Government is to have the benefit of that road and can not be deprived of it. The line is continuous between these two termini, and the Southern Pacific Railroad Company claims that by purchase from the Texas Pacific it has become the assignee or successor to this title.

These lands to a greater or less extent have been mortgaged, and bondholders or lienholders have claims upon them. The case, so far as the equities of others than the original grantees are concerned——

Mr. VAN WYCK. Will the Senator right there allow me to correct him? The lands that are now sought to be forfeited were never mortgaged by any railroad company.

Mr. LAPHAM. There is the difference between the Senator and me.

Mr. VAN WYCK. Between the Senator and the facts.

Mr. LAPHAM. The honorable Senator from Alabama stated this morning that as he understood it they were under mortgage.

Mr. MORGAN. It is contended by the Southern Pacific Railroad Company, or its counsel, that the mortgages which they have given on their road to their bondholders included these lands.

Mr. LAPHAM. I so understand; that position is taken and the holders of the bonds which have been issued claim that they have a lien upon these lands.

Mr. VAN WYCK. May I state that while the committees of both Houses were open to everybody pretending to claim under a railroad company when a forfeiture was endeavored to be enforced, no attorney, no bondholder came before the committee of either House with a pretense that there was any sort of mortgage upon these lands now in controversy.

Mr. LAPHAM. For the obvious reason that the House committee or the Senate committee could not try any such questions if they had come before them.

Mr. VAN WYCK. I do not understand the Senator.

Mr. LAPHAM. I say for a very good reason, that neither the House committee nor the Senate committee could try or determine any such questions if they had come before them.

Mr. VAN WYCK. I state that the fact does not exist that there is any mortgage on these lands in controversy.

Mr. LAPHAM. So I understand the Senator to say; but other Senators, members of the same committee, claim the opposite. I know that Mr. Evarts, who is within a few days to take the seat which I have so poorly filled, with honor I trust to himself and to the Senate, claims that in his argument.

Mr. VAN WYCK. The Senator will allow me a word?

Mr. LAPHAM. Certainly.

Mr. VAN WYCK. This is the second time that allusion has been made to the prospective Senator from New York. I would ask my friend from New York if Mr. Evarts made that statement or expressed that opinion in an official capacity, or did he do it as the attorney and counselor of this company?

Mr. LAPHAM. He did act undoubtedly as attorney and counselor, but he is an honorable attorney and counselor, and is the last man in the world who would take a position that he knew was untenable. He is the last man in the world to say that these lands were covered by a mortgage when he knew they were not.

Mr. VAN WYCK. The Senator will allow me to say again that the brief of William M. Evarts, submitted to the committee and printed, made no such pretense and no such allegation.

Mr. LAPHAM. I can not say as to that. I was not a member of the committee, and did not hear his argument. I am only stating what I am informed about it.

Mr. VAN WYCK. His argument was printed.

Mr. LAPHAM. Here is, therefore, the Southern Pacific Railroad Company claiming title to these lands; here are, therefore, a large list of bondholders who are claiming that they have liens upon these lands; and the proposition is now made under a law containing no clause of forfeiture whatever, but providing that in case the company failed the Government should have the right to complete this road, to forfeit these lands and make them a part of the public domain.

Suppose this bill passes without any condition and these lands are opened to public settlement and a thousand individuals go upon them and obtain patents from the Government; no lawyer can fail to see that every one of those settlers will be open to precisely the question which this amendment proposes shall be determined in advance. Every man who takes a patent from the Government under this bill would be liable to a suit between himself and the Southern Pacific Railroad Company, or between himself and the lien-holders, the mortgagees, or the trustees that are named in the mortgages, and they could not escape it; and what is the result? The result is that the title to these lands is to go into an endless field of controversy.

Mr. ALLISON. As illustrated by the Des Moines lands.

Mr. LAPHAM. I will take care of the Des Moines lands, I advise my friend; they occupy a very different position from these; but my honorable friend from Iowa, with his colleague, concedes that that bill is like a railroad forfeiture, or else they can not maintain themselves here.

Now, I repeat, every purchaser from the Government, if we declare this forfeiture, who goes on and takes a settlement of these lands, a pre-emption or homestead right, and pays his money and goes into occupancy, has got to have this litigation on his hands.

The amendment proposed by the honorable Senator from Alabama provides for the settlement of all these questions before the lands are opened to the public. It is an amendment in aid of peace, to discourage litigation, to prevent a multiplicity of actions, and it is such an amendment as the Senate placed upon the bill to forfeit the land grant of the Atlantic and Pacific Railroad Company by a vote of nearly two to one.

Sir, there are stronger reasons in this case for attaching that provision to this bill than there were in the case of the Atlantic and Pacific Company. There were only the rights of lien-holders involved. Here is the right of an assignee under a solemn grant that paid money for these lands, which is to be determined, and there are the additional rights of the lien-holders supplemented to those of the assignee. I trust, therefore, that the amendment proposed by the Senator from Alabama will be annexed to this legislation, to the end that all doubt about this title may be cleared away, that all obstacles in the way of the settlement of these lands and the giving of complete titles by the Government may be cleared away before they are opened for settlement.

Now, Mr. President, in its legitimate sense I have no objection to being classed as the friend of railroad companies. That term has no terrors for me. I would be a friend of a railroad company to the extent of its legal and just rights, as I would of the claim of an individual. This clamor against the railroad corporations of the country is one in which I have no disposition to indulge; and that is the offspring of the zeal which lies behind those who are pushing this bill to completion. In no enterprise in which the people of the United States have ever engaged has there been so much capital sacrificed, so many investments unproductive, as in the building of railroads in the United States; and yet they are not like a manufacturing company or a mercantile company, that when they fail leave nothing behind. The men who have

invested their money in the building of railroads, although utterly unproductive, have done what? They have built a road; the Government has the benefit of that road. This Southern Pacific Railroad is built, and there it will remain forever.

There is no class of investments in this country so unprofitable at this very hour, in proportion to the amount invested, as the moneys which have been invested in the building of railroads. There is scarcely one of these roads which to-day is receiving an income which is a paying investment on its capital. I know the honorable Senator from Nebraska will talk about watered stock and all this, that, and the other thing in answer to this; but I speak of the great mass of roads that have no element of that kind in them. I speak from personal experience. I invested in the building of a railroad from the village where I reside to Niagara Falls in 1852. I paid my money and I gave two years of professional services, and I lost it all, and yet there the road is and it is just as valuable to the public as though my investment had proved a 10 or 15 per cent. investment. The community through which it runs have the road, and it is the fruit of my expenditure and of the expenditures of those who joined with me.

Just so in this case. Here is a road from Marshall, in Texas, to the Pacific Ocean upon the precise route designated in these acts of Congress. I care not by what name it is called, it is there, the country has it, and we have a Southern Pacific, a Central Pacific, and a Northern Pacific—three great transcontinental lines. Now, before we open the lands, which were granted to this company in the outset as the inducement to this enterprise, to public settlement, and inveigle the citizens of the Government into their settlement and paying their money, let us settle all questions which remain in regard to the title. That is all I ask. That is what this amendment proposes to have done.

Mr. SLATER. Mr. President, I do not propose to discuss the details of this measure, or to any extent the amendment that has been offered. I certainly should not object to the amendment very seriously or earnestly if I did not believe that, from the situation of the business of Congress at this particular juncture of time, if it be attached to the bill it must necessarily cause the defeat of the forfeiture. There is one objection in my mind, however, to the proposed amendment that seems to be worthy of attention.

It has been stated that the amendment is in analogy to what is known under the common-law doctrine in Great Britain as the petition of right, that where the government has an interest as against its subjects it allows the petition of right in favor of those against whom a forfeiture was declared. But a marked difference must be noticed in the remedy offered in this case. Instead of giving to those who hold interests or who claim to be interested in the lands forfeited the right to enter a court and exhibit that claim and ask a judgment upon the claim, the effect of this provision is to put the Government of the United States to hunting up, to going out and searching for people who claim to have some interest in these lands. True, the main provision is directed at the parties who are said to be the grantees or those interested under them.

It may be a very difficult matter for the Attorney-General or his subordinates to learn who these parties are. They may have great difficulty in finding, when they start in their action, against whom the process shall run. It would be much more agreeable to me if the provision was reversed, and it allowed the right to those whose lands are forfeited within some specified period of time to enter the proper court and set forth their claims and prosecute them to a final determination.

But the main objection that I have to the putting of this amendment upon the bill is, as I have said, that from the posture of business at this particular juncture all must be observant of the fact that it will necessarily lead to the defeat of the measure. That being so, I am disinclined to favor its being placed upon the bill.

Besides, sir, I am well satisfied in my own mind that the phantom which is conjured up in favor of this measure is largely without substantial foundation. I do not believe that if this forfeiture is made with the provisions of the amendment attached, this company will enter the courts of the United States to litigate; nor do I believe that if they shall do so it will lead to the unlimited litigation that is prophesied. It seems to me that the provisions of this bill are so plain, the forfeiture is so well established and so clear that no question can be practically raised on the forfeiture clause of the bill. I am aware that under section 9 of the original grant it is said that all right that was reserved to the United States in the original granting act was the right, in case the company failed to complete the road within the time specified, to designate some other company to construct it. But I think that it is not a correct conclusion. I do not think that is a correct interpretation of section 9 of the act, which I will read:

SEC. 9. *And be it further enacted*, That the United States make the several conditional grants herein, and that the said Atlantic and Pacific Railroad Company accept the same, upon the further condition that if the said company make any breach of the conditions hereof, and allow the same to continue for upward of one year, then, in such case, at any time hereafter, the United States may do any and all acts and things which may be needful and necessary to insure a speedy completion of the said road.

The first point I make upon that is that the leading purpose of this section was that should this road not be commenced within the two years prescribed in another section and prosecuted in the manner and within the time and to the effect that other provisions of the bill prescribed, the Government might enter and prescribe some other method for the prosecution of the road. I can not conceive that in the case like the present, where the time has completely and fully elapsed, where another corporation has built upon the line of the road, the Government can be held to be in the position that it must build a parallel line or leave these parties with the lands granted, because that is precisely the absurdity of the position if the interpretation given by the advocates of the amendment is correct. In order to see the force of this let us read section 8, which states the condition to which section 9 is said to be a subsequent and additional condition.

SEC. 8. *And be it further enacted*, That each and every grant, right, and privilege herein are so made and given to and accepted by said Atlantic and Pacific Railroad Company, upon and subject to the following conditions, namely: That the said company shall commence the work on said road within two years from the approval of this act by the President, and shall complete not less than fifty miles per year after the second year, and shall construct, equip, furnish, and complete the main line of the whole road by the 4th day of July, A. D. 1878.

The road was not constructed. The Government of the United States did not intervene within the time during which the grant was to run. Six years and more have elapsed since the time expired; another company has built upon the line of the road, and the argument is that if we declare a forfeiture now these parties may say to us that the only right we have reserved to the United States was to offer to some other company the chance to build a parallel line to the road already built; or, in other words, to require the Government of the United States to do an absurd and useless thing. Such a construction seems to me not one that was contemplated at the time the law was passed.

Besides, sir, the resulting forfeiture would be to the United States, and the United States, after a complete failure of compliance with the conditions-subsequent, would have the right to say whether they would give this grant to another corporation or to proceed in some other method to the completion of the road or take the lands to themselves; and there having been in the mean time another road built upon the line by another company, that fact would seem to me to be conclusive of the proposition.

Another point is made by the Senator from Alabama, one that strongly fortifies me in the conclusion that we can not make any mistake in declaring the forfeiture. He admits that under grants of this character the grantee can not without the consent of the grantor transfer the grant. The Texas Pacific could not transfer to another corporation or company this land grant without the consent of the Government of the United States. It seems to me that the Senator stated that proposition so strongly, and it was so well fortified by the reasons he gave, that we need apprehend no danger from the course we are taking.

Perhaps it might be well under other circumstances and in other times, when it would not be likely to defeat all that has been done and not be likely to defeat a measure so important in its results, to attach this amendment to the bill; but under the present circumstances, when every Senator will recognize the fact that by placing this amendment upon the bill we shall send it to certain defeat, it seems to me that we ought not to support the amendment, and therefore I shall vote against it.

Mr. MORGAN. I should like to say in reply to the remarks of the Senator from Oregon that what we ought to do about this bill or any other is to do what is right. If the Senate thinks this is a proper thing to be done I do not know why if we amend the bill in the Senate it should send it to certain defeat. I can not understand why it should be so, unless we assume that the other House does not intend to take any different view than merely the bill it has sent over to us. That bill does not meet the demands of justice in full, and it ought to be amended. It ought to be amended for the sake of the Government and people of the United States, as well as those who are claiming an adverse right or interest in this property.

It has been suggested that the Senator from Oregon would have thought better of the amendment if it had permitted a number of persons, whoever they may be, to come in and assert their suit against the United States Government in the courts that they might select. Now, I would not be willing to expose the Government of the United States to a large number of suits under any acts of Congress that we might pass in a matter of this kind, when, by bringing a bill to quiet title, remove doubts from the title, as every lawyer must know, we can settle every controversy that arises out of this case in one suit.

I looked over that ground, and of course the idea struck me at first that the proper thing to do in order to make the analogy complete between this amendment and the petition of right would be to allow the citizen to bring suit against the Government of the United States; but then I thought of how much worry, how much expense it might be, and my mind recurred to what I conceive to be a much better system; that of the equity practice, the equity practice as it obtains in England as well as in the courts of the United States—that is, filing a bill on the part of the Government of the United States, which has declared that it has a right to these lands for the purpose of removing every cloud upon the title.

If I am in possession of a tract of land and my neighbors set up title to it, which I conceive to be entirely without value, I have a right to go into a court of equity and file a bill to remove the cloud. Why?

Because I can not enjoy the full benefit of my property until I have the cloud off the title. I can not sell it for its value; I am threatened with lawsuits; I am kept uneasy about it. The Government of the United States can not dispose of these lands to *bona fide* settlers until this litigation is over with the security it would give after it is over. Suppose we sell these lands now with this right of litigation hanging upon them—and nobody can deny that there is a right of litigation. We can not prevent that, do what we may.

In selling these lands under such circumstances we only embarrass the purchaser, and after a number of years, after we have offered these lands for sale, these very men will be coming back to us with demands for reclamation. They will say, "Congress has declared that these lands belonged to the Government, declared it in the most emphatic way. We went on and bought the lands and made improvements upon them in consequence of this forcible and powerful declaration on the part of Congress. We now find that the courts have set aside that title, that the transfer of this property had been made to this other company, it no longer remained the property of the Texas and Pacific corporation, and therefore could not be forfeited as the property of that company; another company had become the owner of it."

After it has gone on for a number of years these holders of the lands bought from the Government of the United States subject to this forfeiture will be back here for the purpose of making reclamation against the Treasury of the United States, saying that Congress has deceived them into the belief that they had title. If we can devise a means—and the Senator from Oregon I think can not answer the amendment upon that question—if we can devise a means by which we can quiet the title and remove the cloud, we ought to do it in advance of disposing of the lands, as a necessary precautionary measure as well for the protection of the persons who go upon the land as for the protection of the Government of the United States against subsequent reclamations for damages.

I suppose it will not be earnestly insisted upon here that the bill that I propose in this amendment will not have the effect to quiet the title to this property. Nothing is more common than for a person to file a bill in equity saying that A B, C D, and E F, and other persons claiming under them unknown to your orator, set up claims against this tract of land and embarrass the title; I aver that these claims are not valid; I aver that they are set up merely for a pretense of embarrassing and throwing a cloud upon my title. They will not sue me; they will not come into court and try the question of title; and I wish this court would call them in and decree in the premises, compel them to come into court and set up their titles and see what they are, and let us have it determined whether my title is good or not, and whether these claimed incumbrances are upon my title. There is nothing more common in equity practice than that, and that is precisely the measure that is presented in this amendment.

It will not do for us to say that it is better to allow a number of suitors to go upon private account into any court they may see proper to select, State or Federal, and sue the Government of the United States in a number of cases. That is not justice to the Government. We can not afford to do that. We had better let it go as it is.

Mr. LAPHAM. Will the honorable Senator allow me to suggest that we have in the State of New York such an act entitled "An act for the purpose of settling conflicting claims to real estate," providing for this very thing.

Mr. MORGAN. In Alabama we have an act providing that you can settle by an interpleader the title to personal property, but in Alabama we rely upon the old common-law remedy of a bill in equity for the purpose of clearing the clouds from the title to real estate. It is a very common mode which every lawyer I have no doubt has found convenient in his own practice. Perhaps there is not a lawyer in the Senate who has not at some time during his professional career filed a bill for the purpose of clearing up the title to a tract of land against incumbrances that are set up against it. I thought that was the best thing we could resort to for bringing quiet and peace upon this question and do it speedily and almost summarily, for such a bill is almost a summary proceeding. It has a statute of limitations of a year in it.

The Senator from Oregon asks if it is to be expected that the Attorney-General will go out and hunt up everybody who may have a possible claim to this property, and if he fails to find him the action shall fail as to him. Mr. President, you file your bill against the whole domain and against everybody on that domain. It is an action almost in the nature of an action *in rem*, by which you claim the title to a certain tract of land and you summon in the corporations and persons claiming title to it, and there can be no one unless it is the corporation or some person claiming under the corporation. When I call in a man for the purpose of controverting with him a cloud that is set up on my title, I need not call in every lessee or subtenant he may have put on the land, or every party to whom he may have made a conveyance of a legal or equitable interest therein. I can call in the man who claims the great body of the grant, and through him, if I were to name nobody else, I can call in those who are interested in that very title.

Now, what title do we attack here? It is one title in its origin though it may be ramified or diversified into a great many branches. What is it? A title arising in favor of this corporation under the land grant and under the assignment. When we attack that and we find out through the agency of a court of equity that that assignment was invalid, and that fact is established, the law of privity comes in and those who have privity of estate with the person who holds the land are bound by the decision. I do not suppose it is worth my while here to descant upon law that everybody understands as well as he does the laws affecting privity of title, and the results of a decree upon a title as to those persons who are in privity with the title although they may not be parties to the record itself.

But this amendment goes still further. It authorizes the Federal court by an act of Congress, which I suppose will not be disputed as to its authority, to proceed and call in those persons who are not necessary parties, but may be proper parties; and it goes further than that and it authorizes those persons who may have titles that the Government of the United States may know nothing about, to come in by petition and make themselves parties defendant to the suit, thereby receiving all the benefits and advantages of any decree that may be made for them and all the disadvantages of any decree made against them.

In that respect it is like a creditor's bill. Where you file a bill in the name of one creditor for marshaling the assets of an insolvent or bankrupt debtor, you file it for the benefit of all. The court makes publication, saying, "Here is a bill, and the creditors of this insolvent person can come into court within a certain time and file their demands for these assets going to be administered and settled up." The court takes hold of the estate and it converts it into money so that it can be distributed. Then those creditors who by reason of their laches, or, if you please, because they do not know of the pendency of the suit, remain outside and take no interest in the litigation, are cut off by the decree of the court absolutely. That fund is taken and administered for the benefit of those who come in under the order or decree of the court and set up their claim.

This feature is proposed to be put in by statute. It may be that you can not find in a bill to quiet titles in the equity system of Great Britain precisely a case like that which is met by this proposed statute, but when you put it into this measure you give a remedy, you enact a statute of limitations, or what is equivalent to it, and those who do not come in for the purpose of having their titles settled of course are barred. Now, have we power to do that? We have just as much power to do that as we have to say that a claim against the Government of the United States which we recognize to be honest shall be presented within one year from the date of this act, otherwise it shall be forever barred.

So I think that the objections which are made by the Senator from Oregon are not substantial. I took great pains in trying to study out the proper method of the application of this proceeding. Perhaps it is not right, but I confess that the argument of the Senator from Oregon does not shake my faith in it, for it is easy to be answered. It is easy to show that while the bill proposed does not accomplish everything, it is a far more economical and speedy procedure than would result if we were to say that every claimant of this land of every kind and character might come into any State court that he saw proper to select, or into a Federal court, and have this question litigated.

I wish to say one word more. I remarked a while ago that I reported back from the Committee on Public Lands, under their instruction, a general bill, which is now on the Calendar, covering precisely the same ground as this amendment, so that the committee gave their sanction as I understand to the principles of the amendment. The subject has been very much discussed and talked over privately as well as in committee. I have accepted, and I am willing now to accept, any modification to the amendment that any Senator can show a substantial reason for trying to introduce into it, for I want to get nothing more nor less than a proceeding which will quiet down these questions immediately and before we commence to dispose of this land.

I do not want to have the people of the United States coming back and complaining of Congress and saying, "You declared that these lands belong to you, and the courts of the country have overturned your decision. You declared that they belong to the Texas and Pacific Railroad Company, and therefore you forfeit them as property granted to that company, and it turns out that there was an assignment made of the whole body of the grant, and that assignment which you declared to be inoperative and void and not in the way of our title is upheld by the courts as being a valid title, and under such conditions we claim from the Congress of the United States the damages into which we have been unwittingly betrayed by your hasty and ill-considered legislation."

Mr. President, it is far better that we should wait a year even. I do not ask for delay, and I do not believe it will come, but if it should come it is better that we should wait a year and get this matter straight before we launch out on this new field than to go hastily to work about it. This land is not going to run away; these titles are not going to become any more complete. There will be no loss of property to the United States Government. We are not in need of the money that comes from this land, and, more than that, we do not expect to get a stiver out of it, for in the bill itself we open it entirely to homestead and pre-emption entry. We are merely providing for a certain class of citizens as against another class of citizens who claim adverse interests

in this land. There can not be any necessity for that sort of haste about it which would betray us into inconsiderate or unwise legislation.

So I think we had better put the amendment on the bill. The House of Representatives have not considered this matter in a light to shut out the hope that they will concur with the Senate on this amendment. They have merely insisted further upon their disagreement, and they have invited a further conference and appointed conferees. It is true that has been done irregularly, because the bill was not before the House, but I assume that the House, as is the ordinary practice, would disagree to the amendments on this bill in order to throw it into a committee of conference. That is the way in which our legislation takes place between these bodies now. There is actually no final legislation where there is a disagreement between the two Houses on any important or contested bill, except through a conference committee. That will be the effect of it.

Mr. President, I wish to protest about one thing. I have not any pride of opinion about the amendment or about anything connected with it. If I know my own heart I would very gladly have escaped all responsibility for it or all connection with it of any kind. It is not a subject that I sought after, but when a matter has been presented in the way that it has, and I find that according to my earnest conviction it is the sound and wise policy for us to observe, it seems to me that the Senate ought to take it into consideration and ought to provide so that there shall be no difficulties about this legislation hereafter.

It ought to be remembered that we are now entering for the first time upon a great system of land-grant forfeiture, and in doing that we ought to measure the ground over which we step with carefulness and see that while we are trying to do justice to the Government and trying to reclaim lands that have not been earned by these railroads and that are justly liable to forfeiture, we do not transgress the bounds of our jurisdiction, and that we provide what ought always to be provided in such cases, a convenient and secure and speedy remedy for any person who may have an interest in the subject in controversy.

Mr. VAN WYCK. Mr. President, I should not detain the Senate with any remarks upon this question except for the statement of the Senator from New York [Mr. LAPHAM] denying the right of Congress, as I understood him, to declare a forfeiture of these lands. There can be no question I take it upon that proposition, and while I do not desire to dwell upon that point it has suggested a few other thoughts in connection with this matter which it might be well to present to the consideration of the Senate.

Mr. LAPHAM. Will the Senator allow me to correct him?

Mr. VAN WYCK. Certainly.

Mr. LAPHAM. I did not advance the position that Congress has no power to forfeit these lands. I stated that the act granting the lands contained no clause authorizing the forfeiture. Upon the question of the power of Congress, I did not advance an opinion.

Mr. VAN WYCK. I supposed the Senator meant that, otherwise there would seem to be no force in his suggestion.

Mr. LAPHAM. Oh, yes, there is.

Mr. VAN WYCK. I supposed it to be the intention by that suggestion to infer that Congress had no power.

Mr. LAPHAM. I suggested that if the Government was exercising here a doubtful right, a right by implication, it should tread more cautiously than it would in a case where an affirmative right was reserved to Congress to do the act.

Mr. VAN WYCK. The Senator I think is so good a lawyer that he evidently did not desire to throw himself upon that position, because he is aware of the doctrine so often declared, that where the condition of a grant is expressed there is no need of reserving a right of entry for a breach thereof in order to enable the grantor to avail himself of it. So in fact there was nothing in the point, and as I understand the Senator did not intend to make the point, that settles that branch of the case, that Congress has the power and the right to do this thing.

Mr. SHERMAN. What is the condition in the grant?

Mr. VAN WYCK. If the Senator from New York has the book will he please read the condition in the grant? I have not the book before me. He had it a moment ago.

Mr. LAPHAM. I sent the book back. It provides simply that in the case of a failure by a specified time to complete this road from the east to San Diego, the Government shall have the right to go on and construct it.

Mr. VAN WYCK. There was no occasion, however, for the Government to do that in this case. In this case the Government was relieved of that provision.

Mr. LAPHAM. The Southern Pacific have done it.

Mr. VAN WYCK. Precisely; and the Southern Pacific came here and they besieged Congress not to give the aid. The Southern Pacific came here and stood as an ally of the Government and emphatically said, "Withhold this aid and we will construct the road."

Mr. HOAR. May I call the attention of the Senator from Nebraska back one moment to the question which was asked by the Senator from Ohio [Mr. SHERMAN], I do not know whether publicly or not? What I wish to know is whether there is an express condition in the grant. If I understand the Senator from Nebraska, he says that there is an express condition in the grant, that it was a grant upon condition, and he finds the condition in the words that after the grant to the company, its successors and assigns—I suppose in the usual terms—the act goes on to say that if the company fail to build a road, as therein specified, the United States may then proceed to do what they shall deem necessary to complete the road. I ask the Senator if that is the clause which he construes as the express condition, or if there be other words?

Mr. VAN WYCK. There is a condition in the act as to how the road should be built, how much should be built one year and how much the next. There are express conditions as to the mode and manner in which the work should be done.

Mr. HOAR. Will the Senator answer my question? My attention was called to the subject within three minutes, when I looked at Mr. Evarts's brief and got this idea from that. Perhaps it is a dereliction of duty that I have not investigated it earlier. I understand that the Senator finds the words which make a condition in the law in the language saying that if the road is not built Congress may do what it sees fit to secure the completion of the road, and in the further language which gives direction in what mode the road shall be constructed. Is there any other language or condition except that?

Mr. VAN WYCK. I will read the act.

Mr. HOAR. Will the Senator read all the language which he considers to make a condition of law?

Mr. VAN WYCK. I will read it. The act of May 2, 1872, provides:

That the said Texas and Pacific Railway Company shall commence the construction of its road at or near Marshall, Tex., and proceed with its construction, under the original act of this supplement, or in pursuance of the authority derived from any consolidation as aforesaid, westerly from a point near Marshall, and towards San Diego, in the State of California, on the line authorized by the original act, and so prosecute the same as to have at least one hundred consecutive miles of railroad from said point complete and in running order within two years after the passage of this act; and so continue to construct, each year thereafter, a sufficient number of miles, not less than one hundred, to secure the completion of the whole line, from the aforesaid point on the eastern boundary of the State of Texas to the Bay of San Diego, in the State of California, as aforesaid, within ten years after the passage of this act; and said road from Marshall, Tex., throughout the length thereof, shall be of uniform gauge: *Provided, however*, That the said company shall commence the construction of said road from San Diego eastward within one year from the passage of this act—

That they never have done—

and construct not less than ten miles before the expiration of the second year, and, after the second year, not less than twenty-five miles per annum in continuous lines thereafter between San Diego and the Colorado River, until the junction is formed with the line from the east at the latter point or east thereof; and upon failure to so complete it, Congress may adopt such measures as it may deem necessary and proper to secure its speedy completion; and it shall also be lawful for said company to commence and prosecute the construction of its line from any other point or points on its line; but nothing in this act contained shall be so construed as to authorize the grant of any additional lands or subsidy, of any nature or kind whatsoever, on the part of the Government of the United States.

Mr. HOAR. Is that anything more than an ordinary enactment in the law, or is it made a condition of the grant?

Mr. VAN WYCK. I should suppose that the Senator from Massachusetts was so good a lawyer——

Mr. HOAR. If the Senator will pardon me, the Senator from Massachusetts is not a very good lawyer, and he has not examined this question. I did not know what the question was until five minutes ago. I am putting the interrogatory, not as antagonizing the Senator's argument but simply for light.

Mr. VAN WYCK. I should wonder what it would be called if it is not a condition. What would the Senator think it could be named in legal phraseology? It requires certain acts to be done, expressly designating what they are and the manner in which they are to be done. Would the Senator consider it anything else except a condition?

It would seem that there could be no sort of question about this matter. The act certainly did not intend to give to the company this land unless they obeyed the law and did what it contemplated, because it says that in case the company does not do it then the land belongs to us to complete the road if we choose.

There is no pretense of any claim on behalf of the Texas and Pacific Railroad Company. They never built a mile of the road. They never conveyed an acre of this land; they never gave a mortgage for a dollar of value upon it; and the question stands here naked and bold as between the Government of the United States and the Texas and Pacific Railroad Company.

That company came and besieged Congress. They undertook to tell Congress and the American people that this land grant could not build the road. They came and asked that Congress should subsidize them besides by guaranteeing interest upon their bonds. While they were negotiating still more with Congress a new factor enters, and that is the Central Pacific Railroad Company, organized for this purpose as the Southern Pacific, but the same company. When the Texas Pacific Company came to Congress and asked that their bonds should be guaranteed, the Southern Pacific Railroad Company interposed and came to Congress and said, "Withhold your aid; refuse to guarantee the interest on those bonds; offer no subsidy to this railroad company; stay where you are, and we will build the road ourselves without subsidies or without lands." That is what they said.

Now, what is proposed just at this juncture? It is proposed that by some sort of ingenuity in the construction of language or the meaning of a phrase we shall donate these 20,000,000 acres to a corporation

which never earned them, because they did not earn this grant. They constructed the road in defiance of the grant. All they asked was that they should have the privilege to build the road without money and without price. That was the attitude. It can not be denied that they never had any assignment from the Texas Pacific Railroad Company until the road was all constructed to the Texas line. After the Central Pacific Railroad Company had fought their way in Congress, and fought their way by building their road to the west line of Texas, then for the first time was it that those two great railroad builders, Jay Gould and Huntington, united forces.

Mr. BLAIR. I trust if the Senator is narrating history he will be willing that it shall be correct.

Mr. VAN WYCK. Most certainly.

Mr. BLAIR. Does not the Senator remember that the committee was informed that it was the understanding between these parties thus constructing toward each other that each should have the land grant opposite what it built?

Mr. VAN WYCK. Oh, no.

Mr. BLAIR. Oh, well, the thing was consummated some six or eight months before the expiration of the time, and the articles delivered.

Mr. VAN WYCK. No, sir. Here is Mr. Huntington's history; I have not the time to read it in full. It is the most wonderful piece of history in our country. You remember Mr. Huntington's letters. In these letters he shows distinctly, as we know, that he was antagonizing the Texas Pacific. In those letters he expressly stated that they stood ready to build the road without subsidies in money or grants of land. All they asked, he said, of the Government was that they should be allowed to do that; and it was not until after the road was constructed to the west line of Texas, after the road was completed without the Texas Pacific grant, its dead land grant to the Southern Pacific, because at that time they had united, that the heads, the operators of the two lines——

Mr. BLAIR. If the Senator will permit me, I allege it as a fact that it was certified before the committee, and it is historically true, that these two great agencies built one the seven hundred miles and the other the five hundred miles toward each other with the understanding that they were to be united and to prorate. Does the Senator believe that the Texas Pacific would have built seven hundred miles westward to connect with nothing? There was the Southern Pacific building from the west eastwardly. Could it have been otherwise than that there was an understanding that they were to unite, as they subsequently did, and carry into effect their understanding as they did in writing, under instruments delivered and sealed and sanctioned by the judgment of a court?

Mr. VAN WYCK. Huntington and the Central Pacific were fighting their way through to the Atlantic Ocean in defiance of the claims of the Texas Pacific, and boldly claiming that they were prepared to build the road and would build it without any aid in subsidies or land from the General Government.

Mr. BLAIR. That is all very true. They asked in return that the Government would give them a charter through, that the Government would put an end to the claims of the Texas Pacific over those Territories through which they were obliged to lay their line in order that they might save their millions invested in the seven hundred miles from San Francisco to Fort Yuma. The Government took no action but left the law precisely as it was; and these two great corporations, under an agreement to prorate and to divide the land grant and the privileges and perform the duties that the Texas Pacific had undertaken in its charter with the General Government, constructed their line, and in accordance with that understanding the assignment was made from the Texas and Pacific of the land grant along and contiguous to that portion of the line constructed by the Southern Pacific, which the Southern Pacific now undertakes to hold, and which the Attorney-General of the United States in at least three instances of like character has held to be a valid assignment.

Mr. VAN WYCK. I think one of the provisions of the act incorporating the Texas Pacific Company was that it should not consolidate with a competing line. Am I not correct?

Mr. BLAIR. That provision, though not put in the way the Senator quotes it, was that they should not consolidate with any through competing line. In the short remarks which I submitted to the Senate I showed how the consolidation, even if it were with the Central Pacific, is not a consolidation with a through competing line. The only possible through competing line would have been the Atlantic and Pacific, which is not constructed to this day. The other line, the four hundred miles, under no circumstances would be a through competing line.

Mr. SHERMAN. I wish to know one fact, and it is the turning point in this whole case. Is it true that the Southern Pacific road, before any assignment was made to it, built its line of railroad through to the Texas border?

Mr. VAN WYCK. It did.

Mr. SHERMAN. At that time the Texas Pacific was a subsisting corporation, and it had not yet reached the Texas border and had not earned a single acre of land under the terms of the grant?

Mr. VAN WYCK. Not an acre.

Mr. SHERMAN. They did not even lift a shovel or spade?

Mr. VAN WYCK. No; not an acre did they earn.

Mr. SHERMAN. At that time were the two companies engaged in hostility with each other in seeking to get a law through Congress on the subject of their grants?

Mr. VAN WYCK. The Texas Pacific, which had this grant, was seeking at that time to have additional assistance by a guarantee of the interest upon its bonds. The Southern Pacific came here, and, as I shall show from Mr. Huntington's own letters, with the expenditure of a large amount of money, asked Congress to stop, showing that there was no necessity to guarantee those bonds or to grant a subsidy, and that there was no necessity to give them any lands; that they were ready to build the road through to the Texas boundary without any aid.

Mr. BLAIR. Will the Senator from Nebraska permit me to interrupt him?

Mr. VAN WYCK. Certainly.

Mr. BLAIR. The state of facts which the Senator describes existed in two Congresses. The Southern Pacific having made its investment and seeing that the action of the Texas Pacific, then twelve hundred miles away, depended upon its obtaining its $40,000 per mile from the General Government (which was substantially nothing but an application for still greater delay), and that its capital was rotting meanwhile, opposed that by saying that it was ready to build for the land grant if the Government would take away the rights of the Texas Pacific within those Territories. It then said it was ready to build without any land grant even, if the Government would charter it through those Territories, and the Government declined to do that.

What then? The Texas Pacific was still in Eastern Texas. There was no prospect of any Government sanction under which the Southern Pacific could build easterly through the Territories, and the controversy in Congress having ceased, and the Texas Pacific having fallen under new management, the Gould management, Scott and his friends having disappeared, these great capitalists came together in agreement and the road was constructed subsequent to the controversy in Congress, through the Territories easterly by the one, through Texas westerly by the other, with an understanding, which had been put in form earlier still, that they should thus build and thus prorate, an understanding carried out in that way, and the construction taking place after the efforts at legislation in the Forty-fourth and Forty-fifth Congresses.

So it is not true as a matter of fact, as stated by the Senator from Ohio, that the construction went on while the Southern Pacific was demanding legislation from Congres authorizing it to build through those Territories. But when Congress had failed to legislate, when the subsidy was defeated, in the public interest as every man must believe, then these great agencies constructed the road about equally in length toward each other, and united with an understanding that the land grant was to be divided, that the land grant in the Territories was to be given to the party which built through the Territories. That understanding was formally reduced to writing and carried into effect, and the instruments delivered and the judgment of a court had thereon prior to the expiration of the ten years within which it was originally agreed in the Texas and Pacific charter that the whole line should be constructed. That is the truth about it.

Under such a grant as that, under such an assignment as that, in the instance of the Backbone Railroad and in two other instances, if I recollect aright, held valid by the Attorney-General of the United States, the Southern Pacific Railroad claims a right to be heard in court. The amendment simply gives the company a right to try that question in the courts and have it judicially decided and not foreclosed in a way that we would hardly exercise toward the humblest individual in the land.

Mr. McPHERSON. Will the Senator from Nebraska give me a little light on the question? The Southern Pacific Railroad, if I understand it aright, was first chartered by the State of California, and its line was built until it reached the Territories of the United States. As to the Territories and the public lands belonging to the United States, what did the Southern Pacific Railroad ever ask of Congress? Did they ask for a right of way over the Territories?

Mr. VAN WYCK. They obtained that by legislation from the Territories.

Mr. BLAIR. After the attempt to get legislation from Congress had ceased, had failed.

Mr. WILLIAMS. Congress granted lands in California to the Southern Pacific.

Mr. McPHERSON. Has the Southern Pacific Railroad ever asked for any assistance either in the shape of land grants or subsidy bonds, or anything of that kind from Congress?

Mr. VAN WYCK. It not only did not ask for it, but insisted that such aid should not be granted it.

Mr. McPHERSON. That aid should not be granted to the rival line?

Mr. VAN WYCK. That it should not be granted to any company.

Mr. McPHERSON. To the Texas Pacific?

Mr. VAN WYCK. Yes, sir; or granted to any company. They stood

there and said they would build the road without either lands or subsidies.

Mr. SHERMAN. Did the Texas Pacific actually build a part of the line?

Mr. VAN WYCK. Not a mile.

Mr. BLAIR. The other road claims it as assignee of the Texas Pacific.

Mr. SHERMAN. I will ask my friend the date of the assignment.

Mr. VAN WYCK. The date of the assignment was after the completion of the road.

Mr. SHERMAN. Then at the time of the assignment the Texas Pacific had not earned a single acre of land within the Government lands?

Mr. VAN WYCK. It had not earned an acre of public land. The road was finished before the agreement was made in 1881, to which my friend from New Hampshire referred. The Southern Pacific was in hostility to the Texas Pacific; they had been in litigation, and were up to the time they made this contract in 1881, after the Central Pacific had built to the west line of the State of Texas. Those are the facts. Mr. Huntington, in 1878, wrote:

If it were once understood that no subsidies would hereafter be granted by Congress, the incomplete gap (between Fort Worth, the western terminus of the Texas Pacific then, and Yuma) would be filled within five years by private capital alone, without asking or committing in any way the national revenues to the work.

Before the Senate committee, in 1878, he said:

We are ready to construct right along, and willing to provide an outlet to the East for ourselves without cost to the Government.

Who would suppose for a moment that they would have the impudence in the face of this declaration to come now and endeavor to steal 20,000,000 acres of the public domain? Again, in 1878, when Mr. Huntington asked the Government to take its hands off and let there be a free race without cost to anybody, he said:

The question before you is whether you will give the Texas Pacific a guarantee of nearly 40,000,000 of bonds for building a road, two hundred miles of which is useless, and six hundred miles of which we offer to build without aid.

Look at that. Mr. Huntington says "which we offer to build without aid." He comes before a committee of this body in 1878 and begs the Government to stop; he says: "We will do it, and we will do it without aid, without the cost of a dollar to the Government." It is remarkable that these men should have the impudence to come here now. Is it not still more remarkable that Senators should be found here advocating their proposition, infamous as it is?

That is not all. Here is a letter from ex-Senator Gordon explanatory of his course in supporting the Southern Pacific plan of opposing Scott:

Mr. Scott was asking a guarantee on about fifty millions of bonds. Mr. Huntington, on the other hand, was asking nothing of Congress either by way of indorsement of his bonds or as subsidy in lands. He asked only to be let alone and allowed to build the road on the same general line, and was actually constructing it without any Government aid. * * * I opposed the Scott bill and favored the Huntington plan. He declared he could and would build the road without a dollar of Government aid or subsidy. He did it. He declared he would make the eastern terminus of his lines southern ports and only southern ports. He has done it.

There are the facts. Here was the Texas Pacific organized with this enormous land grant. The act provided that they should not sell out to a competing line. The object of that legislation was that there should be competition from the Atlantic to the Pacific. The act expressly restricted these parties and declared that they should under no circumstances do it. Yet by the contract, to which my friend the Senator from New Hampshire refers, made in November, 1881, after the construction of this road the Texas Pacific actually contracts and agrees that under no circumstances will it build the western portion of the road.

Congress said in the act incorporating the Texas Pacific, giving them this empire of land, that they should not under any circumstances convey their interest to a competing road, and yet in the very contract to which my friend refers, made in November, 1881, after the completion of the road, the Texas Pacific guarantee and bind themselves that under no circumstances will they build west from the connecting point which they made with the Southern Pacific. Here it is:

In consideration for the privileges of using jointly the road into El Paso, and of a perpetual privilege in Los Angeles and San Francisco, as well as San Diego, equal to the most favored, the Texas and Pacific has relinquished its claim to the land grant, right of way, and franchises west of El Paso to the Southern Pacific companies. The Texas and Pacific engages not to extend its road west of El Paso so long as the covenants with the Southern Pacific are observed, and the Southern Pacific agrees not to parallel the Texas and Pacific east of El Paso or either of the roads mentioned, in Texas, Arkansas, and Missouri.

Mr. HOAR. Is that the first agreement between these roads?

Mr. VAN WYCK. Yes, sir; the first, made in November, 1881, after the completion of the road. Then they make their pool. They say:

Through business is to be done on a pro rata basis by both companies, and this stands all the way to San Diego, Los Angeles, and San Francisco.

Mr. BLAIR. Will the Senator permit me to state to him one fact, which he can ascertain from the records of Congress? Either in the Forty-fourth or Forty-fifth Congress there was a bill introduced behind which were Scott and Huntington, both proposing to prorate, which bill was to carry out the provisions of the Texas Pacific charter. As far back as that, and after legislation failed in those Congresses, these parties, by a mutual understanding that they made, met and then carried their agreement into writing, and it was signed, sealed, and delivered; but the understanding under which they were acting and investing their money was precisely as binding in law as though it had been reduced to writing and delivered beforehand. It was just exactly as if I agree verbally with a man that he shall convey to me his real estate and I pay him for it, and the agreement is partially executed, a court of equity will compel the passing of the title by the execution and delivery of a deed.

Mr. VAN WYCK. I repeat, I think without the fear of contradiction, that these parties antagonized each other here in Washington, and by and by I shall show what Mr. Huntington says it cost to get some things done here in Washington. I shall show his estimation of this matter. He and his friends were antagonizing the Texas Pacific here session after session, and it continued in the courts, suit after suit, which resulted after the construction of that road in the making of the contract in November, 1881, to which I have just referred.

That was the attitude in which the very object sought by Congress in giving a land grant was defeated. It was defeated by the active support and by the contract of the Texas Pacific itself, the company to which the land was granted. Though the act denied them the power in any event to make any connection with competing roads, they actually sell or undertake to sell or convey; and they actually bind themselves so that the people shall be denied the privilege of a competing line.

I have read these extracts from Mr. Huntington, detailing the history of the transaction, and I think partially detailed, until November, 1881, when an agreement was made between Mr. Huntington and Mr. Gould. Mr. Gould, it seems, had become the possessor of the property of Scott, and therefore he and Mr. Huntington were in an attitude to contract. Mr. Huntington had fought his way through and made the connection with the western line of Texas. Then it was, as I say, that they made this agreement preventing any competition, making the road an absolute monopoly; and after that they seek to resurrect this dead grant and divide it between themselves. There is the position.

We are not embarrassed here by the considerations which sometimes arise in these grants because there have been no sales. Not a mile of the road was built by the company entitled to the land contiguous to the line in any part of this large domain. Not an acre of this land was ever sold by the railroad company. Not an acre of the land was ever mortgaged by the railroad company. There are no considerations to go to the court which my friend from Alabama suggests, because the question of forfeiture is pure, simple, naked. There are no embarrassing questions. The question is merely between this Government and the railway corporation; and I desire the Senate to bear in mind that never an acre of the land was sold and never an acre of it mortgaged, and the Texas Pacific never built a mile of its road.

Mr. MORGAN. Will the Senator allow me to ask him for the sources of his information which he states with so much confidence? How does he know those facts?

Mr. VAN WYCK. I know from examination before the committee of the Senate for years that it never has been claimed in all the long delay; it never was pretended, as I understood, that they had built a mile of the road or had mortgaged an acre of the land.

Mr. MORGAN. I must be permitted to state my understanding of the matter. The Southern Pacific Railroad had made heavy mortgages to secure its debts, and it contended of course that the transfer of this property from the Texas Pacific Company carried it into this corporation, and being a part of its property that the mortgages included that; that it went to the mortgagees.

Mr. HARRISON. If the Senator from Alabama will allow me I will state that the land could only be embraced in that mortgage under the operation of the after-acquired property clause.

Mr. MORGAN. That is the idea.

Mr. HARRISON. Does the Senator think that a grant of land like this for public use, in the operation of a railroad, would be covered by such a clause in a railroad mortgage? I do not think it would.

Mr. MORGAN. I am not stating what is right about it or what is the law of it; I am stating what they claim; that is all. I do not admit that the transfer was valid. I shall vote for the bill just as it is, whether the amendment goes on or not. At the same time I think it is right to adopt the amendment.

Mr. VAN WYCK. Mr. Huntington himself, who, I suppose, is good authority in this matter—and we have a good deal of that—was representing with a great deal of shrewdness the Central Pacific, then the Southern Pacific, and Mr. Huntington writes, November 28, 1874 (without reading the former part of his letter):

Storr says it will make Scott very mad, and he thought it best not to send it, and may be he is right; but if Scott kicks at it, I propose to say to Congress, "We will build east of the Colorado to meet the Texas Pacific without aid, and then see how many members will dare give him aid to do what we offered to do without."

Mr. Huntington was speaking for the corporation that is here to-day, I say to my friend from Alabama; and he says distinctly that—

"We will build east of the Colorado to meet the Texas Pacific without aid, and then see how many members will dare give him aid to do what we offered to do without." My only fear then would be the cry that the C. P. and the S. P.—

Central Pacific and Southern Pacific—

was all one and would be a vast monopoly, &c., and that is what we must guard against, and that is one reason why you should be in Washington.

Here are these organizations, represented in the person of Mr. Huntington. That is what he says on that branch of the case. The line was built without any pretense of aid, built in opposition to the road which had Government aid. He says away back in 1875—

If we had a franchise to build a road or two roads through Arizona (we controlling)—

Now mark. I ask my friend from Ohio to give me his attention right here—

If we had a franchise to build a road or two roads through Arizona (we controlling, but having it in the name of another party), then have some party in Washington to make a local fight and asking for the guarantee of the bonds by the United States, and, if that could not be obtained, offering to build the road without any aid—

Which they did—

offering to build the road without any aid, it could be used against Scott in such a way that I do not believe any politician would dare vote for it. Can not you have Safford call the Legislature together and grant such charters as we want at a cost, say, of $25,000?

Here is another letter from Huntington:

NEW YORK, *November* 13, 1875.

FRIEND COLTON: Your dispatch that you had sent $200,000 gold is received. Dr. Gwin left for the South yesterday. I think he can do us considerable good if he sticks for hard money and anti-subsidy schemes, but if it was understood by the public that he was here in our interest it would no doubt hurt us. When he left I told him he must not write to me, but when he wanted I should know his whereabouts, &c., to write to R. T. Colburn, of Elizabeth, N. J. I have had several interviews with the Houston and Texas Central Railroad people.

* * * * * * *

There will be no Government aid granted this session, and if we can get the H. and T. Central to stand in with us and offer to build a line through, we build to El Paso from the west and they from the east, I think Scott's fish will be cooked. Budd is doing good work in the Gulf States.

* * * * * * *

I was told a few days ago that Scott said he would make us let go of his Texas Pacific—

There was decided enmity between Scott, who was controlling the Texas Pacific, and Huntington, who did not want to control it—

I was told a few days ago that Scott said he would make us let go of his Texas Pacific. The South are getting very much in earnest in their opposition to Scott's project.

* * * * * * *

I shall do what I can, but you had better make your calculations to build the road east of the Colorado River on what you can get out of the Territories and the road itself. If you expect to get anything in Arizona and New Mexico I would suggest that you do not do as we did in Utah, wait until the enemy was in possession.

REPORT ON LABOR AND CAPITAL.

The PRESIDENT *pro tempore*. Will the Senator from Nebraska suspend for a moment? The Chair will lay before the Senate a concurrent resolution which has been returned from the House of Representatives with amendments. The resolution with the amendments will be read.

The Chief Clerk read as follows:

IN THE SENATE OF THE UNITED STATES, *July* 4, 1884.

Resolved by the Senate (the House of Representatives concurring), That the report of the Senate Committee on Education and Labor on the relations between labor and capital, with the accompanying testimony, be printed; and that 25,000 additional copies be printed, of which 8,000 shall be for the use of the Senate, 16,000 for the use of the House of Representatives, and 1,000 copies for the use of the Senate Committee on Education and Labor.

IN THE HOUSE OF REPRESENTATIVES, *February* 19, 1885.

Resolved, That the House concur in the foregoing resolution of the Senate with the following amendments:

In line 6 of the resolution strike out the word "eight" and insert the word "six."

In line 7 of the resolution strike out the word "sixteen" and insert the word "thirteen."

In line 8 of the resolution strike out the words "and one" and insert the word "five;" and strike out the word "copies" in same line.

In line 9 of the resolution strike out the words "Senate Committee on Education and Labor" and insert "Bureau of Labor Statistics, and 1,000 for the use of the Senate Committee on Education and Labor."

The PRESIDENT *pro tempore*. If no objection be made, the resolution and amendments will be referred to the Committee on Printing.

Mr. BLAIR. I do not know that there is any necessity for that. Perhaps the amendments may as well be concurred in now.

The PRESIDENT *pro tempore*. The Chair understood some members of the Committee on Printing desired that the matter be considered by them.

Mr. BLAIR. Very well.

The resolution and amendments were referred to the Committee on Printing.

Mr. BLAIR. I would like to say in connection with that matter that it has been delayed now a year or a year and a half. I hope it may be speedily acted on by the Committee on Printing.

AGREEMENT WITH INDIANS.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States; which was read, and, with the accompanying papers, referred to the Committee on Indian Affairs, and ordered to be printed, excepting the maps:

To the Senate and House of Representatives:

I transmit herewith a communication of the 16th instant from the Secretary of the Interior submitting, with accompanying papers, a draught of a bill, "To accept and ratify an agreement with the confederated tribes and bands of Indians occupying the Yakama reservation, in the Territory of Washington, for the extinguishment of their title to so much of said reservation as is required for the use of the Northern Pacific Railroad, and to make the necessary appropriation for carrying out the same."

The matter is presented for the consideration and action of the Congress.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *February* 19, 1885.

SUBMARINE CABLES.

The PRESIDENT laid before the Senate the following message from the President of the United States; which was read, and, with the accompanying papers, referred to the Committee on Foreign Relations, and ordered to be printed:

To the Senate:

I transmit herewith a report of the Secretary of State of the 19th instant, recommending the enactment of a law for the protection of submarine cables in pursuance of our treaty obligations under the international convention in relation to the subject, signed at Paris on the 14th day of March, 1884. I commend the matter to the favorable consideration of Congress.

CHESTER A. ARTHUR.

EXECUTIVE MANSION,
Washington, February 19, 1885.

GEORGE W. MARGROVE.

Mr. PLUMB. I ask unanimous consent that the vote by which the bill (S. 2273) granting a pension to George W. Margrove was indefinitely postponed may be reconsidered, and the bill placed on the Calendar. The action was taken on the 17th day of February.

The PRESIDENT *pro tempore*. The Senator from Kansas asks unanimous consent that the vote of the Senate heretofore taken indefinitely postponing the bill (S. 2273) granting a pension to George W. Margrove be reconsidered, and the bill with the adverse report of the committee placed on the Calendar. That order will be entered if there be no objection.

JOHN F. HICKEY.

Mr. PLUMB. I also make the same motion with regard to the bill (S. 1855) granting a pension to John F. Hickey, reported on the same day. I ask that it may take the same direction.

The PRESIDENT *pro tempore*. The Senator from Kansas also asks unanimous consent that the vote on the bill (S. 1855) granting a pension to John F. Hickey be reconsidered, and that the bill with the adverse report be placed on the Calendar. If there be no objection that order will be entered.

AMENDMENT TO A BILL.

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

TEXAS PACIFIC RAILROAD LANDS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 3933) to declare a forfeiture of lands granted to the Texas Pacific Railroad Company, and for other purposes.

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

The PRESIDENT *pro tempore*. Does the Senator from Nebraska yield to that motion?

Mr. VAN WYCK. No, sir; I have only a few more words to say.

The PRESIDENT *pro tempore*. The Senator from Nebraska declines to yield to the motion of the Senator from New York. The Senator from Nebraska is entitled to the floor.

Mr. VAN WYCK. I was in hopes we could conclude this bill. I had not intended to say anything upon it, except for the remarks made by the Senator from New York, and I beg pardon of the Senate for having made so much talk. I did not desire to discuss matters familiar to every member of the Senate. There is one thing, and only one thing, further I wish to refer to.

The company to which this grant was made never built the road. A hostile, opposing, antagonizing company did build it. They built it in defiance of the company to whom the grant was made, protesting throughout that they would build this road without any aid from the Government. These companies were in collision, one forcing itself through without Government aid and protesting that it did not want it, and the other seeking additional aid from the Government for the purpose of building it. That is all the fact necessary to be taken into the consideration of this case, and I ask pardon of the Senate for having said so much.

Mr. HARRISON. I should like to inquire of the Senator from Nebraska or the chairman of the Committee on Public Lands, or both, whether from the investigation they have given to this case they are of opinion that the right of the United States or of its grantees to this land whose forfeiture is declared will be contested in the courts by this railroad company.

Mr. VAN WYCK. Am I asked whether they have threatened to do this thing?

Mr. HARRISON. Whether they are likely to contest the right of the United States or of its grantees to this land in the courts?

Mr. VAN WYCK. I do not know as to that point.

Mr. HARRISON. Does not the Senator think they will?

Mr. VAN WYCK. They have threatened it as a matter of course. They have not only threatened it, but they have actually defied the committee and said, "No matter what you do we will go into the courts

in any event." They wanted to convey the impression that they were not afraid of our action.

Mr. HARRISON. I asked that question for this reason: I have no trouble at all in voting for this declaration of forfeiture; I think upon the facts of the case as I understand them we clearly ought to make that declaration and make it now. If the claim of the railroad companies was so slightly held by them that they were likely to acquiesce in this declaration without litigation, then I should deem the amendment proposed by the Senator from Alabama to be unnecessary, as in the Oregon case; but if, as seems to be the opinion all around, there is to be litigation over this title after the declaration of forfeiture, I am clearly of the opinion that the United States ought to take the burden of that litigation, that it should choose the forum where that litigation should be prosecuted, and that it should prosecute it by its own officers in a suit that will involve the whole question.

I am not willing for one to make this land subject to disposal at the land offices of the United States and to allow some man to purchase one hundred and sixty acres and then let the railroad company fight out this question with him. He is not an equal antagonist in such an encounter. I want some provision that will re-enforce him in that contest with the power of the United States. I want to avoid that which has been charged to be the case in the Des Moines land-grant controversy.

It has been said there that suits in which the titles of the settlers was involved were collusive suits; I do not know with what truth, but I do know that there is danger in these cases that these suits may be collusive between the railroad company and some humble settler who has but a small tract of land to defend; and if there is in all these cases such a serious claim made by the railroad company that the controversy must be settled in the courts, then I take it it must be clear that the United States should take the burden of that controversy upon itself, and should prosecute it promptly and vigorously to a determination.

For one, I do not like to put the General Government in the attitude of peddling out lawsuits to its citizens. I do not like to put the General Government in the attitude of conveying a clouded title and leaving its grantee to fight it out at his own expense, particularly when the Government gives him a conveyance that has no warrant in it upon which he could recoup damages, leaves him simply to the grace of Congress to recover the money he has paid into the Treasury of the United States.

I think, therefore, that in all these cases where there are serious controversies and where there must be litigation the United States should take it upon its own shoulders and press it to a speedy determination. I think it is in the interest of settlers. It seems to me a cruel thing to do to declare these lands open to public entry and to invite our people to go and settle upon them, and then to leave them to make their own title good if they can in a controversy with one of these powerful railroad companies, possibly to have it settled against them by the courts—I hope not—but possibly to have that result, and then to leave them in the distressed condition in which we find our people in two or three other cases. Therefore, upon the statement of the committee that there is likely to be litigation over this controversy, I shall support the amendment of the Senator from Alabama, which provides for settling the controversy before we sell the land.

Mr. SHERMAN. Mr. President, the Senator from Indiana has touched the gist of this whole controversy. I have put myself in regard to this railroad legislation in apparently an inconsistent attitude. I have said nothing about it, but I will state now the reasons of my varying votes.

On the Atlantic and Pacific bill I voted for the proposition of the Senator from Alabama requiring a suit to be brought, for the reasons stated by the Senator from Indiana. On the bill relating to the Oregon grant I voted against that proposition. The reason was that in the Atlantic and Pacific Railroad case it was manifest that there were contending parties, each claiming at least a *prima facie* right to the lands, and that for the reasons stated by the Senator from Indiana we ought not to turn those controversies over to be litigated by pre-emptors and homesteaders.

But in the Oregon case I thought there was no ground whatever for dispute, that any railroad or any person claiming under a railroad grant under the circumstances in that case would have no kind of ground, no kind of showing for a contest with a pre-emptor or homesteader or a purchaser from the United States; and therefore I thought that to invite or require this litigation was simply seeming to do a useless thing.

When this question first came up I believed that the Texas Pacific case was a much clearer case than even the Oregon case. It always seemed so to me. The absurdity of the position here is this: The Texas Pacific Railroad Company never earned one acre of this land; it never stuck a spade in the Government land west of Texas; it earned its land from the State of Texas, but never earned a single acre from the Government of the United States. It had insisted, on the other hand, that it could not build a railroad through New Mexico except by a subsidy and demanded that subsidy, and then a rival line, wishing to get a large portion of this important tract, ran its road through to the Texas line without aid and renouncing all aid, refusing all aid, and completed the road.

Then these two railroad corporations meet together and the Texas Pacific sells out to the Southern Pacific what it had never earned, and the Southern Pacific buys from the Texas Pacific what the Texas Pacific never owned. This seemed to me a parody on justice, so that I thought no court or tribunal under heaven would sustain any pretense of a right to sell what did not exist and to buy what did not exist; and therefore I thought we could safely declare this forfeited without conditions. At the same time, I have no objection to voting for the amendment of the Senator from Alabama, except that I fear that in the present condition of the public business, looking at it as a practical legislator, we shall probably defeat this bill, while we might accomplish the object he desires by passing a general bill, either at this or the next session of Congress.

I think in the mean time this bill ought to be so amended that the land shall not be open for pre-emption entry or for disposal of any kind until a reasonable time has elapsed, say a year or two, within which the proper legislation may be had. I think a suit ought to be brought in the nature of a bill to quiet title as against these two rival railroad companies, now connecting railroad companies, in order to settle forever their rights under the various acts passed by Congress in regard to the Texas Pacific Railroad.

The only objection I have to voting for the amendment of the Senator from Alabama is not that it is not wise, because I think it is wise, but it may at this time defeat the passage of any bill on the subject; and I do believe the public interest and the comfort of the people in that region of country demand that the declaration of forfeiture should be made, and that proper legislation to settle titles should follow hereafter; but the bill should be amended in that one particular, withholding the lands from pre-emption and homestead entry until such time has elapsed that a provision may be made for contesting the various rights of the parties litigant.

Mr. DOLPH. I do not wish to make a speech, but after the very conclusive remarks of the Senator from Ohio [Mr. SHERMAN] and the Senator from Indiana [Mr. HARRISON] I ask that the views expressed by me in the report from the Committee on Public Lands may be read. They are very brief.

The PRESIDING OFFICER (Mr. HARRIS in the chair). If there be no objection the paper referred to by the Senator from Oregon will be read.

Mr. DOLPH. I present this as an explanation of the vote I intend to cast on this question.

The Chief Clerk read as follows:

I concur in the main with the views of the minority.

I do not believe that a Congressional declaration of forfeiture of a land grant is conclusive upon the company to which the grant was made or upon its grantees of the whole or any portion of the grant, either as to the extent of the forfeiture, or as to the existence of the facts necessary to authorize the forfeiture. I am of the opinion that those questions, notwithstanding a Congressional declaration of forfeiture, may be litigated and determined by the courts in all cases in which the title to any of the lands covered by the grant comes in question, and that as a matter of policy all such questions should be judicially determined as speedily as possible after a declaration of forfeiture of a grant and before the land is offered for sale by the United States.

I therefore favor the amendment accompanying the minority report.

J. N. DOLPH.

Mr. EDMUNDS. I merely wish to say in connection with what has been said by the Senator from Indiana and the Senator from Ohio, that several years ago, and I think when Judge Thurman was the chairman of the Committee on the Judiciary, or about that time certainly, the matters of these forfeitures were referred to the Committee on the Judiciary, and that committee reported to the Senate a measure which provided in one bill for the forfeiture of every unearned grant everywhere, and provided, as has been suggested by the Senator from Indiana and the Senator from Ohio, that it should be the duty of the Attorney-General forthwith to institute suits to declare those forfeitures so as to protect from all future litigation the title of the settlers who should come in under the United States.

It did not at that time comport with the pleasure or convenience of the Senate, with its great press of business, to consider that bill. I am very sorry that it was not done, because all these questions would long since have been disposed of and endless difficulty, like that in the Des Moines matter, would have been avoided by a settlement once and for all without grinding the poor settler to death by having to fight these great corporations.

That is all I wish to say, sir.

THE PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Alabama [Mr. MORGAN].

Mr. PLATT. I think the yeas and nays have been ordered on the amendment.

The PRESIDING OFFICER. The Chair is informed by the Secretary that the yeas and nays have been ordered. The Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. VEST (when the name of Mr. JONAS was called). The Senator from Louisiana [Mr. JONAS] is detained from the Senate by illness. He is paired with the Senator from Wisconsin [Mr. CAMERON].

Mr. CAMERON, of Wisconsin. I am paired with the Senator from Louisiana [Mr. JONAS]. It did not occur to me when I voted in the affirmative, and I ask leave to withdraw my vote.

The PRESIDING OFFICER. The vote will be withdrawn.

Mr. CALL (when the name of Mr. JONES, of Florida, was called). My colleague [Mr. JONES] is detained at home by illness. He is paired with the Senator from Nebraska [Mr. MANDERSON].

Mr. MANDERSON (when his name was called). I am paired with the Senator from Florida [Mr. JONES], but understanding that he would vote against this amendment I feel privileged to vote. I vote "nay."

Mr. CONGER (when Mr. PALMER'S name was called). My colleague [Mr. PALMER] is necessarily absent this afternoon, and is paired with the Senator from North Carolina [Mr. VANCE].

Mr. RANSOM (when his name was called). I am paired with the senior Senator from Illinois [Mr. LOGAN] generally. His colleague [Mr. CULLOM] does not know how the senior Senator from Illinois would vote on this amendment, and therefore I shall not vote on it. If he were here, I should vote "yea."

Mr. RANSOM (when Mr. VANCE'S name was called). My colleague [Mr. VANCE] is paired with the Senator from Michigan [Mr. PALMER]. My colleague, if here, would vote "nay."

Mr. WALKER (when his name was called). My colleague [Mr. GARLAND] is paired with the Senator from Kentucky [Mr. WILLIAMS]. If present, my colleague would vote "nay" and the Senator from Kentucky would vote "yea." I am paired with the Senator from Virginia [Mr. RIDDLEBERGER]; otherwise I should vote "nay."

Mr. WILLIAMS (when his name was called). I am paired on this question.

The roll-call having been concluded, the result was announced—yeas 24, nays 31; as follows:

YEAS—24.

Allison,	Dolph,	Harrison,	Mitchell,
Blair,	Edmunds,	Hawley,	Morgan,
Bowen,	Fair,	Ingalls,	Morrill,
Brown,	Groome,	Jones of Nevada,	Pike,
Chace,	Hale,	Lapham,	Platt,
Conger,	Harris,	Miller of Cal.,	Sawyer.

NAYS—31.

Aldrich,	George,	McPherson,	Saulsbury,
Bayard,	Gibson,	Mahone,	Sewell,
Beck,	Gorman,	Manderson,	Sherman,
Call,	Hampton,	Maxey,	Slater,
Cockrell,	Hill,	Miller of N. Y.,	Van Wyck,
Coke,	Hoar,	Pendleton,	Vest,
Cullom,	Jackson,	Pugh,	Wilson.
Frye,	McMillan,	Sabin,	

ABSENT—21.

Butler,	Farley,	Logan,	Voorhees,
Camden,	Garland,	Palmer,	Walker,
Cameron of Pa.,	Jonas,	Plumb,	Williams.
Cameron of Wis.,	Jones of Florida,	Ransom,	
Colquitt,	Kenna,	Riddleberger,	
Dawes,	Lamar,	Vance,	

So the amendment was rejected.

Mr. SHERMAN. I submit to the judgment of the Senate an amendment to make this bill conform to the suggestion I made; that is, that the lands shall be withheld from entry, say, for a period of two years. I suppose they are made subject to entry under the general laws of the United States. I move to insert these words:

But not subject to be disposed of under the general laws of the United States until after the expiration of two years from the passage of this act.

I merely submit the amendment to members of the Committee on Public Lands, as it would make the bill conform practically to the suggestion I have made, allowing two years to provide the proper legislation.

The PRESIDING OFFICER. Does the Senator offer the amendment he suggests?

Mr. SHERMAN. I do.

The PRESIDING OFFICER. The amendment will be read. Will the Senator repeat it so that it may be taken down?

Mr. SHERMAN. I will offer it in this form:

And for two years from the passage of this act be made subject to disposal under the general land laws of the United States.

The CHIEF CLERK. In line 10 of section 1, after the words "domain and" and before the word "made," it is proposed to insert "after two years be;" so as to read:

And the whole of said lands restored to the public domain, and after two years be made subject to disposal under the general laws of the United States, as though said grant had never been made.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Ohio.

Mr. SHERMAN. The word "disposal" would include a homestead entry, would it not?

Mr. INGALLS. I should like very much, in pursuance of the sentiment of Congress and I believe of the people on this subject, to confine these lands to homestead entry.

Mr. SHERMAN. I am perfectly willing.

Mr. INGALLS. We have, I believe, voted such a provision on the bill to repeal the pre-emption and timber-culture acts; but that bill has not become a law; probably it may become a law before the close of the session. If this land is to be restored to the public domain, I suggest that it be held for entry under the homestead law.

Mr. SHERMAN. I have no objection to inserting that.

Mr. DAWES. All the lands that have been restored to the public domain from the Indian reservations for several years past have been expressly confined to the homestead law.

Mr. SHERMAN. I will adopt the suggestion if it is agreeable. I will say "disposal under the homestead laws, and not otherwise."

The PRESIDING OFFICER. The amendment will be read as modified.

Mr. SHERMAN. It is another amendment.

The CHIEF CLERK. In line 11, after the word "disposal," it is proposed to insert "under the homestead laws, and not otherwise."

Mr. SHERMAN. Strike out "under the general laws of the United States."

Mr. BECK. Without the amendment the lands will be open to homestead entry at once. As I catch it the amendment only provides for a postponement of two years. Under the general laws the lands would be subject to entry by pre-emption. The pre-emption law is not repealed yet. The meaning of the amendment, therefore, would be to leave the lands open to controversy for two years. That is the practical effect of it; it can be of no other use, so far as I observe.

I thought in 1878, when the Thurman bill was passed, we were taking some control of the management of these railroads. From that day to this we have taken none. The House bill sent to us to do it now is evidently going to fail by a counter proposition. The Reagan bill attempted to do something so as to take the control in another direction. That has evidently failed by a counter proposition. A number of other matters have been up, and they have all been fought because nothing will be done. That is all that the railroads desire.

Now I propose to vote to do something. I propose to vote even against good amendments if in my judgment they will tend to accomplish nothing. I would rather allow some imperfect legislation to pass, trusting to what may be done hereafter, than to have bills at this late hour of the session fail between the two Houses with nothing done; therefore I will vote against this amendment and other amendments that I might think useful, because I prefer doing something rather than to have a series of efforts all of which will prove futile.

Mr. MORGAN. The purpose of the Senator from Kentucky is to draw a distinction between the action of the House and the action of the Senate on these bills. I voted against the Reagan bill along with a good many Democrats and then voted against the Senate bill along with several Democrats, and I voted in the exercise of my duties as I supposed them to be. I advocated the amendment which has just been voted down. The Senate voted it on the Atlantic and Pacific bill, and some of the Senators who vote against it now not only voted for it but spoke for it then, which induced me to suppose, of course, that they were acting in good faith candidly and that they meant what they said, both by their speeches and by their votes.

Now, sir, in this matter I have been acting somewhat with gentlemen on the other side of the Chamber and somewhat with gentlemen on this side of the Chamber; and the effort of the Senator from Kentucky to impeach the Democracy of those gentlemen who have taken this course on the Reagan bill and on this bill will not at all deter me from taking such course as my private judgment dictates. I was in the Democratic party before the Senator from Kentucky enjoyed the privileges of citizenship in this country. I have been a true and a faithful Democrat, and it does not rest with him to impeach my Democracy by such flings as that.

I shall be a supporter of the incoming administration upon principle, if it is an administration of principle, as long as the Senator from Kentucky will stand up to his creed and to mine, and I do not enjoy these declarations which are made at the expense of his party associates. They are not kind, and they are not just, and there I leave them.

Mr. BECK. Mr. President, I have only this remark to make, that I made no allusion to the Senator from Alabama or to any other Senator. He was not in my mind. He is not quite as important in my estimation in regard to this question as he may suppose I think he is. The Senator from Ohio had moved an amendment which I thought might delay for two years the settlement of this question, and I thought it would delay and perhaps defeat the passage of the bill if we amended it in that or any other regard, no matter how good the amendment might be, and I desired to see something done.

I did not happen to be born in this country, but I was not consulted about that. I have been a citizen of the United States since 1838. That was a good while ago, and the Senator may have been a very important public man at that day, but I doubt whether he was. I have endeavored to perform my duty as a private citizen and as a public man to the best of my ability since that time, and if he thinks it either adds to his dignity or that it diminishes from my standing to make the suggestion that I was born in Scotland instead of here, he is welcome to all the honor he thinks he has made out of that fling at the place of my nativity. Many good men have been born where I was born, and very many men who were born here trace their descent with pride back to the ancestry from whom I trace mine.

I might say more but I will not. However, I desire the United

States to take some control of these matters before this Congress closes. I regard the suggestion as to my birthplace as unworthy of the Senator, unworthy of the Senate, and unworthy of reply.

Mr. MORGAN. Mr. President, I made no reference to the Senator's nativity; I made reference only to the length of time the Senator had been in the Democratic party and the length of time that I have been in it, and while my services to that party have not been so conspicuous as those of the Senator from Kentucky, they have been quite as honest and quite as dutiful. No Scotchman who is worthy of the name will take to himself as a personal allusion a matter that was not intended in that sense.

I revere that character more than the Senator from Kentucky does. I would not have pretended to rise on the floor of the Senate and interpose my nativity, which was not alluded to by a Senator, as a plea to shelter me from the results of an attack which he did make upon the Democrats upon this side of the Chamber who have not assisted in the passage of the Reagan bill and in the passage of this bill in the form in which it came from the House of Representatives. There can be no doubt about the object of the allusion. I do not understand the Senator even to deny it, except to say that he did not have in the range of his vision a subject so entirely microscopic as myself.

Mr. President, when a Senator is in command of such heavy artillery as the Senator from Kentucky, he ought to beware how he fires off; he may wound some very insignificant people unwittingly; he may hurt a man's feeling without intending to do it. He ought to have more consideration for men on this floor who at least are entitled to as much personal respect as he is.

He speaks about my remarks being unworthy of the Senate and unworthy of my position here. Sir, I do not indulge in remarks that are unworthy of myself or of the Senate. I might follow that example which I have oftentimes heard laid down by the Senator from Kentucky and indulge myself in such things, but I do not think it is respectful.

I have advocated this bill in the form that it is from the very best of considerations. I announced when I started out that I would vote for the bill as reported by the committee; I would even vote for it as it came from the House; but I believe it could be bettered very much indeed by having this subject carried into the courts before we commence to dispose of these public lands; that thereby we should save the people of this country very large expense. I was encouraged to hold that opinion by the fact that Senators who now vote against this amendment voted for it and spoke for it. In my innocency I supposed that they meant what they said; but it seems to me now when there is a chance to give a political turn to this matter we are disposed to withdraw from our convictions and our conclusions solemnly expressed on this floor and to take the political turn.

Mr. President, I am not a retail dealer in small politics. What little reputation I may enjoy and the position that I enjoy is not in the slightest degree attributable to the fact that I have taken up with currents of popular sentiment for the mere sake of getting myself forward before the people. I have tried as well as I knew how to discharge my duty faithfully as a Senator to the Constitution and the country and everybody in it, the rich and the poor, the high and the low; and when I have left this body I shall have left it I think with a perfectly clear conscience upon this point. That is my whole ambition. I desire neither place nor preferment, but while I keep a seat on this floor Senators must not suppose that, insignificant as I may be, unworthy of public notice as I may be, they can trample upon me without finding resentment and retaliation.

The Senator from Kentucky meant his remarks at somebody. He meant them at those men who he conceived were preventing the passage of bills that he thought were demanded by popular clamor. He admits that he would vote for a bill imperfect in itself in order to get certain legislation on the statute-book. I will never make that admission. I consider that, if you will allow me, unworthy of a Senator, to say that he will vote for a bill that he thinks imperfect in order to get it upon the statute-book. That shows the simple partisan; that shows the man who desires to carry out a purpose of his own or of his party at the expense of justice and at the expense of right legislation. I do not belong in that category, nor will I ever be found in it. The Senator can take that position and enjoy it if he wishes.

Mr. BECK. Mr. President, one word only, and that merely because of the last suggestion made by the Senator from Alabama. I did not say anything that indicated that I was desirous to enforce the Thurman bill, the Reagan bill, or this bill, or any other bill because of public clamor or in obedience to the demands of party; nor did I attempt to reflect on any Senator who differed with me. I desired to state my own position and the reasons why I am endeavoring to accomplish something, even though it might not be as perfect as I should like to have it and as I would desire to make it if time and circumstances allowed; and believing that if we proposed to do anything within ten or twelve days of the close of this Congress, with the vast mass of business pending between the two Houses, the fewer amendments put upon a bill that had merit in it was the best chance to accomplish some result.

The RECORD will show, and I am willing to stand on the RECORD, that no intimation or allusion of mine called forth any criticism from any gentleman who differed with me, no matter whether he was a Republican or a Democrat; and I am not to be told here that if the Senator was not alluded to somebody else was or some one of my party associates was, in order to have it understood that I was reflecting upon him. However unworthy he may think it may be in me to vote in the way I have stated I will continue to do so, because of my desire to accomplish something in the direction which a majority of the Senate, I think, desire to take. That is all I care to say.

I have never had a wrangle in my sixteen years of service in Congress that I now recall with anybody on this floor or anywhere else in regard to my public duties, and I have never given just cause of offense to any one that did not seek an opportunity to bring it on himself because of some assumption that was not to be drawn from anything that I had said.

The PRESIDING OFFICER. The question is on the first amendment proposed by the Senator from Ohio.

Mr. CONGER. I was about to move that the Senate proceed to the consideration of executive business.

Mr. MORGAN. Will the Senator from Michigan allow me a moment? I merely want to call attention to the fact that the Senate have adopted a number of amendments which the Committee on Public Lands have recommended to this bill, so that when it goes back to the House it must be the subject of consideration there. That is all I desire to say.

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

Mr. VAN WYCK. I appeal to the Senator. It will take but a few moments to finish the bill.

Mr. CONGER. I withdraw the motion.

The PRESIDING OFFICER. The question is on the first amendment proposed by the Senator from Ohio.

Mr. INGALLS. Has it not been modified since first suggested by the Senator from Ohio? If so we had better hear it read once more.

Mr. SHERMAN. It had better be read.

The PRESIDING OFFICER. The first amendment of the Senator from Ohio will be reported.

Mr. SHERMAN. It is all one amendment.

The PRESIDING OFFICER. The Chair understands there were separate amendments to different parts of the bill; but for the information of the Senate the Secretary will report both amendments in their connection.

The CHIEF CLERK. In line 10, after the word "domain," it is prot posed to insert a semicolon; after the following word "and" to inser the words "after two years be;" in line 11 to strike out the word "general" and insert "homestead;" and in line 12, after the word "States" to insert "and not otherwise;" so as to read:

Be, and they are hereby, declared forfeited, and the whole of said lands restored to the public domain; and after two years be then subject to disposal under the homestead laws of the United States, and not otherwise, as though the said grant had never been made.

Mr. INGALLS. After two years from the passage of the act?

Mr. SHERMAN. Yes.

The PRESIDING OFFICER. If there be no objection the Chair will put the question on the adoption of both these amendments at the same time.

Mr. INGALLS. The words "passage of the act" are not there.

Mr. SHERMAN. That is what it means.

Mr. MILLER, of California. I desire to call the attention of the Senator from Ohio to one fact.

Mr. DAWES. I should like to understand this amendment.

The PRESIDING OFFICER. The Senator from California is entitled to the floor.

Mr. SHERMAN. If the Secretary will now read it again, just as it stands, it will speak for itself.

The PRESIDING OFFICER. The Senator from California was upon the floor.

Mr. MILLER, of California. I will yield the floor to hear the amendment read.

The PRESIDING OFFICER. The amendment will again be read.

The CHIEF CLERK. The proposed amendment is, in line 10, after the word "domain," to insert a semicolon; after the next word "and" to insert "after two years be;" in line 11 to strike out "general" and insert "homestead;" and after the word "States," in line 12, to insert "and not otherwise;" so as to read:

And the whole of said lands restored to the public domain; and after two years be made subject to disposal under the homestead laws of the United States, and not otherwise, as though said grant had never been made.

Mr. SHERMAN. To satisfy the suggestion of the Senator from Kansas I will move to insert "after two years from the passage of this act."

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

Mr. INGALLS. If the Senator will permit me, that leaves the land up to the period of two years subject to disposal either by homestead or pre-emption or otherwise.

Mr. SHERMAN. I think not.

Mr. INGALLS. Certainly it does.

Mr. ALLISON. Then strike out the semicolon.

The PRESIDING OFFICER. The Senator from Ohio proposes to modify his amendment.

Mr. SHERMAN. By inserting the words "from the passage of this act."

Mr. ALLISON. I ask the Senator from Ohio what he means by inserting a semicolon at that particular point?

Mr. SHERMAN. I think grammar rather requires it. I am not particular about it.

Mr. ALLISON. It seems to me if that is done it may be subject to the suggestion made by the Senator from Kansas.

Mr. SHERMAN. I certainly wish to avoid that, and if the Senator will suggest any language that occurs to him——

Mr. ALLISON. I think striking out the semicolon will do.

Mr. SHERMAN. Very well; I will strike out the semicolon, and I would even strike out a period.

Mr. CAMERON, of Wisconsin. I inquire of the Senator from Ohio, or any other Senator who knows, if any machinery is provided in the bill for settling the title during the two years?

Mr. SHERMAN. Oh, no; none whatever. But a bill is now pending lying on our tables to provide for this in all cases, a general law that has been reported from the Judiciary Committee, and ought to pass.

I have no objection to the amendment of the Senator from Alabama, except that it will tend to defeat this bill at this time, but I have no doubt within two years ample provision will be made for commencing suits in the proper courts to quiet the title against these corporations by the United States. I am in favor of such proceeding. My only object now is to prevent the hurry and scurry of homesteaders, &c., on the public lands before these provisions can be made. That is all I desire by the amendment. If there is any trouble about it, I shall withdraw the amendment, if Senators think there is any difficulty.

Mr. CAMERON, of Wisconsin. I am not aware that there is any. I only desired to know if the bill itself provided machinery for settling the title within the two years. It seems it does not.

Mr. MILLER, of California. I would suggest to the Senator from Ohio that the lands embraced in this bill are not, as a general thing, fit for homesteads, probably not one-tenth of them. There are mineral lands along the line of this road embraced within this grant.

Mr. SHERMAN. They are not subject to entry.

Mr. MILLER, of California. They are not subject to entry now except under the laws relating to mineral lands. There is a general mineral-land law providing the manner in which mineral lands may be acquired. If you confine the disposition of these lands to homesteaders entirely, as the amendment does, the mineral lands can not be disposed of, because nobody will take up a homestead for the purpose of working mineral lands. It seems to me the limit of time, two years, is well enough in order to have the titles settled, but it had better be left so that after the expiration of the two years the lands may be disposed of under the existing land laws of the United States. I doubt whether the Congress of the United States will ever pass a bill to change the laws relating to mineral lands. All these lands are good for is pasturage and for the minerals which may be found in them. But if you pass a law now that these lands shall not be open to disposition except for homesteads it repeals by implication all the other land laws, all the laws relating to mineral lands, and all the laws heretofore enacted in reference to that matter.

Mr. WILSON. The mineral lands are not embraced in the grant; they were excepted.

Mr. MILLER, of California. But this is a subsequent law.

Mr. SHERMAN. This only restores the lands granted; and if mineral lands were not granted they are not forfeited and are not covered by the provision.

Mr. MILLER, of California. Then the objection may not be tenable as to mineral lands, but the great objection is that these lands are pasture lands, and there will be no homesteads taken up there. There is not one-twentieth part of the lands embraced in the grant that are fit for homesteads. I call attention to that fact so that Senators may know what they are doing.

Mr. MAXEY. I suggested privately to the Senator from Ohio the same point that is made by the Senator from California. I think but very few homesteaders will be benefited by the amendment, and it might interfere very materially with the mineral lands. The lands along the line of this road, where valuable, are valuable for grazing purposes in New Mexico and for mineral purposes in New Mexico and Arizona. The homesteads are in the valleys, and they have been taken up probably one hundred years or some over one hundred and fifty years on the Rio Grande and in the valleys, and I do not think there are any lands covered by this grant that will probably be valuable for homesteads. The grazing and mineral lands are valuable for those purposes.

The PRESIDING OFFICER. The question is on the first amendment proposed by the Senator from Ohio.

Mr. LAPHAM. I suggest as an amendment to the proposition of the Senator from Ohio to add at the end of line 12 the following:

But none of such lands shall be offered for sale or entry until two years after the passage of this act.

The PRESIDING OFFICER. The Chair would state to the Senator from New York that the amendments suggested by the Senator from Ohio are three in number.

Mr. LAPHAM. I know they are, but they have been treated as one, and the question was put on them as one at one time.

The PRESIDING OFFICER. The Chair at one time said if there be no objection the Chair would put the question on the various amendments at the same time, but no such agreement has been arrived at as yet.

Mr. LAPHAM. I ask the Senator from Ohio if he will not accept this in lieu of his proposition?

Mr. SHERMAN. I have been trying to find something to which everybody agrees. The Senator's proposition may be subject to the objection that it makes no provision sufficient for homesteaders. I wish to preserve these lands entirely for homesteads, but the Senator from California objects that that prevents entries on mineral lands. The answer to that is that the mineral lands were reserved from the grant to the Texas Pacific Railroad. Consequently when the lands granted are reclaimed to the United States there are no mineral lands in the reclamation.

Now the Senator from Texas wishes to make some provision for grazing lands. How are grazing lands purchased now except under the pre-emption or homestead law? I do not know of any way. It seems to me that unless some Senator can make some proposition that will be free from difficulty I would rather stand by my amendment. I do not care whether it is voted down or voted up.

The PRESIDING OFFICER. The question is on the first amendment proposed by the Senator from Ohio.

Mr. BUTLER. It is getting very late in the evening, and I will move an adjournment.

Several SENATORS. Let us finish the bill.

The PRESIDING OFFICER. The Senator from South Carolina moves that the Senate do now adjourn.

Mr. CONGER. I hope the Senator will allow us to have an executive session. There are some nominations that ought to be referred.

Mr. BUTLER. I withdraw the motion if the Senator from Michigan will make the motion to go into executive session.

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

The motion was not agreed to.

Mr. BUTLER (at 6 o'clock and ten minutes p. m.). I move that the Senate do now adjourn.

The motion was not agreed to.

The PRESIDING OFFICER. The question is on the first amendment proposed by the Senator from Ohio.

The amendment was rejected.

The PRESIDING OFFICER. The question is on the next amendment proposed by the Senator from Ohio.

The amendment was rejected.

The PRESIDING OFFICER. The question recurs on the next and last amendment proposed by the Senator from Ohio.

The amendment was rejected.

Mr. LAPHAM. I now offer the following amendment: At the end of line 12, section 1, I move to insert:

But none of such lands shall be offered for sale or entry until two years after the passage of this act.

It is suggested in some quarters that this does not cover the case of homesteads. It covers all kinds of entry that the law authorizes; and if we restrict entries to homesteads only it applies to homesteads. If the laws remain in force as they now are it will apply to the laws as they now are. It will leave everything according to the state of the law two years from this time.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from New York.

The amendment was rejected.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER. Will the Senate concur in the amendments made as in Committee of the Whole? The question will be put on the amendments in gross if no separate vote is required.

The amendments were concurred in.

Mr. LAPHAM. Now, Mr. President, I renew the amendment I offered in Committee of the Whole.

The PRESIDING OFFICER. The amendment proposed by the Senator from New York will be read.

The CHIEF CLERK. At the end of line 12, section 1, it is proposed to insert:

But none of such lands shall be offered for sale or entry until two years after the passage of this act.

Mr. LAPHAM. I trust that amendment will prevail, to the end that an opportunity may be given for proper legislation to determine these questions in contest according to the suggestion of the Senator from Ohio.

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

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

The yeas and nays were ordered.

Mr. EDMUNDS. I should like to ask the Senator from New York what good this amendment will do unless the means are provided for settling the question of this forfeiture during the two years? Will it not only as it now stands postpone every question for two years and leave us just where we are at this present moment?

The Secretary proceeded to call the roll.

Mr. CAMERON, of Wisconsin (when his name was called). I am paired with the Senator from Louisiana [Mr. JONAS].

The roll-call having been concluded, the result was announced—yeas 12, nays 41; as follows:

YEAS—12.

Blair,	Hoar,	Mahone,	Pike,
Brown,	Jones of Nevada,	Miller of Cal.,	Sawyer,
Dolph,	Lapham,	Mitchell,	Sherman.

NAYS—41.

Aldrich,	Cullom,	Hawley,	Sabin,
Allison,	Dawes,	Hill,	Saulsbury,
Bayard,	Edmunds,	Ingalls,	Sewell,
Beck,	Fair,	Jackson,	Slater,
Bowen,	George,	Manderson,	Van Wyck,
Butler,	Gorman,	Maxey,	Vest,
Call,	Groome,	Morgan,	Williams,
Chace,	Hale,	Pendleton,	Wilson.
Cockrell,	Hampton,	Platt,	
Coke,	Harris,	Pugh,	
Conger,	Harrison,	Ransom,	

ABSENT—23.

Camden,	Garland,	Logan,	Plumb,
Cameron of Pa.,	Gibson,	McMillan,	Riddleberger,
Cameron of Wis.,	Jonas,	McPherson,	Vance,
Colquitt,	Jones of Florida,	Miller of N. Y.,	Voorhees,
Farley,	Kenna,	Morrill,	Walker.
Frye,	Lamar,	Palmer,	

So the amendment was rejected.

Mr. MORGAN. I think some of the Senators who voted against the amendment I offered in committee voted against it because they supposed the bill was being acted upon as it came from the House. There are scarcely ten lines of this bill remaining as it came from the House. We struck out one entire section and amended and added to a considerable part of other sections.

Mr. BLAIR. It is impossible to hear what is going on in the Chamber.

The PRESIDENT *pro tempore*. The Senator from Alabama will please suspend. The Senate will be in order. Senators will please cease conversation.

Mr. MORGAN. Believing that there are Senators on this floor who really approve of the principle of the amendment and acknowledge that it is properly applicable to this case, I will offer it again in the Senate. I now offer the amendment.

The PRESIDENT *pro tempore*. The Senator from Alabama proposes an amendment, which will be read.

The CHIEF CLERK. It is proposed to insert as additional sections the following:

SEC. —. That jurisdiction is hereby conferred on the circuit court of the United States for the northern district of Texas to hear and determine all questions and controversies concerning the rights and equities in said forfeited land that are claimed or asserted by the United States, or by any person or corporation claiming the same under or in consequence of any law of the United States, or any act of its lawfully authorized agents, and to enforce any judgment or decree, either interlocutory or final, that said court shall render in respect of said lands or any interest therein.

SEC. —. That it shall be the duty of the district attorney of the United States for the northern district of Texas, under the direction of the Department of Justice, immediately to proceed in the circuit court of the United States for the said district, by bill in equity, in the name of the United States of America as plaintiff, against any corporations or persons that claim any interest in the lands hereby declared forfeited, arising under said act of Congress approved July 27, 1866, or under this act, so as to bring before said court for its determination the validity of such claim, whether the same be legal or equitable.

SEC. —. That any person or corporation not made a party defendant in said proceeding, but claiming any interest under the laws of the United States in the lands, or any part thereof, which are declared forfeited by this act, may present such claim by petition in said cause, duly verified by oath; and if the court, upon consideration thereof, shall decide that the adjudication and settlement of such claim are necessary to do complete justice in said cause, the court shall direct that such further proceedings be had upon such petition as that the same may be fully heard and determined, and shall proceed to decree upon the same as fully as if such petitioner had been made a party defendant in said suit: *Provided*, That no such petition shall be filed after twelve months from the date of the filing of the bill in said cause.

SEC. —. That the court, if it shall see fit, may tax all the costs of the suit under the third section of this act against the United States, and shall apportion the costs of any proceeding under the fourth section of this act between the parties according to justice and equity. Any party to the suit instituted under this act shall have the right of appeal from any final decree thereon to the Supreme Court of the United States, in the same manner and under the same conditions as are prescribed by law and the rules of said court for appeals in equity cases; and the Supreme Court shall cause said appeal to be advanced on the docket so that the same shall be speedily determined; but no right of appeal shall exist after six months from the time when said final decree is entered on the records of the circuit court of the United States.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment of the Senator from Alabama.

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

The Secretary proceeded to call the roll.

Mr. CAMERON, of Wisconsin (when his name was called). I am paired for the day with the Senator from Louisiana [Mr. JONAS]. If I were at liberty to vote, I should vote "yea."

Mr. RANSOM (when his name was called). I am paired on this amendment with the Senator from Illinois [Mr. LOGAN]. If he were here, I should vote "yea."

Mr. WALKER (when his name was called). I am paired with the Senator from Virginia [Mr. RIDDLEBERGER], or I should vote "nay."

Mr. WILLIAMS (when his name was called). I am paired on this question.

The roll-call was concluded.

Mr. RANSOM. My colleague [Mr. VANCE] is paired with the Senator from Michigan [Mr. PALMER]. If here, my colleague would vote "nay."

The result was announced—yeas 26, nays 28; as follows:

YEAS 26.

Allison,	Dawes,	Harrison,	Mitchell,
Blair,	Dolph,	Hawley,	Morgan,
Bowen,	Edmunds,	Hoar,	Pike,
Brown,	Fair,	Ingalls,	Platt,
Butler,	Groome,	Jones of Nevada,	Sawyer.
Chace,	Hale,	Lapham,	
Conger,	Harris,	Miller of Cal.	

NAYS 28.

Aldrich,	George,	Mahone,	Saulsbury,
Bayard,	Gorman,	Manderson,	Sewell,
Beck,	Hampton,	Maxey,	Sherman,
Call,	Hill,	Miller of N. Y.,	Slater,
Cockrell,	Jackson,	Pendleton,	Van Wyck,
Coke,	McMillan,	Pugh,	Vest,
Cullom,	McPherson,	Sabin,	Wilson.

ABSENT 22.

Camden,	Garland,	Logan,	Vance,
Cameron of Pa.	Gibson,	Morrill,	Voorhees,
Cameron of Wis.	Jonas,	Palmer,	Walker,
Colquitt,	Jones of Florida.	Plumb,	Williams.
Farley,	Kenna,	Ransom,	
Frye,	Lamar,	Riddleberger,	

So the amendment was rejected.

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

The bill was read the third time.

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

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. VEST (when Mr. JONAS's name was called). The Senator from Louisiana [Mr. JONAS] is detained from the Senate by sickness, as I have before stated, and is paired with the Senator from Wisconsin [Mr. CAMERON].

Mr. CALL (when the name of Mr. JONES, of Florida, was called). My colleague [Mr. JONES] is paired with the Senator from Nebraska [Mr. MANDERSON]. If he were present, my colleague would vote "yea."

Mr. JACKSON (when Mr. KENNA'S name was called). The Senator from West Virginia [Mr. KENNA] is detained by serious sickness. He would vote for the bill if he were present.

Mr. RANSOM (when his name was called). I have a general pair, as stated, with the Senator from Illinois [Mr. LOGAN]. His colleague [Mr. CULLOM] assures me that he would vote the same way that I should vote if he were here. So I vote "yea."

Mr. SABIN (when his name was called). I have a pair with the Senator from West Virginia [Mr. KENNA]. I am informed that if present he would vote "yea," and therefore I vote "yea."

Mr. WALKER (when his name was called). I am paired generally with the Senator from Virginia [Mr. RIDDLEBERGER]; but believing that he would vote in the affirmative, I vote "yea."

Mr. WILLIAMS (when his name was called). I was paired on a single amendment only and not upon the bill. I vote "yea."

The roll-call was concluded.

Mr. RANSOM. I desire to state that my colleague [Mr. VANCE] is absent and paired. If he were here, he would vote "yea."

Mr. CONGER. I desire to say that my colleague [Mr. PALMER] is absent, paired with the Senator from North Carolina [Mr. VANCE]. If he were present, my colleague would vote "yea."

Mr. CAMERON, of Wisconsin. I am paired, as I have stated, with the Senator from Louisiana [Mr. JONAS]; but I am informed he would vote for the bill if present, so I vote "yea," as I am in favor of the bill.

The result was announced—yeas 56, nays 2; as follows:

YEAS—56.

Aldrich,	Dolph.	Jones of Nevada,	Plumb,
Allison,	Edmunds,	Lamar,	Pugh,
Bayard,	George,	McMillan,	Ransom,
Beck,	Gorman,	McPherson,	Sabin,
Brown,	Groome,	Mahone,	Saulsbury,
Butler,	Hale,	Manderson,	Sawyer,
Call,	Hampton,	Maxey,	Sewell,
Cameron of Wis.,	Harris,	Miller of Cal.,	Sherman,
Chace,	Harrison,	Miller of N. Y.,	Slater,
Cockrell,	Hawley,	Mitchell,	Van Wyck,
Coke,	Hill,	Morgan,	Vest,
Conger,	Hoar,	Pendleton,	Walker,
Cullom,	Ingalls,	Pike,	Williams,
Dawes,	Jackson,	Platt,	Wilson.

NAYS—2.

Blair, Bowen

ABSENT—18.

Camden,	Frye,	Kenna,	Riddleberger,
Cameron of Pa.,	Garland,	Lapham,	Vance,
Colquitt,	Gibson,	Logan,	Voorhees,
Fair,	Jonas,	Morrill,	
Farley,	Jones of Florida.	Palmer,	

So the bill was passed.

ORDER OF BUSINESS.

The PRESIDENT *pro tempore*. The Chair lays before the Senate the next special order, being Order of Business 872, the title of which will be read.

The CHIEF CLERK. "A bill (S. 1652) to provide for the improvement of the channel between Galveston Harbor and the Gulf of Mexico."

Mr. HOAR. I move that the Senate proceed to the consideration of Order of Business 1091, being the funding bill, so called.

Mr. INGALLS. I object.

The PRESIDENT *pro tempore*. Senators will resume their seats and be in order.

Mr. HOAR. I do not propose to go on with the bill to-night.

The PRESIDENT *pro tempore*. The Senator from Massachusetts moves that the Senate proceed to the consideration of the order of business he has named. The title of the bill will be read.

The CHIEF CLERK. "A bill (H. R. 6771) to amend an act entitled 'An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes,' approved July 1, 1862; also to amend an act approved July 2, 1864, and also an act approved May 7, 1878, both in amendment of said first-mentioned act."

Mr. WILLIAMS. I move that the Senate do now adjourn.

The PRESIDENT *pro tempore*. The Senator from Kentucky moves that the Senate do now adjourn.

The motion was agreed to; and (at 6 o'clock and 35 minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *February* 19, 1885.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. J. S. LINDSAY, D. D.

The Journal of yesterday was read and approved.

ENROLLED BILLS SIGNED.

Mr. NEECE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill (H. R. 1251) to authorize the purchase of a wharf for the use of the Government in Wilmington, N. C.; when the Speaker *pro tempore* signed the same.

Mr. SNYDER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled the bill (H. R. 8039) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1886, and for other purposes; when the Speaker *pro tempore* signed the same.

ACCOUNTS OF UNITED STATES COURTS.

The SPEAKER *pro tempore*, by unanimous consent, laid before the House a letter from the Attorney-General, asking an appropriation for expense of transcribing records and making tabular statements of accounts in the United States courts; which was referred to the Committee on Appropriations, and ordered to be printed.

GRANT & CO.

The SPEAKER *pro tempore*, by unanimous consent, also laid before the House a letter from the Secretary of the Treasury, with inclosures, relative to the propriety of an appropriation to pay interest on the judgment of the Court of Claims in favor of Grant & Co., confirmed by the Supreme Court; which was referred to the Committee on Appropriations, and ordered to be printed.

OPINIONS OF ATTORNEYS-GENERAL.

The SPEAKER *pro tempore*, by unanimous consent, also laid before the House a letter from the Attorney-General, asking an appropriation for editing and publishing opinions of attorneys-general; which was referred to the Committee on Appropriations, and ordered to be printed.

EXPENSES OF GREELY EXPEDITION.

The SPEAKER *pro tempore*, by unanimous consent, also laid before the House a letter from the Secretary of the Navy, transmitting a statement of expenditures or accounts of the expedition for the relief of Lieutenant Greely and party; which was referred to the Committee on Expenditures in the Navy Department, and ordered to be printed.

LEAVE OF ABSENCE.

Mr. SUMNER, of California, by unanimous consent, was granted leave of absence for to-day, on account of sickness.

DEPUTY MARSHALS AND SUPERVISORS OF ELECTION.

Mr. VAN ALSTYNE. I ask to make a privileged motion, or, if not privileged, I ask the request embodied in the motion made be granted. Yesterday the Treasury Department sent a communication to the House in response to a resolution of inquiry introduced on the 6th instant calling for information touching the amount of money paid out for deputy marshals and supervisors of election for some years past.

Since this communication was sent up the Department has discovered that one of the entries was erroneously made. It is important that the truth should be stated and the correct entry inserted. The request is, therefore, that this paper be withdrawn for the present, corrections made, and the footings of the columns containing the corrected entry changed to harmonize with the statement as amended.

The SPEAKER *pro tempore*. Without objection the order will be made.

There was no objection, and it was ordered accordingly.

VENEZUELAN AWARD.

Mr. RICE. Mr. Speaker, in presenting the report of the Committee of Foreign Affairs in regard to the Venezuelan awards on yesterday, I omitted to state that the gentleman from North Carolina [Mr. COX] desired to file a minority report, which I now ask that he have the privilege of submitting.

There was no objection, and the views of the minority were ordered to be printed with the report of the committee.

DISTRIBUTION OF DOCUMENTS.

Mr. STORM. Mr. Speaker, I ask to introduce a resolution for present consideration.

The SPEAKER *pro tempore*. Is it a privileged resolution?

Mr. STORM. I believe it to be a privileged resolution. It is one in relation to the distribution of some documents. But I ask unanimous consent for its present consideration.

The SPEAKER *pro tempore*. The Chair could not recognize the gentleman to ask unanimous consent.

Mr. STORM. Prior to the commencement of the hour rule can not such requests be entertained?

The SPEAKER *pro tempore*. The rule says distinctly that the Chair shall not at any time entertain a request for unanimous consent, unless it be a request for reference or to dispose of amendments of the Senate to House bills.

Mr. STORM. As I have said, I think this resolution, however, is privileged.

The SPEAKER *pro tempore*. It will be read for information.

The Clerk read as follows:

Resolved, That all documents and books ordered to be published by the present Congress, and which are actually printed prior to the first Monday of December next, together with documents and books heretofore ordered to be printed which have not been actually printed, to which members of the present Congress are or would have been entitled if published prior to the 4th of March next, and which are actually printed prior to the first Monday of next December, shall be allotted, as heretofore, to members of the present Congress and transmitted to their residences as fast as printed, unless otherwise ordered by the members themselves.

The SPEAKER *pro tempore*. This resolution was submitted on yesterday by the gentleman from Pennsylvania, and ruled by the Chair to be not in order as a privileged matter.

The Chair sees no reason whatever for changing its opinion in that regard.

Mr. KEIFER. It has been held to be privileged in prior Congresses.

The SPEAKER *pro tempore*. If the gentleman from Ohio desires to be heard in opposition to the ruling of the Chair, the Chair will recognize him for that purpose.

Mr. KEIFER. I wish to state that in the Forty-fifth Congress, I think, on a similar resolution it was held to be privileged.

Mr. STORM. I will withdraw it under the ruling of the Chair, with the understanding that I may be recognized to submit it after the hour.

The SPEAKER *pro tempore*. The Chair has not the privilege to recognize the gentleman to ask unanimous consent at any time under the operation of this rule.

Mr. KEIFER. We ought to have an opportunity to be heard on this question before it is disposed of.

The SPEAKER *pro tempore*. The Chair has intimated its readiness to hear the gentleman from Ohio.

Mr. KEIFER. A resolution of a similar character was offered in the Forty-fifth Congress, as the Chair will doubtless remember, by Mr. Garfield, and another resolution of like substance was presented about the close of the Forty-sixth Congress. It was held then, and has since been held, that such a resolution is a privileged matter, because it relates to the convenience of the present members of the House. These resolutions have been entertained as privileged matters because of the fact that they concern the convenience of the members personally and in the aggregate, and I think the precedents can be found showing uniformly the rulings in this respect. And it looks reasonable, too, in view of analogous questions which come up from time to time. Besides that, I do not think there will be any objection to the consideration of a resolution of this character.

The SPEAKER *pro tempore*. The Chair does not see that this has any reference to the convenience of the members; and feels compelled to hold that it does not present a privileged question.

Mr. BLAND. Regular order.

ORDER OF BUSINESS.

Mr. LAMB. I rise to submit what I understand to be a privileged report.

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

The Clerk read as follows:

House joint resolution 315 relative to certain papers in the State Department, by error——

The SPEAKER *pro tempore*. What is this resolution?

Mr. LAMB. It is in regard to some papers placed there by error, and we ask to withdraw them.

The SPEAKER *pro tempore*. The Chair does not think it is a privileged report.

Mr. LAMB. Then I withdraw it.

CONTESTED ELECTION—FREDERICK VS. WILSON.

Mr. BENNETT. I rise to a privileged question. I send up, Mr. Speaker, a report from the Committee on Elections in the case of Frederick *vs.* Wilson.

The SPEAKER *pro tempore*. The Clerk will report the resolutions appended.

The Clerk read as follows:

Resolved, That James Wilson was not elected as a Representative in Congress from the fifth district of Iowa, and is not entitled to a seat on the floor of this House.

Resolved, That Benjamin T. Frederick was duly elected as a Representative in Congress from the fifth district of Iowa, and is entitled to be sworn in as a member of this House.

The SPEAKER *pro tempore*. The report will be printed and laid over.

Mr. BENNETT. I give notice that I shall call it up for consideration at an early day.

Mr. VALENTINE. I ask leave that the minority of the committee be permitted to file a minority report.

There was no objection, and it was ordered accordingly.

SENATE REPORT ON LABOR, ETC.

Mr. ROGERS, of New York. Mr. Speaker, I am instructed by the Committee on Printing to make the report which I send to the desk:

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

The Clerk read as follows:

IN THE SENATE OF THE UNITED STATES, *July* 4, 1884.

Resolved, That the report of the Senate Committee on Education and Labor on the relations between labor and capital, with the accompanying testimony, be printed, and that 25,000 additional copies be printed, of which 8,000 shall be for the use of the Senate, 16,000 for the use of the House of Representatives, and 1,000 for the use of the Senate Committee on Education and Labor.

The Committee on Printing, to whom was referred the Senate concurrent resolution, recommend the adoption of the following as a substitute:

"*Resolved by the Senate (the House of Representatives concurring)*, That the report of the Senate Committee on Education and Labor on the relations between labor and capital, with the accompanying documents, be printed, and that 25,000 additional copies, unbound, be printed, of which 6,000 shall be for the use of the Senate, 13,000 for the use of the House, 5,000 for the use of the Bureau of Labor Statistics, and 1,000 for the use of the Senate Committee on Education and Labor."

With these amendments, which pertain to the distribution of the documents and which greatly reduces the cost in binding, the committee recommend the adoption of the resolution.

The amendment was agreed to.

The resolution as amended was agreed to.

Mr. ROGERS, of New York, 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. EATON. I desire to present a report from the Committee on Foreign Affairs.

The SPEAKER *pro tempore*. Is it a privileged report?

Mr. EATON. I think it is.

The SPEAKER *pro tempore* (having looked at the report sent up). The Chair does not think the report furnished by the gentleman from Connecticut is privileged.

Mr. EATON. It is the result of a resolution of inquiry directed to the President of the United States.

The SPEAKER *pro tempore*. The Chair does not hear the gentleman from Connecticut.

Mr. WILLIS. I understand the gentleman from Connecticut to say that this is a resolution of inquiry which was referred to the Committee on Foreign Affairs.

Mr. EATON. It is the result of a resolution of inquiry.

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

The Clerk read as follows:

The Committee on Foreign Affairs, to which was referred the message of the President of the United States, with the correspondence on file in the Department of State relative to the claim of William J. Hale against the Argentine Republic, report——

The SPEAKER *pro tempore*. The Chair does not regard this as a resolution of inquiry. It has reference to a private claim, and is not a privileged report.

Mr. EATON. The resolution of inquiry was addressed by the Committee on Foreign Affairs through the direction of the House to the President of the United States, and I supposed there could be no doubt but the action of the committee under those circumstances could be reported as a privileged matter.

The SPEAKER *pro tempore*. The Chair understands a resolution of inquiry was passed by the House; but this is evidently not a resolution of inquiry.

Several members called for the regular order.

The SPEAKER *pro tempore*. The hour set apart by the special rule for the calling up of bills, resolutions, &c., will begin at 12.37 p. m. The Clerk will report the business coming over from the last hour.

WILLIAM H. CROOK.

The Clerk read as follows:

A bill (S. 458) for the relief of William H. Crook.

The SPEAKER *pro tempore*. On this bill two minutes are left of the time allowed in opposition.

Mr. HEWITT, of Alabama. I ask for the reading of the bill. I do not know what it is.

The SPEAKER *pro tempore*. The bill was read on yesterday. If there be no objection it will be again read.

The bill was again read.

The SPEAKER *pro tempore*. Is there objection to the present consideration of the bill?

Mr. STORM. I object.

Further objections being called for, twelve members rose—more than the requisite number.

SETTLERS IN NEBRASKA AND KANSAS.

Mr. LAIRD. I call up from the House Calendar for present consideration the bill (H. R. 1737) for the relief of settlers and purchasers of lands on the public domain in the States of Nebraska and Kansas, reported by the Committee on the Public Lands with amendments.

The bill was read, as follows:

Be it enacted, &c., That for the purpose of reimbursing persons, and the grantees, heirs, and devisees of persons, who, under the homestead, pre-emption, or other laws, settled upon or purchased lands within the grant made by an act entitled "An act for a grant of lands to the State of Kansas to aid in the construction of the Northern Kansas Railroad and Telegraph," approved July 23, 1866, and to whom patents have been issued therefor, but against which persons, or their grantees, heirs, or devisees, decrees have been or may hereafter be rendered by the United States circuit court on account of the priority of said grant made in the act above entitled, the sum of $250,000, or so much thereof as shall be required for said purpose, is hereby appropriated: *Provided, however*, That no part of said sum shall be paid to any one of said parties until he shall have filed with the Secretary of the Interior a copy of the said decree, duly certified, and also a certificate of the judge of said court rendering the same to the effect that such a decree was rendered in a *bona fide* controversy between a plaintiff showing title under the grant made in said act and a defendant holding the patent or holding by deed under the patentee, and that the decision was in favor of the plaintiff on the ground of the priority of the grant made by said act to the filing, settlement, or purchase by the defendant or his grantor; and said claimant shall also file with the said decree and certificate a bill of the costs in such case, duly certified by the clerk and judge of said court. Thereupon it shall be the duty of the Secretary of the Interior to adjust the amount due to each defendant on the basis of $3.50 per acre for the tract his title to which shall have failed as aforesaid, and the costs appearing by the bill thereof. He shall then make a requisition upon the Treasury for the sum found to be due to such claimant, or his heirs and devisees or assigns, and shall pay the same to him, taking such release, acquittance, or discharge as shall forever bar any further claim against the United States on account of the failure of the title as aforesaid.

The amendments reported by the Committee on the Public Lands were read, as follows:

On line 31, page 2, after the words "basis of," insert "what he shall have paid, not exceeding."

Add at the end of the bill the following:

"*Provided further*, That when any person, his grantees, heirs, assigns, or devisees, shall prove to the satisfaction of the Secretary of the Interior that his case is like the case of those described in the preceding portions of this act, except that he has not been sued and subjected to judgment as hereinbefore provided, and that he has in good faith paid to the person holding the prior title by the grant herein referred to the sum demanded of him, without litigation, such Secretary shall pay to such person such sum as he has so paid, not exceeding $3.50 per acre, taking his release therefor as hereinbefore provided."

Mr. OATES. I make the point of order that that bill must have its first consideration in Committee of the Whole House. It makes an appropriation of $250,000,

The SPEAKER *pro tempore*. The Chair will state that the point of order does not hold as against bills called up under the special rule.

Mr. LAIRD addressed the House. [See Appendix.]

Mr. COX, of New York. If the report in this case had been read I am satisfied there would have been no exception taken to the passage of the bill. There are about two hundred families interested in this, as I understand.

Mr. LAIRD. Three hundred settlers.

Mr. COX, of New York. These people got patents from the Government, and yet got no title, because the Supreme Court decided they were ousted. It is an awful swindle on these people by the Government unless we provide a remedy.

They went into the wilderness, improved these lands, brought them to a high state of cultivation, and unless we interpose they are to be turned off under a decision of the Supreme Court and be without remedy. Surely we should give a remedy. It is equitable in the highest sense. Every man who cares about the Government having a character for honesty should vote for the bill. It only asks relief for such persons

and their grantees, heirs, and devisees or assigns as under the homestead, pre-emption, or other laws have settled on these lands.

I hope since our friend from Nebraska [Mr. LAIRD] has come out under such adverse circumstances [alluding to a severe injury received by Mr. LAIRD in a recent accident] we will give him a fair hearing.

[Here the hammer fell.]

Mr. PAYSON. Mr. Speaker, if I may have attention I think I can explain this matter in two minutes so that the House may understand the case with a little more exactness.

This grant was made in 1866. Nothing was done with reference to it by the railroad company until 1870. The grant was of alternate sections of land for ten miles on each side of the railroad to be located. The railroad company filed its map of the definite location of its line on the 25th of March, 1870, in the Interior Department here in Washington. No notice was given of that filing to the people in the West until the 13th of April of the same year, and between those dates—the 25th of March when the map was filed and the 13th of April—some two or three hundred settlers went in there and made entries of these lands at the local land office.

The question was then presented whether the settlers took title to the lands by going upon them before they had notice, or whether the railroad company took the title from the time its map was filed here in the Interior Department. When the question was presented to the Interior Department the Land Office decided that the settlers were entitled to the lands and entitled to hold them. Accordingly the settlers, some three hundred of them, went on and made their improvements in good faith, and the matter remained in that condition until 1880, when a grantee of the railroad company brought suit, claiming that the railroad company took title from the date of the filing of the map. The case is that of Van Wyck *vs.* Knevals, reported in 16 Otto, and the Supreme Court decided that the railroad company took title by and from the filing of its map, without regard to notice.

Now, this bill simply proposes to make good to the two or three hundred settlers who settled upon these lands in good faith the amount of money that they had to pay to buy in the railroad title, not exceeding $3.50 per acre—an act of justice that commends itself to every honest man. [Applause.]

Mr. HOLMAN obtained the floor, but yielded to Mr. OATES.

Mr. OATES. Mr. Speaker, the facts of this case have been succinctly stated by the gentleman from Illinois [Mr. PAYSON]. Within the nineteen days between the two dates he has mentioned some three hundred entries were made of these lands. This is simply a case where a grant had been made to a railroad company, and these settlers went in and made entries and located upon the lands. Subsequently the grantee company brought suit against these parties for the lands, and they were forced to enter into a compromise, and they paid, some of them, $3.50 an acre, and others that have not been sued are given the opportunity of paying $3.50 an acre to compromise, and it is proposed by this bill to make that money good to these settlers. In other words, this bill puts the Government of the United States in the position of an insurer of its title.

Mr. SPRINGER. It ought to be in that position.

Mr. OATES (continuing). A thing which it has never been. All purchasers have been purchasers under the maxim *caveat emptor*, and have been required to look to their titles. Now I think that as a matter of equity and justice the Government ought not to retain the money which it received from these settlers for these lands, but ought to refund that money.

Mr. PAYSON. Will the gentleman yield for a question?

Mr. OATES. Yes, sir.

Mr. PAYSON. Does the gentleman from Alabama [Mr. OATES] think it is justice to pay back to a settler a dollar and a quarter an acre for his land, when he has made improvements upon it worth perhaps two or three thousand dollars, especially when the Interior Department has affirmed the validity of his title for fifteen years?

Mr. OATES. I understand the case perfectly well; but I think that is all the Government can afford to do. If you commit the Government to the position of being an insurer of its title it will have enough to do at every session to make good titles that have failed.

Mr. SPRINGER. If the Government should not do it I should like to know who should.

Mr. OATES. It is a dangerous precedent. I know that it is a hard case for these settlers, and I would have the Government refund every cent of the money it has received from them for these lands; but further than that it can not safely go.

Mr. HOLMAN. Mr. Speaker, in view of the facts now being developed, it is quite clear that this bill opens up as important a question as any we shall have to deal with for years to come—questions growing out of the grants of land made to corporations. If this measure stood alone, I should feel no hesitancy or anxiety about it; granting relief to those victims of corporate power and rapacity would not of itself involve any important results; but it does not stand alone. Cases of the same kind in every section of the land-grant region are coming to light. A corresponding transaction to that named in the bill occurred in the Des Moines Valley several years ago, and from time down to the present time instances of similar injustice to *bona fide* settlers of the same character have been coming to light and demanding the attention of Congress. The Government has issued patents for lands which in innumerable instances were claimed to be within the limits of a railroad land grant, and with strange uniformity the claim of the corporation has been sustained, and the settler with a patent from the United States for his homestead has been turned out of possession. The adjustment of the countless conflicts arising constantly between the settlers on the public lands and the railroad companies to which land grants have been made by Congress is pressing upon Congress for attention as well as the adoption of a proper measure of relief for instances of injustice already consummated in the interest of these corporations.

Some years ago George Crilley, of Iowa, came here asking Congress to do justice to himself and other settlers in the Des Moines Valley of that State. The old gentleman, with a patent for his land from the United States, land which he had enriched by years of labor, had, with many others, been turned out of house and home under wrongful acts of Congress for the benefit of a railroad corporation. He waited and waited until, overwhelmed with despair and a sense of the monstrous injustice done him, his mind gave way and he left here with reason dethroned—a victim of the remorseless cupidity of a railroad corporation and the injustice of this Government.

There are many cases of this general character growing out of our railroad land grants, and it is difficult to say just what the Government should do about them. A serious question is forced upon us. That the Government should refund the money received for the lands must be manifest to every gentleman; but beyond that many difficulties arise. Homestead settlers made no payment, yet relying on the good faith of the Government have made valuable improvements on their lands. I had hoped that a general bill covering all cases of this class would have been reported and properly considered at this session of Congress, and it is unfortunate that that has not been done. The Government should at least do some measure of justice to the actual settler. I feel for one great hesitation in legislating on this subject. I think there should at least be a limitation confining the provisions of this bill to *bona fide* settlers. Speculators in the public lands stand on a different ground. And to that end I offer an amendment, which I send to the Clerk's desk.

The SPEAKER *pro tempore*. The bill is not before the House; so that the gentleman's amendment is not now in order.

Mr. SPRINGER. Let it be read for information.

The SPEAKER *pro tempore*. The Chair, before asking for objections, requests that the House come to order.

Mr. HOLMAN. I ask unanimous consent that before objections are asked for an amendment which I have drawn may be read so as to ascertain whether it is acceptable or not to the gentleman having this bill in charge.

Mr. PAYSON. I hope that may be done.

The SPEAKER *pro tempore*. The gentleman from Indiana asks that a proposed amendment may be read for information. Is there objection? The Chair hears none.

The Clerk read as follows:

Provided further, That the provisions of this act shall only extend to actual and *bona fide* settlers on the lands above specified, and who settled on such lands prior to the said decision of the Supreme Court touching the title to said land; and shall only entitle such settlers to the compensation above provided for to the extent of the land so actually settled upon, not exceeding, however, one hundred and sixty acres.

Mr. LAIRD. In the present temper of the House I am willing to accept that amendment.

The SPEAKER *pro tempore*. The gentleman from Nebraska [Mr. LAIRD] indicates his willingness to accept the amendment proposed by the gentleman from Indiana. Is there objection to the present consideration of the bill?

Sixteen members rose to object.

So the bill was not considered.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. MCCOOK, its Secretary, announced that the Senate had passed without amendment the bill (H. R. 7584) for the relief of A. B. Montgomery.

The message also announced that the Senate had passed with amendments, in which the concurrence of the House was requested, bills of the following titles:

A bill (H. R. 2550) to prohibit the importation and migration of foreigners and aliens under contract or agreement to perform labor in the United States, its Territories, and the District of Columbia; and

A bill (H. R. 7585) for the relief of M. Gardner.

The message further announced that the Senate had passed joint resolutions and bills of the following titles; in which the concurrence of the House was requested:

Joint resolution (S. R. 125) to provide for the expenses of the inauguration ceremonies on the 4th day of March, 1885;

A bill (H. R. 2623) to remove the political disabilities of Alexander W. Stark; and

A bill (S. 2592) to provide for the sale of a part of the reservation, situate in the State of Nebraska, of the Winnebago tribe of Indians, and for other purposes.

THOMAS THACHER.

Mr. POTTER. I desire to call up for present consideration the bill (H. R. 2483) for the relief of Thomas Thacher. This bill proposes the cancellation of several judgments of forfeiture obtained against a quantity of distilled spirits for alleged violation of the internal-revenue laws. The passage of the bill has been unanimously recommended by two successive Committees on Claims of this House and by various Government officers, including the Secretary of the Treasury.

Mr. MILLS. Let the bill be read before the debate proceeds.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to cause to be canceled and discharged of record a certain judgment entered on the 20th day of October, 1877, in the United States district court for the southern district of New York, in an action entitled "The United States of America *vs.* One hundred and two Barrels of Distilled Spirits seized at No. 72 Courtland street;" and also a certain judgment entered in said court on the 17th day of January, 1882, in an action entitled "The United States of America *vs.* Eighteen Packages containing Spirits seized at 174 Duane street;" and also a certain judgment entered in said court on the 17th day of January, 1882, in an action entitled "The United States of America *vs.* Ten Barrels of Distilled Spirits seized at 12 Beaver street;" and also a certain judgment entered in said court on the 17th day of January, 1882, in an action entitled "The United States of America *vs.* Thirty-six Barrels of Distilled Spirits seized, twelve at 51 Beaver street, ten at 62 New street, and fourteen at 50 Broadway," as well as the stipulations filed in connection with said judgments, signed by Thomas Thacher, upon the payment by said Thacher of all costs taxed or taxable in favor of the United States in said actions.

Mr. POTTER. I will say only a word or two in explanation of this matter, and then yield my time to the gentleman from Alabama [Mr. OATES], who, as a member of the Committee on Claims, has had knowledge of this case.

Mr. WELLER. Is it proper at this time, Mr. Speaker, to call for the reading of the report?

The SPEAKER *pro tempore*. The gentleman has no right to call for the reading in the five minutes allowed to the gentleman from New York unless that gentleman consents.

Mr. POTTER. Judge Blatchford, who conducted the trial upon which these judgments of forfeiture were rendered, has certified, as stated in the report, that there was no evidence the claimant had knowledge of the fraud. The district attorney who had charge of the case on the part of the United States reported to the Secretary of the Treasury that he was satisfied there was no knowledge or complicity on the part of Thacher in any fraud. The Commissioner of Internal Revenue stated that "Mr. Thacher, in purchasing the spirits in question, observed the ordinary care of the trade, and was innocent of fraud in the matter." He also states that in his opinion the interests of the Government will not suffer by relieving Thacher from the payment of these judgments, and recommends that the relief be granted. The Acting Secretary of the Treasury, in a communication dated February 14, 1883, recommends the relief now proposed.

I yield the remainder of my time to the gentleman from Alabama [Mr. OATES].

Mr. OATES. My knowledge of the circumstances of this case arises out of my membership of the Committee on Claims in the Forty-seventh Congress. Thacher, who was in the commission business, obtained from Saint Louis one hundred and thirty-six barrels of spirits, which were seized by the Government. It turned out that a fraud had been perpetrated by a prior owner, who made a false return upon "Form 122." In the trial of the case, Judge Blatchford held that although Thacher was an innocent purchaser, the forfeiture could not for that reason be avoided under section 3451 of the Revised Statutes, the concluding language of which is "that the property to which such false or fraudulent return relates shall be forfeited." Under this statute the innocence of Thacher could not prevent a judgment of forfeiture.

The evidence is abundant that Thacher had no connection with the fraud, knew nothing of it, was an innocent party. But owing to the peculiar phraseology of the statute and the construction it had received in the case of Henderson's distilled spirits (14 Wallace, 44), the plea that Thacher was an innocent purchaser was not available. Hence four judgments were rendered against him, aggregating $6,714.

The object of the present bill is simply the cancellation of these judgments. The bill does not take a dollar out of the Treasury, but merely cancels these judgments, leaving this innocent man to pay $1,000 of costs, from which Congress can not relieve him. He ought by all means to be relieved from these judgments, which were rendered against an innocent man. The relief which this bill proposes to grant is recommended by the district attorney, Mr. Bliss, by the Commissioner of Internal Revenue, and by the Treasury Department.

The SPEAKER *pro tempore*. The time for debate in favor of this bill has expired.

Mr. WELLER. I desire to have the report read.

The Clerk read as follows:

The Committee on Claims, to whom was referred the bill (H. R. 2483) for the relief of Thomas Thacher, having considered the same, respectfully present the following report:

The history of this case is as follows:

This bill authorizes the Secretary of the Treasury to have canceled and discharged of record a judgment of forfeiture entered in the United States district court for the southern district of New York, October 20, 1877, against one hundred and two barrels of distilled spirits, seized at No. 72 Courtland street, New York; a judgment entered in said court January 17, 1882, against eighteen packages of spirits, seized at No. 175 Duane street; also a judgment entered in said court January 17, 1882, against ten barrels of distilled spirits, seized at No. 12 Beaver street; and also a judgment entered in said court January 17, 1882, against thirty-six barrels of distilled spirits, seized, twelve at No. 51 Beaver street, ten at No. 62 New street, and fourteen at No. 50 Broadway, and to discharge also the stipulations filed in connection with said judgments, signed by Thomas Thacher, upon the payment by him of all costs, taxed or taxable, in favor of the United States in said actions.

These spirits, one hundred and sixty-six barrels in all, were seized in May, 1875. They were shipped from Saint Louis to Thomas Thacher, a commission merchant in New York, who advanced to the shippers nearly the amount of their value, and made subsequent payments for expenses, &c., beyond the value of the same. The property was bonded at a valuation of $6,714.85. At the time of the seizure the one hundred and two barrels were in Thacher's possession, the remainder were in the possession of different parties, to whom he had made sales, and to whom, after the seizure, he had to make good the amount of the purchase-money.

The principal portion, if not all, of these goods were consigned to Thacher by one Bensberg, a rectifier, of Saint Louis, who was reported to be "one of the most daring and unprincipled operators in crooked spirits" in that city.

The evidence in the case of the One-hundred-and-two-barrel lot showed that the spirits were marked and stamped in the manner required by the internal-revenue laws to indicate that the tax had been paid, but the rectifier had, in order to procure stamps for rectified spirits, made a false return on Form 122 to the collector, that he had emptied these spirits for rectification.

It was a common practice in connection with the whisky frauds in the West for the rectifier to procure rectifiers' stamps in this manner, for the purpose of stamping illicit spirits. Judge Blatchford held that the false Form 122 forfeited the spirits under section 3451 Revised Statutes.

An application was made to the Secretary of the Treasury for remission of the forfeiture of this one-hundred-and-two-barrel lot. The judge, in the statement there of facts accompanying the petition, said that there was no evidence that the claimant had knowledge of said fraudulent document.

The application for remission was rejected by the Secretary of the Treasury, and a warrant of non-remission was issued October 5, 1877.

The judgment in the district court, in the case of the One-hundred-and-two-barrel lot, was affirmed by the circuit court and afterward by the United States Supreme Court (13 Otto, 679).

The One-hundred-and-two-barrel case was made a test case, and after the failure to obtain remission in that case, and the decision of the Supreme Court, judgment was taken in the other cases under the same state of facts.

The amount of judgments recovered in all the cases was as follows:

In the one hundred and two barrel case, $3,890.56 and $250 as costs; in the ten barrel case, $483.37 and $250 as costs; in the eighteen barrel case, $884.73 and $250 as costs; in the thirty-six barrel case, $1,456.19 and $250 as costs; total, $6,714.85.

It was decided by the Supreme Court, in the case of Henderson's distilled spirits (14 Wall., 44), that the fact that the claimant was an innocent purchaser without notice of the wrongful acts of the antecedent owner constituted no defense to the claim for forfeiture. Henderson was an innocent and *bona fide* purchaser of spirits in a bonded warehouse, which he removed and paid tax upon without knowledge of any fraud. Congress afterward afforded him relief (act of February 17, 1879). That case differed from the present one in some respects, and your committee do not consider that act as constituting a precedent which should necessarily be followed in this instance.

The question in the present case is, whether the claimant Thacher is entitled, as a matter of equity, to be relieved from these judgments.

George Bliss, esq., the then United States attorney, in a letter dated August 14, 1876, on file in the office of the Secretary of the Treasury with the claim for remission, reported that he was satisfied that there was no knowledge or complicity on the part of Thacher concerning Bensberg's "crooked" business.

M. B. Blake, collector internal revenue, second New York district, reported that he had known Mr. Thacher as doing business with his office for a long series of years, and had considered him a particularly conscientious man, and did not think it possible that he could have had knowledge of any fraud at the West in connection with these spirits.

Your committee consider this case a hard one. Mr. Thacher has been put to a good deal of expense; and to pay these judgments would be a severe penalty upon a man himself innocent of any violation of law.

The Commissioner of Internal Revenue did not feel inclined to recommend a compromise of the judgment while the case was pending in the Supreme Court, a construction of the statute under which the seizure was made being deemed of importance.

But considering the severity of the statute under which the forfeiture was made, and the fact that Mr. Thacher, in purchasing the spirits in question, observed the ordinary care of the trade and was innocent of fraud in the matter, the Commissioner is now of the opinion that the interests of the Government will not suffer by relieving him from the payment of these judgments, and recommends that the relief be granted.

The Acting Secretary of the Treasury, in a communication dated February, 14, 1883, addressed to one of your committee, recommends the relief of Mr. Thacher.

In view of the facts of the case and the approval of the proper officers of the Treasury, your committee report the bill back to the House with the recommendation that it do pass.

Mr. WELLER. I wish to call attention to the fact that this man Thacher took the consignment of this whisky from "one of the most daring and unprincipled operators in crooked spirits" in Saint Louis, showing by this report the fact must have been publicly known. And now he comes here and asks this court of last resort to strike a blow in the face of the other courts, in which he had all the remedy he was entitled to. He had all the time, all the opportunity, in these courts of law, and might have gone into a court of equity if he had seen fit; but he failed to do that. After the Government, at a great expense, has secured this judgment, and he can not find any relief in the courts, the proper place to try this question, he comes to this court of last resort and seeks to have this judgment swept away and the Treasury depleted to this extent. I hope there will not be ten objections, but a hundred, to this bill, as there ought to be.

Mr. ANDERSON and Mr. WELLER objected.

The SPEAKER *pro tempore*. Those in favor of supporting the objection to this bill will rise.

More than fourteen members rose.

The SPEAKER *pro tempore*. The bill is not before the House.

DREGAS DEL LLANO DE LAS AGUAGES TRACT.

The SPEAKER *pro tempore*, by unanimous consent, laid before the

House a letter from the Secretary of the Interior, transmitting a report from the surveyor-general of New Mexico in the case of New Mexico private land claim No. 117, known as the Dregas del Llano de las Aguages tract; which was referred to the Committee on Private Land Claims.

ORDER OF BUSINESS.

Mr. DAVIDSON. I call up for present consideration the bill (S. 229) to authorize the Secretary of the Treasury to erect a public building in the city of Key West, Fla.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be and he is hereby, authorized and directed to purchase, at private sale, or by condemnation in pursuance of the statute of the State of Florida, all the land that he may deem necessary, and cause to be erected thereon a suitable brick or stone building for the use and accommodation of the United States district and circuit courts, custom-house, post-office, and other Government offices in that city, at a cost not exceeding $100,000, including the purchase of land; and the building hereby authorized shall be so erected as to afford an open space of not less than fifty feet between it and any other building; and the sum of $100,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose herein mentioned: *Provided*, That no money appropriated for said building and lands shall be available until a valid title to the site selected is vested in the United States, nor until the State of Florida shall cede to the United States exclusive jurisdiction over the same, during the time the United States shall be or remain the owner thereof, for all purposes except the administration of the criminal laws of said State and the service of any civil process therein.

The amendment of the committee was read, as follows:

Strike out, after the word "directed," the following: "to purchase at private sale, or by condemnation in pursuance of the statute of the State of Florida, all the land that he may deem necessary" and in lieu thereof insert the following: "to select, of the lands owned by the United States in the city of Key West, Fla., a suitable building site."

Strike out also, after the word "dollars," the words "including the purchase of land."

Mr. DAVIDSON. Mr. Chairman, this bill proposes to make an appropriation for the erection of a Government building at Key West, Fla., the southernmost city of the Union. There is not, in my opinion, on the Calendar of this House a bill providing for the erection of a public building, nor has one been passed, more meritorious than this one. The necessities of the public business transacted at Key West, the security and preservation of the public records, the importance of the city, all demand that this appropriation should be made. The Government owns no suitable custom-house there, no revenue office, no post-office, no court-house, and yet the customs collection in the city of Key West for the fiscal year ending June 30, 1884, was $320,457.02; revenue collection between $135,000 and $150,000; and the post-office receipts, even with the limited mail facilities of the city, were nearly $5,000.

In the Forty-fifth Congress a bill providing for the erection of a public building there was favorably considered by the Committee on Public Buildings and Grounds, but for want of time it was not reported. In the Forty-sixth Congress a similar bill was considered and reported, but was not reached on the Calendar. In the Forty-seventh Congress the Senate passed a similar bill. This now is a Senate bill reported by the Committee on Public Buildings and Grounds of this House, and I deem it unnecessary to consume the time of the House in saying more in reference to it. Not only a court-house is needed, but a post-office, revenue office, and custom-house.

I can tell this House from personal knowledge that the buildings in which the public offices there are kept are altogether unsuitable and inadequate. The post-office is a very ordinary frame building of one story; in fact, I may say it is but a shanty, and is a reflection on the dignity and character of our country. I hope there will be no objection to the bill, which has been considered and reported favorably so many times.

[Here the hammer fell.]

Mr. WHITE, of Kentucky. I ask for the reading of the report.

The report was read, as follows:

The Committee on Public Buildings and Grounds, to which was referred the bill (S. 229) to authorize the Secretary of the Treasury to erect a public building in the city of Key West, Fla., beg leave to report:

The city of Key West is the largest city in the State of Florida, and a large foreign trade is carried on, particularly with the West Indies. That it is the seat of a United States court, which is held in a rented building without proper accommodations; and that the post-office accommodations are insufficient.

The matter of a public building at Key West has been urged in Congress as far back as the Forty-sixth Congress, and was then favorably reported, with a limit of $125,000 as to cost. The necessities of the public business make the demand still more urgent now. The present bill limits the cost to $100,000.

The Government owns a site suitable for the location of the building; and in view of this fact the committee recommend the passage of Senate bill 229, with amendments as follows:

Strike out, after the word "directed," the following: "to purchase at private sale, or by condemnation in pursuance of the statute of the State of Florida, all the land that he may deem necessary," and in lieu thereof insert the following: "to select, of the lands owned by the United States in the city of Key West, Fla., a suitable building site."

Strike out also, after the word "dollars," the words "including the purchase of land."

Mr. WHITE, of Kentucky. What is the population of Key West?

Mr. DAVIDSON. Between 15,000 and 16,000.

There was no objection, and the bill was brought before the House for present consideration.

The amendments of the committee were adopted.

Mr. DAVIDSON. I move, in line 10 of the bill, to strike out "fifty," between the words "than" and "feet," and insert "forty."

Mr. STOCKSLAGER. That is right.

The amendment was agreed to.

Mr. HOLMAN. Permit me to say a word in this connection. I regret very much that my friend from Florida has not seen proper to introduce here the provision, which I have heretofore suggested in connection with these bills, touching the duty of the Secretary of the Treasury with reference to the approval of the plans, and limiting the cost to the amount appropriated for the purchase of the site and the erection of the building. After the former action of the House upon similar questions I do not feel justifiable in again insisting upon a vote, but express my regret that it has not been incorporated, since it is the only security we have that the appropriation will not be exceeded.

Mr. WHITE, of Kentucky. Let me ask the gentleman from Florida if he will not be willing to put the amount at $50,000?

Mr. DAVIDSON. The difficulty would be that it would send the bill back to the Senate again, and might jeopardize its passage.

The bill as amended was read a first and second time, ordered to a third reading, read the third time, and passed.

Mr. DAVIDSON 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.

PUBLIC BUILDING, AUBURN, N. Y.

Mr. PAYNE. Mr. Speaker, I ask unanimous consent to take up the bill (H. R. 3343) for the erection of a public building in the city of Auburn, N. Y.

The bill is as follows:

Be it enacted &c, That the Secretary of the Treasury be, and hereby is, authorized and directed to purchase or otherwise provide a suitable site, and cause to be erected thereon, at the city of Auburn, in the State of New York, a substantial and commodious public building, with fire-proof vaults, for the use and accommodation of the post-office and United States courts, and for other Government uses. The site, and the buildings thereon, when completed according to plans and specifications to be previously made and approved by the Secretary of the Treasury, shall not exceed the cost of $150,000; and the site purchased shall leave the building unexposed to danger from fire in adjacent buildings by an open space of at least fifty feet, including streets and alleys; and for the purposes herein mentioned the sum of $150,000 is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, to be expended under the direction of the Secretary of the Treasury: *Provided*, That no part of said sum shall be expended until a valid title to said site shall be vested in the United States, and the State of New York shall cede to the United States exclusive jurisdiction over the same, during the time the United States shall be or remain the owner thereof, for all purposes except the administration of the criminal laws of said State and the service of any civil process therein.

Mr. PAYNE. If I can have the attention of the House for the five minutes I do not think there will be any objection to this bill. The city of Auburn has a population of over 25,000 people. The United States courts are held there, and it is the geographical center of the northern district of New York. We ask the construction of a court-house and post-office building for the use of the Government of the United States at that place. In the Forty-fourth Congress a bill was introduced having in view this object, and the Committee on Public Buildings and Grounds, after an investigation of the matter, recommended the construction of a building to cost $250,000. This bill asks only $150,000. At that time the chairman of the committee, the gentleman from Indiana [Mr. HOLMAN], addressed a letter to the Secretary of the Treasury in regard to the necessity of a building at Auburn, and received in response a letter which I send to the desk and ask to have read. This is founded upon a report made by the Supervising Architect of the Treasury upon a personal examination and inspection of the locality.

The Clerk read as follows:

TREASURY DEPARTMENT, *Washington, D. C., May* 8, 1876.

SIR: I have the honor to acknowledge the receipt of your letter of the 4th ultimo, inclosing copy of House bill 2430, Forty-fourth Congress, first session, providing for the erection of a court-house and post-office at Auburn, N. Y., and requesting the views of this Department as to the propriety of the passage of the same.

In reply, I inclose herewith a copy of a report made by the Supervising Architect, to the effect that under date of March 3, 1875, an appropriation of $4,000 was made to cover the expenditures for preparing plans and specifications for a building to accommodate the public officers in the city of Auburn, and that accordingly he visited that city and found that the post-office and United States courts were located in buildings totally unsuitable and insufficient to afford the necessary accommodations, and that plans have been made for a suitable building, the cost thereof not to exceed the sum of $250,000, including the expense of site.

In consideration of the seeming necessity for the erection of a suitable building at the city of Auburn, I am induced in this instance to depart from the policy which has governed the Department in such matters during the past two years, and to recommend that an appropriation of $50,000 be made for the commencement of such a building.

I am, very respectfully,

B. H. BRISTOW, *Secretary.*

Hon. WILLIAM S. HOLMAN,
Chairman Committee Public Buildings and Grounds.

Mr. PAYNE. I reserve the remainder of my time.

The SPEAKER *pro tempore*. The gentleman has one minute remaining. Unless some gentleman desires to be heard, in the five minutes remaining in opposition to this bill, the Chair will ask for objection.

Mr. COOK. I would like to ask the gentleman from New York in what parts of the northern district of New York the Federal courts are now held?

Mr. PAYNE. At Buffalo, which is about one hundred and fifty miles west, and at Albany, one hundred and fifty east; and there is also a circuit court at Utica and one at Rochester, in the northern district.

Mr. WELLER. How far are these places, Utica and Rochester, from the point where this building is proposed to be constructed?

Mr. PAYNE. Rochester is some eighty miles, and Utica perhaps a little farther. This is the geographical center of the district, as I have said.

Mr. PERKINS. And the courts have been established there, as I understand, already.

Mr. PAYNE. Yes, sir; since 1814.

Mr. WARNER, of Ohio. Do I understand that a United States court is held there now?

Mr. PAYNE. Yes, sir; and has been since 1814.

Mr. McMILLIN. What is the population?

Mr. PAYNE. There are 25,000 people now, and it is rapidly growing in population.

The SPEAKER *pro tempore*. Is there objection to the present consideration of the bill?

There was no objection.

Mr. PAYNE. I ask permission to insert an amendment, in line 15, by striking out the word "fifty" and inserting "forty," between the words "least" and "feet;" so that it will read "at least forty feet."

I demand the previous question upon the amendment and on the passage of the bill.

The previous question was ordered; and under the operation thereof the amendment was agreed to, and the bill as amended ordered to be engrossed for a third reading, read the third time, and passed.

Mr. PAYNE 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.

W. C. MARSH.

Mr. TAYLOR, of Tennessee. I ask to take up for present consideration the bill (S. 1031) for the relief of W. C. Marsh.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury of the United States be authorized and directed to pay to W. C. Marsh, of Tennessee, $2,054, the same being the amount taken from him on or about the 10th day of February, 1863, by the officers commanding the gunboat New Era, and turned into the Treasury of the United States.

Mr. TAYLOR, of Tennessee. This bill passed the Senate and has been favorably reported by the Committee on Claims of this House. I ask that the report be read.

The Clerk commenced the reading of the Senate report (by Mr. DOLPH), which is as follows:

The Committee on Claims, to which was referred the bill (S. 1031) for the relief of W. C. Marsh, respectfully reports:

That the said claimant, William C. Marsh, who was at the time a citizen of the United States and a resident of the county of Tipton, in the State of Tennessee, on or about the month of January, 1863, obtained permission from the military authorities at Memphis, Tenn., to ship a quantity of cotton to Saint Louis, in the State of Missouri, and that in accordance with such permission he shipped his cotton—about eighteen bales—to Saint Louis, and sold it for $3,500 in United States currency, which he converted into $2,228 in gold coin, and then took passage on a regular steam transport plying between the cities of Saint Louis and Memphis, and started on his return, via Memphis, to his home in Tipton County; that when said steamer had reached a point at or near Island No. 10, in the Mississippi River, which was on or about the 10th day of February, 1863, the Federal forces upon the United States gunboat New Era seized said transport and took charge of her and the passengers on board, and seized and took from the said claimant the sum of $2,054 in gold coin, which was taken to the city of Cairo, where the same was duly libelled by the district attorney of the southern district of the State of Illinois in the district court of said district as forfeited to the United States, for the reason that the same at the time of the seizure was being transported from a portion of the United States, to wit, the State of Missouri, to another portion of the United States, to wit, the State of Tennessee, contrary to the act of July 13, 1861, which libel was filed June 2, 1863; and afterwards the said claimant appeared and filed a bond and stipulation in the said court, and the said gold coin was delivered to him; that afterwards and on the 23d day of January, 1864, the cause coming on to be heard in the said court, the said claimant appeared, by his proctor, J. O. Broadhead, esq., and confessed the allegations of the libel to be true, and it was thereupon ordered, adjudged, and decreed by the court that the libellant (the United States) have and recover from the said claimant the sum of $2,054, the amount of his bond and stipulation filed in said cause, and that execution issue against the said claimant and Jacob Burns, his surety, therefor. On the same day the claimant filed in said court a petition praying for the remission of the forfeiture of said gold coin, and the district attorney having consented that the same might be heard, the court proceeded to hear the proofs in support of said petition, and ordered that the execution of the decree of forfeiture should be stayed until the action of the Secretary of the Treasury in the premises, and proceeded to hear the evidence, and made the following findings of fact:

First. That the claimant, William C. Marsh, is an illiterate man, unable to read or write, and that he is a poor and honest laboring man.

Second. That said Marsh is no trader or speculator, and his business is that of a farmer, and that he rents the lands cultivated by him.

Third. That the $2,054 gold coin found on the person of said claimant Marsh was his own property, no other person having any interest in it, it being the proceeds of certain cotton raised and sold by him.

Fourth. That said claimant Marsh was carrying said gold coin home with him for the use of himself and family in good faith, without any intention of fraud, he being ignorant of any law, order, or regulation forbidding the carrying of coin into said State of Tennessee.

Fifth. That said claimant Marsh is and ever has been loyal to the Government of the United States, and that while Tipton County, Tennessee, the home of said claimant, was under rebel rule, he persistently and continuously avoided giving them any aid or comfort, or in any way recognizing their authority.

Sixth. No proof was taken in support of the libel or against the petition of the owner.

S. H. TREAT, *District Judge.*

The petition and findings having been presented to the Secretary of the Treasury, the Acting Secretary of the Treasury, on April 20, 1864, addressed the following communication to the Solicitor of the Treasury:

TREASURY DEPARTMENT, *April* 30, 1864.

SIR: Application has been made by William C. Marsh, of Tipton County, Tennessee, for the remission of a forfeiture of $2,054 in gold coin, seized at Island No. 10, in the Mississippi River, and libeled in the United States district court for the southern district of Illinois, for violation of an act of Congress approved July 13, 1861.

After a careful review of the summary examination had before the judge of said court, I see no sufficient reason to grant the prayer of the petitioner. You will accordingly please instruct the United States district attorney for said district that the application for the remission of the forfeiture in said case has been denied.

Respectfully,

GEORGE HARRINGTON.
Acting Secretary of the Treasury.

EDWARD JORDAN, Esq.,
Solicitor of the Treasury.

While the facts found by the district judge upon the summary hearing of the petition for a remission of the forfeiture would seem to have justified the Secretary of the Treasury in granting the prayer of the petitioner, there may have been circumstances which are unknown to your committee which render a strict enforcement of the act of July 13, 1861, necessary. Your committee is of the opinion that the claimant is equitably entitled to relief, and recommends that the bill be amended by striking out the words "in gold coin," in line 5 of the bill, and that the bill as amended do pass.

Before the Clerk had completed the reading of the report,

The SPEAKER *pro tempore*. The five minutes allowed in favor of the bill have expired.

Mr. HOLMAN. I hope the balance of the report will be read.

Mr. WELLER. I desire that the remainder of the report shall be read.

The SPEAKER *pro tempore*. In the time against the bill?

Mr. WELLER. Yes, sir; although I favor the bill.

The Clerk resumed the reading of the report.

Mr. WELLER (interrupting). So far as I am concerned I have heard enough.

Mr. HOLMAN. Let the reading continue. The five minutes have not expired.

The SPEAKER *pro tempore*. Three minutes are still left of the five.

The Clerk resumed the reading of the report.

Mr. HOLMAN (interrupting). For myself I do not ask for further reading.

The SPEAKER *pro tempore*. Is there objection to the present consideration of the bill?

There was no objection.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. TAYLOR, of Tennessee, 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. SPOONER. I rise to call up a bill for consideration.

The SPEAKER *pro tempore*. The gentleman from Rhode Island [Mr. SPOONER] is recognized. The hour provided by the special rule has expired.

WIDOW OF FRANK W. LYNN.

Mr. ERMENTROUT. I present a privileged report from the Committee on Accounts. The Committee on Accounts, to whom was referred the resolution which I send to the desk, report it back with the recommendation that it be adopted.

The Clerk read as follows:

Resolved, That the Clerk of the House be directed to pay out of the contingent fund of the House to the widow of Frank W. Lynn, late an employé of this House, a sum equal to his salary for six months and also the necessary funeral expenses, not to exceed $250.

The resolution was adopted.

Mr. ERMENTROUT 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.

PORTS IN WASHINGTON TERRITORY.

Mr. BRENTS, by unanimous consent, introduced a joint resolution (H. Res. 337) authorizing the Secretary of the Treasury to establish a subport of entry and a port of call at Port Angeles, Wash.; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

RAILROAD LAND GRANTS IN KANSAS.

Mr. ANDERSON, by unanimous consent, presented a resolution of the Legislature of Kansas, urging the passage of the bill to adjust the grants of lands to certain railroads doing business in the State of Kansas; which was referred to the Committee on the Public Lands.

Mr. ANDERSON. I ask that these resolutions be printed in the RECORD. They are very short.

There was no objection, and it was so ordered.

The resolutions are as follows:

House concurrent resolution No. 10.

Whereas the title to a vast amount of land in the different counties of this State is held in dispute between railroad corporations and settlers; and

Whereas such disputed title has caused many vexatious lawsuits, feuds, bloodshed, and loss, greatly to the detriment of the prosperity and settlement of the counties so situated; and

Whereas a bill is now before the Congress of the United States, which, if passed, it is believed would greatly aid in adjusting these land titles: Therefore,

First. *Be it resolved by the house of representatives of the State of Kansas (the senate concurring therein)*, That our Senators be instructed and our Representatives be requested to use their best efforts to secure at the earliest day possible the enactment of such a law as will afford the relief sought.

Second. *Resolved*, That the secretary of state be directed to forward copies of these resolutions, properly verified, to each of our Senators and Members of Congress.

I, E. B. Allen, secretary of state of the State of Kansas, do hereby certify that the foregoing is a true and correct copy of the original resolution now on file in my office.

In testimony whereof I have hereunto subscribed my name and affixed my official seal.

Done at Topeka this 12th day of February, A. D. 1885.

[SEAL.] E. B. ALLEN, *Secretary of State.*

FRENCH SPOLIATION CLAIMS.

Mr. BRATTON. A few days ago a resolution which I reported from the Committee on Printing was committed to the Committee of the Whole House on the state of the Union. It is a Senate resolution, authorizing the printing of 3,000 copies of the list of claimants on account of French spoliations. I ask unanimous consent that the Committee of the Whole House on the state of the Union be discharged from the further consideration of the report, and that it be recommitted to the Committee on Printing.

There was no objection, and it was so ordered.

ORDER OF BUSINESS.

Mr. WILLIS. I move to dispense with the morning hour, and beg to state that at a certain time agreed upon with the Committee on Appropriations I shall yield the floor to them. Upon that understanding, and with that agreement, I move to dispense with the morning hour.

The motion was agreed to (two-thirds voting in favor thereof).

REPORTS OF UNITED STATES GEOLOGICAL SURVEY.

Mr. SPRINGER, by unanimous consent, introduced a joint resolution (H. Res. 338) providing for the printing of additional copies of the sixth and seventh annual reports of the Director of the United States Geological Survey; which was read a first and second time, referred to the Committee on Printing, and ordered to be printed.

REPORT OF BUREAU OF ETHNOLOGY.

Mr. SPRINGER, by unanimous consent, also introduced a joint resolution (H. Res. 339) providing for printing additional copies of the sixth and seventh annual reports of the Director of the Bureau of Ethnology; which was read a first and second time, referred to the Committee on Printing, and ordered to be printed.

MONOGRAPH II OF UNITED STATES GEOLOGICAL SURVEY.

Mr. SPRINGER, by unanimous consent, also introduced a joint resolution (H. Res. 340) providing for printing the usual number of Monograph II, of United States Geological Survey; which was read a first and second time, referred to the Committee on Printing, and ordered to be printed.

WILLIAM M. GARDNER.

Mr. TUCKER. I ask unanimous consent to take from the Speaker's table the bill (H. R. 7585) for the relief of M. Gardner, with amendments by the Senate, for the purpose of moving concurrence in the Senate amendments.

The SPEAKER *pro tempore*. This is a political disability bill. The gentleman from Virginia [Mr. TUCKER] desires to move concurrence in the Senate amendments.

There was no objection.

The amendments of the Senate were read, as follows:

In lines 2 and 3 strike out "M. Gardner" and insert "William M. Gardner."

Amend the title so as to read, "An act for the relief of William M. Gardner."

The amendments of the Senate were concurred in.

RIVER AND HARBOR APPROPRIATION BILL.

Mr. WILLIS. I now move that the House resolve itself into Committee of the Whole House on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union (Mr. HAMMOND in the chair), and resumed consideration of the bill (H. R. 8130) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.

The CHAIRMAN. The pending question is on the amendment of the gentleman from Pennsylvania [Mr. BAYNE], which the Clerk will again report.

The Clerk read as follows:

In line 927 strike out "$2,800,000" and insert "$800,000," so that it will read:

"Improving Mississippi River from the head of the passes to the mouth of the Ohio River, including the rectification of the Red and the Atchafalaya Rivers at the mouth of Red River, and for keeping open a navigable channel through the mouth of Red River into the Mississippi River: Continuing improvement, $800,000; which sum," &c.

The question being taken on agreeing to the amendment, there were—ayes 25, noes 73.

Mr. BAYNE. No quorum.

The CHAIRMAN. A quorum not having voted, the Chair will order tellers, and appoints the gentleman from Pennsylvania, Mr. BAYNE, and the gentleman from Kentucky, Mr. WILLIS.

The committee again divided; and the tellers reported—ayes 40, noes 114.

Mr. BAYNE. Mr. Chairman, I will not insist upon the point of order.

The CHAIRMAN. The point as to no quorum being withdrawn, the amendment is not adopted.

The Clerk read the next amendment (offered by Mr. HISCOCK), as follows:

In line 926 insert the following:

"But the mouths of said rivers shall not be rectified upon any plan that in the opinion of the Mississippi River Commission will render it necessary to build levees on the Mississippi from the said Atchafalaya River down the Mississippi River."

Mr. HISCOCK. Mr. Chairman, when I offered the amendment a moment since to strike out the lines in this bill providing for the rectification of the mouths of the Red River and the Atchafalaya, and made the assertion that those lines committed the Government to the building and the perpetual support and maintenance of levees from the mouth of Red River down, I was told by some friend of this measure that I was mistaken. To meet that allegation I have offered this amendment, providing that the mouths of those rivers shall not be rectified upon any plan which involves the building of such levees. Everybody knows that for the requirements of navigation there is no need of levees from the mouths of those rivers down; there is plenty of water there; the navigation is perfect; and I have offered this amendment to meet the assertion which was made here on the other side of the House by some friend of this scheme that my statement that it would be necessary to build and maintain such levees was not true.

I now say to members of this committee more than that; I say that this provision in the bill commits the Government for all time to paying the damages that may be sustained from the chance breaking of those levees or from overflow. It commits the Government to the maintenance of the levees at its own cost and expense, and obligates it for all time to preserve the owners of these alluvial lands from the discharge of water upon their lands on account of the closing of the mouth of one of these rivers and the opening of the other. I do not believe that this committee or that Congress is prepared to commit itself to any such policy, but I shall have done my duty in reference to this matter when I have so distinctly brought the question into this committee that every member can understand precisely the point upon which he is voting and the effect of the adoption of this clause of the bill without amendment.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. BRECKINRIDGE. That is more stuff, as this House well knows.

Mr. ELLIS. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. ELLIS. I rise to offer a substitute for the amendment just proposed by the gentleman from New York [Mr. HISCOCK], and I send it to the Clerk's desk to be read.

The CHAIRMAN. The Clerk will read the amendment.

The Clerk read the amendment (offered by Mr. ELLIS as a substitute for the amendment offered by Mr. HISCOCK), as follows:

Provided, That no portion of this appropriation shall be expended to repair or build levees for the purpose of reclaiming lands or preventing injury to lands by overflows: *Provided, however*, That the commission are authorized to repair and build levees, if in their judgment it should be done as a part of their plan to afford ease and safety to the navigation and commerce of the river and to deepen the channel.

Mr. ELLIS. Mr. Chairman, after years of consideration we adopted a plan for the improvement of the Mississippi River. That plan has succeeded, and the proofs of it are now visible on the river wherever that plan has been adhered to. A portion of the plan has failed, while another essential portion of it has been neglected. This bill brings back the commission, and restricts them to the original plan with perfect fidelity. Now, sir, having chosen the plan, having chosen the agents to carry out that plan, why should we seek to fetter their brains? Why should we seek to darken counsel by words without knowledge? Why should we seek to fetter the judgment of the men who are in charge of this work, having restricted them to the plan which has succeeded, and which will succeed when adhered to? This provision contains the same language that was used heretofore, and it absolutely prevents the throwing of a single spadeful of dirt for private purposes, for the protection of private property, for the protection of lands from overflow. That is absolutely prohibited; but if they find it necessary for the purpose of deepening the channel of the river and affording ease and facility to the vast commerce that floats upon its bosom—if these purposes can be subserved by making higher banks, the commission are at liberty to do so. The amendment, I am sure, must commend itself to the judgment of this House, and I trust it will be adopted. [Cries of "Vote!" "Vote!"]

Mr. HISCOCK. I move to strike out the last proviso in the substitute just offered by the gentleman from Louisiana [Mr. ELLIS], and I desire to say that the objection which I make to this clause in the bill without my amendment is that the clause itself commits this Government to the building of these levees. The Government would be legally obliged to build them. The moment it turns this immense volume of water into the Mississippi it assumes the liability of protecting the owners of the lands against overflow. That is the purpose of it. It does not depend upon affirmative legislation, but, on the contrary, the Government practically says to the people: We have increased the flood in the Mississippi River and we assume the liability of protecting you from the incursions of that flood.

This scheme is concealed—I do not say it offensively—this scheme is concealed in the simple words of this clause, and therefore I say that no language that can be offered here limiting it will correct the evil if you undertake to rectify the mouths of these rivers in accordance with the plans which have been submitted by the Mississippi River Commission.

The effect of it is to threaten the people upon the line of that river below that point with destruction of houses, villages, and farms by flood; and the Government is compelled to step in and build these levees to protect those people against its own act. Ay, more than that, when damages have been sustained in this way the Government is bound in equity and honor to make compensation to the owners of those alluvial lands for that damage.

Mr. WARNER, of Ohio. I desire to offer an amendment.

Mr. WILLIS. I do not appeal to the rules of this House but to the good faith of members. It was expressly understood that only amendments intended to be substantial and only speeches in support of such amendments were to be allowed in this extended time. I do respectfully appeal to gentlemen on this floor not to violate their agreement.

Mr. WARNER, of Ohio. I have not occupied a minute on this bill.

The CHAIRMAN. The Chair will state that no further amendment is in order until the pending amendment is voted upon.

Mr. ELLIS. If the House will allow me one minute I will dissipate the fears expressed by the gentleman from New York.

Mr. WILLIS. I must object to any extension of the debate.

Mr. HOLMAN. I call for the reading of the substitute and the proposed amendment.

The substitute and amendment were read.

Mr. HISCOCK. I do not care to press the amendment to strike out the last proviso. I withdraw it so as to let the question come squarely on the substitute.

The CHAIRMAN (having put the question on agreeing to the substitute). In the opinion of the Chair the substitute is adopted.

Mr. HISCOCK. I call for a division.

Mr. WILLIS. In order to save time I ask that tellers be ordered at once.

There being no objection, tellers were ordered; and Mr. WILLIS and Mr. HISCOCK were appointed.

The House again divided; and the tellers reported—ayes 101, noes 63.

So the substitute was adopted.

Mr. WARNER, of Ohio. I now ask to have read the amendment which I send to the desk.

The Clerk read as follows:

Add to the substitute just adopted the following:
"*Provided*, That no existing outlets through which the flood waters are carried off shall be closed."

Mr. WARNER, of Ohio. Mr. Chairman, it will be admitted, I think, that the improvement of the navigation of the Mississippi River is one thing and taking care of the flood waters is a very different thing. I am in favor of the improvement of the navigation of the Mississippi River, and I doubt not that jetties and revetments are valuable in the improvement of navigation; but I do not believe it is within the power of man to confine the flood waters of that gigantic river and keep them within artificial embankments.

There was a time, and that within comparatively recent geological time, when the Gulf of Mexico was where New Orleans now is. At that time the surface of the Mississippi River must have been some sixteen feet lower than it is now all the way up to the first falls, and the bed of the river was then much lower than it is now. Extend the mouth of the river into the Gulf; build walls to hold the flood waters, and the waters will continue to rise and its bottom to follow it up, and you may go on indefinitely without being able to confine within your artificial embankments the floods that will occasionally come. For this reason I am opposed to appropriations for the building of levees to confine the flood waters. If I believed the plan would be a success I should not object to appropriations for it; but I do not believe in the plan, and I do not believe that engineers agree at all upon such a plan. I believe in more outlet room for flood waters.

[Here the hammer fell.]

The question being taken on the amendment of Mr. WARNER, of Ohio, it was not agreed to.

The next amendment (by Mr. WHITE, of Kentucky) was read, as follows:

In lines 923, 924, and 925 strike out the words "including the rectification of the Red and the Atchafalaya Rivers at the mouth of Red River."

Mr. WHITE, of Kentucky. As will be seen, Mr. Chairman, the proposi ion of the committee is to rectify the banks of the Red and the Atchafi aya Rivers. It is intended to carry out the Eads plan of closing up the utlet from the Red River into Grand Lake through the Atchafalaya. Now, it is a well-known fact that when the floods come the Mississ ppi River extends at least seventy-five miles wide. To talk about losing up the outlet of the Atchafalaya means to build up a levee a along the southern bank of the Red River. Is there any man from L uisiana who will deny that?

Mr. LANCHARD. I do deny it.

Mr. EWIS. I deny it.

Mr. HITE, of Kentucky. Now let me read to these gentlemen. On Ap l 5, 1882, General Humphreys was before the Committee on Comm ce, and I desire to read from his testimony taken at that time:

Mr. R AGAN. In determining, as you did, the necessity of extending the levees from th mouth of the Ohio to the mouth of the Mississippi, did you consider whethe it was practicable or possible to retain the floods of the Mississippi River w hin those levees?

Gene l HUMPHREYS. Yes; that was the question. The object of constructing leve s and raising them to certain heights was to confine the river within them, o herwise it would be a useless expenditure of money. The great object of mak g these measurements was to determine the question how high the river w ld rise if all the water were kept within its channel, and the observations w e made because no one had any means of answering that question before.

Mr. H RR. And did you conclude that it could be done?

Gene l HUMPHREYS. Yes, sir.

Mr. I AGAN. Did you contemplate the construction of a line of levees immediately n the banks of the river or at some distance back from them?

Gene l HUMPHREYS. Wherever it was practicable it would be preferable to place le ees some distance back from the river, leaving the local proprietors to establis the levees outside.

* * * * * *

Mr. R AGAN. In providing on your plan for retaining the water of the river within s channel by levees, did you contemplate putting reverse levees along the affl nts of the Mississippi within the alluvial bed or did you propose to leave t se open?

Gene l HUMPHREYS. The affluents must be leveed also. We contemplated that, th ugh, if I remember aright, we did not include it in our estimates.

Mr. W ITE. You understand that the Red River is disposed to run into the Atchafi aya now?

Mr. H PHREYS. Yes; at times it discharges entirely through the Atchafalaya.

Mr. W ITE. Now, it has been stated that if we levee the Mississippi we shall have to evee also the Red River and the other affluents for some considerable distanc back.

Gene l HUMPHREYS. That would be for the protection of the country along those r ers.

Mr. W ITE. Would that necessitate the raising of the levees on the Mississippi? Or would it be better to lead the surplus water there off by another channe say down the Atchafalaya, and levee that also—that is, would it be better have a parallel river with low levees, and the Mississippi itself with low lev es, or to have all the water concentrated in one river with high levees?

Gene l HUMPHREYS. I should not think for a moment of closing the Atchafalaya o any of those natural bayous. How much that surplus water of the Red River i I don't know, nor how much the banks would have to be raised by levees.

[He the hammer fell.]

The mendment of Mr. WHITE, of Kentucky, was not agreed to.

The ext amendment (by Mr. HEPBURN) was read, as follows:

After the word "river," in line 926, insert: "*Provided*, That no work shall be done a this point that will make the improvement or increase of levees necessary or the banks of the Mississippi River."

Mr. EPBURN. Mr. Chairman, there are three plans which have been s bmitted for the rectification of the mouth of the Red River. One in volves an expenditure of $10,511,000; the other involves an expendit re of $8,061,000. The plan favored by the commission involves an ex nditure of $4,800,000. By this rectification of the mouth of Red R ver from throwing its floods into the Mississippi River is involved an expenditure in levees to make secure the present levees below Red R ver, assumed as in previous cases at two feet mean rise, of $2,872,000. o provide for the increased discharge below Red River consequent pon the execution of this plan would require the additional raisin of grade, which, assumed as in a preceding case at one foot increase o mean height, would cost $1,907,000. There are more than $4,00 000 made necessary in building levees alone from this mode, compellin the waters which now flow through the Atchafalaya into the Missis ippi.

Nov there is certainly a reason for this. As it is, certain lands contiguou to the Atchafalaya are flooded because of this discharge, and they are ov ned by somebody and that somebody desires their protection, throu h the diversion of the waters which at times flood them, at the expen of the Government of more than $4,000,000.

[He e the hammer fell.]

Mr. BLANCHARD. The commission has adopted no such report.

Mr. HEPBURN demanded a division.

The committee divided; and there were—ayes 33, noes 81.

Mr. HEPBURN. No quorum has voted.

The CHAIRMAN appointed as tellers Mr. HEPBURN and Mr. WILLIS.

The committee again divided; and the tellers reported—ayes 15, noes 116.

So t e amendment was disagreed to.

The ext amendment (by Mr. WHITE, of Kentucky) was read, as follows:

Strik out the following:
"An for keeping open a navigable channel through the mouth of Red River into th Mississippi River."

Mr. WHITE, of Kentucky. I want to call the attention of the com-

mittee to the fact that the effect of striking out these lines is to strike out the idea contained in this bill, that you must close up the outlet at the head of the Atchafalaya. The committee goes upon the idea that because Mr. Eads made a success at the mouth of the Mississippi River he can do anything he pleases with the Mississippi River. Now, Mr. Eads never discovered that jetties would be a benefit to the mouth of the Mississippi River. I read from the same document I read from a while ago, where General Humphreys testified before the Committee on Commerce in 1882 as follows:

I was the first person to demonstrate that the use of the jetties would deepen the river at its mouth, because I was the first person to get the facts by measurements.

That same gentleman who told us that jetties would be a success and who urged their use and said they could be built at the mouth of the Mississippi River, that same gentleman, Mr. Chairman, utterly opposed the idea that the Atchafalaya should be stopped up. Furthermore, he contended that if you began to close up all such outlets as the Atchafalaya you would have to raise all the levees along the banks of all the affluents emptying into the Mississippi River from Cairo down, and if you began on that system it would cost hundreds of millions of money. Why, sir, $150,000,000 is not an approximation to the cost of leveeing thousand of miles. Both banks of the rivers must be leveed as a consequence of the adoption of any such theory.

Mr. DUNN. How much money?

Mr. WHITE, of Kentucky. Hundreds and hundreds of millions of dollars. You propose covertly in this bill to have Mr. Eads saddled upon this Government by undertaking to carry out any such theory of tickling the flanks of the Mississipppi River, tickling the flanks of the banks of its affluents, tickling their flanks by building higher levees on both sides, thus incurring an expense, as I have already said, of hundreds of millions of dollars.

[Here the hammer fell.]

The committee divided; and there were—ayes 12, noes 89.

Mr. WHITE, of Kentucky. No quorum.

Mr. WILLIS. I hope that point of order will not be made.

The CHAIRMAN. The Chair can not avoid it. The point of order is made.

Mr. WILLIS. I appeal to the good faith of this House whether that ought to be done.

The CHAIRMAN. The Chair knows of no way to stop it.

Mr. BRECKINRIDGE and Mr. WHITE, of Kentucky, were appointed as tellers.

The committee again divided; and the tellers reported—ayes 24, noes 141.

So the amendment was rejected.

The next amendment (by Mr. BOUTELLE) was read, as follows:

Amend by striking out from the word "including," in line 923, down to the word "river," in line 926, as follows:

"Including the rectification of the Red and the Atchafalaya Rivers at the mouth of Red River, and for keeping open a navigable channel through the mouth of Red River into the Mississippi River."

Mr. WILLIS. That has been voted on.

Mr. BLANCHARD. Voted on three times.

Mr. BOUTELLE. It is a curious coincidence the amendments should be identical.

The CHAIRMAN. The gentleman will proceed.

Mr. BLANCHARD. The point of order has been made on this amendment that it has already been voted on.

Mr. WILLIS. It has been voted on within the last twenty minutes.

The CHAIRMAN. So far as the Chair knows nothing has been done except adding after the word "river" the amendment proposed by the gentleman from Kentucky [Mr. TURNER] and another addition to that proposition by the gentleman from Louisiana [Mr. ELLIS], and therefore as at present advised the Chair would not rule the amendment out.

Mr. WILLIS. The amendment of the gentleman from Iowa [Mr. HEPBURN], as well as other amendments, covered this same point.

The CHAIRMAN. They were amendments which were voted down.

Mr. WILLIS. I ask for a ruling whether the amendment is in order.

The CHAIRMAN. As at present informed the Chair holds it to be in order.

Mr. WASHBURN. If this amendment had been presented would it now be in order?

The CHAIRMAN. It would not.

Mr. WASHBURN. It is precisely the same as offered by the gentleman from New York [Mr. HISCOCK].

Mr. BOUTELLE. The Chair has ruled my amendment to be in order.

Mr. WASHBURN. It is precisely the same amendment offered by the gentleman from New York [Mr. HISCOCK], and voted down.

Mr. BLANCHARD. That is correct.

The CHAIRMAN. If that be true, that the amendment is precisely the same, the Chair would sustain the point of order, and rule the amendment out.

Mr. BOUTELLE. I understood the Chair to rule that my amendment was in order.

The CHAIRMAN. The Chair ruled if it were not like amendments already offered it would be received; but that if it were precisely the same as amendments already voted down it would not be in order.

Mr. BOUTELLE. I do not know of anything a man on the floor can do but to submit.

The CHAIRMAN. Submit then, and the Clerk will read the next amendment.

Mr. BOUTELLE. I should not think of appealing from the decision of the Chair.

The next amendment (by Mr. HEPBURN) was read, as follows:

After the word "river," in line 926, insert:

"*Provided*, That no part of the sums herein appropriated shall be expended in the erection or repair of levees situated on lands not owned by the United States."

Mr. WILLIS. I make the point of order that that amendment has been already voted upon.

Mr. BRECKINRIDGE. That whole question has been voted upon by the committee and disposed of.

Mr. WILLIS. And the substitute of the gentleman from Louisiana [Mr. ELLIS] was adopted by the committee.

Mr. HEPBURN. I have not been able to hear the point of order the gentleman makes.

Mr. WILLIS. The point of order is that this whole subject has been already disposed of.

Mr. HEPBURN. I think if the gentleman will compare the language of this amendment with what has been voted upon heretofore he will find that they are not identical in any respect.

Mr. WILLIS. I think the gentleman is mistaken; my recollection is certainly that way.

The CHAIRMAN. The Chair does not recollect any case where a question pertaining to the levees on lands belonging to private individuals has been considered.

Mr. BRECKINRIDGE. All lands on which the levees are constructed belong to private individuals.

Mr. WILLIS. It is well understood that they are lands belonging to individuals on the banks of that river, and that question having been already raised and voted upon covers this point.

Mr. BRECKINRIDGE. It is impossible to find a square inch of land down there that does not belong to some individual. This whole question has been disposed of already.

The CHAIRMAN. The Clerk will read a paragraph from the Digest in regard to this subject.

The Clerk read as follows:

If an amendment be proposed inconsistent with one already agreed to, it is a fit ground for its rejection by the House, but not within the competence of the Speaker to suppress as if it were against order; for were he permitted to draw questions of consistence within the vortex of order, he might usurp a negative on important modifications, and suppress instead of subserving the legislative will.

The CHAIRMAN. The Chair thinks, therefore, that this amendment is in order.

Mr. HEPBURN. Mr. Speaker, there is, in my judgment, a strong reason why Congress should not authorize the construction of levees upon the property of private individuals that has not yet been discussed in connection with this bill. The Mississippi River Commission, year after year, has asked for legislation at the hands of Congress by which they could condemn property upon which erections of this character may be necessary in their judgment or where it shall be found necessary to get material for the improvement. They say that extravagant prices are asked for such things.

Mr. DUNN. Was not that incorporated in the last river and harbor bill?

Mr. HEPBURN. I take it not, because the same demand for legislation is urged in the last report of the commission. They call attention to their frequent requests on this subject. They call attention to the exorbitant sums demanded of them for brush, poles, and piling, which they find necessary to use in connection with their work. They say that they are at the mercy of cormorants all along the river; even the very men I take it upon whose lands the levees are to be built and for whose benefit they are undertaken they say require exorbitant pay for such items. When it comes to the appropriation of a part of their lands or property they make these excessive demands, and, as the commission say, we are completely at their mercy.

It seems to me that until gentlemen on that side of the House are willing to forget some of their notions about strict construction, and are willing to give the Congress of the United States the power to exercise the right of eminent domain in matters of this kind, they come here with very poor grace asking that these extraordinary appropriations for the benefit of private individuals should be made out of the Treasury.

[Here the hammer fell.]

The question being taken on the adoption of Mr. HEPBURN'S amendment, there were on a division—ayes 36, noes 86.

Mr. HEPBURN. No quorum has voted.

The CHAIRMAN. The point of order being made that no quorum has voted, the Chair will appoint tellers.

Mr. HEPBURN and Mr. BRECKINRIDGE were appointed tellers.

The committee again divided; and the tellers reported—ayes 48, noes 117.

So the amendment was not agreed to.

The Clerk read the next amendment (submitted by Mr. BOUTELLE), as follows:

Strike out the entire paragraph commencing with line 922 and ending with line 938.

Mr. BOUTELLE. Mr. Chairman, if the gentleman in charge of this bill had not manifested so eager a desire to impede the expression of individual criticisms in regard to it I think some time might have been saved with respect to the very few remarks I desire to offer.

My principal object in rising is to ask a question of the gentleman from Arkansas [Mr. BRECKINRIDGE], a member of the committee, who spoke on this bill when it was first reported to the House. I desire to ask that gentleman whether this improvement of the Mississippi River, for which this $2,800,000 is proposed, is a continuation of that system of work advised by the Mississippi River Commission to which he referred the other day as likely to cost $150,000,000, and which he denounces as a conspicuous failure, and to which he referred in the following language:

Mr. BRECKINRIDGE. Let me answer the gentleman.

Mr. BOUTELLE. Allow me first to quote the language on which I desire to base my inquiry. The gentleman from Arkansas said—

They—

The commission—

have now a plan of operations sketched out to spend, as stated, $150,000,000. The calculation is a very plain one, and there is not in any of their work a guarantee that it will last twelve months.

Mr. BRECKINRIDGE. I was emphatic in condemning the departures of the commission from the plan originally adopted for the improvement of that river. And therefore we propose to introduce into this bill instructions that the commission shall adhere to the plan of improvement that were set forth in the first report of the commission.

Mr. BOUTELLE. But I beg to state to the gentleman from Arkansas he now tells us something he proposes to introduce——

Mr. BRECKINRIDGE. I do not propose to permit this commission to go on and spend the money in the line of their departures from the original plan.

Mr. BOUTELLE. I am endeavoring to discuss this bill as it is laid on our desks and presented to the House. And I find the gentleman from Arkansas made this statement——

Mr. BRECKINRIDGE. If you will read the bill it will answer you fully. Its present provisions are more stringent than we propose now, and we only relax this much under protest.

Mr. BOUTELLE. The gentleman made this statement:

They can not point us to any experiments in this departure from the original plan and from reason showing that it will stand twelve months after a single rise.

Mr. BRECKINRIDGE. And that is all perfectly true.

The CHAIRMAN. Debate on this amendment is exhausted.

The question being taken on Mr. BOUTELLE'S amendment, it was not agreed to.

The Clerk read the following amendment, offered by Mr. WHITE, of Kentucky:

Strike out lines 926 to 938 and insert as follows:

"Improving Mississippi River from the head of the passes to the mouth of the Ohio River, $155,000; of which sum $80,000, or so much thereof as may be necessary, shall be used for the construction of a light-draught side-wheel steamer with dredge attached, and of sufficient power to move from place to place; also, ten wing-dam barges, each one hundred feet in length, enough to make a dam 1,000 feet in length; also, a small light-draught boat to be used in sounding and placing the barges in position on shoal water, and placing the whole under the control of a thoroughly practical river pilot. The said sums appropriated to be expended under the direction of the Secretary of War."

Mr. WILLIS. I make the point of order that that identical amendment was voted on this morning.

Mr. WHITE, of Kentucky. I am glad my colleague has made the point of order. I desire to be heard on it.

Mr. WILLIS. My only desire is in good faith to go on with this bill, and I must make the point of order on this amendment already voted on this morning.

Mr. WHITE, of Kentucky. I do not see where the good faith comes in, when an hour was taken this morning contrary to the agreement of last night.

Mr. WILLIS. I ask for a ruling.

The CHAIRMAN. The Chair will hear the gentleman from Kentucky on the left [Mr. WHITE] as to whether this amendment was offered before.

Mr. WHITE, of Kentucky. I desire to state I had a motion pending last night——

Mr. WILLIS. I withdraw the point of order.

Mr. WHITE, of Kentucky. I thought the gentleman would withdraw the point of order when I stated the facts as they occurred.

Mr. Chairman, I desire to call the attention of the committee to the fact that if this amendment should be adopted we will, in all probability, accomplish for the navigation of the Mississippi River with the small sum of $155,000 what is proposed, even if we still had Mr. Eads in the bill. Here is a communication from a practical river-man, which I shall insert under the general leave, a letter from Mr. T. L. Lee, formerly of Paducah, Ky., now of Memphis, Tenn., and a practical river-man, stating that with this small amount of machinery and with the small sum of $150,000 he can prevent the widening of the river, and can keep a navigable channel through the whole year round. And we can save the millions of money which we have been sinking under your commission plan.

Why, sir, think of it. The repairs last year cost two millions of dollars; the repairs the year before cost two millions of dollars. What has your commission done for the Mississippi River? And the end is not yet. We propose, if we follow this committee, if we follow your commission, if we follow Mr. Eads in any of these propositions—we propose to take millions of money; we——

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

Mr. WHITE, of Kentucky. This is the cheapest way to improve the navigation of the Mississippi River.

The letter of Mr. T. L. Lee, referred to by Mr. WHITE, of Kentucky, is as follows:

DEAR SIR: As the matter of improvement of the different rivers, and especially the Ohio and Mississippi, will be under consideration under different plans, I ask your aid in getting before the proper committee of Congress a plan of my own conception. It bears no indorsement from any river improvement commission or convention. I tried to reach Congress through the aid of the river improvement convention which met at Saint Louis in 1880, but I suppose the plan was too cheap, and found a burial (like most economical ones have) at the hands of the committee to whom it was referred. I now ask that the plan be considered on its own merits, without the aid of either council, convention, or commission, believing that your honorable body are fully competent to determine whether there is any merit in it or not. You will have enough convention and commission business to dispose of anyhow. As you are aware, the difficulty of navigation on the Ohio and Mississippi Rivers during low water is due to a great extent to the formation of sand bars; and to the removal of such obstructions is what I desire to call your attention. The plan heretofore adopted has been to construct permanent and costly dams or dikes. These I consider failures to a great extent, as the cutting or wash occasioned by such structures is too great, and removes the difficulty from the point intended only to re-establish it again below and near the point of removal.

Dams and dikes are no doubt excellent improvements where shoals occur on firm bottoms, such as gravel, rock, &c. (such as the improvement now being made in the lower Ohio, at what is known as the Grand Chain, the object being to prevent the main channel flowing among rocks where steamers can not go); but where sand formations are the only trouble, temporary means can be adopted that will accomplish the work, and at a very small cost compared with the present system, and leave no dangerous obstruction when the river is high, such as dams and dikes frequently prove.

The plan offered for your consideration is this, namely:

Instead of building permanent dams use portable ones, constructed by means of barges, with gates attached, on the plan as shown by accompanying drawings, by which during low water a dam several hundred feet in length can be fixed at any given point in a few hours in any shape or angle that may be desired, and when a sufficient depth of channel has been obtained at one point, the dams can be taken up and removed to the next point requiring work; being once removed, the cause may never occur again (such has been demonstrated in many instances by the peculiar breaks and fickleness of sand obstructions).

In connection with the portable wing-dam I would recommend the use of a dredging-machine on the plan herewith submitted and shown by drawings, or something similar. If the use of the cylinder dredge should prove not desirable for the work, the use of water jets from large pumps (such as are used for washing the banks by the Mississippi River Commission) can be substituted and applied in place of same. I am confident both will prove a success. After establishing a temporary dam at the proper angle on a bar, say from one to two thousand feet in length, and putting the dredge at work at foot of dam (that being the channel point), but a few hours' work would be required to get a good depth of channel, and then the whole apparatus could be removed to another field of operation. I have no doubt that many dams have been built which need never have been if this plan had been in use. A sand bar once removed may never occur again in the same place and shape, a fact well known to every practical river-man. Nature sometimes does the work herself, and many places that were the worst years ago are now no trouble, although no artificial means have been used.

Being somewhat conversant with the cost of building boats and machinery, I give it as my opinion that an outlay of $150,000 by the Government will be sufficient to make a thorough and practical test of the plan. Should it fail (of which I have no fears), all the appliances used could be used under the present system of work, except the dredge and gates on barges, which might be removed if not serviceable. The whole cost to the Government (as a loss) would not exceed 25 per cent. of the outlay.

As an experiment, I would suggest the construction of a light-draught side-wheel steamer, with dredge attached, and of sufficient power to move from place to place, ten wing-dam barges, each one hundred feet in length, enough to make a dam one thousand feet in length, and a small light-draught boat to be used in sounding and placing the barges in position on shoal water, and place the whole under the control of a thoroughly practical river-man.

It is well known to you, and to every one else who has paid any attention to such matters, that in many instances the obstructions to navigation caused by sand are not generally of great length; sometimes less than one hundred feet, known as reefs. Start the sand to washing in such places and it goes very rapidly. You will observe that by my plan you have the natural current, the force of the wheels of the steamer and dredge, all working in the proper direction. I think it would be a good idea to try both kinds of dredging, cylinder and water jets.

I have seen the boats constructed by the Mississippi River Commission to wash the banks, and think a similar plan, with the use of my lever frame (used on the cylinder dredge) to keep the nozzles fixed on the bottom as the boat moved over the sand, would induce very rapid washing and accomplish much toward obtaining a uniform depth of water.

I believe on investigation it will be found but little has been accomplished to improve navigation between Louisville, Cairo, Saint Louis, and New Orleans during the last twenty-five years, except by removal of snags and establishing lights, both of which are a great benefit to commerce. I have my doubts of the success of any of the present great schemes for improvement of the Mississippi River, either by jetties or otherwise. If we attempt too much we may fail to do what is necessary, and by grasping at giant schemes lose what good might result from moderate and practical ones. Let us keep up our snagboat and light-house system in the most perfect manner—build dams or dikes where we have firm bottoms, and use portable means where sand is the trouble, and we will find the rivers ample to carry all we may produce, and not spend millions of dollars in trying to work up impossibilities.

I have submitted my plan to some very practical river-men, and have never had one to condemn it, and I might have procured a long list of petitioners indorsing it, but I claim the plan is so plain and the expense so little to try it (in comparison with other schemes), that petitions, conventions, and commissions

are not needed. I I therefore submit it on its face value, trusting you and your associates in Congress may deem it worthy of a trial.

Yours, respectfully,

T. L. LEE.

PADUCAH, KY., *November* 21, 1881.

The following is a communication from the War Department, with inclosure, in answer to a letter addressed to the Department by Mr. WHITE, of Kentucky:

WAR DEPARTMENT, *Washington City, April* 13, 1882.

SIR: I have the honor to acknowledge the receipt of your letter dated the 14th ultimo, inviting the attention of the Department to a communication inclosed by you, containing the views of Mr. T. L. Lee, of Paducah, Ky., in regard to the improvement of the Ohio and Mississippi Rivers.

In reply to your request, that if the Department finds in the suggestions of Mr. Lee anything worth recommending you may be informed, I beg to invite your attention to the inclosed report of the 12th instant, from the Chief of Engineers, and the accompanying copy of a report from Maj. W. E. Merrill, Corps of Engineers, in charge of the improvement of the Ohio River, from which it will be seen that in the use of movable dikes or wing-dams Mr. Lee has been anticipated both in this country and abroad.

Very respectfully,

JOHN TWEEDALE,
Acting Chief Clerk.
(For the Secretary of War, in his absence).

Hon. J. D. WHITE,
Of Committee on Commerce, House of Representatives.

UNITED STATES ENGINEER OFFICE,
Cincinnati, Ohio, April 5, 1882.

GENERAL: I have the honor to return herewith the letter of Hon. J. D. WHITE, member of Congress, to the honorable Secretary of War, regarding the plan of Mr. T. L. Lee for improving the Ohio and Mississippi Rivers, referred to me by indorsement dated March 20, 1882, and to make the following report:

The use of movable apparatus for the removal of shoals is very ancient. There are doubtless many cases of such use of which I have no record, but the following are to be found in some of my books and reports, The earliest mention that I have discovered is in a work entitled Des Travaux du Fleuve du Rhin, by A. J. Ch. Defontaine (Paris, 1833). On page 37 a certain apparatus of this character is described and the results obtained by using it are given, but there are no drawings of the device itself. These, however, may be found on plate 68 of Cous de Constructions of Sganzin and Reibell (Paris, 1839-1841).

On plate 4 of the Cours de Construction of M. Minard (Paris, 1841) there is shown, besides the above-mentioned apparatus, another, somewhat similar, that was used on the Garonne.

In the Navigation Intérieure of De Lagrené (Paris, 1871), volume 2, page 174, mention is made of a number of similar devices as having been used on the canal of La Somme, on the Burgundy Canal, on the maritime canal of Abbeville, and in the sewers of Paris.

It should be stated, however, that all of the above are small affairs that are not applicable to rivers of any size, and their use differs from that of movable dikes in that they wholly obstruct the channel, and the water is forced to pass with increased velocity under them, while movable dikes only cause a partial obstruction of the stream, and the volume of the river passes alongside. The underlying principle, however, is essentially the same.

In 1874 Mr. Julius Rapp, assistant city engineer of Saint Louis, requested my opinion of a movable dike or "patented portable wing-dam," invented by Messrs. Emerson and Doyle of that city, which had done good service in deepening a bar at the upper end of the city wharf. The patentees wished to have their apparatus tried in Government work on the Ohio. In my reply I objected to the apparatus on the ground of the expense attending its use on a large scale, and the great number of such dikes that would be required if applied to all of the bars of the lower Ohio.

The only case that has come to my knowledge of the actual and regular use of movable dikes is in Russia, on the Volga. I inclose herewith an account of these dikes, being an extract from a letter to me from Mr. P. Michailoff, Russian Government engineer, whose acquaintance I made in this city in 1876, he having visited our Centennial Exposition. I have taken the liberty of making a few verbal changes in the wording of this letter in order to make it read more smoothly, but no change has been made in its meaning. Two tracings accompany Mr. Michailoff's letter, of which copies are inclosed. The titles and dimensions on the originals are in Russian, but the former were kindly translated for me by Lieut. F. V. Greene, Corps of Engineers, and the latter were readily transformed, as the base of the Russian system of measures is the English foot.

It will be observed that according to Michailoff the use of movable dikes has sprung from the failure of fixed ones, and has apparently been a last resort. It is not claimed that they are cheaper, and in view of the fact that all the parts are made of perishable material, it seems clear that they must be considerably more expensive.

In examining tracing No. 1, it will be observed that the diking is held in place by an inclined spar in rear and by chains in front. I know nothing of the amount of drift that annually comes down the Volga, but as the whole of European Russia is a vast plain, usually destitute of trees, I should infer that no annoyance was experienced on that account; in which opinion I am confirmed by the number of floating lights that are shown on figure 1 of tracing No. 2. There are such lights on the Ohio, but it is with great difficulty that they are maintained. The Russian system seems to be as simple and as little likely to be deranged as any that could be devised, but I am afraid that it would be impracticable to apply it on the Ohio on account of the snags and drift that would inevitably catch on the chains and on the back spar.

Another point in favor of Russian rivers is the unusual steadiness of the flow of water. Janicki says (Non-Tidal Rivers, page 28):

"A second characteristic feature distinguishes Russian rivers from the other rivers of Europe: they overflow their banks more rarely and at periodically fixed times. Most of them have only a single spring flood; during summer, autumn, and winter rises are usually rare and always small.

* * * * * * *

"After the spring floods in Russia the rivers fall to their low-water stage in May or June, and they ordinarily remain there with some slight oscillations until the breaking up of the ice in the following spring."

It is evident that a river that changes its level often during the low-water period is not well adapted to the use of movable apparatus of any kind, as the necessary changes in adjustment and the occasional removal of the whole apparatus would be annoying and expensive; it is also clear that the Volga is better adapted to the use of such affairs than the Ohio.

The extract from Michailoff's letter is apparently in favor of the use of these dikes. The only other Russian opinion on them that I have is that of Janicki, which may be found in Non-Tidal Rivers, pages 11 and 12. It will be observed that he refers to the same movable dikes of Yannkowski that are shown in tracing No. 1:

"To make this review complete I have yet to mention two or three secondary processes, whose action is only auxiliary and temporary, such as dredging, movable apparatus for contracting channels, the reticulated dikes of Engineer Yannkowski, &c."

* * * * * * *

"In regard to temporary contrivances of various names and kinds, trellis-work, basket-work, temporary movable gates, &c., designed to momentarily contract the channels of rivers, when they are properly and reasonably applied to removing bars, they can in certain places give incontestable results; but these results are generally so small, so insignificant, and dependent on so many surrounding circumstances that, in my opinion, no serious importance ought to be given to any of these methods. They can only be employed when the water has nearly reached its lowest stage, and when the bars are therefore exposed, and have already become troublesome to navigation. It only requires a slight rise, a storm, some carelessness in placing the apparatus, a shock, or perhaps a little too hard a knock from a boat or a raft, to disarrange them, and thus destroy the additional depth thus obtained over the bar by the aforesaid contrivances.

"Rivers, besides, have more than one bar in their course, and navigation will always find in one place or another more than one troublesome point, and consequently a gain of a few inches in depth at a small number of bars, and at comparatively great cost, does not in reality constitute a complete remedy for the evil. Such machines, however, have a moral effect, if I may be allowed the term. Boat-owners who have to suffer from low water on the bars complain less if they see that something is being done to relieve them. I know not how better to compare these means of temporary contraction than to the anodynes which a physician prescribes in order to quiet his patient until he can make a diagnosis of the disease and begin a really efficacious treatment."

It is evident, therefore, that even in Russia opinions are divided as to the advantages of movable dikes.

Figure 1 of tracing No. 2 shows that at the bar on the Volga, which is there shown, the dike had to be 4,600 feet, or seven-eighths of a mile, long; while Michailoff's letter shows that on the portion of the river where this method of improvement is adopted there are in use eighteen miles of diking five steamboats, three dredges—which is a very expensive outfit.

My conclusion from the above is that it would be advisable for the Government to procure, through its diplomatic agents, the fullest possible information as to the utility and cost of movable dikes as applied to the Volga, and that it is unadvisable for the United States to make expensive experiments in a field that has already been worked by other nations when the results of their expenditures may be learned for the asking. After we know the results of experience in Russia we can decide for ourselves on the expediency of adopting the same system in this country.

It is evident from this investigation that in the use of movable dikes or wing-dams Mr. Lee has been anticipated both in this country and abroad; his special device may be new, but as no drawings accompanied the papers I have no means of forming an opinion on this point.

Respectfully submitted.

WILLIAM E. MERRILL,
Major of Engineers.

Brig. Gen. H. G. WRIGHT,
Chief of Engineers.

MINISTRY OF PUBLIC WORKS, *St. Petersburg, June* 1, 1880.

DEAR SIR: A year ago I received your letter, stating your wish to have some information concerning the dikes and dams on the Volga; but since that time I have been quite ill and therefore unable to give you the desired information.

For twenty years there have been no fixed dikes constructed on the Volga. The reason for this was the failure of the fixed dikes constructed in the upper Volga from Tver to Rybinsk. Instead of fixed dikes the channel of the Volga has been regulated by floating movable dikes.

The most considerable obstructions to navigation are encountered between Rybinsk and the mouth of the river Kama. The works were designed to give, in the lowest stage of the river, a channel depth of 3 feet 9 inches from Rybinsk to the mouth of the Oka, and of 5 feet 3 inches from the mouth of the Oka to the mouth of the Kama.

This was attained by the use of floating rafts with movable dikes, the construction of which is shown on the inclosed tracing No. 1. The dikes are disposed in lines parallel to the channel, as is shown in figure 1 of tracing No. 2, and their effect is indicated in figure 2 of the same tracing.

Many shoals have entirely disappeared from the effect of these movable dikes.

The annual expense of maintaining these dikes, including necessary repairs and removals, is about 15 per cent. of their first cost.

The engineers in charge of these works have at their disposal eighteen miles of the dikes, together with five steamboats and three dredges, and with these they are able to maintain the indicated depth of channel in the Volga from Rybinsk to the mouth of the Kama. * * *

I remain, yours, very truly,

P. MICHAILOFF,
Government Engineer.

Col. WILLIAM E. MERRILL,
United States Engineers, Cincinnati Ohio.

[The following, showing the opinion of General A. A. Humphreys, Chief of Engineers until 1879, is also printed by Mr. WHITE, of Kentucky, in connection with his remarks under the general leave to print:

An outlet is intended for a waste-weir in floods only, and is not designed to discharge any water when the river has returned within its banks. Its opponents have claimed that a high-water outlet so permanently built as to remain always unchanged, and which merely discharged sufficient water during flood as to keep the river within its banks, would raise the bed of the river below, and instead of lowering the floods below would raise them. And this they said it would do, because a river always carries an amount of sediment exactly proportioned to the velocity of its current, and if the velocity of that current was reduced sediment would be dropped and a shoal at once be formed.

But, as I have already explained, all the facts ascertained on the Mississippi River disprove this dogma. Indeed, if it was true, and if it was true that the river bed just below the Bonnet Carré crevasse shoaled up thirty feet in 1850 because of that crevasse, then the river bed at New Orleans ought to have filled up completely to the top of its banks long ago, since it is determined beyond question by the investigations of General Abbot and myself that the river there in its low stages and least currents often has more sediment in its water than at very much higher stages and swifter currents.

Mr. WASHBURN. But I understood you to say that the Bonnet Carré crevasse did not shoal the main river below the crevasse.

General HUMPHREYS. That is what I said.

Mr. WASHBURN. And I understand you now in answer to Mr. Townsend to give an opposite opinion as to the effect of an outlet.

General HUMPHREYS. No, sir; you are mistaken. It is the mouth of the river that I am talking about now, two hundred miles from the Bonnet Carré crevasse, and what will take place there, at the mouth, when the outlet becomes the river.

Mr. WASHBURN. I thought the point you were discussing was the effect that a crevasse would have upon the main channel below.

General HUMPHREYS. That was the point, but the question now is the final result of a great outlet.

Mr. WASHBURN. But I understood you to say that the Bonnet Carré crevasse did not cause any change in the channel below.

General HUMPHREYS. Yes; it did not cause any change at that point or elsewhere in the channel.]

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Kentucky [Mr. WHITE].

The committee divided; and there were—ayes 2, noes 92.

Mr. WHITE, of Kentucky. I make the point that a quorum has not voted. A provision that carries so many millions of dollars to destruction should be considered by a quorum.

The CHAIRMAN. A quorum not having voted the Chair will order tellers, and appoints the gentleman from Arkansas [Mr. BRECKINRIDGE] and the gentleman from Kentucky [Mr. WHITE].

Mr. WILLIS. It was agreed with the Committee on Appropriations we should occupy a certain time. That time has now expired; and in pursuance of the agreement I move the committee do now rise.

The motion was agreed to; and the committee accordingly rose.

The SPEAKER (Hon. J. G. CARLISLE) here assumed the chair after an absence of two weeks on account of sickness. His appearance in the chair was the signal for loud and prolonged bursts of applause from members throughout the whole House.

Mr. HAMMOND reported that the Committee of the Whole House on the state of the Union had had under consideration the bill (H. R. 8130) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes, and had come to no resolution thereon.

CHANGE OF REFERENCE.

Mr. MCMILLIN. Mr. Speaker, I ask unanimous consent that the reference of the bill (H. R. 8015) for the relief of Edward G. Pendleton be changed, and that it be referred to the Select Committee on the Payment of Pensions, Bounty, and Back Pay.

The SPEAKER. In the absence of objection it will be so ordered.

ORDER OF BUSINESS.

Mr. HUTCHINS. Mr. Speaker, I move that the House do now resolve itself into the Committee of the Whole House on the state of the Union for the purpose of considering the naval appropriation bill.

Mr. WILLIS. Pending that, Mr. Speaker, I rise to a privileged motion.

The SPEAKER. The gentleman from New York [Mr. HUTCHINS] moves that the House do now resolve itself into Committee of the Whole House on the state of the Union for the purpose of considering a general appropriation bill. Pending that the gentleman from Kentucky [Mr. WILLIS] rises to a privileged question, which he will state.

Mr. WILLIS. I move that at 6 o'clock p. m. to-day the House take a recess until 10 a. m. to-morrow.

Mr. VALENTINE. Mr. Speaker, before that motion is put I desire to ask the gentleman from Kentucky [Mr. WILLIS] if he will consent that before 11 o'clock to-morrow the committee shall rise in order that the House may adjourn.

Mr. WILLIS. Yes, sir.

Mr. BROWN, of Pennsylvania. Mr. Speaker, with the understanding that there is to be an adjournment before 11 o'clock to-morrow I have no objection to the motion of the gentleman from Kentucky [Mr. WILLIS].

The SPEAKER. The gentleman from Kentucky [Mr. WILLIS] has so stated.

The motion of Mr. WILLIS was agreed to.

Mr. WILLIS moved to reconsider the vote by which that motion was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ENROLLED BILLS SIGNED.

Mr. PETERS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

A bill (H. R. 7585) for the relief of William M. Gardner;

A bill (H. R. 7584) for the relief of A. P. Montgomery; and

A bill (H. R. 3258) to authorize the construction of a bridge across the Saint Croix River at the most accessible point between Stillwater and Taylor's Falls, Minn.

ORDER OF BUSINESS.

The SPEAKER. The question is on the motion of the gentleman from New York [Mr. HUTCHINS], that the House resolve itself into Committee of the Whole House on the state of the Union for the purpose of considering a general appropriation bill.

Mr. KEIFER. Mr. Speaker, before that motion is put I desire to make a suggestion in relation to the discussion that is to take place on this bill. I wish to suggest that when the House resolve itself into Committee of the Whole on the state of the Union we go on with the reading of the bill—not the first part of it, the reading of which may be dispensed with—that we go on with the reading of the bill until we come to that part relating to the increase of the Navy, and have the general debate at that time. I think that plan will facilitate the dispatch of business this evening.

Mr. RANDALL. Mr. Speaker, there is no reason that I am aware of why we should depart from the usual course with reference to this bill. There is no disposition on the part of the committee to abridge debate beyond the necessities of the session.

Mr. KEIFER. Mr. Speaker, in answer to the gentleman from Pennsylvania [Mr. RANDALL], let me remark that I am not saying anything about abridging debate or extending it because, so far as I know (speaking for myself and some others on this side of the House) we do not desire to prolong debate. I am speaking of an understanding as to the part of the bill upon which the general debate shall take place, and I have suggested that we go on and read the bill up to that point, and we will try to get through the general debate as rapidly as possible.

Mr. RANDALL. Mr. Speaker, I think general debate had better begin at once.

The SPEAKER. There seems to be objection to the suggestion of the gentleman from Ohio [Mr. KEIFER].

Mr. KEIFER. I am sorry for it.

Mr. THOMAS. Mr. Speaker, I desire to reserve the point of order on this bill.

The SPEAKER. The point of order has been reserved. The question is on the motion of the gentleman from New York [Mr. HUTCHINS].

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole House on the state of the Union (Mr. WELLBORN in the chair), and proceeded to consider the bill (H. R. 8239) making appropriations for the naval service for the fiscal year ending June 30, 1886, and for other purposes.

Mr. HUTCHINS. I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. In the absence of objection it will be so ordered.

Mr. HUTCHINS. Mr. Chairman, I will not detain the committee at this stage of the discussion by any extended remarks, but I will ask for the reading of the report; first stating to the House that the report is full in detail and gives a better explanation of the bill and its provisions than I could give if I should talk for an hour. I now ask that the report be read.

The Clerk read as follows:

The Committee on Appropriations, in presenting the bill making appropriations for the naval service for the fiscal year ending June 30, 1886, submit the following in explanation therof:

The estimates upon which the bill is based will be found on pages 103 to 116 of the Book of Estimates, and aggregate $30,555,899.50, not including $98,111, which is payable from the naval pension fund, of which sum there is specifically recommended in the accompanying bill $13,515,837.95, together with $60,067 for the naval asylum, which is payable from the naval pension fund, being $1,464,643.64 less than the appropriations for like purposes for the current fiscal year.

The bill also, by section 2 thereof, makes an indefinite appropriation for the increase of the Navy.

Following is a table showing in detail the estimates for 1886, amounts recommended for 1886, appropriations for 1885, and expenditures for 1884.

Naval establishment.	Estimates, 1886.	Recommended, 1886.	Appropriations, 1885.	Expenditures, 1884.
Pay of the Navy and miscellaneous	$7,305,780 00	$7,315,780 00	$7,292,605 00	$7,266,351 85
Contingent of the Navy	100,000 00	20,000 00	20,000 00	113,804 92
Increase of the Navy	15,071,572 62	(*)	2,205,100 00	1,839,266 75
Navigation and supplies, Bureau of Navigation	130,000 00	87,500 00	87,500 00	103,064 30
Civil establishment, Bureau of Navigation	6,000 00	5,000 00	5,000 00	4,954 54
Contingent, Bureau of Navigation	5,000 00	4,000 00	3,500 00	4,306 93
Ocean surveys, Bureau of Navigation	20,000 00	.....	.....	7,106 91
Survey of west coast of Mexico, Bureau of Navigation	10,000 00	.....	.....	2,280 80
Compass-testing house, Bureau of Navigation	7,000 00	.....	7,000 00	.....
Publication of professional papers, Bureau of Navigation	12,000 00	.....	.....	.....
Naval-war college, Bureau of Navigation	13,000 00	.....	.....	.....
Ordnance and ordnance stores, Bureau of Ordnance	856,715 00	205,000 00	125,000 00	171,702 74
Civil establishment, Bureau of Ordnance	11,217 25	5,000 00	5,000 00	4,990 67
Contingent, Bureau of Ordnance	5,000 00	3,000 00	3,000 00	3,862 39
Repairs, Bureau of Ordnance	16,000 00	15,000 00	15,000 00	17,499 79
Torpedo Corps, Bureau of Ordnance	115,000 00	60,000 00	50,000 00	77,919 34
Equipment and recruiting, Bureau of Equipment and Recruiting	896,000 00	800,000 00	750,000 00	802,703 14

* By section 2 of the bill an indefinite sum is appropriated for increase of the Navy.

Table showing in detail the estimates for 1886, *&c.*—Continued.

Naval establishment.	Estimates, 1886.	Recommended, 1886.	Appropriations, 1885.	Expenditures, 1884.
Civil establishment, Bureau of Equipment and Recruiting	$18,251 75	$9,000 00	$9,000 00	$8,837 05
Contingent, Bureau of Equipment and Recruiting	20,000 00	15,000 00	10,000 00	17,849 07
Transportation and recruiting, Bureau of Equipment and Recruiting	35,000 00	30,000 00	25,000 00	36,503 05
Maintenance of yards and docks, Bureau of Yards and Docks	425,289 00	200,000 00	200,000 00	203,470 55
Civil establishment, Bureau of Yards and Docks	45,929 75	24,000 00	24,000 00	23,979 42
Contingent, Bureau of Yards and Docks	25,000 00	20,000 00	15,000 00	19,115 71
Medical department and civil establishment, Bureau of Medicine and Surgery	60,000 00	60,000 00	60,000 00	51,173 91
Contingent, Bureau of Medicine and Surgery	25,000 00	25,000 00	25,000 00	16,188 21
Repairs, Bureau of Medicine and Surgery	20,000 00	10,000 00	10,000 00	18,595 56
Naval-hospital fund, Bureau of Medicine and Surgery	30,000 00	30,000 00	30,000 00	29,868 04
Provisions for the Navy, Bureau of Provisions and Clothing	1,275,840 62	1,085,000 00	1,100,000 00	1,057,202 77
Civil establishment, Bureau of Provisions and Clothing	12,411 50	6,000 00	6,000 00	5,979 94
Contingent, Bureau of Provisions and Clothing	60,000 00	50,000 00	35,000 00	30,803 40
Construction and repair, Bureau of Construction and Repair	1,750,000 00	1,400,000 00	1,000,000 00	1,353,303 46
Civil establishment, Bureau of Construction and Repair	32,858 75	20,000 00	20,000 00	17,022 36
Steam-machinery, Bureau of Steam-Engineering	1,000,000 00	950,000 00	*780,000 00	1,063,744 19
Civil establishment, Bureau of Steam-Engineering	17,317 25	10,000 00	10,000 00	9,025 56
Contingent, Bureau of Steam-Engineering	1,000 00	1,000 00	1,000 00	505 75
Pay of Naval Academy	102,525 45	98,829 45	98,856 09	97,789 95
Repairs and improvements, Naval Academy	21,000 00	21,000 00	21,000 00	21,000 00
Heating and lighting, Naval Academy	17,000 00	17,000 00	17,000 00	17,000 00
Contingent, Naval Academy	45,500 00	44,400 00	44,400 00	44,391 75
Pay of Marine Corps	670,842 00	649,642 00	650,075 00	633,756 15
Provisions, clothing, miscellaneous, and contingent, Marine Corps	264,848 56	219,686 50	220,436 50	215,187 20
Total naval establishment	30,555,899 50	13,575,837 95	14,980,472 59	†15,409,108 12
Naval asylum, Philadelphia, Pa., Bureau of Yards and Docks‡	98,111 00	60,067 00	59,813 00	59,813 00

* Also $140,000 reappropriated from unexpended balance for the monitors.

†In addition to the expenditures for 1884 on account of the enumerated items estimated for 1886, there was expended from the appropriation of "General Account of Advances" during 1884 an excess of expenditures over adjustments of $588,604.56, which, when the accounts are adjusted, will be added to the various appropriations for which payments were made.

‡Payable from naval pension fund.

New legislation of a general character is contained in the bill, as follows:

"SEC. 2. The President of the United States is hereby authorized to select and appoint a board to consist of three civilians, who shall be skilled in naval architecture and engineering, and three naval officers, one of whom shall be of the line of the Navy above the rank of captain, one a naval constructor, and the third a naval engineer, with the Secretary of the Navy as the seventh member and president of said board.

"Said board shall meet in Washington within thirty days subsequent to their appointment, and, after organization, prepare and cause to be printed and sent to all ex-Secretaries of the Navy, all officers, and retired officers of the line and staff of the Navy, to prominent ship-builders, marine and naval architects, engineers, and others interested in such matters, a circular asking for such suggestions, advice, and information, as they may see fit to offer, within such time as the board may fix, in relation to the types of war vessels necessary for an adequate naval establishment for the United States.

"The board shall, on receipt of replies to such circulars, consider the subject and determine the general classes and character of the vessels to be constructed, and, on approval by the President, shall cause extensive notice to be given calling on marine architects, engineers, inventors, and others skilled in the art of designing and building ships of war for competitive designs for such types of vessels as in the opinion of the board should be first constructed; the designs to consist of exact display and working plans, drawings, specifications, and estimates, accompanied by suitable builder's models, to be presented within a certain day.

"The board shall fairly and equitably consider and determine the relative merits of the various designs and exhibits so presented for competition, and shall make awards for the same for each of the classes of vessels, not exceeding four, that may be deemed worthy of adoption for the service. For the best of each class accepted by the board the award shall be $10,000, and for the second best $5,000.

"The board shall complete its work and report to the President on or before the 1st day of December, 1885, all plans it may deem worthy of notice, and full information of all its acts and awards, for transmission to Congress with such recommendations as he may deem advisable; and said board shall also consider whether the five unfinished monitors are suffering from their present incomplete condition, and whether they should be completed and armed, and shall embrace their conclusions and recommendations thereon in their report on said classes of vessels to the President, for transmission to Congress.

"One vessel of each class recommended by the board to be first built, if the recommendation be approved by the President, shall be built of American material and in the United States, by contract by the Secretary of the Navy with the lowest responsible bidder, to be awarded after due advertisement inviting proposals therefor; and such contractor shall execute bond in such penalty and with such security as the Secretary of the Navy shall fix and approve for the faithful execution of the contract. The material used in the construction of said vessels shall be subjected to such tests as the Secretary of the Navy may prescribe, and said vessels shall be built under his supervision.

"The board shall have authority to employ such experts, draughtsmen, and clerical assistance as it may deem necessary. The pay of the civilian members of the board shall be $10 per day and actual traveling expenses; and the pay of its employés shall be such as is fixed by law in the Navy Department for like services. The necessary money to pay the expenses of the board and its awards, and for the building of the vessels as herein provided for, is hereby appropriated out of any moneys in the Treasury not otherwise appropriated, to be paid, under the directions of the President of the United States, by a naval pay-officer to be detailed therefor by the Secretary of the Navy.

"The provisions of this section shall take effect immediately after the passage of this act.

* * * * * * *

"SEC. 3. That no officer whose name is borne on the retired-list of the Army, Navy, or Marine Corps shall hold position in the civil service or other employment of the Government, and draw the salary or compensation thereof together with his pay as a retired officer of the Army, Navy, or Marine Corps: *Provided*, That any such retired officer accepting a position in the civil service or other employment of the Government may, at the time of acceptance, elect to take the salary of such position or in lieu to retain his pay as a retired officer: *Provided further*, That the restrictions of this section shall not apply to any officer below the rank of major in the Army or Marine Corps, or commander in the Navy who has been retired by reason of wounds received in service, or to any retired officer of the Army, Navy, or Marine Corps designated by law to perform civilian duty."

Appropriations for, and balances on account of, pay of the Navy, July 1, 1876, *to January* 1, 1885.

Year.	Balances consolidated under act of June 20, 1874 (18 Stat., 110).	Balances July 1, each year.	Appropriations each fiscal year.	Amount available (total balances and appropriations).	Balances June 30, each year.	Liabilities at end of each period, estimated.
1871	$523 99					
1872	580 72					
1873	71 03					
1874	144 06					
1875	1,294 90					
1876	55,471 56				$58,086 26	
Total	58,086 26				58,086 26	
Fiscal year—						
1877		$58,086 26	$6,750,000 00	$6,808,086 26	13,424 98	
1878		13,424 98	7,365,592 12	7,379,017 10	599,788 19	
1879		599,788 19	6,868,275 00	7,468,063 19	209,819 70	
1880		209,819 70	6,768,275 00	6,978,094 70	1,397,400 78	$900,000
1881		1,397,400 78	6,965,075 62	8,362,476 40	1,747,521 73	1,000,000
1882		1,747,521 73	7,078,650 00	8,826,171 73	1,629,067 75	1,050,000
1883		1,629,067 75	7,236,980 00	8,866,047 75	2,051,072 59	1,200,000
1884		2,051,072 59	7,133,980 00	9,185,052 59	2,182,550 75	1,350,000
First half 1885		2,182,550 75	3,566,990 00	5,749,540 75	*2,817,081 36	2,200,000

* December 31.

NAVY DEPARTMENT, *Washington, January 23, 1885.*

SIR: I have the honor to transmit herewith, for your information, a statement showing the number of officers of the Navy, in certain grades, allowed by the act of Congress of August 5, 1882, the number on the list at present, and the number yet to be reduced.

The several grades omitted from this statement were not affected by the operations of the act above referred to.

Very respectfully, your obedient servant,

WM. E. CHANDLER,
Secretary of the Navy.

HON. SAMUEL J. RANDALL, *House of Representatives.*

[Navy Department, Washington, January 19, 1885. Ensigns on this list have been omitted. Number allowed by law, seventy-five. Act of June 26, 1884, consolidated two grades. The number of senior ensigns, were that grade still extant, would be eighty-two.]

	Allowed under act August 5, 1882.	On list at present.	Yet to be reduced.
Rear-admirals	6	6	0
Commodores	10	17	7
Captains	45	45	0
Commanders	85	85	0
Lieutenant-commanders	74	74	0
Lieutenants	250	256	6
Lieutenants, junior grade	75	81	6
Chief engineers	70	70	0
Passed assistant engineers	60	87	27
Assistant engineers	40	75	35
Pay-directors	13	13	0
Pay-inspectors	13	13	0
Paymasters	40	48	8
Passed assistant paymasters	20	27	7
Assistant paymasters	10	19	9

Mr. LONG (interrupting the reading). I presume it is not necessary for the Clerk to read that portion of the report which merely recites provisions contained in the bill, as they will be read when we come to consider them.

Mr. HUTCHINS. I will not ask for the further reading of the report, as I presume every gentleman has a copy of it before him.

Mr. KEIFER. Having had some consultation with gentlemen on the other side, I desire to renew my proposition that by unanimous consent we now proceed to the consideration of the bill under the five-minute rule, dispensing with general debate upon the bill in general, but that when we come to the part of the bill relating to the increase of the Navy we then have discussion on that proposition in the nature of general debate for two hours on each side.

Mr. HUTCHINS. I presume the gentleman refers to section 2.

Mr. KEIFER. I employed that general expression to indicate section 2 of the bill.

Mr. HUTCHINS. For my part I have no objection to that arrangement, this side of the House taking such portion of the two hours as may be deemed proper, and two hours being allowed to the other side.

The CHAIRMAN. The proposition of the gentleman from Ohio is that this bill be now read by paragraphs under the five-minute rule until section 2 is reached, and upon that section general debate be had for two hours on each side. Is there objection? The Chair hears none.

MESSAGE FROM THE PRESIDENT.

The committee rose informally; and Mr. BAGLEY took the chair as Speaker *pro tempore*.

Several messages from the President of the United States were communicated to the House by Mr. PRUDEN, one of his secretaries, who also announced that the President had approved and signed the bill (H. R. 7131) to authorize suits for damages where death results from the wrongful act or neglect of any person or corporation in the District of Columbia.

NAVAL APPROPRIATION BILL.

The Committee of the Whole House on the state of the Union resumed its session, Mr. WELLBORN in the chair.

The Clerk read as follows:

For the completion and test of two breech-loading rifle cannon of the larger calibers now in course of construction for the Navy, with carriages and ammunition for both, $80,000: *Provided*, That the test shall be conducted as follows: With battering charges for two hours, and under the most rapid continuous rate of firing, as near as may be like the conditions of a hotly-contested battle; then with the service charge not less than five hours. Permission, with ample notice to be present, shall be given to all persons who indicate a desire to examine the preliminary preparation and witness the firing. Expenditures of public money on all other naval cannon of and above said caliber shall cease until this public test has terminated. And all the facts and incidents of the test shall be reported to Congress by the Chief of the Bureau of Ordnance as soon thereafter as possible.

Mr. HUTCHINS. I am instructed by the Committee on Appropriations to submit the following amendment:

After the paragraph just read insert the following: For completing a 6-inch wire-wound gun, $4,000.

The amendment was agreed to.

Mr. CURTIN: I offer the amendment which I ask the Clerk to read.

The Clerk read as follows:

For testing American armor made of American material, $25,000.

Mr. HUTCHINS. I reserve a point of order on this amendment.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CURTIN] is entitled to the floor.

Mr. HUTCHINS. I withdraw the point of order.

Mr. CURTIN. Mr. Chairman, I propose this amendment with the expectation that it will be accepted as proper by this House. I do not know of any line of discovery or any practical results depending upon the ingenuity of man in which the American people are not equal to those of any part of the world. We propose to build a navy; and I sincerely trust that the incoming administration will be committed to the propriety of such protection to this great country. But I propose we shall build that navy here, and build it of material manufactured in the United States.

We have been buying our armor-plate abroad at immense cost. We make to-day a better steel than is manufactured in any part of the world. If you will call at the Ordnance Department the officers will tell you this is the fact. And we can make it cheaper than it is made abroad.

If we are to build a navy of iron-clad ships, and make them all at home, we make our navy popular. And if war, with its calamities, should ever come upon this country, we shall demonstrate to the world that we are equally prepared for defensive or offensive warfare.

Mr. Chairman, the American people have never failed to assert their ingenuity and energy and power or their valor upon land and sea. In 1812–'13 they improvised a navy with which they fought upon the high seas. Our history is illustrated for all time by the heroic conduct of the officers and sailors of that Navy; and when the Army surrendered in Canada and the Capitol of this country was burned, the Navy fought this nation into consequence.

Why, Mr. Chairman, we commenced the late war with muskets loaded at the muzzle by ramrods—many of them flint-locks. We introduced as the first step in progress the Springfield rifle and the Snyder rifle; and at last we gave to the world the Winchester rifle. The guns we thus introduced were adopted by the other nations of the world. Following our example, Germany, in 1866, in her great war with Austria, succeeded by the superiority of her arms; and in the late war between Russia and Turkey, where the Russians failed to take the Turkish forts, the Turks resisted the assaults with American guns.

Mr. Chairman, in three hours down here in Hampton Roads we revolutionized naval warfare for all the world. The Merrimac and the Monitor taught all the nations that they could only engage in warfare upon the sea with iron-clad ships. But we stopped there. Foreign nations improved on the examples we set them.

[Here the hammer fell.]

Mr. ELLIS obtained the floor, and said: I yield to the gentleman from Pennsylvania.

Mr. CURTIN. Foreign nations improved on what was developed from the brain of the American people, until at last they have navies, while we have no Navy that can contend with them on the high seas or in domestic defense. There is no man in this enlightened presence who, if he has read the condition of things abroad, the unrest in Europe, the coalitions there forming, does not fear (if he is not convinced) that there is a war impending which may shake the commerce, trade, and civilization of all the world.

If such a calamity should fall on humanity this great nation should be prepared to take her part, if in the providence of God she should be thrown into any such contest, and we should be prepared for it.

Mr. Chairman, when in the history of this wonderful people has there ever been a discovery or improvement in machinery, in art or science, in the world where if you invite capital and enterprise and ingenuity the American mind is not equal to it. I, sir, am in favor of building a navy that will be formidable in war, respected in time of peace, and equal in its character and force to the dignity and power of this great people. I offer that amendment that we shall satisfy the world if we do build a navy we will do it here with American capital American ingenuity, and American material. [Applause.]

Mr. TALBOTT. Did the gentleman have in view the deflective armor invented by Mr. Clark?

Mr. CURTIN. No matter what kind; my amendment includes that as well as all others.

Mr. KEIFER. I move to strike out the last word. I do not desire, Mr. Chairman, to prolong the debate on this subject. I wish to say, if this bill as a whole should be adopted and become law, it is highly important the amendment of the distinguished gentleman from Pennsylvania should prevail. Now, later on I hope to be able to give the reasons why I am not in favor of certain portions of the bill which provide for the construction of certain vessels for the United States Navy out of American material and in the United States, yet I wish now to say I am in favor of the construction of a navy for the United States, one which will be ample and a needful one, that will meet the requirements of the country, and I am in favor of that Navy being constructed of American material and in the United States.

Mr. CURTIN'S amendment was agreed to.

MESSAGE FROM THE SENATE.

The committee informally rose; and a message was received from the Senate, by Mr. McCOOK, its Secretary, announcing the adoption of the conference report on the disagreeing votes of the two Houses on the bill (H. R. 7857) making appropriations for the consular and diplomatic service of the Government for the fiscal year ending June 30, 1886, and for other purposes.

NAVAL APPROPRIATION BILL.

The committee resumed its session; and the Clerk proceeded with the reading of the bill.

The Clerk read as follows:

For the completion of the New York, $400,000.

Mr. CANNON. I make the point of order on that paragraph, and I rest it upon two grounds: First, that it is new legislation; and in the second place, that it does not retrench expenditure, but rather involves expenditure. I am informed by a member of the Committee on Naval Affairs that the construction of this vessel never was authorized by law, that it has been in New York from 1865 to the present time. How that may be I do not know, except that such is my information.

Mr. RANDALL. If the gentleman wishes to discuss the measure I have no objection, provided we can be allowed to be heard in reply.

Mr. CANNON. I will not discuss the paragraph, but confine myself to the point of order.

Mr. RANDALL. If this is subject to the point of order it goes out, and we can not be heard in reply to the gentleman if he makes any remarks on the merits of the case.

Mr. CANNON. Precisely.

Mr. RANDALL. I only ask if the gentleman discusses the merits on his point of order that there may be an opportunity to answer him.

Mr. CANNON. I am not discussing the merits at all.

Mr. RANDALL. I thought you were.

Mr. CANNON. I was stating my point of order and shall confine myself strictly to it.

Now, I find by referring to Executive Document No. 48, first session Forty-eighth Congress, that the original cost of the New York was $581,000. When I turned to the law making appropriations for six months of the current year I find a provision in the following language. I have not the law before me, but I read from the current bill, which is a copy of the law:

Provided, That no part of this sum shall be applied to the repairs of any wooden ship when the estimated cost of such repairs, to be appraised by a competent board of naval officers, shall exceed 30 per cent. of the estimated cost, appraised in like manner, of a new ship of the same size and like material.

That has been the law precisely for three years past and is again enacted for the current year. It is existing law, namely, that no money shall be expended for repairs of any wooden ship where the estimated cost of the repairs exceed 20 per cent. of the present value of the ship. It is 30 in the bill but 20 in the law. They propose to enlarge the limit and change the law in that respect. The original cost was half a million dollars, and it is proposed to spend $400,000 more, they say, for completion. That means for reconstruction, of course. I think it is new legislation, changes the law, and is subject to the third clause of Rule XXI.

Mr. RANDALL. If I understand correctly the point of order the gentleman raises against the paragraph in relation to the completion of the New York is that the bill appropriates $400,000 not in accordance with law.

Now, Mr. Chairman, there has already under appropriations been expended on that vessel $200,000, and it is therefore a public work in progress of construction. The clause of Rule XXI on which the gentleman relies is as follows:

3. 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.

There has been a law by which $200,000 has been expended on this very vessel, and this paragraph proposes to appropriate $400,000, in compliance with the suggestion of the Chief of the Bureau, to complete the vessel.

The CHAIRMAN. The gentleman from Illinois claims this is an old ship upon which $500,000 has already been expended.

Mr. RANDALL. Not $500,000, but $200,000.

Mr. CANNON. It is $500,000 in the document I have here.

Mr. RANDALL. It is not an old ship at all.

The CHAIRMAN. The gentleman from Illinois claims this to be an old ship, and that there is now existing a law preventing repairs on any wooden vessel when the estimated cost of the repairs exceed 20 per cent. of its value.

Mr. RANDALL. That means repairs on a vessel that has been in commission. This applies to an incompleted vessel, a vessel that has never been in commission, and is still on the stocks in an unfinished state.

The CHAIRMAN. The Chair will ask the gentleman with reference to this point of order whether this vessel has been completed or not?

Mr. RANDALL. I have just stated that it has not been completed. There has been expended upon it some $200,000, but it is yet on the stocks, and this appropriation provided in the bill is to complete it in conformity with the recommendation of the Bureau of Construction.

Mr. LONG. This appropriation is simply for the completion of the ship which has never been completed, and not for its repair.

Mr. THOMAS. The point, to put it briefly, is simply this: This ship has never been authorized by law; its construction has never been authorized. Therefore the beginning of the ship by the Navy Department without authority of law will not save it against the point of order, which prohibits the expenditure of money on objects not expressly authorized by law.

Now this provision is obnoxious to the third clause of the twenty-first rule in this, that it is an attempt made here for the completion of a vessel begun without authority and which never has been authorized by law. That is the point.

Mr. RANDALL. In response to the gentleman from Illinois, I will say that we have a right to conclude that this vessel was commenced in accordance with law; and the onus is on the gentleman himself to show that it was not so authorized.

Mr. THOMAS. I defy the gentleman to show where it was ever authorized by any law.

Mr. RANDALL. It was commenced under an appropriation made in 1865; and in addition there is as much authority of law for its commencement as there is for either or any of the monitors, as far as I am informed.

Mr. CANNON. I now send to the desk for the examination of the Chair the executive document of which I spoke a short time ago and from which I quoted.

I want to say in reply to the gentleman from Pennsylvania that I do not think this appropriation can be sustained under the clause of Rule XXI which has been referred to by him. I will read it:

No appropriations 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.

Now, sir, this is not a public work in progress; on the contrary, the appropriation under which the expenditure has been made was made and expended twenty years ago, and there the ship, I am informed, has lain from that day until the present. I grant you if the appropriation had been made last year and the work had been in progress from year to year it would have been a continuing work, and the point of order might be saved under that clause of the rule. So much for that; I mean unless it were affected by the provision of law in reference to the 20 per cent. expenditure to which I have before called the attention of the Chair, and of which the Chair will take notice in ruling upon the point of order.

Now, in reply to the gentleman, my colleague from Illinois [Mr. THOMAS] has stated that the construction of this ship never was authorized by law. I do not know how that is. If it was authorized by law, then I call on gentlemen to furnish that authority.

Mr. COX, of New York. It was done six years ago.

Mr. TALBOTT. The presumption is that it has been authorized by law; but the burden of proof rests on you.

Mr. CANNON. I do not yield now; but if the gentleman can furnish the authority of law under which this construction was begun I will yield for an answer.

Mr. COX, of New York. And I tell the gentleman that six years ago it was authorized.

Mr. CANNON. Give me the authority.

Mr. COX, of New York. I could look it up——

Mr. THOMAS (interrupting). Why it was begun in 1865, twenty years ago.

Mr. COX, of New York. Yes; but there was an appropriation made for it six years ago.

Mr. CANNON. Six years ago; well, that is exceeding lean. Now, I say it is well fixed, it has been driven home here by points of order by the gentleman from Pennsylvania himself time and again until it has become a part and parcel of the existing law of this country, that no ship can be constructed lawfully until there is authority of law for it.

Mr. TALBOTT. Will you yield for a question?

Mr. CANNON. Not now.

Now, if I moved an amendment here to build a new ship, costing $4,000,000, and appropriating the money, the gentleman could rise in his place, as I have seen him do time and again, and make the point of order that there is no law authorizing the construction, and that it would not be in order, because it was new legislation on the bill increasing expenditures. If it be true that there is no law for the construction of this ship, and money was appropriated for the resumption of the work upon it in the absence of a general law, when that money first appropriated was expended that was the end of it; and until the general law is passed further appropriations would not be in order.

Mr. TALBOTT. I desire to give one precedent to the gentleman from Illinois. The Puritan was authorized to be built by a Secretary of the Navy at the expiration of his term, and the contract entered into therefor; and there never was a word of law or authority given by any Congress or by anybody except that contract and the ratification of the contract from time to time by the appropriations made by Congress.

Mr. THOMAS. And it has been denounced from one end of the country to the other as unlawful.

Mr. TALBOTT. It never was denounced on that side of the House.

Mr. THOMAS. I denounced it.

Mr. CANNON. I suggest that we are discussing a question of law and not politics.

Mr. RANDALL. I submit that the paragraph is in order under the the exception stated in the rule:

Unless in continuation of appropriations for such public works and objects as are already in progress.

Mr. LONG. I do not care for this matter with reference to the completion of the New York. But if the view taken by the gentleman from Illinois is correct, then that portion of the bill which relates to an increase of the Navy is also subject to the point of order.

I therefore desire to call the attention of the Chair to the fundamental law on this subject. There is existing law for the construction of new vessels. Section 417 of the Revised Statutes reads as follows, and I call the attention of the Chair to that section:

The Secretary of the Navy shall execute such orders as he shall receive from the President relative to the procurement of naval stores and materials and the construction, armament, equipment, and employment of vessels of war as well as all other matters connected with the naval establishment.

There exists to-day a law by which under that sanction the President can order the Secretary of the Navy to construct, arm, equip, and employ vessels; and an appropriation to meet the expense of such construction is an appropriation to carry out an object contemplated by existing law.

Mr. HISCOCK. I would like to inquire of the gentleman from Massachusetts [Mr. LONG], before he takes his seat, if the Secretary of the Navy, unless it is under express law, with the money already appropriated to carry on the work, notwithstanding he should have any number of those orders from the Executive, if he should make a contract involving the Government in a dollar's expense, would not be liable to impeachment?

Mr. LONG. I refer the gentleman to the statute, which says the Secretary shall execute these orders.

Mr. HISCOCK. Oh! the gentleman has read one statute, which has been supplemented by the statute to which I call his attention, and under which the moment the Secretary makes such contracts and involves the Government in a dollar of expense he is liable to impeachment. I appeal to my friends on the other side of the House to verify my statement.

Mr. RANDALL. Will the gentleman from New York indicate the date of the law to which he refers?

Mr. HISCOCK. I refer to those general laws which forbid any Department to make a contract to involve the Government in any way beyond the appropriations already made. I apprehend my declaration upon this point will not be questioned by the distinguished chairman of the Committee on Appropriations.

Mr. DINGLEY. I desire to say one word upon the point of order. It seems to me it is not important in the discussion and decision of this point of order whether or no there exists to-day authority of law for the construction of this vessel; because under paragraph 3, Rule XXI, this exact instance is provided for. The rule says:

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—

If it stopped there the suggestion of my friend from Illinois would be correct; but it proceeds—although there may not be authority of law—yet—

unless in continuation of appropriations for such public works and objects as are already in progress.

A paragraph or amendment with that object in view is in order. If this is a public work in progress, assuming that there was authority for it to have been entered upon and it is not completed, then a provision may be reported in an appropriation bill for the completion of it.

Mr. KEIFER. Will the gentleman from Maine tell us when this vessel has been in progress—how many years ago?

Mr. DINGLEY. It makes no difference. If it is an incomplete work it is in progress until its completion.

Mr. CANNON. The rule does not say "which has been in progress," but it says "in progress"—*in præsenti*.

Mr. DINGLEY. The work has been going on. Though there may have been no work during the last week or during the last year, yet if it is incomplete the work is in progress.

Mr. KEIFER. Although suspended?

The CHAIRMAN. The Chair is ready to rule on the point of order. Clause 3, Rule XXI, provides that—

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.

Unquestionably the general rule is that no appropriation is in order on a general appropriation bill unless the appropriation be authorized by previously existing law. That is the general rule. But to that general rule there is an express exception:

Unless in continuation of appropriations for such public works and objects as are already in progress.

That is to say, if the work be a public work and it is already in progress, then there need not be any previous legislative authority for the work.

Now, the Chair must believe that the construction of this ship is a public work. The Chair also believes that it is in progress. The mere fact that this vessel begun in 1865 is confessedly still incompleted, the Chair thinks, so far as this rule is concerned, does not show that that work is not now in progress. The fact that the actual construction is temporarily interrupted for want of appropriation or some other reason does not interfere with the idea that the work is in progress. The Chair therefore overrules the point of order.

Mr. HISCOCK. Mr. Chairman, I desire to offer an amendment, which I send to the Clerk's desk to be read.

Mr. KEIFER. I move to strike out the whole provision relating to the appropriation for the completion of the New York.

Mr. HISCOCK. The motion of the gentleman from Ohio [Mr. KEIFER], I apprehend, will be in order first; so I withhold mine for the present.

Mr. KEIFER. Mr. Chairman, I suppose the gentleman from New York [Mr. HISCOCK] desired to offer his amendment to perfect the text of the bill.

The CHAIRMAN. If that is the nature of the amendment it will be first in order, and the Clerk will read it.

The Clerk read as follows:

Add to the paragraph the following proviso:

"*Provided*, That such completion shall be upon plans and specifications to be prepared by the Navy Department, and by contract by the Secretary of the Navy let to the lowest responsible bidder."

Mr. HISCOCK. Mr. Chairman, I hope there will be no opposition to this amendment. I am sure there is no intention on the part of the Committee on Appropriations to open up work in these navy-yards. We have so long recognized the propriety of doing our work of this kind by contract that I suppose there will be no opposition made to a proviso of this kind.

Mr. BLOUNT. Is not this vessel already in course of construction in a navy-yard?

Mr. HISCOCK. Oh, yes; it is over there in the stocks, I suppose; but I will make this further reply to the gentleman's question: Nothing has been done upon this ship, not a dollar has been expended upon her for a period of nineteen years. I desire to say further, Mr. Chairman, that the Book of Estimates does not show that her completion is recommended by the Secretary of the Navy. Year after year the estimates have come in here and have been submitted to this House without containing any such recommendation. The gentleman from Georgia [Mr. BLOUNT] has passed upon that submission time and time again.

No committee has ever reported in favor of this work. Now I ask that the Committee on Appropriations shall accept this amendment which I have offered, and if we are to complete this old ship at all, do not let it be done so as to have the appearance of being designed to furnish work for somebody or give employment to a new force in the Brooklyn navy-yard. I am sure that nothing of that kind is intended by my distinguished colleague from New York [Mr. HUTCHINS], and therefore I trust that he will accept this amendment providing that this work shall be done in the usual way.

Mr. BEACH. Let us do it in the old way.

Mr. HUTCHINS. I call for the reading of the gentleman's amendment.

The Clerk read as follows:

Provided, That such completion shall be upon plans and specifications to be prepared by the Navy Department, and by contract by the Secretary of the Navy let to the lowest responsible bidder.

Mr. HUTCHINS. The gentleman [Mr. HISCOCK] must be aware of the fact that this ship is about half completed, and has been so far built by the Government. The Chief of the Bureau of Construction and Repair, who certainly could not have had in contemplation that we on this side, or any one, had any intention of employing any particular set of men to do the work, has recommended that it shall be done, and I ask for the reading of an extract from his report upon that subject, which I send to the Clerk's desk.

The Clerk read as follows:

The bureau strongly recommends the completion of the frigate New York at the Brooklyn navy-yard. This vessel has been on the stocks in one of the shiphouses since 1865, and from the fact that she was in frame before work was suspended on her and was neither sealed nor planked, the air has freely circulated through her timbers, and to-day they are as hard as bone and probably in better condition than any frame timbers ever put in a ship. If completed with materials that have been preserved by the Thilmany process for preserving ship-timbers she would make a useful and most efficient ship of her class for twenty years. Although designed in 1865, she is an exceedingly fine model, and if finished will give us a first-class flagship. She can carry a battery as heavy and equally as well arranged for head and stern fire as the new cruiser Chicago has. Her length on the main load-line is 315 feet; extreme breadth of beam 47 feet; depth from lower edge of rabbet of keel to lower port-sill on gun-deck 25 feet 11 inches. She is designed to have a ship's rig, having 24,000 square feet of sail surface in her ten principal sails. Her displacement, at a draught of 18 feet 9 inches forward and 21 feet 5 inches aft, would be equal to 4,527 tons. Her lowest port-sill on the gun-deck would be 8 feet above water. The plans for finishing this vessel are in such a condition that they could be completed in a very short time, and the work on her, if authorized, could be pushed to completion and the vessel put afloat within six months from the time it is resumed.

Mr. HUTCHINS. The committee will perceive that here is a recommendation by the Bureau of Construction and Repair that this ves-

sel be completed. The completion of the vessel is also recommended by the Secretary of the Navy in his estimates. The plans have all been made; the ship is partly constructed under such plans; and this officer tells us in this report that the material has been thoroughly preserved, and that at an expense of $400,000 a ship of war can be completed equal in efficiency to either the Boston or the Chicago, which are now in course of construction. I believe that in pursuance of the provision of the clause of the bill which has just been read by the Clerk thirty-eight vessels have been stricken from the list of the Navy within the last year, and within two years but very few will remain in commission. Now, for $400,000 we can finish a partly completed vessel which will be as efficient for all purposes of the future as any of the other ships which are under construction and for which the gentleman is so willing to vote an appropriation.

Mr. HISCOCK. Mr. Chairman, I may be pardoned a word in reply. Certainly some gentlemen upon the other side of the House have co-operated with us in closing these navy-yards, or in limiting them to repair work, and for that reason I thought they approved of our policy.

Mr. HUTCHINS. This Brookly navy-yard is not one of that class, as the gentleman knows.

Mr. HISCOCK. Oh, well, the policy in reference to even the Brooklyn navy-yard has been that no new work should be done there.

This is substantially new work; and I say to my friends on the other side that they do not want to drop into that custom or policy which, when the Democratic party went out of power, had brought upon it disgrace and stigma. You remember well all these scandals with reference to the Brooklyn navy-yard and the other navy-yards. The contract system is the better system. Let us have it. Do not now, upon the coming in of a new Democratic administration, reinaugurate this policy which we all attempted to stamp out of existence, of filling the navy-yards with voters, with "strikers," with men to carry caucuses and conventions or to take possession of the polls.

Mr. HUTCHINS. The gentleman is talking to me in an unknown tongue. I do not know what he means.

Mr. COX, of New York. The language of the gentleman is not unknown to me. I have known it for many years. Since the Republican party has been in power such language as "strikers," &c., has become quite familiar. Never has that navy-yard opposite New York been used except for Republican "strikers." For twenty-odd years the gentleman's party has had the benefit of that kind of "striking."

I do not rise to answer what he has said, but to say that this vessel, the New York, is under way and should be finished. The work should not be finished by contract, but should be done in the navy-yard by honest labor day by day, under honest Democratic auspices, and not under the scoundrelism that has prevailed during the last twenty-five years. I think that is enough to say—a good climax. [Laughter.]

Mr. RANDALL. I had hoped that no feeling of partisanship would be aroused in regard to this matter. I wish to say it is not practicable to execute this work in the manner proposed in the amendment of the gentleman from New York [Mr. HISCOCK]. This vessel is now in a navy-yard; and to put out by contract the work of finishing her would bring into the yard private persons to do this work, and it would also interfere with the use of the material necessary to complete the vessel and which the Government has on hand. I have never known an instance where any vessel in the Navy has been partly built in a navy-yard under the direction of the respective bureaus and partly built under contract.

The question being taken on the amendment of Mr. HISCOCK, it was not agreed to.

Mr. CANNON. Mr. Chairman, a policy was agreed upon on this subject and written in the law by the last Congress, by the aid of a portion of the gentlemen on the other side and by the almost unanimous action of this side, a policy which originated with the Committee on Naval Affairs under the lead of a most competent gentleman then a Representative from Massachusetts, Mr. Harris. A step, and a long step, was taken toward doing away with these old expensive wooden ships. The reconstruction and repair of these ships was limited to 30 per cent. of their value, and later to 20 per cent., which is now the law, assented to and continued at this session for the remainder of this fiscal year by this House co-operating with the Senate.

Now the Government has about thirty wooden ships afloat. There is not one of these upon which you can make repairs to the extent of $100,000, notwithstanding they are afloat, because it runs counter to the policy we have entered upon. Yet we find the gentleman from Pennsylvania [Mr. RANDALL] and the gentleman from New York [Mr. HUTCHINS] coming in and seeking upon this bill to complete a ship which has stood in the yard for nearly twenty years, and to expend upon it $400,000.

Why, gentlemen, if your policy is to be wooden ships, not steel ships, you had better repeal this 20 per cent. law and repair many of these thirty wooden ships—half a dozen of which will go out of commission in the next year—as you can do for less money than you will spend in the manner here proposed; and you will have almost equally good ships as the New York when completed.

The gentleman from New York quotes the recommendation of the Chief of the Bureau of Construction and Repair that this ship, the New York, be completed. He did not find any recommendation of the Secretary of the Navy or the President of the United States. He did not find any estimate or recommendation to Congress. The matter is without recommendation.

Mr. RANDALL. I desire to say that I have in my hand the estimates of the Secretary of the Navy, and among them is an estimate of $400,000 for this work.

Mr. CANNON. Oh, yes; a formal transmission of the bureau report; a mere submission without recommendation.

Mr. RANDALL. It is like all the other transmissions.

Mr. CANNON. A formal transmission of the bureau report, which all gentlemen on the Committee on Appropriations understand.

[Here the hammer fell.]

Mr. KEIFER obtained the floor, and said: I yield my time to the gentleman from Illinois [Mr. CANNON].

Mr. RANDALL. I submit that these estimates have had the approval of the Secretary of the Navy.

Mr. CANNON. Now, then, we find gentlemen have suddenly fallen in love with the recommendation of the chief of this bureau. Why, gentlemen, there are other ships of another type which have stood unfinished for almost ten years. You have had to investigate them—five different boards of trained experts of the Navy. Four of those boards have been almost unanimous in recommending their completion. If you will turn over to the next page you will find this very same naval officer you are now following in this matter made the following recommendation:

> I can not too strongly urge the completion of these vessels [the monitors] in all respects at an early day, as they will afford us as good vessels of their class as are owned by any nation, and I am of opinion the best type of coast and harbor defense vessels in existence to-day.

Although supplemented by four boards, yet you are silent touching that recommendation.

I wish to state to this committee that the New York is an old type of vessel. It stood for nineteen years without any work being done on it.

Mr. HUTCHINS. Let me ask the gentleman a question.

The CHAIRMAN. Does the gentleman yield?

Mr. CANNON. If I can get a little more time, yes.

Mr. HUTCHINS. Did not the gentleman advocate and vote them an appropriation for the completion of the Mohican on the Pacific coast which has been completed during the current year under an appropriation made last year?

Mr. CANNON. I do not recollect whether I did or not. If I did it was not a specific vote for that ship, but a vote for that ship with other propositions standing with it.

Mr. HUTCHINS. Then I will ask the gentleman whether he did not advocate and vote for an appropriation for the completion of the Mohican on the Pacific coast, which vessel has been completed during the current year by that appropriation made last year?

Mr. CANNON. I say to the gentleman from New York that this appropriation is not to stand or fall by my consistency or want of it, but it is to stand or fall upon its own merits.

Now, Mr. Chairman, this is an old type of ship, and when finished it will be an old-fashioned cruiser of some 4,000 tons. It does not have a compound engine. It will be altogether an old-fashioned type of vessel, costing $400,000 in addition to what has already been expended upon it. It will be another old tub when completed, and this is the commencement of the naval policy of the Democratic party. This is what is offered to us just as that party is coming into power, the beginning of a policy looking toward the waste of money and the production of vessels not useful. In other words, it is an advancement backward—a retrograde movement; and I hope this Committee of the Whole will not support it and authorize the completion of this old-fashioned vessel.

Mr. TALBOTT. I call the attention of the gentleman to the fact that in the Forty-seventh Congress Mr. Harris, from the Committee on Naval Affairs, reported a list of vessels of the then Navy of the United States, and among others is the New York, of twenty-five guns and 4,000 tons, on the stocks at New York and recommended as worthy of being finished. That was the report made by the chairman of the Committee on Naval Affairs in the Forty-seventh Congress, the same committee which reported to this House the law requiring the sale of vessels when the cost of repairs would exceed 20 per cent. of their value. It is the same committee which reported the bill for steel cruisers. This report was made after careful investigation by a committee organized when the Republicans had control of the House. That committee reported that vessel was on the stocks in New York and was worthy of being completed.

Mr. CANNON. It has been worthy of being completed for nineteen years then, and will my friend inform me why his party did not appropriate for that purpose from 1874 to 1880, when it was in power here?

Mr. TALBOTT. I will ask you why your party did not complete it from 1865 to 1884?

Mr. CANNON. Because they did not think it was worthy of completion. In conclusion I will say to gentlemen on the other side of the House you can not relieve yourselves by alleged shortcomings of the

Republicans in the past; you now are in power, and you must stand or fall in this and all other matters upon the merits; you can not command the confidence of the country by taking up and completing work that was abandoned by the Republican party twenty years ago because it was not worthy of completion.

Mr. TALBOTT. In the report of the chairman of the Committee on Naval Affairs in the Forty-seventh Congress, a Republican committee, in a House controlled by a Republican majority, it was considered to be worthy of completion.

Mr. THOMAS. But the House did not indorse that report.

Mr. TALBOTT. Whether it did or not it made that report.

Mr. HEWITT, of New York. Mr. Chairman, I did not intend to take any part in the discussion of this bill, but the proposition that this great country shall at this stage of naval development undertake to build or finish the building of a wooden ship seems to me as preposterous as it is ridiculous. There is not the smallest nation in the world, not even one of the South American republics, which to-day would spend a dollar on a wooden ship; that would not if it could expend millions in procuring first-class steel cruisers. All Europe to-day is busy reconstructing navies on modern principles, and yet here into this House comes coolly a proposition to build a wooden ship, when we have thirty of them for which we have no use and as to which it would be a blessing if they were sunk by coal-barges to the bottom of the sea.

It is proposed to put old machinery in this useless hull when done. Does the gentleman know that old machinery consumes from three to four pounds of coal per horse-power, while modern machinery has reduced the consumption to one pound and a half of coal? Why, the extra cost of running that ship for coal alone would be four or five times the amount of the interest on the cost of a good steel cruiser.

The whole thing is absurd. It seems to me to be an insult to the intelligence of this people, as it must be to the intelligence of naval authorities, wherever the proposition is presented. I do not know what is behind this proposition, but I know that we might better throw this money into the ocean than to float such a vessel in this age upon its broad bosom.

Mr. KEIFER. I am much obliged to the distinguished gentleman from New York for coming over to this side of the House and making such a good speech in support of my motion to strike out this clause. I wish to say at one time it was my impression it would be wise to complete this vessel; that I was then entirely misinformed or had statements made to me which were inaccurate in respect to the uses to which this vessel could be put.

The vessel if completed, if rigged, with all of her machinery in place, with her guns and munitions on board, and manned with her full quota of troops, would not be worth one copper to the United States in time of war.

Mr. HISCOCK. Allow me to interrupt the gentleman from Ohio by adding, nor in time of peace either. [Laughter.]

Mr. KEIFER. The suggestion is very pertinent. It could not go upon the high seas, it would be of no service as a war vessel, and I did not know but that possibly the idea was that we might point to it as it went into New York Harbor or Brooklyn under full sail as a type of days gone by.

Mr. HEWITT, of New York (interrupting). As an example to be avoided. [Laughter.]

Mr. KEIFER (continuing). As a relic of a past age; and, as my friend from New York has well suggested, possibly an example for us to avoid in the future. In this way, as an example, we might possibly get something out of it; but in time of war it would be useless to us; we would not require it for any conceivable purpose, and the money expended upon it would be thrown away.

It could not be sent upon the high seas for the purpose of meeting armed vessels of war of a foreign nation, because there is not a vessel of war of any foreign nation on earth that could not sweep it from the seas; nor could it be of use for the purpose of harbor defense, because it would be helpless, useless.

Mr. BROWNE, of Indiana (from his seat). Worthless.

Mr. KEIFER. Of no possible service to the Government, and I think a national disgrace.

Now, let me say, in justice to past Congresses of the United States and the distinguished men who have presided over the Navy Department for the last nineteen years at least, that they have not proposed the completion of this vessel. It is true, as the report which was read at the suggestion of the gentleman from New York in charge of the bill [Mr. HUTCHINS] shows, that not being boarded up the air has swept through its timbers for the past twenty years, drying and seasoning them until now with the help of some new iron material and some preservatives for the old material they would do for a ship.

Mr. BOUTELLE (from his seat). The suggestion is that the present timbers are thoroughly seasoned, and therefore in better condition.

Mr. KEIFER. There is a question about that; and as I understand it, it will be necessary to put some modern material in to help to preserve them so that they may be used for the purposes of ship-building. At all events, if new material should be put in with this old material it would not be in harmony with it for ship construction.

Now, Mr. Chairman, I am told that this vessel when fully equipped, with all of her machinery and stores on board, is calculated to make in these modern times a speed not exceeding ten knots an hour upon the sea. It could be run down by everything in the shape of a vessel. It could run away from nothing and could catch nothing upon the sea, and it would be in that sense therefore without any possible value.

I was surprised a little to see our friends upon the other side of the House so urgent for this appropriation, and I took pains to look at the six-months' naval appropriation bill, I mean the bill for the first six months of the current fiscal year, and found nothing in that on the subject of the finishing of these wooden vessels.

Mr. RANDALL. Let me interrupt the gentleman to state that in response to the recommendation of the Department two vessels were recommended for completion, and money was appropriated for the purpose sufficient to build the Mohican.

Mr. KEIFER. But there has not been a copper appropriated to finish the New York.

Mr. RANDALL. I did not say there had been, but there was to finish the Mohican.

Mr. KEIFER. Fifty thousand dollars was put in the appropriation bill I believe for the purpose the gentleman specifies.

[Here the hammer fell.]

Mr. DINGLEY. Mr. Chairman, it seems to me that this is a practical question, which this committee should look at in that point of view. Here we have at the navy-yard at Brooklyn a frame and other timbers of live-oak for a vessel whose construction was inaugurated nineteen years ago. It has stood there to this day under a roof, carefully protected from the weather, and to-day every timber in that vessel is thoroughly seasoned, and is worth more for purposes of ship construction to-day, double as much, as it was nineteen years ago. Now, in my opinion, when we have a vessel half constructed of this character, notwithstanding it is of wood, in view of the fact that in all the navies of the world there are wooden vessels that may be used and are used for purposes of transportation, for school-ships and training-ships, and for a hundred uses neither offensive nor defensive, but which pertain to the navy, it would be the height of unwisdom to throw this vessel away and not appropriate something to complete it for the many uses to which it may be put.

Bear in mind that it is not an old vessel in the sense that decay has come upon it; not in the sense that it is a bad model, for it is as good a model of vessel as can be constructed to-day, and for the purpose for which such a vessel may be used. It seems to me that it would be wise to complete it in every sense, not so much for defense or offense, but for the thousand uses to which we can put the vessel. I contend that it should be looked at as a practical question, a question whether or not, if we have a frame of live-oak thoroughly seasoned and partly completed, it should not be finished for such uses as it may be applied to.

Mr HORR. May I ask the gentleman how long it will continue to grow better?

Mr. DINGLEY. As long as it is under cover and protected from the weather.

Mr. HORR. Then let us wait until it gets to the highest pitch of excellence.

Mr. DINGLEY. It has become thoroughly seasoned. And every man acquainted with the subject understands that live-oak thoroughly seasoned under cover is of infinitely more value than any other timber not so seasoned.

Mr. HORR. You say the vessel is half built?

Mr. DINGLEY. I say partly built.

Mr. HORR. That is better.

Mr. DINGLEY. I do not know precisely to what extent it has been.

Mr. THOMAS. Is it possible at this day and age of the world we are going back twenty years to seek models for constructing naval vessels of war? Have the twenty years that have elapsed since 1865 brought no lessons of wisdom to this Congress and this country? Are we to take up the ribs of this old partly-constructed vessel, through which the winds of twenty years have howled, with all its imperfections of model and of arrangement, and to go on now and build it for a modern vessel of war? The machinery was completed seventeen years ago. All the improvements of those seventeen years are taken no note of and can not be used in the completion of this boat, which can be used successfully neither in peace nor in war.

The smallest schooner that floats either upon fresh or salt water can ram this vessel and destroy it in one minute. The smallest gun carried by any vessel of war in any navy of the world could sink her in an hour. And are we going on now to rebuild this vessel, and are the Monitor, the Puritan, the Terror, the Amphitrite, the Monadnock, and the Miantonomoh, vessels of modern construction, provided with all the appointments of naval warfare, vessels built of iron and ready to be used as soon as completed—are they to be left out? Are they not to be finished while this old wooden vessel, the frame of which forsooth is built of live-oak, is to be completed? Are we to have another case of the Lancaster rebuilt at an expense of $1,600,000 and then get a vessel that can go only nine knots an hour, and that can be caught by any first-class three-masted schooner engaged in the coasting trade of this country?

I want to call the attention of the House and the country to the fact that with all the fault found with Republican administration and the last Republican Congress, that Congress was the first to come up and meet the emergency of the time and construct the three new cruisers of steel according to modern plans, and the dispatch boat, which will be a credit, and the greatest credit, that our Navy is entitled to.

The Republican party is entitled to that credit. They authorized the construction of these vessels. We left behind us the prejudices and the methods of other years and came up to a higher plane, to new designs, new machinery, new armament, new armor, and proposed to erect a navy that would be commensurate with the needs of this country and be an honor to the nation.

[Here the hammer fell.]

Mr. COX, of New York. No gentleman in this House has had more experience connected with our naval affairs, in a modest, quiet way on committees, than my friend from Illinois [Mr. THOMAS]; but he must not forget that some wooden ships are indispensable. Wooden ships are sometimes useful. Wooden ships are sometimes beneficial. It was a wooden ship that ran down the Tallapoosa. [Laughter].

Mr. THOMAS. Very good; and the Tallapoosa was a new vessel, just two years old, too.

Mr. COX, of New York. Made by the Republican party—one of their jobs.

Mr. THOMAS. And an almighty bad job at that. [Laughter].

Mr. COX, of New York. But what I want to say is pertinent to this proposition. I do not care whether it is made by a Republican or Democratic administration, but there are some wooden vessels yet to be used in our Navy, as the gentleman from Maine [Mr. DINGLEY] well said. Some are to be school-ships; some are to have other functions on the sea; some are to have romances, beyond all experience, in the future. I am not one of those who believe in making wooden ships hereafter.

I believe in the steel ships and guns, and the steam and the electricities and all the forces to be harnessed hereafter, connected with our Navy, with the chemistry and explosives and what not that speak of progress.

A MEMBER. You ought to be on the other side.

Mr. COX, of New York. I am not on the other side because I am a progressive man. I believe, however, when we have here a vessel built on a perfect model, but a model which is a mere shell or hull to be filled up hereafter with enginery, such as we will have, of an improved pattern——

Mr. THOMAS. I would like to inquire if the gentleman from New York knows that the engines for this vessel have been built already for seventeen years?

Mr. HISCOCK. In other words, there is no "steel" in this.

Mr. COX, of New York. If there was any "steal" in this my friend from New York would be more anxious about it; he is always very square. T. D. Wilson, chief of the bureau, makes the report which was read by my colleague from New York. What does he say?

> This vessel has been on the stocks in one of the ship-houses since 1865; and from the fact that she was in frame before work was suspended on her and was neither ceiled nor planked, the air has freely circulated through her timbers, and to-day they are as hard as bone, and probably in better condition than any framed timbers ever put in a ship.

That is the hull; that is the shell; put in your timbers. But gentlemen say: "The Democrats are coming into power, and we do not want them to have work on this ship in the Brooklyn navy-yard." That is the wrinkle of my friend from New York over there [Mr. HISCOCK]. [Laughter.] I know him; he is a cunning old politician; he looks at me and smiles, but he knows he means simply this: that no Democrat shall have an opportunity to work in that Brooklyn navy-yard in the construction of any ships hereafter, because, forsooth, this ship has been so long on the stocks worm-eaten by Republican rascality. [Laughter.]

Mr. BOUTELLE. Do I understand my distinguished friend from New York to say that this ship's timbers are worm-eaten? [Laughter.]

Mr. COX, of New York. No; I said the system there has been a general system of worm-eating all through. [Renewed laughter.]

Mr. MCADOO. Mr. Chairman, since our friends on the other side by the voice of the people and the will of Providence have found themselves in the minority they have begun to facetiously criticise this side of the House for proposing to complete the New York. I want to ask them why it is that this vessel was not completed long since, and I tell them that there will be grave suspicion in people's minds that the reason she was not completed before is that she was not a vessel contracted for in the yard of John Roach or some other favorite contractor. The gentlemen on the other side have repeatedly advocated the expenditure of three millions and a half of dollars to complete the monitors, yet I say that this ship, the New York, with her well-seasoned timbers, if armed with good guns, will be superior to any of the monitors in the yard of John Roach or elsewhere, completed or otherwise. [Cries of "Oh!" "Oh!" on the Republican side.]

Mr. MCADOO. I want to read for the information of gentlemen on the other side—not the opinion of a partisan journal, but the opinion of a scientific publication, the Army and Navy Journal—about these monitors upon which our friends propose to spend three millions and a half.

Mr. KEIFER. Does the gentleman call the Army and Navy Journal a scientific journal?

Mr. MCADOO. It is a professional journal, written by experts and read by scientific men.

Mr. HISCOCK. My friend from New Jersey should bear in mind that this bill contemplates the completion of those monitors by a Democratic administration, and he certainly does not want to make a record against that policy.

Mr. MCADOO. I ask to have this extract read.

The Clerk read as follows:

> As we recently had occasion to show, the thickest side of armor of these vessels will be but seven inches, and it will be applied only to the center of the vessel. The five inches of armor at the ends will be mere pasteboards to the heavy shot fired from a first-class foreign ironclad, and a single well-directed shot fired from the 80-ton iron gun would partially destroy and render the turret of the Miantonomoh wholly useless; while a shot planted on the side armor would sink her. As it is admitted here that the monitors can not resist the heavy broadside ironclads they must meet, why waste further money in the completion of vessels which will serve neither for cruisers nor harbor defense? It matters not what the English ironclads cost; they are in existence, and a couple of them could sweep away the whole of the proposed monitor fleet.

Now, Mr. Chairman, I return to the charge which I made when I began my remarks, and I say again that if this vessel, begun twenty years ago, had been under the care of the favorite contractors who have battened and fattened on the national Treasury, under Republican administrations, a milllion of dollars, if asked for, would have been gladly voted by the party then in power in this House to complete her. I repeat, too, what I said a while ago, that this vessel when completed will be superior to any of the monitors, and if she were armed with good guns I would much rather (although I am not a professional man in the military sense) take my chances on board of the well-seasoned, easily maneuvered, quick-sailing New York, than on board the Miantonomoh or any other monitor in the service.

Mr. BOUTELLE. Will my colleague on the Naval Committee yield for a question?

Mr. MCADOO. Certainly.

Mr. BOUTELLE. Do I understand you to hold that there is anything in connection with the model of a monitor which prevents her from carrying as much defensive armor as a broadside ironclad?

Mr. MCADOO. I do not know. I only state how our monitors are clad.

Mr. BOUTELLE. But I want a specific answer to my question: Do I understand you to hold that there is anything about the monitor class of vessels which prevents them carrying as heavy armor as the broadside ironclads?

Mr. MCADOO. No. All I say is that they are steel-clad, as everybody knows—steel-clad in more ways than one.

Mr. BOUTELLE. Is it not true, on the contrary, that, on account of the low free-board, a vessel of the same displacement, built on the monitor plan, can carry infinitely more armor than a broadside ironclad?

Mr. MCADOO. Mr. Chairman, all I have to say in reply to my nautical, scientific, and elaborate friend from Maine [Mr. BOUTELLE] is, that these monitors have seven inches of armor in the center and five inches at the ends; and I say that if this journal from which I have read an extract be correct, that armor would be unable to stand one single, well-directed shot from an 80-ton gun.

Mr. BOUTELLE. Mr. Chairman, I do not wish to press my friend, but I affirm here a very confident belief that a vessel of a certain displacement whose hull is only three feet above the water, and which needs to be armored only for a surface of two or three feet above water, can certainly carry much more defensive armor than a wall-sided vessel with a high free-board.

Mr. MCADOO. Mr. Chairman, I am not up before the civil-service examiners for a position as a naval engineer [laughter], but I say that these monitors are not worth as much as this New York will be when completed.

Mr. BOUTELLE. Mr. Chairman, I was addressing my remarks to the Scientific Journal from which the gentleman [Mr. MCADOO] has quoted.

Mr. HEWITT, of New York. Mr. Chairman, I hold in my hand the latest list which has been published (and it comes down to within one month of the present time) of the ironclads, which are regarded as obsolete by the great powers. They are eighty-five in number—nearly all of them constructed since 1865. Twenty-one of them belong to Great Britain, twenty to France, nine to Italy, and twenty-seven to Russia. Of the twenty-one belonging to Great Britain fourteen are plated with iron, and are of greater tonnage and more horse-power than the ship which this bill proposes to finish. Let me quote one or two instances. Here is the Northumberland, belonging to Great Britain, built of iron, displacement 10,780 tons, mean draught twenty-eight feet, with twenty-seven heavy guns and eighteen light guns, carrying seven hundred and forty-four men, and having a horse-power of 6,560 and a speed of 14.1 knots. Then follow thirteen others, including the Agincourt, the Minotaur, the Achilles, the Warrior, the Black Prince—all of them larger and better ships and with a higher rate of speed than this one of ours, and ironclads at that. These are vessels which Great Britain has determined to discard. Then here are twenty ships belonging to France,

the list beginning with the Héroïne of 5,887 tons. Then follow the Revanche and Savoie of 5,819 tons each, and the Surveillante of 5,758 tons. So I might run through the list, every one of these being a better and faster ship than the one we propose to waste our money upon if we enact this bill.

Italy, which we look upon as a second-rate power, is going to discard nine ships—first the broadside ship Roma, built of wood, displacement 5,700 tons, mean draught 24½ feet, armor 4¾ and 4½ inches, with twenty-two heavy guns and twelve light guns, speed thirteen knots, coal capacity five hundred and fifty-eight tons, steam cruising power at ten knots 3,000 miles. This ship upon which we propose to spend our money could not carry coal enough to steam 1,500 miles. Yet here is Italy about to discard this vessel the Roma; and I have no doubt she would gladly sell it to us for one-half what we propose to spend upon the completion of this ship.

Russia is about to discard twenty-seven ships, beginning with two wooden ships, the Sevastopli, 6,275 tons, and the Petropaulovsk, 6,040 tons.

I will not take up time in enlarging upon this subject further, but the proposition here is that at this day this country, which has been complaining that it had no navy, which has declared in the platforms of both parties that it intends to have a navy, shall, upon a proposition from a Democratic committee, spend money in completing an old ship which can float, I have no doubt, but which, if struck with one of the guns of one of these discarded ships, would go straight to the bottom. [Applause.]

Mr. TALBOTT. Are not all these vessels which are being discarded armored vessels?

Mr. HEWITT, of New York. Not all of them, but nearly every one of them.

Mr. TALBOTT. This is not to be an armored vessel.

Mr. HEWITT, of New York. Certainly not; and that is an additional reason why it should not be built. There is not a nation in the world to-day that would think of building an unarmored ship except as a fast cruiser, or "commerce-destroyer," as it is called; yet it is proposed to build an unarmored ship that could not get away from any one of these armored ships which other nations are discarding as too slow. If we build unarmored ships they should be the fastest ships afloat, or they are failures.

[Here the hammer fell.]

Mr. HUTCHINS. Mr. Chairman, I agree with what the gentleman from New York [Mr. HEWITT] has said. He knows perfectly well that it is not our intention to proceed with the policy of building wooden ships. Every word that he has uttered, however, would apply to the proposition to expend 30 per cent. of the value of wooden vessels in repairing them. Will the gentleman tell me whether we have to-day a single vessel afloat that is seaworthy?

Mr. HEWITT, of New York. I think not; and we do not want any more of such vessels.

Mr. HUTCHINS. Then should we not take measures to have one good vessel; and when we have a report from the proper Department saying that for a comparatively small sum of money we may have a vessel good for some purposes, why not complete it?

Mr. Chairman, we must take things as they are. The gentleman knows perfectly well that England to-day, notwithstanding all her discarded vessels, has an effective tonnage of 345,000 tons; France has 209,000 tons, and Russia comes next with 119,000 tons. The United States has but 22,000 tons; and are we to sit still and refuse to appropriate a small sum to complete one good vessel?

We do not desire to cut off supplies for repairs of wooden vessels because they are comparatively worthless. His argument is hardly fair. I would not expend any money to construct a new wooden vessel, but until we have steel cruisers, until we have armored battleships, until we have something in the shape of a navy which will stand by the side of other navies of the world, I am willing to appropriate a small sum to complete this ship.

Mr. HEWITT, of New York. Allow me to read to you at that point: "The admiralty count upon the wooden hulls of twenty-three French ironclads as a source of future weakness."

Mr. HUTCHINS. Undoubtedly, and we would discard them under similar circumstances.

Mr. HEWITT, of New York. Why then build up weakness? Let us build up strength.

Mr. HUTCHINS. This is, I am aware, a temporary expedient until we can have time to build war ships which we hope will be the pride of the nation.

I will yield now for one minute to my colleague [Mr. COX].

Mr. COX, of New York. I want to answer my colleague in one word, and that is this: When he reads from these old statistics with which we are all familiar——

Mr. HEWITT, of New York. This is new; I got it by mail.

Mr. COX, of New York. I got it fresh the other day by mail. It is old now. He simply fails to recognize the fact that the projectiles of the world, the power of explosion, the chemistry of which he is a recognized element, can drive through any ironclad possible, and therefore people are discarding ironclads because the projectiles, the force of powder or something else, is greater than ironclads. In other words, there is more force in powder and ball and projectile than in the defensive operations of our Government. Therefore they are disposing of their old ironclads. Offensive war is bigger than defensive, and everybody knows it. No one knows it so well as my friend who is engaged in steel and iron manufacture.

Mr. HEWITT, of New York. Does not my colleague know every ship abroad has heavy iron clad on it now?

Mr. COX, of New York. Because we have artillery, because we have cavalry, shall we discard infantry? Because we have ironclads or torpedoes, shall we give up wooden ships altogether?

Mr. HEWITT, of New York. Yes.

Mr. COX, of New York. No, sir.

The CHAIRMAN. The gentleman's time has expired.

Mr. RANDALL. The Committee on Appropriations is not a Democratic committee, as has been pushed into this debate by the suggestion of the gentleman from New York [Mr. HEWITT]. We realize that a new navy, a more powerful navy, is required, and we also realize that these vessels which are now unfinished and can be made useful should be completed. We commenced that last year by making an appropriation to finish the Mohican. We realize it and recognize it to-day in recommending that the New York shall be completed.

But while as a fighting navy and cruising navy we realize that steel cruisers and heavy-armed vessels are essential to the fighting necessities of war, at the same time we know that this vessel can be made of great service in the Navy, as has been recommended for two years at least by the Secretary of the Navy. Why, you might as well say you would make an army entirely of infantry, and forget cavalry and artillery altogether.

The whole tenor of this bill goes to recognize, if it had been proper so to state it, the requirements of political platforms. We also know this vessel, as stated by the experts of the Government, can be made useful and can be finished with due economy to the Government.

Mr. HORR. Did I understand the gentleman to say that the Secretaty of the Navy recommended this?

Mr. RANDALL. I say so unqualifiedly.

Mr. HISCOCK. Will the gentleman read where the Secretary recommends it?

Mr. RANDALL. I have the recommendation here.

Mr. HISCOCK. Have one read.

Mr. RANDALL. It is expressed in his report last year and in this, where he estimates for the New York $400,000.

Mr. HISCOCK. Have that part read.

Mr. RANDALL. I will have it read with pleasure.

Mr. HEWITT, of New York. I would like to ask my friend from Pennsylvania when the present Secretary of the Navy became an authority for this side of the House?

Mr. RANDALL. I would as soon trust him in authority as you.

Mr. HEWITT, of New York. That is a personal remark which the gentleman's own answer will explain.

Mr. KEIFER. I am willing to yield to allow that to be read.

The CHAIRMAN. The Clerk will read what the gentleman from Pennsylvania forwards to the desk.

The Clerk read as follows:

Executive Document, No. 1, part 3, Forty-eighth Congress, first session, page 31.
Increase of Navy: Completing hulls of the New York and Mohican, $400,000.
Annual report of the Secretary of the Navy for the year 1884, page 40.
For completion of the New York, $590,000.

Mr. RANDALL. These are the reports of the Secretary of the Navy for the two years to which I have referred.

Mr. HISCOCK. I desire to call the attention of the gentleman from Pennsylvania to the fact that this is precisely what we find in the Book of Estimates, a submission simply under the law and nothing else.

Mr. RANDALL. I take it for granted that the Secretary of the Navy would not put anything in his report that did not meet his approval.

Mr. HISCOCK. We need not have any confusion or misunderstanding about this matter, because the gentleman knows that many items are submitted under the law that are not recommended.

Mr. RANDALL. The gentleman from New York knows that they are recommended. The Secretary submits matters when there is a doubt whether there is law authorizing the expenditure of the money; and I have caused to be read now from his annual reports the amounts that he has estimated for the completion of these vessels.

Mr. KEIFER. I hope this will not be taken out of my time.

I will say to the distinguished chairman of the Committee on Appropriations that 9 to 6, composing the Committee on Appropriations, may not make that committee entirely Democratic, although they are all very distinguished gentlemen, but it gives a very good majority.

Mr. REED, of Maine (from his seat). It creates quite a suspicion, however. [Laughter].

Mr. KEIFER. Yes, quite a suspicion. Now, these estimates that have been read the gentleman from Pennsylvana claims to afford evidence of a recommendation on the part of the present Secretary of the Navy, or rather he claims that they are entitled to the force of a recommendation on his part, for the completion of the ship New York. That, I claim, is an entire misapprehension.

I happen to know that the present Secretary of the Navy regards the

completion of this vessel as entirely unnecessary in every sense of the word; and that all that is spent on it is worse than thrown away, because it embarks us not in the direction of progress, but rather as indicating a retreating from the little advance position that this nation has taken in the matter of building a navy. It is unfair to the Secretary of the Navy to treat these estimates which he is required by law to make to Congress as committing him to a recommendation that such works shall be carried on; and I want to say that the Committee on Appropriations, not speaking of anything that takes place within its doors, and the House of Representatives, of which I may speak, have not been bound by anybody's recommendations on the subject of paying claims or completing other public works. Why then do they stand up for this?

Now, Mr. Chairman, the most specious, artistic, cunning—if I might use the word and not violate parliamentary usage—argument that is made in favor of completing the New York in the Brooklyn navy-yard comes from the gentleman from Maine [Mr. DINGLEY] and another gentleman from New York [Mr. COX]. They say they would finish this vessel in order that it might be used in case of necessity for a school-ship. A great war vessel as we pretend, if it be finished at a cost of $400,000, which would be more than enough to build a good cruiser, to build a good vessel of war, is to be finished solely because they think it might happen that at some place on the coast of this country we might need a school-ship! We have thirty wooden vessels now, and almost every one of them would do for a school-ship and nothing else. They are fit for nothing else in time of war. Some of them may be used for going on surveying excursions, and there are plenty for that purpose.

My friend from New York [Mr. COX], formerly of Ohio, talked lightly about the Tallapoosa being sunk by a common schooner, and he might have added that it was sunk without any purpose on the part of the schooner to sink it at all. [Laughter.] It was sunk on the coast. This ship, the Tallapoosa, was just about as good as any of these vessels. It was not built only two years ago, but it was rebuilt, as we practically propose to rebuild the New York. That vessel has had twenty years of rest before being used at all, and now you propose to finish it; and it is very remarkable that all at once it becomes extremely necessary to spend $400,000 to finish the ship that everybody well versed in all these naval matters says will be thoroughly valueless as a war ship, and nobody claims that it would be of any value in time of peace unless we wanted to keep school. [Laughter.]

Mr. DORSHEIMER. Mr. Chairman, I have listened to this debate with great interest and I find myself entirely in agreement with the Committee on Appropriations, and think that this item should be approved and the vessel finished. My colleague [Mr. HEWITT] seemed to argue as if only such war ships should be built as were built upon the idea that the enemy's shot could be kept out of the vessel.

I wish to call it to the attention of the House that our own advisory board has not up to the present time advised the construction of one single new ship upon that theory. The four vessels now in course of construction and the vessels which the Secretary of the Navy this year recommended to be built are all cruisers, unarmored vessels of entirely light construction, and penetrable by the ordinary shot fired from the ordinary guns of foreign ships of war. Those vessels are designed upon the theory upon which all naval vessels have been built in the past and by which the naval distinction of the different countries of the world has been won.

Lord Nelson never commanded a ship built upon the theory of keeping the shot of the enemy out; neither did Decatur nor Bainbridge nor Perry ever command such a vessel. But come down to our own times. The most distinguished American naval officer of our generation, with ironclads in his fleet, did not go on board an ironclad when he entered the harbor of Mobile. He stood upon the deck or climbed into the rigging of a wooden vessel.

Now it is by no manner of means a determined thing as to whether it is the true policy to build heavy armored vessels or not. My colleague [Mr. COX] was entirely correct in his statement that there were evident signs that foreign powers were beginning to doubt the policy of building these heavily armored vessels; for in the contest between the target and the gun which has been going on in foreign countries for almost thirty years the gun has come out the victor; so that targets to resist modern guns can not be built and flotation obtained.

I believe that the future naval battles will be fought in vessels as penetrable to shot as any of the vessels commanded by the great naval captains in the beginning of this century, and that our country will find its safety not in the thickness of defensive armor, but, as it has hitherto done, in the fiery hearts of those who man its ships. [Applause.]

If the choice is to be between a penetrable steel vessel and a penetrable wooden vessel, then it is clear enough that the difference between them can not be a very great one, and that there are manifest uses to which wooden ships may still beneficially be put. I here state, and call the attention of my colleague [Mr. HEWITT] to my statement, that there is not now one European power which is not to-day building wooden vessels for its naval service.

[Here the hammer fell.]

Mr. HEWITT, of New York. Will my colleague give me the authority for that statement?

Mr. DORSHEIMER. I will. I will send it to my colleague.

The CHAIRMAN. The question is on agreeing to the amendment of the gentleman from Ohio [Mr. KEIFER].

The question being taken, there were—ayes 22, noes 62.

So (further count not being called for) the amendment was not agreed to.

The Clerk read to the conclusion of the paragraphs appropriating for the Naval Academy.

Mr. FINDLAY. I offer the amendment which I send to the desk.

The Clerk read as follows:

After line 415 insert the following:

"Allowance for reduction of wages under the eight-hour law such sum as may be required in the settlement of all accounts for the services of laborers, workmen, and mechanics heretofore or at present employed by or on behalf of the Government at the Naval Academy at Annapolis, Md., between the 19th day of May, 1869, the date of the proclamation of the President concerning the pay of laborers, workmen, and mechanics under the eight-hour law, and the date of the passage and approval of this act, to settle and pay for the same without reduction on account of the reduction of the hours of labor, as contemplated by the spirit of the act of Congress approved June 25, 1868, commonly known as the eight-hour law. And the money hereby appropriated and necessary to pay such claims shall be made immediately available and be disbursed by the Navy paymaster at said Naval Academy under the direction and supervision of the superintendent thereof.

Mr. HUTCHINS. I make the point of order on that amendment. I suggest to the gentleman from Maryland that he let it lie over until to-morrow and I will examine it.

Mr. RANDALL. I suggest that it shall be agreed we may go back to this amendment.

The CHAIRMAN. Is there objection to passing over the amendment for the present?

Mr. HEWITT, of Alabama. If the point of order is made on it I think it might be as well to have it decided at once.

Mr. HUTCHINS. I hope the gentleman from Alabama will not take the management of the bill out of my hands.

The CHAIRMAN. Is there objection to postponing the decision on this point of order until to-morrow? The Chair hears none.

Mr. RANDALL. The point of order is reserved.

The CHAIRMAN. The Chair so understands.

Mr. COX, of New York. I ask unanimous consent to have printed in the RECORD a communication I have received relative to this subject.

There was no objection.

The letter is as follows:

STATE OF MARYLAND, COURT OF APPEALS,
Annapolis, February 10, 1885.

Hon. S. S. COX,
House of Representatives, Washington, D. C.:

MY DEAR SIR: I duly received your kind reply of December 18, 1884, to my letter of the 17th of the same month, in reference to the proposed relief measure for the Naval Academy employés residing in this city. Your generous offer to aid the measure, as placed in the hands of Mr. FINDLAY, was met by a due manifestation of appreciation by this worthy class of our people.

Inasmuch, however, as the present session is nearing its close, they are fearful that no relief can come to them through the bill recently introduced by Mr. FINDLAY in their behalf, unless it can be secured by way of an amendment to one of the three appropriation bills yet to be reported, namely: the general naval, sundry civil, or deficiency bills. In view thereof, I have prepared and fowarded to Mr. FINDLAY a draught of an amendment, embracing the substance of his bill (No. 7607), and which, if it can by any possibility of a chance be incorporated in either of said appropriation bills, would secure the attainment of the purposes desired.

I herewith inclose you a copy of said proposed amendment, which is almost a literal transcript—*mutatis mutandis*—of the provision contained in the act of 1872, and as now codified as section 3689 of the United States Revised Statutes. By reference to the latter, if time will permit, you will see that these very employés (among others) were paid for all the time employed at the academy in excess of eight hours from the date of the passage and approval of the eight-hour law up to and including the date of the President's proclamation, to wit, May 19, 1869, since which date they have received no compensation for the extra hours so employed, the eight-hour law here having been practically ignored by the Navy Department, and per consequence at the Naval Academy.

So familiar are you with all the minutiæ pertaining to matters of national legislation, it would appear unseemly in me, if not quasi-egotistic, were I to attempt to proffer the least suggestion in regard to the best mode of securing favorable consideration and action in the premises; nevertheless, you, I am sure, will not take it amiss if in my zeal for these worthy people I should earnestly request that you will, should you find it convenient to spare sufficient time from the multiplicity of public and local matters which so heavily and necessarily tax your patience, in conjunction with Mr. FINDLAY or otherwise, bring to bear upon the Committee on Appropriations your kind and generous influence whereby the consent of its members may be obtained, in committee, to permit the incorporation of the inclosed proposed amendment in either one of the three appropriation bills hereinbefore mentioned. You will perceive that the proposed amendment is local in its character, and was drafted in that wise in view of a knowledge of the fact that our friend SAMUEL J. RANDALL seems strongly inclined to oppose large appropriations and exhibits rather a sensitive, if not niggardly, disposition toward disturbing the quiet of what has been commonly denominated the "Treasury's unnecessary surplus." Indeed, it would seem that this surplus is by no means unnecessary, for the mere exhibition of the just claims of these employés would be a sufficient answer to the contrary. By way of parenthesis let me remark that to the eyes of many, at least to those outside of the Halls of our national Legislature, it would seem to appear that were the Government to employ a part, at least, of its present surplus money in liquidating its just obligations toward its own citizen-creditors, the long-heard-of lamentations against the $100,000,000 surplus revenue would soon be stifled and appeased.

I can but hope, my dear sir, that the merits of this measure may receive the hearty approval on the part of every member of Congress who pretends to entertain a due and appreciative regard for honest labor, and that, too, in this instance when the Government itself has already reaped the benefit of the daily toil of these laboring people.

Hoping and believing that you will do what lies in your power to do in the premises, I can but assure you that there will ascend from hearts who know how to appreciate a kindly act done in their behalf as holy incense to a higher sphere, heartfelt invocations on the part of these good people and their families.

Mr. HEWITT, of New York. I move to strike out the last word.

It is not often that I take notice of any personal remarks in debate having reference to myself. The gentleman from Pennsylvania, the chairman of the Committee on Appropriations, has chosen to visit me with that heavy club which sometimes he uses to demolish those who have the misfortune to differ with him. At the last session of Congress I happened to be on the same side with that gentleman with regard to monitors and the Secretary of the Navy differed with him. I ask the Clerk now to read the remarks of the gentleman from Pennsylvania [Mr. RANDALL] made then as far as I have marked. And that is all I shall care to say on the subject of the opinion which the gentleman from Pennsylvania now entertains of the Secretary of the Navy and of my humble self.

The Clerk read as follows:

Mr. CALKINS. Who is the author of that?

Mr. RANDALL. Mr. Isherwood, formerly Engineer-in-Chief of the Navy. I might rest the action which we recommend to adhere and not yield to the incorporation of these amounts in the appropriation bill upon the opinion of these two accepted authorities, one now in office and the other formerly at the head of the Engineer Corps of the United States Navy. But I am willing to go further and say if it were necessary that there are not thrown around these propositions those safeguards for the expenditure of the money which circumstances known to the country demand in reference to a Department which is now being investigated.

The next question is as to the monitors. That is a subject which was duly considered in the last Congress, and the Committee on Appropriations of that body did not recommend to the House of Representatives any further appropriation of money in that connection, nor did the House in the passage of the original bill incorporate a dollar for that purpose. The bill went to the Senate, and there the amount was incorporated, and in a sort of coercive way, if I may be allowed in a parliamentary sense to use such a term, the House was compelled to yield. I want to have read in that connection, that it may be still further impressed upon the minds of the House, the language uttered upon this floor by a gentleman here in debate, whose experience as a business man and as a manufacturer in all the forms of iron and steel which enter into the construction of such vessels is large, and whose capacity to judge of such subjects is unquestioned. I ask the Clerk to read from the RECORD what was said on the floor a few weeks ago upon this point. This is a part of the language of the gentleman from New York [Mr. HEWITT].

The Clerk read as follows:

"There are other questions behind this on which I am in full accord with the Appropriations Committee. I believe the monitors are a total failure. I believe every dollar spent on them is wasted, and I shall never vote, as I never have voted, a single dollar in behalf of the monitors.

"I also believe we ought not to build any new cruisers until we know whether those now under way are good for something or not. But we can not tell whether they are good or not until we put guns on them and float them and try what they can do in the open ocean."

Mr. RANDALL. Mr. Chairman, I think that I have said nothing to-day inconsistent with my expressions then, so far as Mr. Chandler was concerned. I have only made the group a little larger in some particulars. I never want to be personally offensive, but the gentleman from New York [Mr. HEWITT] provoked what I said by characterizing the Committee on Appropriations as a Democratic committee——

Mr. REED, of Maine. That was provocation enough. [Laughter on the Republican side.]

Mr. RANDALL (continuing). And then subsequently saying, in substance, that that Democratic committee was following the lead of Mr. Chandler.

Mr. HEWITT, of New York. Mr. Chairman, I beg leave to say that I uttered nothing of the sort. The RECORD will show what was said. I merely now put in a contradiction, and say that I uttered nothing of the kind.

Mr. RANDALL. Well, I so understood it, hearing as well as I can hear, and gentlemen around me also understood that there was an implication in the language of the gentleman from New York [Mr. HEWITT] which was not respectful to the Committee on Appropriations.

Mr. HEWITT, of New York. I have the most immense respect for the Committee on Appropriations. I have been on that committee myself.

Mr. RANDALL. Well, whether that is mutual or not is another matter. But there is one thing certain, that as long as I am at the head of that committee, whenever it is assailed, either by innuendo or in a more courageous manner, I will strike back as hard as I know how.

Mr. HEWITT, of New York. Mr. Chairman, I believe that I never attempt anything by innuendo on this floor. I believe that is not my reputation. The question that I asked was, since when did it happen that the Secretary of the Navy had become an authority upon this side of the House?

Mr. RANDALL. Mr. Chairman, if that was not a reflection on the Committee on Appropriations, I do not know what it means.

Mr. HEWITT, of New York. And if that be a reflection upon the gentleman from Pennsylvania [Mr. RANDALL], it must be because the "shoe fits."

Mr. RANDALL. Oh, well, Mr. Chairman, I am not going to take any offense at that.

Mr. HEWITT, of New York. I should suppose not. The offense has been taken.

Mr. RANDALL. I never take what does not belong to me, and therefore I am not going to be offended by such a remark as that; but I do say again that whenever the gentleman will speak as a man should speak, with clean-cut language, and not by inference or insinuation, I will try to answer him in a like manner.

The CHAIRMAN. The Clerk will continue the reading of the bill.

The Clerk resumed and read to the end of section 1 of the bill.

Mr. THOMAS. Mr. Chairman——

Mr. HUTCHINS. Mr. Chairman, I move that the committee rise.

The CHAIRMAN. For what purpose does the gentleman from Illinois rise?

Mr. THOMAS. I rise to make the point of order against section 2 of this bill.

Mr. KEIFER. That point can not be made until the section is read. General debate comes in upon this section at this time.

Mr. THOMAS. Then I shall ask that the point of order be reserved.

Mr. KEIFER. It is reserved.

Mr. RANDALL. Mr. Chairman, I wish that the gentleman from Illinois shall be recognized at the proper time to make the point of order against the second section.

Mr. KEIFER. The gentleman from Pennsylvania [Mr. RANDALL] will agree that the right time to make the point is when the section is read.

Mr. RANDALL. After the general debate on the first section the second section can be read.

Mr. THOMAS. All I ask is that the point shall be reserved.

The CHAIRMAN. The Chair understands that the point of order is pending. The gentleman from New York [Mr. HUTCHINS] moves that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and Mr. BLACKBURN having resumed the chair as Speaker *pro tempore*, Mr. WELLBORN reported that the Committee of the Whole House on the state of the Union had had under consideration the bill (H. R. 8239) making appropriations for the naval service for the fiscal year ending June 30, 1886, and for other purposes, and had come to no resolution thereon.

HOUR OF MEETING.

Mr. WILLIS. Mr. Speaker, I ask unanimous consent that the hour of meeting to-morrow (Friday) be 12 o'clock instead of 11.

Mr. BROWN, of Pennsylvania. If we can have an understanding that we shall adjourn before 12, I have no objection to the change of hour.

Mr. WILLIS. That is the understanding, that the morning hour shall not be cut out.

The SPEAKER *pro tempore*. The gentleman from Kentucky [Mr. WILLIS] asks unanimous consent that the hour of meeting to-morrow be 12 o'clock instead of 11. [After a pause.] In the absence of objection it is so ordered.

Mr. WOLFORD. Mr. Speaker, to-morrow night is pension night, and I ask unanimous consent that the hours for the evening session be changed so that we may meet at 7 and adjourn at 9 o'clock.

The SPEAKER *pro tempore*. The Chair has been requested by the chairman of the Committee on Invalid Pensions to state to the House that he does not believe that the work that that committee will have on hand for to-morrow evening's session can be accomplished in any limited time.

Mr. CANNON. Then I object.

LEAVE TO WITHDRAW PAPERS.

Mr. MORSE, by unanimous consent, was granted leave to withdraw the papers in the case of the executrix of Daniel Carroll, deceased.

LEAVE TO PRINT.

Mr. LAIRD, by unanimous consent, was granted leave to extend his remarks on the subject of the bill presented by him to-day under the special rule.

THE CONGO CONFERENCE.

The SPEAKER *pro tempore* laid before the House the following message from the President; which, with the accompanying papers, was referred to the Committee on Foreign Affairs, and ordered to be printed:

To the House of Representatives:

I transmit herewith, in response to a resolution of the House of Representatives of the 5th instant requesting copies of all the communications which have been received respecting the Congo conference, and especially copies of the text of the commissions or powers sent by this Government to each of the three American plenipotentaries or agents, a report of the Secretary of State.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *February* 19, 1885.

PROTECTION OF SUBMARINE CABLES.

The SPEAKER *pro tempore* also laid before the House the following message from the President; which, with the accompanying papers, was referred to the Committee on Foreign Affairs, and ordered to be printed:

To the House of Representatives:

I transmit herewith a report of the Secretary of State, of the 19th instant, recommending the enactment of a law for the protection of submarine cables, in pursuance of our treaty obligations under the international convention in re-

lation to the subject, signed at Paris on the 14th day of March, 1884, and commend the matter to the favorable consideration of Congress.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *February* 19, 1885.

FRENCH-AMERICAN CLAIMS COMMISSION.

The SPEAKER *pro tempore* also laid before the House the following message from the President; which, with the accompanying papers, was referred to the Committee on Appropriations, and ordered to be printed

To the House of Representatives:

With reference to my communication of the 27th ultimo, transmitting to the House of Representatives a preliminary report of the Secretary of State, dated the 26th of January, 1885, in response to the resolution of the House of the 9th of January, 1885, calling for copies of the accounts and vouchers of the disbursing officers of the French-American Claims Commission and containing other information in relation to the transactions of said commission, I now transmit herewith a further report on the subject by the Secretary of State, dated the 17th instant, which is accompanied by the desired copies of the accounts and vouchers in question.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *February* 19, 1885.

YACAMA INDIAN RESERVATION.

The SPEAKER *pro tempore* also laid before the House the following message from the President; which, with the accompanying papers, was referred to the Committee on Indian Affairs, and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith a communication of the 16th instant from the Secretary of the Interior, submitting, with accompanying papers, a draught of a bill "to accept and ratify an agreement with the confederated tribes and bands of Indians occupying the Yacama reservation in the Territory of Washington for the extinguishment of their title to so much of the said reservation as is required for the use of the Northern Pacific Railroad and to make the necessary appropriation for carrying out the same."

The matter is presented for the consideration and action of the Congress.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *February* 19, 1885.

DEDICATION OF WASHINGTON MONUMENT.

The SPEAKER *pro tempore*. The Chair desires to call the attention of the House to the fact that, by the arrangements made by the committee having in charge the ceremonies of Saturday next, the desks will have to be removed from the Hall of the House to-morrow night.

Mr. MCADOO. Mr. Speaker, I would ask by whose authority that is to be done?

The SPEAKER *pro tempore*. The Chair would state that by the provisions of the concurrent resolution of the two Houses of Congress the committee has entire charge of the arrangements for the ceremonies.

Mr. MCADOO. I ask unanimous consent that that part of the arrangements be set aside. I do not think it is desirable to have our desks removed.

The SPEAKER *pro tempore*. The Chair scarcely thinks that the House by unanimous consent can vacate a concurrent resolution.

Mr. BLAND. Did that resolution authorize the seats to be removed from the Hall of the House?

The SPEAKER *pro tempore*. The hour of 6 o'clock having arrived, the House stands in recess until to-morrow at 10 a. m.

AFTER RECESS.

The recess having expired, the House reassembled at 10 o'clock a. m. (Friday, February 20), Mr. BLACKBURN in the chair as Speaker *pro tempore*.

LEAVE OF ABSENCE.

Mr. HURD, by unanimous consent, obtained leave of absence for ten days, on account of important business.

EXPLORATIONS IN NORTHERN ALASKA.

The SPEAKER *pro tempore* laid before the House the following concurrent resolution of the Senate; which was referred to the Committee on Printing:

Resolved by the Senate (the House of Representatives concurring), That there shall be printed 5,500 copies of the report of Lieut. George M. Stoney, United States Navy, of his recent explorations in Northern Alaska, with the accompanying charts; 1,500 copies for the use of the Senate, 3,000 for the use of the House, and 1,000 for the use of the Navy Department.

ORDER OF BUSINESS.

Mr. WILLIS. Mr. Speaker, I would be glad if the House would by unanimous consent agree upon some limit as to the debate on the pending paragraph of the river and harbor appropriation bill.

Mr. REED, of Maine. I do not think that ought to be done.

Mr. WILLIS. I would be glad if some arrangement could be made.

Mr. REED, of Maine. I think, Mr. Speaker, the situation of things is such that the gentleman from Kentucky ought not to ask that. We have met here—fifteen or twenty members—this morning. Consent was granted last night, contrary to an understanding which existed while a majority of members were here, extending the present sitting of the House for an hour. I think under all these circumstances we ought not to have any such limitation of debate as is suggested. I believe we ought to go right on.

Mr. O'NEILL, of Pennsylvania. I hope we shall adopt any limitation that may be possible on this bill so as soon to get it out of the way in some manner. I think the gentlemen who have met here this morning came here to go on with the consideration of this bill——

Mr. REED, of Maine. I have not a doubt of it.

Mr. O'NEILL, of Pennsylvania. And I think we had better do what we can in that direction. I hope the objection will be withdrawn and that we shall go on until we reach some point where there is objection.

Mr. REED, of Maine. I do not think that it is fair to members who are absent.

Mr. WILLIS. I have made this suggestion in good faith. The House is aware of the fact that the time for debate on this section was limited to one hour and a half, and afterward, upon the suggestion of some of the recognized opponents of the bill who stated that it would facilitate the passage of the measure, the time was enlarged to allow three minutes' debate on every *bona fide* amendment. The enlargement of the time was made in good faith on this side and for the purpose of facilitating the passage of the bill, with the implied understanding certainly, if not the express understanding, that all that was wanted was a vote upon these propositions with a brief time to explain them. We have consumed several hours under this extended time; and I submit that as a matter of good faith we ought now to fix some limit to debate on this paragraph, which has already been discussed two hours; that we ought to agree on some reasonable time within which the discussion shall be concluded.

Mr. REED, of Maine. I say again to the gentleman from Kentucky [Mr. WILLIS] that last night the present sitting of the House was extended beyond what was agreed upon when a full House was present. There was not a quorum present last night when the change was made. I was present, but did not object, because I had no objection whatever to this bill going on under full and free discussion; and I have none now. My impressiou is that the gentleman will accomplish most if he allows the debate to go right on.

Mr. WILLIS. Well, Mr. Speaker, I move that the House resolve itself into Committee of the Whole on the state of the Union.

RIVER AND HARBOR APPROPRIATION BILL.

The motion of Mr. WILLIS was agreed to; and the House accordingly resolved itself into Committee of the Whole on the state of the Union (Mr. HAMMOND in the chair), and resumed the consideration of the bill (H. R. 8130) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.

The CHAIRMAN. When the Committee of the Whole rose yesterday tellers had been ordered on a motion of the gentleman from Kentucky [Mr. WHITE] to strike out what is known as the Mississippi River paragraph. The gentleman from Arkansas, Mr. BRECKINRIDGE, and the gentleman from Kentucky, Mr. WHITE, had been asked to act as tellers. The gentleman from Kentucky being now absent, the gentleman from Pennsylvania, Mr. BROWN, will please act as one of the tellers. The tellers will take their places.

The committee divided; and the tellers reported—ayes 4, noes 19.

The CHAIRMAN. No quorum has voted.

Mr. MILLS. No point is made.

Mr. BRECKINRIDGE. No one is insisting on a quorum.

The CHAIRMAN. No quorum being insisted upon, the amendment is rejected.

The next amendment (by Mr. HEPBURN) was read, as follows:

Strike out lines 922 to 938 inclusive and insert the following:

"For the continuation of the improvement of the Mississippi River, $1,000,000, to be expended in the completion of the Plumb Point and Lake Providence reaches."

Mr. WILLIS. I ask a vote on that amendment.

Mr. REED, of Maine. Mr. Chairman, the strongest ground, the real ground, of opposition on the part of those who are opposed to this bill is the continuance of this Mississippi scheme—a scheme which is objectionable in every point of view. It is objectionable on the ground that it is an expenditure of a large sum of money, which expenditure, by the declarations of the committee itself, has been shown to be useless—a waste of the public money. It is objectionable upon another ground, that the ports and harbors of this country which really need improvement are to-day being robbed of proper appropriations for the sake of this ill-judged expenditure.

Mr. BLANCHARD. Will the gentleman name one?

Mr. REED, of Maine. And it will be noticed that not a single word has been said in defense of this scheme. Not a single argument which has been presented by the gentleman from Arkansas has been met by the so-called friends of this appropriation. They have remained under the very scathing denunciation which he has given to this scheme. Now, he himself has not rectified it by proposing that the committee should stand by the original plan.

Mr. BRECKINRIDGE. How can the gentleman state that when it is in plain contradiction of the facts which appear before us?

Mr. REED, of Maine. What is the contradiction?

Mr. BRECKINRIDGE. We denounce the departure from the original plan.

Mr. REED, of Maine. The gentleman can not take all my time.

Now, Mr. Chairman, I say it is not remedied by the change which the gentleman from Arkansas desires to make.

Mr. BRECKINRIDGE rose.

Mr. REED, of Maine. It is known that the commission are carrying out the very plan on which they started——

Mr. BRECKINRIDGE. The gentleman can not assert that.

Mr. REED, of Maine. With only such additions as their experience has justified, and those additions seem to be, even according to the suggestion of gentlemen on the other side, in the very line of this appropriation. That is, they involve more expenditure, and that is what the whole thing seems to be.

Mr. BRECKINRIDGE. We can not expect any appreciation from the gentleman from Maine and the railroads, which want only the commerce that seeks to go down to the Gulf.

Mr. REED, of Maine. That is part and parcel of the glamour which is intended to be thrown over this question. This is no contest between railroads—it is a question between some gentlemen and the Treasury of the United States.

[Here the hammer fell.]

Mr. BRECKINRIDGE. That is all we expect from the gentleman from Maine.

The CHAIRMAN. The question before the committee is on the amendment of the gentleman from Iowa [Mr. HEPBURN].

Mr. REED, of Maine. Let it be reported again.

Mr. BLANCHARD. I object to that.

Mr. BRECKINRIDGE. No; let it be read again.

The CHAIRMAN. The question is on the amendment of the gentleman from Iowa [Mr. HEPBURN].

Mr. REED, of Maine. I ask for a division.

The committee divided; and there were—ayes 8, noes 33.

The CHAIRMAN. So the amendment does not prevail.

Mr. REED, of Maine. I raise the point of no quorum.

Mr. WILLIS. It comes too late.

Mr. REED, of Maine. I wish simply to say to the gentleman from Kentucky that I had an amendment which I proposed to offer but in some way has been lost from my seat. I simply desire time to prepare another amendment.

Mr. WILLIS. The last time the gentleman from Maine spoke it was against the order of the House, but we made no objection. Although he was not the gentleman offering the amendment we allowed him to speak upon it.

Mr. REED, of Maine. All I wish to do is to offer the amendment which I had already in my seat.

The CHAIRMAN. As the Chair understands the gentleman from Maine he desires time to prepare an amendment agreeing to withdraw his demand for a quorum.

Mr. REED, of Maine. I only made the point for that reason.

The CHAIRMAN. The amendment, then, of the gentleman from Iowa is rejected, and the Chair hears no objection to the request of the gentleman from Maine. The gentleman from Maine will send up his amendment.

Mr. BRECKINRIDGE. The Clerk has other amendments to read, which can be done while the gentleman is preparing his amendment.

The next amendment (by Mr. WASHBURN) was read, as follows:

Strike out in line 928, commencing with "together," to "Ohio River," in line 930, inclusive, as follows: "Together with the sums herein appropriated for the Mississippi River from Des Moines Rapids to the mouth of the Ohio River."

Mr. WILLIS. If the gentleman will allow me half a minute I will say that simply takes out the upper part of the river from the charge of the Mississippi River Commission.

Mr. WASHBURN. If the gentleman will allow me to state the effect of my own amendment——

Mr. WILLIS. I was going to say so far as I knew there was no objection to it.

Mr. WASHBURN. The gentleman is wholly mistaken. The effect of it is to retain the portion of the river between the Des Moines Rapids and the Illinois River under the management of the Engineer Department, and restore the part from the Illinois River to the Ohio River to the commission. All this work has been done under the control of the Engineer Department, and has been entirely successful and entirely satisfactory to the people interested.

Mr. THOMAS. I object.

The CHAIRMAN. The Chair will remark that the private colloquy going on between gentlemen cannot be heard by the reporter.

Mr. BLANCHARD. We can not accept that.

Mr. WASHBURN'S amendment was rejected.

Mr. WASHBURN. I move another amendment.

The CHAIRMAN. The amendment of the gentleman from Maine is now at the Clerk's desk.

Mr. REED, of Maine. Let the gentleman go on and finish up the matter while it is fresh before the House.

Mr. WASHBURN. No; I will withhold my amendment.

Mr. REED, of Maine. I offer the following amendment.

The Clerk read as follows:

Strike out lines 922 to 938, as follows:

"Improving Mississippi River from the head of the passes to the mouth of the Ohio River, including the rectification of the Red and the Atchafalaya Rivers at the mouth of Red River, and for keeping open a navigable channel through the mouth of Red River into the Mississippi River: Continuing improvement, $2,800,000; which sum, together with the sums herein appropriated for the Mississippi River from Des Moines Rapids to the mouth of the Ohio River, shall be expended, under the direction of the Secretary of War, in accordance with the plans, specifications, estimates, and recommendations of the Mississippi River Commission, as approved or amended by an advisory engineer of said commission, which office is hereby created, said advisory engineer to be appointed by the President, at a salary of $3,500 per annum; and James B. Eads is hereby recommended to the President for that position."

And in lieu thereof insert the following:

"Preserving improvements on the Mississippi River, $500,000; for preserving the improvements made by the commission in the Mississippi River, which commission shall report to the next Congress the results of the improvements already made."

Mr. REED, of Maine. I believe that amendment contains the true treatment this subject ought to receive. I believe the plans which have been presented to the House already show conclusively that this expenditure is not justifiable, except after the completion of the experiment which has already been entered into.

In reply to some observations which I made a moment ago, the gentleman from Arkansas [Mr. BRECKINRIDGE] indulged in some remarks with regard to railroads. Now, I call the attention of the House to the fact that such expressions are used simply to create prejudice, and not for the furtherance of argument upon this question. I admit the right and propriety of the Congress of the United States making appropriations to facilitate the transportation of goods by water and thereby exercising a control over the rates which railroads may charge. But like every other business proposition the details of such an arrangement ought to be upon business principles; in other words, if you propose to curb the railroads and bring them within the controlling power of the water ways, it is your duty to do it by an expenditure which will produce that result. But there never has been a time when the Mississippi River would not hold all the commerce that could be put upon it. There never has been a time when this expenditure was necessary even if it would produce the results which are claimed for it by its friends.

But when it has been proved here by the admissions of the committee, by the statements of facts and by the reports of the officers of the Government. that the scheme as attempted is a failure, that it has given every indication of being a failure, I say to continue this under the pretense of regulating railroads is to palter with sound business sense. The commerce of the Mississippi River to-day will demonstrate the truth of what I have said.

[Here the hammer fell.]

Mr. BRECKINRIDGE. I move to strike out the last word.

Mr. WILLIS. I object to that.

Mr. BRECKINRIDGE. I wish to say just a word in reply.

Mr. WILLIS. I must insist upon a strict enforcement of the rule.

Mr. REED, of Maine. The gentleman from Arkansas does not understand me as objecting. I earnestly second his effort for a full and open discussion of this matter.

Mr. BLANCHARD. Yes; to kill the bill if you can.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Maine, which has just been read.

The amendment was not agreed to.

Mr. REED, of Maine. I know by experience the thing is too consolidated to hope anything from a division.

The next amendment (by Mr. WASHBURN) was read, as follows:

Strike out "Des Moines Rapids," in line 929, and insert "mouth of the Illinois River."

The question was taken; and on a division there were—ayes 13, noes 10.

So the amendment was agreed to.

The next amendment (by Mr. HEPBURN) was read, as follows:

Insert, after line 927, the following:

"*Provided*, That the sum last named shall be expended for no other purpose than to complete the work on the Plum Point and Lake Providence reaches."

Mr. THOMAS. I make the point of order upon this amendment that the same subject has been voted down this morning.

The CHAIRMAN. The gentleman from Illinois makes the point of order that this is the substance of what has been already considered and disposed of. Is it conceded to be the same amendment which has been acted upon?

Mr. HEPBURN. It is not so conceded by me.

Mr. THOMAS. It is a fact, however, whether the gentleman concedes it or not. I feel satisfied that this amendment has been voted upon already.

The CHAIRMAN. The record of the proceedings of yesterday will decide it.

Mr. HOLMAN. The other proposition, I think, was to reduce the amount.

The CHAIRMAN. The Chair will deem that it has not been acted upon unless the gentleman will furnish the amendment to which he refers.

Mr. THOMAS. I have not a copy of it before me, but I am satisfied an investigation will show that it is substantially the same.

The CHAIRMAN. The Chair will cause the amendment heretofore acted upon, and which the Chair presumes the gentleman from Illinois refers to, to be read.

The Clerk read as follows:

Strike out line 922 to 938, inclusive, and insert:
"For the continuation of the improvements of the Mississippi River, $100,000, to be expended in the completion of the Plum Point and Lake Providence reaches."

The CHAIRMAN. It is evident to the Chair that the two amendments are not identical.

Mr. HEPBURN. Mr. Chairman, I want to call the attention of the committee to the statements which have been made in every report furnished by the Mississippi River Commission, as well as by gentlemen on this floor, to the effect that the improvements now being made on the Mississippi River are entirely in the nature of experiments. No gentleman has yet claimed that these improvements will be successful. Every one who has spoken upon the subject and ventured an opinion, has either said that they were experimental, or, like the gentleman from Arkansas, has said that they were absolutely worthless.

Mr. BRECKINRIDGE. How can the gentleman claim that, when we are simply seeking in the preparation of this bill to stop that which is only experimental and stick to that which is not experimental?

Mr. HEPBURN. I do not yield for an interruption. I know what the language of the gentleman was.

Mr. BRECKINRIDGE. But the gentleman mistakes my language. We have asked to be relieved of the incubus that rests upon the work.

Mr. HEPBURN. I am aware of no change which is made by the bill imposing any new duties upon the commission as far as this work is concerned.

Mr. BRECKINRIDGE. The bill does not recommend an expenditure of a dollar for experimental purposes. The design is to prevent new methods of procedure.

Mr. HEPBURN. They are simply acting upon the plan, in my judgment, as originally proposed.

Mr. BRECKINRIDGE. Ah! in your judgment.

Mr. HEPBURN. Now, the first plan ever proposed provided for this work of revetments, the work of spur-dikes, the work of artificial embankments in midriver, and the commission have done no other work, except upon these three classes of improvements, excepting on the levees.

Mr. KING. Will the gentleman from Iowa permit me to ask him a question?

Mr. HEPBURN. I have not time to answer questions in three minutes.

Mr. KING. I wish to ask just one question.

Mr. HEPBURN. I prefer not to be interrupted.

Mr. KING. I only want to make a correction.

Mr. HEPBURN. I do not want to be corrected. I am satisfied with my own knowledge of the subject.

The CHAIRMAN. The time of the gentleman from Iowa [Mr. HEPBURN] has expired.

Mr. HEPBURN. I hope the Chair will remember that I have been interrupted without my consent.

A MEMBER. Let him have two minutes more.

The CHAIRMAN. The Chair will ask if it is the pleasure to extend the time of the gentleman from Iowa for two minutes?

Mr. KING. Give him five minutes.

The CHAIRMAN. Is there objection to extending the time for two minutes?

Mr. DUNN. I object. Only half a minute was occupied by interruptions.

Mr. REED, of Maine. The gentleman from Arkansas [Mr. BRECKINRIDGE] and the gentleman from Louisiana [Mr. KING] seem desirous to discuss this question. I ask unanimous consent be given to allow those gentlemen to be heard.

Objection was made.

The CHAIRMAN. The question is on the amendment of the gentleman from Iowa [Mr. HEPBURN].

The question being taken, there were—ayes 21, noes 37.

Mr. HEPBURN. I make the point that a quorum has not voted.

The CHAIRMAN. A quorum not having voted the Chair will order tellers, and appoints the gentleman from Iowa, Mr. HEPBURN, and the gentleman from Kentucky, Mr. WILLIS.

The committee again divided; and the tellers reported—ayes 55, noes 109.

So the amendment was not agreed to.

The Clerk read the next amendment (offered by Mr. WHITE, of Kentucky), as follows:

Amend by striking out lines 922 to 944 inclusive.

Mr. WHITE, of Kentucky. I desire to submit to the Chair a question of order. My amendment is not intended to cut off amendments offered to what has been read. It goes a few lines further than the Clerk has read. The point of order I wish to make is that if I should fail to carry this amendment——

The CHAIRMAN. The committee will come to order; the Chair is unable to hear the gentleman from Kentucky.

Mr. WHITE, of Kentucky. I was stating, Mr. Chairman, that, if I understand correctly, the Clerk has read as far down as line 938.

The CHAIRMAN. The whole section has been read.

Mr. WHITE, of Kentucky. I mean in the second reading.

The CHAIRMAN. The whole section has been read, and the bill is not being reread.

Mr. WHITE, of Kentucky. The point of order I wish to raise is this, that in case this amendment, which goes to line 944, shall fail, would it then be in order to move to amend any portion of the paragraph ending with line 938?

The CHAIRMAN. It would.

Mr. WHITE, of Kentucky. Then I desire to address myself for the three minutes to the amendment which has been read by the Clerk. I propose to strike out from line 922 down to and including line 944, taking out the whole provision with regard to the Mississippi River Commission and the examination and surveys at the South Pass and the survey of the Mississippi River from the head of the passes to its headwaters. There are $75,000 in the bill for continuing the survey from the head of the passes to the headwaters of the Mississippi River. There is no necessity for that; and we had better strike out this whole business and let us have a further expression of public opinion on what has been done.

Mr. BUDD. What is the gentleman's amendment?

Mr. WHITE, of Kentucky. To strike out all from line 922 to line 944, inclusive.

Mr. BUDD. That includes all of the three paragraphs?

Mr. WHITE, of Kentucky. It does.

Mr. BUDD. All right. Let all friends of the bill vote "ay," and thus save it.

Mr. WILLIS. I have no objection to that.

The amendment was adopted.

Mr. WILLIS. I ask for the reading of the next amendment.

The next amendment (offered by Mr. WASHBURN) was read, as follows:

Amend by inserting, at the end of line 950, the following:
"For the completion of the test of the flume invented by M. J. Adams for the improvement of the navigable channel of the Mississippi River between Saint Paul and Des Moines Rapids, provided for by act of Congress approved March 3, 1879, under the supervision and direction of the said M. J. Adams, $20,000."

Mr. THOMAS. I make the point of order on that amendment.

The CHAIRMAN. The gentleman will state the point of order.

Mr. THOMAS. That it is new legislation, not authorized by law.

Mr. WASHBURN. I do not think it is new legislation.

The CHAIRMAN. That is not material. This is not a general appropriation bill, and the point of order is overruled.

Mr. WASHBURN. I simply desire to say that an appropriation was made by Congress heretofore to make a test of this, and the matter was very fully considered in Congress when the gentleman from Texas [Mr. REAGAN] was chairman of the committee. He has already investigated the matter very fully, and I yield him one minute to be heard.

The CHAIRMAN. The gentleman from Texas [Mr. REAGAN] does not appear to be in his seat.

Mr. WILLIS. I ask for a vote. In the judgment of the committee the test has not proved satisfactory.

The question being taken, the amendment was not agreed to.

The next amendment (offered by Mr. NICHOLLS) was read, as follows:

After line 953 insert the following:
"For building and equipping a dredge-boat, and operating said boat for one year in the improvement of the rivers and harbors in the States of Florida, Georgia, and South Carolina, $100,000."

Mr. BRECKINRIDGE. I desire to say a word about that amendment.

The CHAIRMAN. The gentleman from Georgia [Mr. NICHOLLS] is entitled to the floor.

Mr. BRECKINRIDGE. The gentleman from Georgia yields to me.

Mr. HOLMAN. I rise to a question of order.

The CHAIRMAN. The gentleman will state it.

Mr. HOLMAN. There are certainly two amendments to the preceding paragraphs which have not been voted on.

The CHAIRMAN. The Chair will state that the whole of the paragraph for the improvement of the Mississippi River commencing in line 922 and the two succeeding paragraphs have been stricken out without the attention of the Chair being called to any amendments pending. The paragraphs have been stricken out and it is now too late to raise the question of order.

Mr. NICHOLLS. I yield to the gentleman from Arkansas [Mr. BRECKINRIDGE].

Mr. BRECKINRIDGE. For several years General Gillmore has urged that increased facilities be given him for necessary dredging of Charleston and several other harbors. The present dredging plant of the Government is worn out and utterly useless, and it is absolutely necessary for the commercial wants of Charleston, Wilmington, and Savannah that at least one first-class dredge-boat be supplied for use there. I think this is a most meritorious amendment, and I know of no objection to it that has come from any member of the committee who has given the matter any consideration. The chairman and I have conferred about it and we think it ought to prevail.

Mr. BLANCHARD. Mr. Chairman, I also think that amendment ought to prevail. [Cries of "Vote!" "Vote!"]

The CHAIRMAN. Does the gentleman from Georgia [Mr. NICHOLLS] desire to be heard upon the amendment?

Mr. NICHOLLS. No, sir; I desire a vote.

The amendment was agreed to.

The Clerk read the next amendment (offered by Mr. BUDD), as follows:

After line 953 insert:

"For operating Government dredge-boat on the rivers emptying into the Suisun and San Pueblo Bays, California, $15,000; the same to be taken from the money now on hand to the credit of the fund for the Sacramento and Feather Rivers."

Mr. BUDD. Mr. Chairman, I desire to call the attention of the committee to this amendment, which I understand is acceptable to them. It does not increase the appropriation at all. Last year, under an appropriation made by Congress, the dredge-boat was built, and this amendment simply makes available for operating that dredge-boat certain funds already on hand to the credit of the rivers named.

Mr. WILLIS. I will ask the gentleman from California [Mr. BUDD] whether this increases the appropriation?

Mr. BUDD. Not one cent.

Mr. WILLIS. That is my understanding. I understand that the Government has built the dredge-boat, and that this amendment simply provides for running it, out of money already appropriated for those rivers.

Mr. BUDD. Yes; out of the money already appropriated.

The amendment was agreed to.

The Clerk read the next amendment (by Mr. COOK), as follows:

Strike out all of line 954, after the word "from," and all of line 955.

Mr. COOK. This amendment proposes to strike out all the appropriation for the improvement of the Missouri River below Sioux City. For years past every Congress, I believe, has appropriated money for the improvement of the navigation of the Missouri, and yet I hear of no commerce upon it. The bed of the river is but a body of quicksands. You can not tell to-day where the current will be to-morrow. The sides of the river are so unstable that miles of the shore upon the Iowa, Nebraska, and Kansas side are, from year to year, washed into the river, and it is simply an impossibility ever to make the Missouri navigable to any considerable extent. I have inquired of members from Missouri——

Mr. COSGROVE. I would like to answer the gentleman on that point right now.

Mr. COOK. And of members from Iowa, who live upon the banks of the river, and they say that it is practically of no commercial use, nor has it been for years, especially from Council Bluffs to the mouth. Whatever traffic there is upon the Missouri is above Sioux City up to Fort Benton. I do not believe there are five boats passing between Sioux City and Kansas City during the whole year.

Mr. COSGROVE. That shows how little the gentleman knows about the facts.

Mr. COOK. I think the only effect of this provision in the bill is simply to throw $350,000 into the Missouri River. The gentleman from Kansas now tells me that during the whole of the past year the draw in the bridge at Atchison has been open but eight times for boats either way.

The gentleman from Missouri is a little excited, but what I assert is a matter of public notoriety. I have frequently been along the river between Kansas City and Sioux City and at every important place, and never have I seen a boat of any kind on the river or tied up at its banks. It seems to me that this is no more nor less than throwing $250,000 into a river of a little water and much quicksand.

The Clerk read the next amendment (offered by Mr. PUSEY), as follows:

After the word "dollar," in line 955, insert:

"Ten thousand dollars of which, or so much thereof as may be required, for survey and improvement of the Missouri River at the mouth of the Nishnebotny River."

Mr. COSGROVE. Mr. Chairman, is that amendment subject to the point of order?

Mr. PUSEY. Mr. Chairman, this amendment does not increase the appropriation. One of the worst bends in the Missouri River from Saint Joseph to Sioux City is at the mouth of the Nishnebotny (which is a partially navigable stream), and this amendment is simply mandatory upon the commission to spend the amount of money named in removing snags and obstructions at the mouth of that river. The amendment does not increase the appropriation at all, and I believe it is acceptable to the committee.

Mr. WILLIS. The committee has placed this river under the Missouri River Commission. That commission is either competent or incompetent. If incompetent, it ought to be abolished; if competent, it ought to be permitted to pass on this point.

Mr. PUSEY. I think it is entirely within the power of Congress to direct what this commission shall do.

Mr. WILLIS. We refused to do this on the lower Mississippi in regard to Natchez and Memphis.

The CHAIRMAN. The gentleman from Iowa [Mr. PUSEY] is entitled the floor.

Mr. PUSEY. A similar appropriation of $5,000 was ingrafted on the bill of last year. But the commission passed over this improvement—did nothing for it. This proposition simply requires the commission to make a survey; it does not increase the appropriation. I hope the House will adopt the amendment.

The question being taken on the amendment of Mr. PUSEY, it was agreed to.

Mr. HEPBURN. I have sent to the desk an amendment.

The CHAIRMAN. Where does the gentleman desire the amendment to come in?

Mr. HEPBURN. After the line last read.

The CHAIRMAN. The whole section has been read.

The Clerk read as follows:

After line 953 insert:

"For the improvement of the Mississippi River the sum of $2,000,000: *Provided*, That not more than $1,000,000 of this sum shall be expended on said river south of Cairo, and that sum shall be expended on Plum Point and Lake Providence reaches."

Mr. WILLIS. I am compelled to make a point of order on that amendment. The paragraph to which it relates has been passed.

Mr. HEPBURN. No, sir; I am asking that this be added to the paragraph last read.

The CHAIRMAN. The gentleman from Iowa [Mr. HEPBURN] will remember that yesterday, in trying to arrive at a rule for the solution of the anomalous condition of things, the Chair held that when a paragraph relating to a particular river had been once passed there should be no recurrence to the subject of that river. That ruling was enforced more than once during the last sitting of the committee; and it was only relaxed in the case of the gentleman from Pennsylvania [Mr. CURTIN], who stated that the West Fork of a particular river was known as a distinct stream. The point of order now raised by the gentleman from Kentucky [Mr. WILLIS] is sustained.

The next amendment (by Mr. COSGROVE) was read, as follows:

Strike out, in line 955, the words "three hundred and fifty" and insert "five hundred;" so that it will read when amended: "Improvement of the Missouri River from its mouth to Sioux City, $500,000," &c.

Mr. COSGROVE. Mr. Chairman, this amendment would only give one-half of the amount which Major Suter of the commission says is requisite and can be judiciously expended between the points named.

In this connection I wish to say a word or two in reply to the gentleman from Iowa who offered an amendment to strike out this entire appropriation. With his usual inaccuracy as to facts he stated, as I recollect, that there were not more than three or four boats plying between Saint Louis and a point named by him. I want to state to the gentleman that there are one or two lines of packets plying daily on that river and making trips from Saint Louis to Kansas City two or three times per week. But few points along that river are touched by railroad, so that the commerce has necessarily to be done largely by boats; at every railroad point on the river—that is, those points touched by railroads—there are at least one or more boats. At the city where I reside boats are constantly plying during navigable season upon this river. This river passes through one of the most fertile portions of the country——

Mr. COOK rose.

Mr. COSGROVE. I decline to yield. The gentleman did not honor me by yielding when I asked him to. I think the gentleman was talking about something he knew nothing about, and probably acting under a misapprehension of the facts furnished to him by one not acquainted with the true state of the case.

I therefore hope this amendment will be adopted. If you are going to spend any money, it is right to spend enough to give the commission an opportunity to do something. It is useless to give them a few dollars—not half enough to accomplish any substantial good in aid of the commerce of that river.

The question being taken on the amendment of Mr. COSGROVE, it was not agreed to; there being—ayes 20, noes 38.

The next amendment (by Mr. ANDERSON) was read, as follows:

In line 955, strike out "$350,000" and insert "$1,000,000."

Mr. WILLIS. I ask a vote on that amendment.

The amendment was not agreed to.

Mr. WHITE, of Kentucky. I move to strike out, in line 955, the words "three hundred and."

Mr. Chairman, it will be discovered that the money appropriated for the Missouri River is to be spent in accordance with the estimates, specifications, plans, and recommendations of the Missouri River Commission. That commission is but a branch of the Mississippi River Commission. The plans, specifications, &c., for work on the Missouri River are made by a separate department of the Mississippi River Commission, known as the Missouri River Commission.

Now, in the report of the Mississippi River Commission for 1883 we are told, on page 22—

Within the past year some serious inconvenience has been suffered from exorbitant demands made by land-owners for brush and piles. These materials are in most cases worth little or nothing to the owners, and are unsalable to any buyer except the Government at any price; but at the prices some of the owners ask for them they would make a large item of cost.

It strikes me this thing of tickling the flank of the Missouri River is about as objectionable as tickling the flanks of the Misisippi River, when we know the Missouri River Commission is but a subsidiary branch

of the great Mississippi Commission. Although separated by law, they have the same idea about things. One idea seems to have taken control of the entire Democratic party, and that is to put their hands into the Treasury as deep as possible and draw out as many millions as they can. Therefore, if you are going to strike out the Mississippi River Commission, in good faith you ought to strike out the Missouri River Commission, because they are born of the same spirit of this Democratic party, who will stand for years on the principle that they can not appropriate money because the Constitution forbids them to do so when it is to be devoted to any other section of the country, but when it comes to be devoted to their own section then they are for it, if it only takes enough millions out of the Treasury for their purposes.

[Here the hammer fell.]

The amendment was rejected.

The next amendment (by Mr. FUNSTON) was read, as follows:

In line 955, after the word "dollars," insert:

"Ten thousand dollars of which shall be expended in the improvement of the harbor at Wyandotte, Kans."

Mr. FUNSTON. Now, Mr. Chairman, I do not offer this amendment merely for the purpose of getting what is called my share in this pot, but I do it because of a public necessity, which ought to be satisfied. It is an appropriation which properly belongs to this locality, because every other town of any importance along the Missouri River has received an appropriation for the improvement of its harbor. I hold in my hand the report of the Mississippi River Commission, showing the history of all the appropriations along that river, but the few minutes which are allowed to me under the rules will not permit me to go into any detail, and therefore I will say in general that by this Missouri River Commission report it is shown $2,000,000 have been appropriated for the Missouri River, and that almost every town of any importance along that river has received its share for the improvement of its harbor. Here are specified the amounts for Saint Joseph, for Kansas City, for Atchison, and other towns along the Missouri River, which have been devoted to the improvement of their harbors, each place receiving from $10,000 to $50,000, until as I have said $2,000,000 have been appropriated and expended in that way. Now, on the bank of this same river stands a city in the State of Kansas, with a population to-day of from 10,000 to 11,000, with a densely populated surrounding country, in which are the largest pork-packing establishments west of the Missouri River, and the most extensive machine-shops in the State, and which so far has never received one dollar for the improvement of its harbor.

I ask this appropriation provided in the amendment which I have moved in the interest of public improvement. It is due to the people of my country that they should have facilities of navigating the stream that goes by their doors, which they are not now able to do because of washes and deposits at and near the banks of the river. I say it is due to this locality that here at this time and in this bill we should have the small appropriation I have asked for to be applied to the improvement of the harbor of that city of Wyandotte.

Mr. DAVIS, of Illinois. Does it increase the appropriation?

Mr. FUNSTON. Not one cent.

[Here the hammer fell.]

The committee divided; and there were—ayes 50, noes 71.

So the amendment was rejected.

The next amendment (by Mr. ANDERSON) was read, as follows:

Strike out "$50,000" and insert "$100,000;" so it will read:

"For continuation of surveys of the Missouri River from its mouth to its headwaters, now in progress; to make additional surveys and examinations of said river and its tributaries; and to make such additional examinations and investigations, topographical, hydrographical, and hydrometrical, as are necessary for maturing a plan for the permanent improvement of the entire river, $100,000."

The amendment was disagreed to.

The next amendment (by Mr. COOK) was read, as follows:

Strike out all of line 974 to line 985, inclusive.

Mr. COOK. This paragraph appropriates $10,000 in a specific manner for improvements at Fort Leavenworth, Kans., and that so much of the appropriation which precedes it for the Missouri River should be there used. If it is specific, it should be limited to that amount. If it is not a limitation to $10,000, then it should be stricken out and should rest on an appropriation which covers the river from Sioux City to Saint Louis.

Mr. PERKINS. I desire to offer an amendment increasing the amount to $15,000.

The CHAIRMAN. That is in order.

Mr. PERKINS. I desire to say this amount of $10,000 was inserted in the bill by the committee in order to protect the Government property at Fort Leavenworth. There the Government owns more than 7,000 acres of land, much of which is occupied by the fort and for military purposes. The reservation extends on each side of the river. A bridge spans the river there, but the action of the water is such that it now threatens more than 1,500 acres of this valuable land belonging to the United States and the usefulness of the bridge spanning the river.

It was to protect that land as well as to improve the bank and the regimen of the stream this appropriation was inserted. It is not for the harbor of Leavenworth or for private property. I insisted before the committee that the sum given was not sufficient; yet in view of the policy adopted by the committee in not making appropriations for particular harbors or localities, but leaving the money to be expended under the direction of the commission, they thought it would not be right to appropriate more than is given; but for the protection of this property of the Government, as well as to improve the navigation of the stream, they consented this amount might be appropriated for the specific use mentioned, and under no circumstances should the motion of the gentleman from Iowa prevail. This committee has been charged with sectionalism and with having acted on partisan considerations. In my judgment no such motives influenced the committee in the discharge of its duty. Sectionalism did not actuate or control it, and partisan considerations were forgotten in the appropriations recommended. We have been charged with looking after local interests and in forgetting the public welfare, although as a member of that committee I desire to say that my own State, the State of Kansas, is almost the only State in the Union which gets no dollar from this bill. We have not been influenced by any such considerations as have been charged against us. If it shall be the disposition of the House to vote down this paltry sum proposed for the protection of this Government property, all I can do is to submit; but I present it to the enlightened judgment of the House, believing the provision of the bill will not be stricken out.

Mr. PERKINS'S amendment to the amendment was disagreed to.

The next amendment (by Mr. LORE) was read, as follows:

Add after line 985:

"Improving harbor at Wilmington, Del., $25,000, which shall include the $15,000 heretofore passed in this bill for that purpose."

Mr. WILLIS. I am compelled to make the point of order upon that amendment.

Mr. LORE. I hope the gentleman will not insist upon the point of order.

The CHAIRMAN. The Chair will ask the attention of the gentleman from Kentucky and the gentleman from Delaware. Under the order of the House certain lines were postponed until after the reading of this entire paragraph——

Mr. WILLIS. This does not come within that agreement. It is clearly subject to the point of order.

The CHAIRMAN. The Chair would like to finish its statement. Under the order of the House certain matters were postponed until we reached the end of the section. The end of the section is at the end of line 985, and this is a proposition to add to this section. Prior to that the three other matters which had been passed over would be in order, and without unanimous consent the Chair thinks it is first in order to dispose of these three subjects to which reference has been made.

Mr. WILLIS. There is no doubt about the point of order upon this.

Mr. LORE. I admit if the point of order is insisted upon that it can be sustained.

The CHAIRMAN. The Chair then understands the amendment to be withdrawn.

Mr. LORE. I will withdraw it, since the point of order is insisted upon.

The CHAIRMAN. The Clerk will now go back to line 332.

Mr. WELLER. I rise to a question of order.

The CHAIRMAN. The gentleman will state it.

Mr. WELLER. There have been amendments submitted to come in at the end of line 985 that have not been presented to the attention of the committee.

The CHAIRMAN. The Chair is aware of that, but there were certain other reserved lines in the section that have not been presented, and in the opinion of the Chair they take precedence of those amendments that come in at the end of the section.

Mr. WELLER. I understand the amendments I have already offered will not be precluded?

The CHAIRMAN. The Chair does not know, of course, what amendment the gentleman has at the desk. The Clerk will read the amendment to line 332.

The Clerk read the amendment (submitted by Mr. WARNER, of Ohio), as follows:

In line 332, strike out "fifteen" and insert "fifty."

Mr. WILLIS. The gentleman from Ohio is absent, and I owe it to him to say, upon examination of the subject now before the committee, that if he will reduce it to $25,000 there will be no objection. He is attending a committee meeting, and I ask, therefore, that it be reduced to $25,000, to which the committee will have no objection.

The CHAIRMAN. Does the gentleman move to amend?

Mr. WILLIS. I move to amend by making it $25,000.

Mr. JOSEPH D. TAYLOR. Mr. Chairman, I desire to amend by increasing it to $30,000.

Mr. WILLIS. I hope the gentleman will not do that. There is an agreement between the gentleman from Ohio [Mr. WARNER] and the committee; and this amount will be satisfactory to both parties.

Mr. JOSEPH D. TAYLOR. Large amounts of money have been thrown away there by reason of the fact that no appropriation has been made to complete the work.

Mr. WILLIS. But in this case the gentleman from Ohio [Mr. WARNER] is satisfied.

Mr. JOSEPH D. TAYLOR. If he is satisfied then I shall not insist upon the amendment.

The amendment of Mr. WILLIS was agreed to.

The amendment as amended was agreed to.

Mr. HEPBURN. Mr. Chairman, I rise to a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HEPBURN. I understand certain lines from 922 to 938, inclusive, have been stricken from the bill. There were, as I understand it, pending certain amendments in the hands of the Clerk at that time. I want to know what becomes of those amendments?

The CHAIRMAN. The Chair has no official knowledge of any amendment to which attention is not called. When the motion to strike out was made by the gentleman from Kentucky, before arguing it he asked a parliamentary question, whether, if his motion failed, other amendments could be voted upon, to which the Chair answered in the affirmative. The motion of the gentleman, however, was carried, and we then passed to other matters and no attention was called to the fact that other amendments had been offered. The Chair had no information of any other amendments pending.

Mr. HEPBURN. Permit me a moment. Under the direction of the Chair these amendments were forwarded to the Clerk and were in his hands. It was supposed of course by members that they were to be considered as pending amendments under that order.

The CHAIRMAN. The Chair will state that a member proposing an amendment should have called attention to the fact before we had passed on to a half dozen other propositions.

Mr. BROWNE, of Indiana. If the Chair will allow me I would ask if these lines, having gone out of the bill, do not necessarily take the amendments with them?

The CHAIRMAN. The Chair supposes that might be the reason affecting the Clerk. But the Chair was not informed in reference to the matter.

Mr. BUDD. Is an amendment pending until it is read?

The CHAIRMAN. The Chair thinks that if gentlemen do not call for the reading of their amendments the Chair is not responsible for their failure to be presented to the committee. The Clerk will report the next amendment.

The Clerk proceeded to read the next amendment (by Mr. WASHBURN), as follows:

Add to line 774:
"The Secretary of War is hereby directed."

Mr. WILLIS. That is to come in under the head of "surveys."

Mr. WASHBURN. I will withdraw the amendment for the present.

The next amendment (submitted by Mr. GUENTHER) was read, as follows:

In line 774, after the word "site," insert:
"Improving the Fox River, Wisconsin: Continuing improvement, $100,000."

Mr. GUENTHER. Mr. Chairman, I can hardly think it is the intention of this committee to commit so gross a wrong as to fail to make any appropriation for the Fox River.

Mr. WILLIS. I ask my friend to reduce the amount to $75,000; and I understand the committee under the new report is willing to accept that.

Mr. GUENTHER. In order not to imperil the ultimate passage of the bill I will consent to this reduction to $75,000, though I should insist upon $150,000. I therefore modify the amendment and make it $75,000.

The amendment as modified was agreed to.

The CHAIRMAN. The next amendment in order that was passed over was one to the paragraph commencing in line 813 and relating to the Hennepin Canal. That amendment can not be considered until the question of order shall be disposed of. Is it the pleasure of the committee to have that question of order disposed of now or to take up the amendments which have been offered to come in at the end of the section?

Mr. DAVIS, of Illinois. I ask for a ruling from the Chair now.

Mr. WILLIS. I understand the section is concluded with the exception of the amendment to which the Chair has referred.

The CHAIRMAN. There are amendments at the end of that section still to be disposed of.

Mr. WILLIS. I ask that those amendments may be disposed of.

Mr. DUNHAM and other members. Let us have the ruling on the point of order.

The CHAIRMAN. The gentleman from Georgia [Mr. TURNER] asked that that part of the bill which begins on line 813 and ends with line 842 be stricken out. They relate exclusively to the "construction of a canal from the Illinois River near the town of Hennepin to the Mississippi River at or near Rock Island," and propose that $300,000 be appropriated therefor. He claimed that they should be stricken from the bill upon four points of order.

The first was that the Committee on Rivers and Harbors had no jurisdiction over the subject-matter of that canal. The second was that that committee had no right to put that canal into this bill and thereby give it the precedence allowed to bills making appropriations for the improvement of rivers and harbors by paragraph 8, Rule XI. The third ground was that said lines are practically the same as H. R. 1975 upon the Calendar, reported last session by the gentleman from Iowa [Mr. MURPHY] from the Committee on Railways and Canals. That being true, it is contended that those lines are therefore obnoxious to clause 4 of Rule XXI as to amendments. His last point was that this was "new legislation, increasing the amount of expenditure covered by the bill and doing it by a clause not germane to the bill." Allusion was there meant to the familiar third paragraph of Rule XXI.

For convenience the last two points will be disposed of first. In reply to them, it was urged that this bill is not a general appropriation bill and not covered by the third clause of Rule XXI, which in terms applies to "general appropriation bills;" and that clause 4 of Rule XXI is in terms confined to amendments, whereas the lines attacked are in the bill and not offered as an amendment.

In February, 1881, Mr. CARLISLE (our present Speaker), being chairman of the Committee of the Whole House on the state of the Union, considering the river and harbor appropriation bill, held that it was not a general appropriation bill, and that therefore an amendment to add a new work—that is, "an ice-harbor at Dubuque, Iowa, $40,000"—was not out of order. (See RECORD, volume 47, page 1634, third session Forty-sixth Congress.) That decision has been followed ever since and upon the letter of the rule is fatal to the fourth point above stated. The third point as put is applicable to amendments only, and as the letter of the rule cited covers only amendments, and this is not an amendment, that letter again kills.

The question of the gentleman from Georgia [Mr. TURNER], put to the gentleman from Illinois [Mr. HENDERSON] in the debate, indicated a broader objection, but it was not otherwise suggested. It, therefore, might be improper for the Chair, under the circumstances, to discuss that view. Besides, its elucidation would require a history of the present rule, which would be tedious. The Chair therefore forbears.

Let us now recur to the first and second points of order. Several replies were made to the point that the Committee on Rivers and Harbors had not jurisdiction of the subject-matter of this canal. The first was that several petitions for the construction of this canal had been referred to the Committee on Rivers and Harbors before it reported this bill to the House. It was not claimed that they were referred otherwise than through the petition-box "in the usual and ordinary way." It was said that by "the rules of the House all bills of this character shall be delivered to the Clerk like petitions and memorials, and thence referred."

Another member said in argument that—

When a petition was placed in the petition-box and referred to that committee a record was made of that fact, and that record was not approved until the next day, when the attention of every member of the House was called to that record, which showed the disposition of such petition; and when that record stands approved by action of the House it is too late in the Committee of the Whole or in the House to say the Committee on Rivers and Harbors has no jurisdiction of the question.

Does this conclusion follow from the facts stated? Clause 5 of Rule XXI requires:

All bills for improvement of rivers and harbors shall be delivered to the Clerk as in case of petitions and memorials for reference to the appropriate committee.

That declares two things: First, that all those bills go to that committee not through the House, but through the petition-box only; second, that the House trusts the Clerk to send such as relate to rivers and harbors to the Committee on Rivers and Harbors. It is confined to bills.

Rule XXII needs to be examined, for it covers petitions and memorials (except memorials of State Legislatures, which are covered by clause 1 of Rule XXIV).

Rule XXII plainly shows that the reference of petitions and memorials is not even made by the Clerk, as was erroneously stated in the debate. The Clerk must deliver them to the committee to which the indorsement of the member directs. And if the reference be wrong, that committee may refer them to the proper committee "in the manner originally presented," *i. e.*, through the petition-box. And in that case the Clerk has nothing to do but follow the direction of the committee making the reference. It will be seen that under the rule the House has nothing to do with the reference of petitions. This very fact was urged as an objection to Rule XXII when it was adopted. (See speech of the gentleman from Pennsylvania [Mr. KELLEY] on that point.) Sometimes the committee reports them back to the House for reference, but that is not claimed in this case. And that part of the Journal relating to petitions is not usually read in the House. (See Rules and Practice of House of Representatives, first session Forty-eighth Congress, page 341.) So far as the Chair knows it is never read in the House.

If such a reference gives jurisdiction any member may give jurisdiction to any committee over any subject-matter by his indorsement; he may give it to every committee by referring one such petition to each. He may refer the reorganization of the Supreme Court to the Committee on Ventilation and Acoustics by simply putting the matter of a bill for that purpose into the form of a petition and so directing it by his indorsement. The Chair does not say that by appropriate action the House might not correct such an abuse. The Chair is only showing to what the claim that jurisdiction can be thus obtained will lead.

For many good reasons Rule XI distributes all business between our fifty committees. That rule imperatively declares that "all proposed

legislation relating to the improvement of rivers and harbors shall be referred to the Committee on Rivers and Harbors, and all proposed legislation relating to railways and canals, other than Pacific railroads, to the Committee on Railways and Canals." No disregard of that rule by a member's indorsement on a petition or by the retention thereof by a committee, if beyond its jurisdiction, can enlarge the jurisdiction of the committee fixed by the rules.

Next, it was contended that the jurisdiction had been conferred by reference to that committee of the Engineer's Report. The RECORD of the 8th of January last states that "a letter from the Secretary of War, transmitting the Report of the Chief of Engineers, with accompanying papers from officers in charge of river and harbor districts," was laid before the House by the Speaker, and referred to the Committee on Rivers and Harbors. This mere recital and the fact that the canal is mentioned in the volumes of that report it is contended gave to the Committee on Rivers and Harbors jurisdiction over the proposed canal. It seems to the Chair that a fair construction of that act of the Speaker was to commit to the Committee on Rivers and Harbors only those parts of that report "relating to the improvement of rivers and harbors." The construction opposite to this proves too much for those who invoke its aid. That construction would have given jurisdiction to that committee over the seacoast and lake-frontier defenses, the surveys of the Territories, the improvement and care of public buildings and grounds in and around Washington, the water supply of this District, the fishways at the Great Falls of the Potomac, the control of the Washington Aqueduct, &c.; for all these things are covered in that report. (See pages 5, 2300, 2301, 2339, &c.) The quoted language fairly excluded all but the matter about improving rivers and harbors. The other things mentioned therein belong to our other appropriate committees.

That Congress has provided for the construction of certain other canals throws no light upon this question without the facts as to each of them. They may have been passed as separate bills; they may have been reported by the Committee on Ways and Means, or on Appropriations, or on Commerce, or on Rivers and Harbors. Each of those committees has reported such bills, and both separately and combined with other matter. The date of the act, the then jurisdiction of the committee reporting it, &c., must all be known. They may have been to connect parts of the same river with each other, ditches around instead of through obstructions to navigation. They may have been provided for as the original survey of the Hennepin Canal was in the first session of the Forty-seventh Congress, or as the other case cited in debate in twenty-first United States Statutes at Large, 189; *i. e.*, without any points of order being made, and in bills passed by suspension of all rules.

But even if the Committee on Rivers and Harbors had jurisdiction of the subject-matter, the second point of order, that it could not be brought here for consideration in this bill, remains to be answered. Paragraph 8 of Rule XI provides that "the Committee on Rivers and Harbors shall have the same privilege in reporting bills making appropriations for the improvement of rivers and harbors as is accorded to the Committee on Appropriations in reporting general appropriation bills." And Rule XXIII, clause 4, provides that "in Committees of the Whole House business on their Calendars shall be taken up in regular order, except bills for raising revenue, general appropriation bills, and bills for the improvement of rivers and harbors, which shall have precedence," &c.

The proposed work is simply a canal to connect two distinct rivers at the points to be connected thereby seventy-five miles apart. The Chair does not think that in any fair sense that is for the improvement of either river. Nothing but the appropriations for the improvement of rivers and harbors have that great privilege of precedence over all other business except bills raising revenue and appropriating it to carry on the Government. That privilege should not be allowed to anything not clearly entitled thereto.

No answer to this view was made in the debate. The effort seemed to be to avoid that issue by the position that because this bill had been by the House committed to the Committee of the Whole House on the state of the Union containing this provision, no question of order can be here raised, because it is said that this committee can not inquire into the jurisdiction of the committee which brought the bill into the House.

It is admitted that when the bill was reported to the House, and before and upon its reference to this committee, all points of order were reserved openly in the House and entered into its proceedings. But it is claimed that this precise question has been decided. It is asserted that during the last session of this Congress, when a like bill was in Committee of the Whole House on the state of the Union, the then chairman of the committee, the gentleman from Texas [Mr. WELLBORN], held this same canal to be in order under like circumstances, and that on appeal his decision was sustained by the committee by a vote of 103 to 63.

A decision under like circumstances deliberately made by that gentleman would have great weight with the Chair. The vote of the committee on appeal, even though but half the members voted, would add force to the decision were the issues fully understood when that vote was had. It is important, therefore, to examine the facts.

In that case points of order had not been reserved when that bill was referred. That decision did hold that the bill being referred as an entirety must be so considered. The chairman did say that had points of order been reserved he, "with the views he entertains of the question, would hesitate before undertaking to pass upon the original jurisdiction of the Committee on Rivers and Harbors," &c. (See CONGRESSIONAL RECORD, volume 68, 5014.) But when asked to state the ground of the decision he said:

> The decision of the Chair is based upon the assumption that points of order were not reserved upon the bill when it was committed to the Committee of the Whole on the State of the Union.—*Congressional Record*, volume 68, page 4015.

Further down on the same page (4015) he said that even had such general reservation of points of order been made as claimed "he still believes it would not be competent for him to pass upon the question of the jurisdiction of another committee," &c. It was after all that that the committee sustained the decision of the Chair. Considering that these expressions came out in a colloquy, the members of that committee may have differed in their understanding of that decision when they voted on the appeal. Quoting these different expressions, gentlemen in this debate have been diametrically opposed in their views of the true grounds of that decision. Nothing beyond that colloquy has been quoted. The Chair will pursue it a little further.

A proposition was offered to amend the Hennepin Canal section by providing for a ship-canal "to connect the waters of the Chesapeake and Delaware Bays." It was ruled out of order on the point that the committee had no jurisdiction, and that that was the substance of a pending bill. (*Ibid.*, 5017.) All the foregoing, as to that bill, occurred on the 11th of June, 1884. On the next day the bill was again under consideration in the Committee of the Whole House on the state of the Union, and the same gentleman was in the chair. The gentleman from Pennsylvania [Mr. O'NEILL] moved to amend by providing for a survey of a ship-canal to connect the Delaware River with the Atlantic Ocean. It was objected to upon a point of order. The Chair held that as the Hennepin Canal was then in the bill this other canal was germane, and therefore in order. The Chair will read on page 5068. Observe its purport:

> The Chair will further state that on yesterday he refrained from giving expression to his opinion touching the original jurisdiction of the Committee on Rivers and Harbors over the proposition for the Hennepin Canal, for the reason that the bill in its entirety having been referred by the House to the Committee of the Whole, it was not competent for the Committee of the Whole to go behind the reference and pass upon the question of original jurisdiction in the Committee on Rivers and Harbors.
>
> The Chair thinks it needful to a proper understanding of his present ruling to say that in his opinion the Committee on Rivers and Harbors did not have jurisdiction over that subject, and had the point been presented before the House at the proper time and in the proper way the Chair thinks the clause should have been stricken from the bill.

That extract contained a deliberate opinion "that the Committee on Rivers and Harbors did not have jurisdiction over the subject." It further held that "had the point been presented before the House at the proper time and in the proper way the Chair thinks the clause should have been stricken from the bill." There, as here, jurisdiction was asserted by reason of reference of the Chief Engineer's report, &c., to the Committee on Rivers and Harbors.

That chairman gave no opinion as to what was the proper time and proper way in the House. Doubtless the proper time would have been when the bill was reported and before it was committed to the Committee of the Whole House on the state of the Union. And now about the "proper way." Had the House been informed that this matter was in the bill before it was sent here, action might have been taken in the House other than reserving points of order if its rules and practice allowed consideration in the House before consideration in the Committee of the Whole House on the state of the Union. But there is no such practice as to appropriation bills. When this bill was reported its title indicated what it was. It was an original bill reported from the committee, never having been before introduced into the House. By Rule XXI, clause 1, it was then read only by its title and referred to this committee. It was never read in the House except by title. But suppose it be treated as having been so read. Rule XXIII requires that—

> All motions or propositions involving a tax or charge upon the people; all proceedings touching appropriations of money or property * * * shall be first considered in a Committee of the Whole, and a point of order under this rule shall be good at any time before the consideration of a bill has been commenced.

It seems to the Chair that had it been so read in the House and a point of order had been raised and a motion had been made to strike out this canal provision, the Speaker could but have said that that was a "motion" or "proposition" or "proceeding touching appropriations of money" under Rule XXIII, and all that the House could do was to refer it to the Committee of the Whole House on the state of the Union, where that rule demands that its first consideration shall be had.

Suppose that is not true. Suppose that the House, when for the only time this bill was before it, had instructed this committee first to pass upon this point of order. None would then doubt that this committee could so act. Where is the difference when, pursuant to its ordinary practice, the House allowed all points of order to be reserved and sent the bill here under that disability for the action of this committee?

Paragraph 8 of the same Rule XXIII declares that "the rules of

proceeding in the House shall be observed in Committee of the Whole House so far as they are applicable." Our Digest of Rules, when it states that the chairman of the Committee of the Whole can not rule a proposition in an appropriation bill committed to it out of order, says:

Of course it is otherwise where the point was reserved before commitment.—*Digest*, 265.

The fact that the House allows points of order to be reserved before commitment proves that it virtually instructs that the fact of commitment shall not cut them off. Otherwise the practice of reserving points of order on these bills would be worse than an unmeaning farce. It would operate as a snare and a fraud. Otherwise all the purposes sought by distributing matters among our committees according to their jurisdictions, fixed by the rules, would be thwarted. Otherwise the river and harbor bill would be an omnibus, capable of carrying whatever a majority of the Committee on Rivers and Harbors chose to pack into it, however foreign to its jurisdiction, and that too with a guaranteed "right of way" in preference to all legislation except that necessary to preserve the life of the Government. Such a construction must be wrong. The first and second points of order are sustained and the lines objected to will be stricken from the bill.

Mr. HENDERSON, of Illinois. I am compelled to take an appeal from the decision of the Chair, and upon that appeal I wish to be heard.

Mr. WILLIS. The hour for adjournment has almost arrived. Will my friend from Illinois yield to me that I may move that the committee rise?

The CHAIRMAN. The Chair will recognize the gentleman from Illinois when the House again resolves itself into Committee of the Whole House on the state of the Union to consider this bill. The appeal taken from the decision of the Chair will be considered as pending.

Mr. TURNER, of Georgia. As the gentleman from Illinois has submitted an appeal from the decision of the Chair, I desire to submit a motion relating to that appeal.

Mr. MURPHY. It is understood we reserve all rights of whatever kind we may have, and that in the flurry of the committee rising at this time no right shall be sacrificed.

The CHAIRMAN. The Chair will state the situation. An appeal is taken from the decision of the Chair. The gentleman taking the appeal has the floor, and, pending that, yields for a motion that the committee rise.

Mr. RANDALL. I ask that the gentleman from Kentucky [Mr. WILLIS] may be allowed to waive that motion until this appeal is disposed of. [Cries of "No!" "No!"]

The CHAIRMAN. The question is on the motion of the gentleman from Kentucky [Mr. WILLIS] that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. HAMMOND reported that the Committee of the Whole House on the state of the Union having had under consideration the river and harbor bill had come to no resolution thereon.

Mr. WILLIS. I move that the House adjourn.

The motion was agreed to; and accordingly (at 11 o'clock and 59 minutes a. m., February 20, 1885) the House adjourned.

PETITIONS, ETC.

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

By Mr. J. M. CAMPBELL: Petition of citizens of Tyrone borough, Pa., asking Congress to discontinue the carrying of mails and the distribution of mail matter on the Sabbath—to the Committee on the Post-Office and Post-Roads.

By Mr. CURTIN: Papers relating to the claim of Lewis Rothermel—to the Committee on War Claims.

By Mr. ERMENTROUT: Petition of George Scoville, for compensation as counsel in the Guiteau trial—to the Committee on the Judiciary.

By Mr. HITT: Petition of Rev. F. A. Robinson and 52 others, of Winnebago, Ill., for legislation checking the increase of polygamy—to the same committee.

By Mr. HOLMAN: Petition of John A. Plattes Post of Grand Army of the Republic of Indiana, praying Congress to grant to each Union soldier, honorably discharged, one hundred and sixty acres of land, or to their widows or minor children—to the Select Committee on Payment of Pensions, Bounty, and Back Pay.

By Mr. HOPKINS: Petition of citizens of Pittsburgh, Pa., for the suppression of polygamy—to the Committee on the Judiciary.

By Mr. HOWEY: Papers relating to the claim of Stephen H. Myers, of Somerset County, New Jersey—to the Committee on War Claims.

By Mr. HUTCHINS: Petition of citizens of New York, asking legislation on the Mormon question—to the Committee on the Judiciary.

By Mr. JAMES: Petition of John D. Wells, D. D., and 70 others, citizens of Brooklyn; of Roswell D. Hitchcock, D. D., and 102 others, citizens of New York; and of D. W. McWilliams and 27 others, citizens of Brooklyn, N. Y., praying for legislation to prevent increase of Mormonism—to the same committee.

By Mr. S. H. MILLER: Petition of citizens of Meadville, Pa., urging legislation to suppress Mormonism—to the same committee.

By Mr. MORRILL: Petition for the appropriation of $12,000 for the repair of the roads in the military reservation of Fort Leavenworth, Kans.—to the Committee on Appropriations.

By Mr. MURRAY: Petition from ex-soldiers in Washington, D. C., praying for the purchase of Miss Ransom's life-size portrait of General George H. Thomas—to the Committee on the Library.

By Mr. POLAND: Petition of Henry A. Frost, of New York city, praying relief for being deprived of his liberty in violation of the Constitution, with accompanying papers—to the Committee on the Judiciary.

By Mr. ROBERTSON: Petition of citizens of Breckinridge County, Kentucky, asking for an increase of widows' pensions—to the Committee on Pensions.

By Mr. RYAN: Petition of Joseph Dunlap, for reference of his war claim to the Court of Claims under the act of March 3, 1883—to the Committee on War Claims.

By Mr. A. HERR SMITH: Petition of 170 citizens of Lancaster County, Pennsylvania, against the ratification of the reciprocity treaty with Spain—to the Committee on Ways and Means.

By Mr. STEVENS: Petition of Losson W. Mead, Company E, Twenty-first Missouri Infantry, for relief—to the Committee on Invalid Pensions.

By Mr. SPOONER: Petition of Boston Handel and Haydn Society, H. H. Darby, of Saint Louis, and many others, citizens of the United States, for the passage of the Dorsheimer bill, or a similar international copyright bill—to the Committee on the Judiciary.

By Mr. WILKINS: Petition of Rev. A. Lehman and 33 others, citizens of Dresden; of J. K. Caldwell and 50 others, citizens of Zanesville; of Levi Knowlton and 110 others, citizens of Utica; and of J. Glover and 60 others, citizens of Coshocton, Ohio, praying for the suppression of Mormonism—to the same committee.

The following petitions for the passage of the Mexican war pension bill with Senate amendments were presented and severally referred to the Committee on Pensions:

By Mr. ANDERSON: Of 18 citizens of Minneapolis; of 91 citizens of Greenleaf, and of 62 citizens of Clyde, Kans.

By Mr. ATKINSON: Of 50 citizens of Franklin County, Pennsylvania.

By Mr. CLARDY: Of Charles A. Weber and 132 others, citizens of Perryville, and of 63 citizens of Belgrade, Washington County, Missouri.

By Mr. ELLWOOD: Of 150 citizens of Kaneville and of 100 citizens of Plato Centre, Kane County, Illinois.

By Mr. FUNSTON: Of citizens of Weir, of Galena, of Equity, and of Wellsville, Kans.

By Mr. GRAVES: Of William Marsh and others, of Holden; of J. O. Dockwell and others, of Independence; of R. Fosset and others, of Kansas City, and of Samuel Crum and others, of Independence, Mo.

By Mr. HANBACK: Of C. E. Monell and 200 others, of Kirwin; of James Secrist and 50 others, of Ellsworth County; of Samuel McClary and 10 others, of Ibaton; of Daniel Truberg and 50 others, of Glen Elder, and of William C. Whitney and 200 others, of Cawker City, Kans.

By Mr. KEIFER: Of A. Richards and 34 others, of Rushsylvania, Logan County, Ohio.

By Mr. MORRILL: Of George Brooking and 60 others, citizens of Saint George; of W. F. McClain and 48 others, citizens of Wetmore, and of Andrew Card and 41 others, citizens of Laclede, Kans.

By Mr. LACEY: Of J. A. Burchard and 62 others, of Bellevue, Mich.

By Mr. ROWELL: Of 90 citizens of Chestnut, Ill.

By Mr. WARD: Of citizens of Hobbs, Tipton County; of Pendleton, Madison County, and of Mason, Clinton, and Noblesville, Hamilton County, Indiana.

By Mr. JAMES WILSON: Of citizens of Marion, Linn County, Iowa.

SENATE.

FRIDAY, *February* 20, 1885.

The Senate met at 11 o'clock a. m

Prayer by Rev. JAHU DE WITT MILLER, of the city of Philadelphia.

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 Treasury, transmitting estimate of appropriation by the Commissioner of Internal Revenue of $10,500, required under section 3689 of the Revised Statutes, to refund to persons money collected from them without warrant of law under a recent decision of the Court of Claims; which, with the accompanying papers, was referred to the Committee on Appropriations, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Treasury, reporting the allowance of the claim of John Finn, payable from an appropriation which is exhausted; which was referred to the Committee on Appropriations, and ordered to be printed.