

was in the military service in the war of 1812, to \$40 per month, in lieu of the pension he is now receiving.

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

MARY A. BEDEL.

The bill (H. R. 10691) to increase the pension of Mary A. Bedel was considered as in Committee of the Whole. It proposes to increase the pension of Mary A. Bedel, widow of the late Brig. Gen. John Bedel, from \$30 to \$50 per month.

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

MARTHA J. WARREN.

The bill (H. R. 9110) granting a pension to Martha J. Warren was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Martha J. Warren, widow of the late Col. D. Warren, of Company H, Thirteenth Regiment Kentucky Infantry, and to pay her at the rate of \$12 per month.

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

ORRIN F. WALLER.

The bill (S. 3749) granting a pension to Orrin F. Waller was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Orrin F. Waller, late captain of Company H, Forty-eighth Regiment Wisconsin Volunteers.

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

ISHAM T. HOWZE.

The bill (H. R. 11571) granting a pension to Isham T. Howze was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Isham T. Howze, who served in Captain Gunn's company, from the State of Alabama, Indian war, 1836, and to pay him a pension at the rate of \$20 per month.

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

MRS. LYDIA E. QUAW.

The bill (S. 3857) granting a pension to Mrs. Lydia E. Quaw was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Mrs. Lydia E. Quaw, widow of David L. Quaw, late captain of Company K, Sixth Regiment Wisconsin Volunteers.

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

GEORGE W. DICKINSON.

The bill (H. R. 7827) granting a pension to George W. Dickinson was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of George W. Dickinson, late a private of Company E, Thirteenth Regiment Ohio Volunteer Infantry.

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

ELLEN B. FARR.

The bill (S. 3588) granting a pension to Ellen B. Farr was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Ellen B. Farr, widow of Evarts W. Farr, late major of the Eleventh New Hampshire Volunteers, at the rate of \$25 per month.

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

JOHN J. LOCKREY.

The bill (H. R. 220) granting a pension to John J. Lockrey was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of John J. Lockrey, late a private in Company C, Thirty-fourth New Jersey Volunteer Infantry, and also a sailor on board the United States ship *Ino*.

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

MARY REYNOLDS.

The bill (H. R. 9462) restoring Mary Reynolds, widow of Lewis Reynolds, to the pension-roll was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Mary Reynolds, widow of Lewis Reynolds, late of Company D, Seventh Kentucky Volunteer Infantry, at \$12 per month.

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

Mr. DAVIS. The bill just passed is the last pension case upon the Calendar.

Mr. COCKRELL. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 30 minutes p. m.) the Senate adjourned until to-morrow, Saturday, February 9, 1889, at 12 o'clock m.

## HOUSE OF REPRESENTATIVES.

FRIDAY, February 8, 1889.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. W. H. MILBURN, D. D.

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

### LEAVE OF ABSENCE.

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

To Mr. BAKER, of Illinois, for four days, on account of important business.

### DEFICIENCY FOR PRINTING AND BINDING FOR NAVY DEPARTMENT.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting an estimate from the Secretary of the Navy of a deficiency appropriation for printing and binding for the Navy Department for the fiscal year ending June 30, 1889; which was referred to the Committee on Appropriations, and ordered to be printed.

### DIVISION OF JUDICIAL DISTRICT IN GEORGIA.

The SPEAKER also laid before the House the bill (H. R. 3312) transferring certain counties from the southern judicial district to the northern judicial district in the State of Georgia, and dividing the northern district in said State into two, to be known as the western and eastern divisions of said district, and for other purposes, with Senate amendment.

Mr. BARNES. I move to concur in the Senate amendment. The Senate has offered a substitute which is formal in its character. This bill is merely a local bill, and it is satisfactory.

The SPEAKER. Is the reading of the amendment demanded?

Mr. REED. What is this bill?

The SPEAKER. It is a bill transferring certain counties from one judicial district to another, and also dividing that district. Is there objection to the request of the gentleman from Georgia? The Chair hears none, and the Senate amendment will be considered as concurred in.

### RELIEF OF SOLDIERS OF LATE WAR AND WAR WITH MEXICO.

The SPEAKER also laid before the House the bill (H. R. 6106) for the relief of certain volunteer and regular soldiers of the late war and the war with Mexico, with Senate amendment; which was referred to the Committee on Military Affairs.

### BIG HORN AND SOUTHERN RAILROAD COMPANY.

The SPEAKER also laid before the House the bill (S. 3798) granting to the Big Horn and Southern Railroad Company the right of way across the Fort Custer military reservation, Montana.

Mr. TOOLE. I ask unanimous consent for the present consideration of that bill. It is very short, and a similar bill has been reported in the House.

The SPEAKER. The bill will be read, after which the Chair will ask for objections.

Mr. TOWNSHEND. Mr. Speaker, I am sorry, but I must ask for the regular order.

Mr. TOOLE. Then I ask unanimous consent that the bill lie upon the Speaker's table.

There was no objection, and it was so ordered.

### GUANO ISLANDS.

The SPEAKER also laid before the House the bill (S. 3516) to further suspend the operation of section 5574 of the Revised Statutes of the United States, Title LXXII, in relation to Guano Islands; which was read twice, and referred to the Committee on Foreign Affairs.

### ASSOCIATE JUSTICE FOR IDAHO.

The SPEAKER also laid before the House the bill (S. 3419) providing for an additional associate justice of the supreme court of Idaho, and for other purposes.

Mr. DUBOIS. I ask unanimous consent that that bill lie upon the Speaker's table.

There was no objection, and it was so ordered.

### LIFE-SAVING STATION, ST. GEORGE RIVER, MAINE.

The SPEAKER also laid before the House the bill (S. 3897) to establish a life-saving station on the Atlantic coast at or near the mouth of St. George River, Maine.

Mr. DINGLEY. I ask unanimous consent that that bill lie upon the Speaker's table.

There was no objection, and it was so ordered.

### WARREN HALL.

The SPEAKER also laid before the House the bill (S. 902) for the relief of Warren Hall; which was read twice, and referred to the Committee on Claims.

### FREDERICK N. KRESS.

The SPEAKER also laid before the House the bill (S. 3779) for the relief of Frederick N. Kress; which was read twice, and referred to the Committee on Naval Affairs.

## THOMAS LANNIGAN.

The SPEAKER also laid before the House the bill (S. 2714) for the relief of Thomas Lannigan.

Mr. ROGERS. I ask unanimous consent that that bill lie upon the Speaker's table.

There was no objection, and it was so ordered.

## WRITS OF ERROR ON APPEALS.

The SPEAKER also laid before the House the bill (S. 3865) to provide for writs of error on appeals to the Supreme Court of the United States in all cases involving the question of jurisdiction of the court below.

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that that bill also lie upon the Speaker's table.

There was no objection, and it was so ordered.

## DISTRICT APPROPRIATION BILL.

The SPEAKER appointed as managers of the conference on the part of the House upon the disagreeing votes of the two Houses on the bill (H. R. 11651) making appropriations to provide for the expenses of the government of the District of Columbia for the year ending June 30, 1890, and for other purposes, Mr. CLEMENTS, Mr. FELIX CAMPBELL, and Mr. HENDERSON of Iowa.

## ENROLLED BILLS SIGNED.

Mr. ENLOE, from the Committee on Enrolled Bills, reported that they had examined and found duly enrolled bills of the following titles; when the Speaker signed the same:

A bill (H. R. 4496) to authorize and empower the Mount Carmel Development Company to draw water from the Wabash River, or its tributaries, in the county of Wabash and State of Illinois; and

A bill (S. 3869) to secure the maintenance of public order during the inauguration ceremonies of 1889, and for other purposes.

## ORDER OF BUSINESS.

The SPEAKER. The regular order is demanded by the gentleman from Illinois [Mr. TOWNSHEND].

Mr. ERMENTROUT. I rise to offer a privileged resolution.

The SPEAKER. The resolution will be read.

The Clerk read as follows:

*Resolved*, That on Wednesday, February 13, the whole of the east gallery and such portion of the south gallery as lies east of the reporters' gallery shall be reserved for the use of the families of Senators, Members of the House of Representatives, and Delegates, and their visitors. The Doorkeeper shall strictly enforce this order. The Speaker shall issue to each Senator and Member of the House of Representatives two cards of admission, and only persons holding these cards shall be admitted.

The resolution was agreed to.

## RELIEF OF CERTAIN SOLDIERS.

Mr. CUTCHEON. Mr. Speaker, I ask unanimous consent that the bill (H. R. 6106) for the relief of certain volunteer soldiers, returned from the Senate with amendments, lie upon the Speaker's table until to-morrow.

There was no objection, and it was so ordered.

## ORDER OF BUSINESS.

Mr. MCCREARY. Mr. Speaker, I desire to ask unanimous consent—

Mr. TOWNSHEND. Regular order.

Mr. MCCREARY. I hope my friend will withhold that demand for two minutes. I desire to offer a resolution to fix Thursday evening next for the consideration of business from the Committee on Foreign Affairs.

Mr. TOWNSHEND. Mr. Speaker, I must move that the private business for to-day be dispensed with in order that we may proceed with the consideration of the appropriation bill.

Mr. LANHAM. Pending that I desire to ask the gentleman from Illinois whether it is his purpose to go on to-day with the consideration of the Army appropriation bill. This being Friday, in the regular course it would be devoted to the consideration of business on the Private Calendar, and if that business is to be dispensed with, I desire to ask unanimous consent that the next day not devoted to the consideration of appropriation bills may be substituted for to-day.

## DAVID MERIWETHER.

Mr. TAULBEE. I desire to submit a privileged report.

The SPEAKER. The gentleman will send it to the desk.

The Clerk 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. 331) for the relief of David Meriwether, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate, and agree to the same with an amendment as follows:

Strike out all after the word "appropriated" in line 3 down to and including the word "all," line 10, and in lieu thereof insert the following:

"Three thousand six hundred and thirty-two dollars and thirty-eight cents, being the amount due him as disbursing agent of public moneys; also \$25 for

loss of public moneys sustained without fault on his part, amounting in all to the sum of \$4,157.38."

And the Senate agree to the same.

W. P. TAULBEE,  
FRANK T. SHAW,  
WILLIAM E. MASON,  
*Managers on the part of the House.*  
JOHN C. SPOONER,  
GEORGE F. HOAR,  
JAMES K. JONES,  
*Managers on the part of the Senate.*

The following statement, submitted in accordance with the rule, was read:

Statement of conferees on part of House of Representatives to accompany conference report on disagreeing votes of the two Houses on bill (H. R. 331) for the relief of David Meriwether.

The effect of the conference is to agree to the Senate amendment striking out that portion of the bill allowing claim for salary as Commissioner of Indian Affairs.

W. P. TAULBEE,  
WM. E. MASON,  
FRANK T. SHAW,  
*Conferees on the part of the House.*

The report of the committee of conference was agreed to.

Mr. TAULBEE moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## REPORTS OF SUPREME COURT.

Mr. CASWELL. I rise to submit a privileged report from a committee of conference.

The SPEAKER. That is in order.

Mr. TOWNSHEND. I desire to withdraw my demand for the regular order, and allow the House to recognize as many gentlemen as it may desire for unanimous consent.

Mr. BUCHANAN. Regular order.

The SPEAKER. The gentleman from New Jersey [Mr. BUCHANAN] has demanded the regular order. The Clerk will proceed to read the report.

The Clerk 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. 1860) to amend section 683 of the Revised Statutes, relating to the distribution of the reports of the Supreme Court, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate, and agree to the same.

L. B. CASWELL,  
JOHN S. HENDERSON,  
S. W. T. LANHAM,  
*Managers on the part of the House.*  
JOSEPH R. HAWLEY,  
CHARLES F. MANDERSON,  
*Managers on the part of the Senate.*

The accompanying statement, under the rule, was read:

The conferees on the part of the House submit the following statement to accompany their report:

As the bill passed the House it appropriated only \$20,000 to pay for the reports required to supply the courts.

Subsequently the bill was referred to the Attorney-General for information. He submitted, for the House bill, a substitute, which was adopted by the Senate and is the amendment referred to. It increases the appropriation from \$20,000 to \$28,000, which seems to be necessary to carry out the objects of the bill.

The amendment also provides that hereafter all United States Supreme Court reports shall be distributed by the Secretary of the Interior.

L. B. CASWELL,  
JOHN S. HENDERSON,  
S. W. T. LANHAM,  
*Managers on the part of the House.*

Mr. CASWELL. Mr. Speaker, I presume no separate action is necessary in regard to the amendment to the title of the bill.

The SPEAKER. That is covered by the report.

Mr. LANHAM. I understand that the report covers all the Senate amendments, including the title.

The report was agreed to.

Mr. CASWELL moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## MRS. GENERAL WARD B. BURNETT.

Mr. STRUBLE. I rise to a privileged question, and call up the motion to reconsider in relation to Senate bill No. 681.

The SPEAKER. The gentleman from Iowa [Mr. STRUBLE] as a matter of privilege calls up the motion to reconsider the vote by which the House refused to order to a third reading the bill the title of which will be read.

The Clerk read as follows:

A bill (S. 681) granting an increase of pension to Mrs. General Ward B. Burnett.

Mr. TOWNSHEND. I raise the question of consideration on that bill, in order that we may take up the Army appropriation bill.

Mr. STRUBLE. It will not take long to determine this matter. I would like very much to have it disposed of now.

The SPEAKER. The question is, Will the House now consider the motion to reconsider?

The question being taken; there were—ayes 55, noes 56.  
 Mr. STRUBLE. I demand the yeas and nays.  
 The yeas and nays were ordered, 47 voting in favor thereof.  
 The question was taken; and it was decided in the negative—yeas 80, nays 115, not voting 127; as follows:

## YEAS—80.

Allen, Mass.	Farquhar,	Kelley,	Scull,
Allen, Mich.	Finley,	Laidlaw,	Sherman,
Anderson, Iowa	Fitch,	Lehbach,	Spooner,
Baker, N. Y.	Fuller,	Mason,	Stephenson,
Bayne,	Gallinger,	McAdoo,	Struble,
Bingham,	Gest,	McKenna,	Taylor, E. B., Ohio
Boothman,	Grosvenor,	McKinley,	Thomas, Ky.
Brewer,	Grout,	Moffitt,	Thomas, Ill.
Brown, Ohio	Guenther,	Morrill,	Thomas, Wis.
Buchanan,	Haugen,	Morrow,	Thompson, Ohio
Burrows,	Hayden,	O'Donnell,	Turner, Kans.
Butler,	Hayes,	Osborne,	Warner,
Campbell, T. J., N. Y.	Henderson, Iowa	Patton,	West,
Caswell,	Hermann,	Payson,	White, Ind.
Conger,	Hiestand,	Perkins,	White, N. Y.
Crouse,	Hitt,	Peters,	Wickham,
Darlington,	Hopkins, III.	Plumb,	Williams,
Dingley,	Hunter,	Posey,	Woodburn,
Dorsey,	Jackson,	Romeis,	Yardley,
Dunham,	Johnston, Ind.	Sawyer,	Yost.

## NAYS—115.

Abbott,	Crain,	Herbert,	Newton,
Anderson, Miss.	Crisp,	Holman,	Norwood,
Anderson, Ill.	Culberson,	Hooker,	Oates,
Bankhead,	Cummings,	Hopkins, Va.	O'Ferrall,
Barnes,	Cutcheon,	Howard,	Peel,
Biggs,	Dargan,	Hudd,	Penington,
Blanchard,	Davidson, Ala.	Hutton,	Randall,
Bland,	Davidson, Fla.	Jones,	Rice,
Blount,	Davis,	Kerr,	Rogers,
Breckinridge, Ark.	Dibble,	Kilgore,	Rowland,
Browne, T. H. B., Va.	Dockery,	Laffoon,	Russell, Mass.
Brown, J. R., Va.	Dougherty,	Lagan,	Sayers,
Bryce,	Dunn,	Landes,	Simmons,
Burnett,	Elliott,	Lane,	Smith,
Bynum,	Enloe,	Lanham,	Springer,
Campbell, F., N. Y.	Ermentrout,	Latham,	Stewart, Ga.
Campbell, Ohio	Felton,	Lind,	Stockdale,
Candler,	Foran,	Long,	Stone, Ky.
Cannon,	Ford,	Macdonald,	Taulbee,
Carlton,	Forney,	Maish,	Tillman,
Caruth,	French,	Mansur,	Tracey,
Catchings,	Glass,	Martin,	Townshend,
Cheadle,	Granger,	McClammy,	Turner, Ga.
Clardy,	Grimes,	McCreary,	Walker,
Clements,	Hall,	McRae,	Weaver,
Cobb,	Hare,	Merriman,	Whiting, Mass.
Cothran,	Hatch,	Montgomery,	Wilson, Minn.
Cowles,	Heard,	Moore,	Yoder.
Co.	Hemphill,	Morgan,	

## NOT VOTING—127.

Adams,	Flood,	Ryan,	Ryan,
Allen, Miss.	Finston,	McCullough,	Scott,
Anderson, Kans.	Gaines,	McKinney,	Seney,
Arnold,	Gay,	McMillin,	Seymour,
Atkinson,	Gear,	McShane,	Shaw,
Bacon,	Gibson,	Milliken,	Shively,
Baker, Ill.	Glover,	Mills,	Snyder,
Barry,	Goff,	Morse,	Sowden,
Beiden,	Greenman,	Neal,	Spinola,
Bliss,	Harmer,	Nelson,	Stahlnecker,
Bound,	Henderson, N. C.	Nichols,	Steele,
Boutelle,	Henderson, Ill.	Nutting,	Stewart, Tex.
Bowden,	Hires,	O'Neal, Ind.	Stewart, Vt.
Bowen,	Hogg,	O'Neill, Pa.	Stone, Mo.
Breckinridge, Ky.	Holmes,	O'Neill, Mo.	Symes,
Brower,	Hopkins, N. Y.	Outhwaite,	Tarsney,
Browne, Ind.	Houk,	Owen,	Taylor, J. D., Ohio
Brown,	Johnston, N. C.	Parker,	Thompson, Cal.
Buckalew,	Kean,	Perry,	Vance,
Bunnell,	Kennedy,	Phelan,	Vandeveer,
Butterworth,	Ketcham,	Phelps,	Wade,
Chipman,	La Follette,	Pidcock,	Washington,
Clark,	Laird,	Post,	Weber,
Cockran,	Lawler,	Pugsley,	Wheeler,
Cogswell,	Lee,	Rayner,	Whiting, Mich.
Collins,	Lodge,	Reed,	Whitthorne,
Compton,	Lyman,	Richardson,	Wilber,
Cooper,	Lynch,	Robertson,	Wilkins,
Dalzell,	Maffett,	Rockwell,	Wilkinson,
Davenport,	Mahoney,	Rowell,	Wilson, W. Va.
De Lano,	Matson,	Russell, Conn.	Wise.
Fisher,	McComas,	Rusk,	

So the House refused to consider the motion.

On motion of Mr. BOOTHMAN, by unanimous consent, the reading of the names was dispensed with.

The following pairs were announced on all political questions until further notice:

Mr. THOMPSON, of California, with Mr. MCKENNA.

Mr. BARRY with Mr. ALLEN, of Massachusetts.

Mr. O'NEALL, of Indiana, with Mr. MCCORMICK.

Mr. BRECKINRIDGE, of Kentucky, with Mr. STEELE.

Mr. WASHINGTON with Mr. ARNOLD.

Mr. HOGG with Mr. J. D. TAYLOR.

Mr. WHITING, of Michigan, with Mr. NUTTING.

Mr. FISHER with Mr. RUSSELL, of Connecticut.

Mr. WHITTHORNE with Mr. LYMAN.

Mr. MAHONEY with Mr. BUNNELL.

Mr. PIDCOCK with Mr. BOWDEN.  
 Mr. McSHANE with Mr. LAIRD.  
 Mr. SNYDER with Mr. BOWEN.  
 Mr. WISE with Mr. GOFF.  
 Mr. NEAL with Mr. HOUK.  
 Mr. PHELAN with Mr. DE LANO.  
 Mr. COCKRAN with Mr. WILBER.

The following were announced as paired for this day:  
 Mr. SOWDEN with Mr. BROWER.  
 Mr. STEWART, of Texas, with Mr. BRUMM.  
 Mr. WILKINS with Mr. POST.  
 Mr. SENAY with Mr. GAINES.

Mr. STAHLNECKER with Mr. CLARK.

Mr. MILLS with Mr. O'NEILL, of Pennsylvania, on this vote.

Mr. HENDERSON, of North Carolina, with Mr. HOPKINS, of New York, on this vote.  
 Mr. McMILLIN with Mr. RYAN, on this vote.

Mr. MCKENNA. I am paired with my colleague, Mr. THOMPSON, on all political questions, but not regarding this as such a question I have voted.

The result of the vote was then announced as above recorded.

MRS. LOUISA D. V. KILPATRICK.

Mr. CHIPMAN. I rise to submit a privileged report from a conference committee, move its adoption, and ask the previous question upon it.

Mr. TOWNSHEND. I rise to a point of order. The issue having been decided between the question of consideration I raised and the pension bill, does not that give the right of way to the committee over any other business?

The SPEAKER. What committee?

Mr. TOWNSHEND. The Committee on Military Affairs. In other words, does not the motion I have made to consider the Army bill take precedence?

The SPEAKER. But the gentleman withdrew his demand for the regular order.

Mr. TOWNSHEND. I did; but when the gentleman from Iowa brought up the pension bill I raised the question of consideration.

The SPEAKER. And the House determined not to consider that bill. Now the gentleman from Michigan presents a privileged report.

Mr. TOWNSHEND. And against that I raise the question of consideration.

Mr. CHIPMAN. Its consideration will not take a minute.

Mr. TOWNSHEND. We are now in the consideration of the Army bill.

The SPEAKER. The conference report will be read.

The report of the conference committee was read at length.

The SPEAKER. The question is, Will the House proceed to consider the conference report?

The question was taken, and the House proceeded to divide; pending which,

Mr. CHIPMAN said: I withdraw the report.

## ORDER OF BUSINESS.

Mr. TOWNSHEND. I now move to dispense with private business for this day.

The question was taken; and on a division there were—ayes 86, noes 22.

Mr. O'FERRALL. No quorum.

The SPEAKER appointed as tellers Mr. O'FERRALL and Mr. TOWNSHEND.

The House again proceeded to divide, but before the announcement of the result,

Mr. O'FERRALL said: I withdraw the point of no quorum.

So (no further count being demanded) the motion to dispense with private business was agreed to.

Mr. TOWNSHEND. I move now to dispense with the morning hour.

The motion was agreed to.

Mr. TOWNSHEND. I ask unanimous consent that members having reports to make from committees may hand them in to the Clerk.

Mr. TAULBEE. On what is that based?

Mr. TOWNSHEND. Any reports.

Mr. TAULBEE. But I want to know why it is that the committees can not be called.

The SPEAKER. The question is not debatable.

Mr. TAULBEE. I am not debating it. I was simply asking a question of the gentleman from Illinois.

Mr. TOWNSHEND. The House has already adopted my motion to dispense with the call of committees, and I have simply asked consent that members having reports to make from committees may file them with the Clerk.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

Mr. TAULBEE. I have no objection.

There being no objection, unanimous consent was granted to file reports.

## FILING OF REPORTS.

The following reports were filed by being handed in at the Clerk's desk:

## LIFE-SAVING STATION ON COAST OF MAINE.

Mr. THOMAS H. B. BROWNE, from the Committee on Commerce, reported back favorably the bill (H. R. 12434) to establish a life-saving station on the Atlantic coast at or near the mouth of St. George River, Maine; which was referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

## GUANO ISLANDS.

Mr. RAYNER, from the Committee on Foreign Affairs, reported back favorably the bill (S. 3516) to further suspend the operation of section 5574 of the Revised Statutes of the United States, Title LXXII, in relation to Guano Islands; which was referred to the House Calendar, and, with the accompanying report, ordered to be printed.

## BRIDGES ACROSS GREEN RIVER.

Mr. CRISP, from the Committee on Commerce, reported as a substitute for bill H. R. 11996, a bill (H. R. 12524) to authorize the construction of bridges over Green and Barren Rivers, in the State of Kentucky, by the Henderson State Line Railroad Company; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

The bill H. R. 11996 was reported back with a recommendation that it be laid on the table.

## SUSAN P. MURDOCK.

Mr. SPOONER, from the Committee on Invalid Pensions, reported back favorably the bill (S. 2758) granting a pension to Susan P. Murdock; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

## SPECIAL-ASSESSMENT LIEN CERTIFICATES.

Mr. GROUT, from the Committee on the District of Columbia, reported back with amendment the bill (H. R. 3737) for the relief of the holders of District of Columbia special-assessment lien certificates, and for other purposes; which was referred to the House Calendar, and, with the accompanying report, ordered to be printed.

## ARMY APPROPRIATION BILL.

Mr. TOWNSHEND. I move that the House resolve itself into Committee of the Whole to consider general appropriation bills.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, Mr. DOCKERY in the chair.

The CHAIRMAN. The House is in Committee of the Whole for the consideration of general appropriation bills. The Clerk will report the title of the unfinished business.

The Clerk read as follows:

A bill (H. R. 12383) making appropriations for the support of the Army for the fiscal year ending June 30, 1890, and for other purposes.

Mr. TOWNSHEND. Mr. Chairman, I have but a few words to submit in support of the position I have taken in opposition to the point of order raised by the gentleman from Pennsylvania [Mr. RANDALL], to which I will ask the attention of the Chair. I have carefully examined the decisions that were rendered at the last session of this Congress bearing upon the proposition of my colleague from Illinois [Mr. SPRINGER] and the gentleman from Georgia [Mr. BLOUNT]. The most that can be said of the decisions in these cases is that they have taken the view that the Committee on Appropriations had not been altogether deprived of jurisdiction over the appropriations contained in the fortifications bill which they reported to the House and against which the point of order was made. It may be conceded, for the sake of the discussion, that the decisions were correct. I differed then, as I now differ, with the gentlemen who were then in the chair as to the conclusions reached.

But suppose, sir, that we concede to the fullest extent what has been claimed by the gentleman from Pennsylvania in those decisions. How far do they go? Simply to the effect that the Committee on Appropriations has not altogether parted with its jurisdiction over the appropriations they report in that bill. Take, for instance, the decision upon the fortifications bill in the last session. The point of order was made against the appropriations for torpedoes therein provided that were to be used in defense of harbors or fortifications. It has been held by the Chair under the practice of the House, not under the rules of the House, but the common practice, that the Committee on Appropriations still had power to report appropriations in the fortifications bill looking to the armament of forts or defense of harbors.

Now, I insist that the most that can be said in behalf of the Committee on Appropriations is that it may have concurrent jurisdiction with the Committee on Military Affairs of such appropriations. The Chair did not go so far as to hold that the Committee on Military Affairs was denied jurisdiction on this question. If the question had arisen on the Army bill, or any bill reported by the Committee on Military Affairs, I doubt whether the gentleman from Georgia would have contended,

and I doubt whether he would contend now, whilst upon the floor, that the Committee on Military Affairs did not have equal and concurrent jurisdiction with the Committee on Appropriations over such subjects. Now, sir, I do not see how he or any one can hold that this Committee on Military Affairs does not at least have concurrent jurisdiction. Why do I hold, sir, that the Committee on Military Affairs, if it has not exclusive jurisdiction, has concurrent jurisdiction with the Committee on Appropriations over appropriations of this character? Clause 12 of Rule 11 says in explicit terms:

All subjects which relate to the military establishment and the public defense, including the appropriations for its support and for that of the Military Academy, shall be referred to the Committee on Military Affairs.

Clause 3 of the same rule in defining the jurisdiction of the Committee on Appropriations, among other things, declares that all subjects relating to "fortifications" may be referred to that committee. Now, sir, the rule that I have read in relation to the Committee on Military Affairs goes further than the rule as laid down in clause 3, Rule 11.

Now, the most that can in my judgment be said by gentlemen is that both of these committees have concurrent jurisdiction over this subject; but if any doubt could be left on the mind of any one as to the jurisdiction, or at least the concurrent jurisdiction of the Committee on Military Affairs, he would certainly yield to the resolution adopted by this House by unanimous consent directly and specifically referring all subjects of that character to the Committee on Military Affairs.

I again ask the Chair to give his attention to the resolution which was reported by the gentleman from Tennessee [Mr. McMILLIN] as a member of the Committee on Ways and Means in the distribution of the various subjects included in the President's message passed on the 6th of December last. It reads as follows:

Resolved, That so much of the annual message of the President of the United States to Congress at the present session as relates to the Army of the United States, including appropriations therefor, and to provide an armament—

This includes any proposition making appropriations for guns, torpedoes, or any arms intended for coast defense and armament. The language is:

Providing for the defense of the seacoast be referred to the Committee on Military Affairs.

I do not believe, sir, that there can be any doubts upon the point that I have made, and the most that can be said in behalf of the Committee on Appropriations is that it has concurrent jurisdiction with the Committee on Military Affairs in appropriations for fortifications for the seacoast and for the public defense.

Now, in order to show that I am correct in this assumption I will call attention to the decisions that were rendered—the two decisions to which the gentleman from Pennsylvania referred. First to the one rendered by my colleague from Illinois [Mr. SPRINGER]. The decision is this:

The attention of the Chair has also been called to the decision of the gentleman who occupied the chair when the naval appropriation bill was under consideration at the last session of Congress. At that time the chairman of the committee held that a proposition for the purchase of guns for the use of the Navy was an object previously provided for by law, and that the appropriation was a continuation of such work.

The same point is raised here—that this appropriation has not been authorized by law, and therefore is not in order upon this bill.

The present occupant of the chair, had he presided at that time, would doubtless have made a similar decision; but if it were now proposed to appropriate a sum of money for the armament of ships it certainly would not be contended that that was in order upon this bill, although it might be held to be necessary for the public defense. The words "the public defense," in clause 11 of Rule XI, refer to such defense as is committed to the Army of the United States, and as clause 3 of this rule has committed the subject of fortifications to the Appropriations Committee, all provisions for public defense to be made by fortification, should go to that committee, just as all provisions for the public defense relating to the Navy should go to the Committee on Naval Affairs.

The Secretary of War has transmitted to the committee certain letters, among them one from the Chief of Ordnance, to the effect that this appropriation is desired for the armament of fortifications. The Chair will take cognizance of the fact that the proper officials of the Government who have communicated this matter to Congress have stated that the appropriation is for the purpose of providing armament for fortifications, and such being its object, it should be reported in the fortifications bill, as provided in clause 3 of Rule XI.

Mr. Chairman, the provision in the bill does not anywhere upon its face show that it has any connection with the fortifications system. This weapon may be used to defend fortifications, but it is not necessarily so used. It may be used many miles away from any fortification or fort; it may be used in the river at any point. As I illustrated yesterday, it might be used anywhere from the mouth of the Potomac River to the city of Washington, a distance exceeding 100 miles. There is not a single fort between this city and the mouth of the Potomac, except the old dismantled Fort Washington where no troops are maintained. As I have said, these weapons could be used at any point between this city and the mouth of the river to defend the river approach to the capital.

One point which I made yesterday I wish the Chair to keep distinctly before it, and that is that this is a part of the armament that is desired for the Army and not necessarily to be used in connection with the defense of forts, for, as I have said, the weapon may be used at an entirely different and distinct point from any fort. I desire to call the particular attention of the Chair also to this point, that the military establishment having been authorized by law, it is in order for the Committee

on Military Affairs to report any amendment in support of the military establishment. That principle was laid down by the gentleman from New York [Mr. COX] when he was in the chair some week or ten days ago.

I do not know what opinion other gentlemen may entertain of the learning and knowledge of the rules possessed by the distinguished gentleman from New York, but so far as I am concerned I regard him as one of the ablest parliamentarians, and as having as accurate knowledge of parliamentary principles and as thorough an understanding of the rules of this House as any gentleman who occupies a position upon this floor. With one exception I believe he has served longer than any member of this House. I feel that great weight ought to be given to his opinion. I ask now that the Clerk read from his decision on the occasion to which I refer, a decision which, in my judgment, fully answers the point of order made in this case. In the case upon which the gentleman from New York ruled there was an amendment in the Military Academy bill providing for the construction of an entirely new building at West Point, and in that instance the point of order would really have had more force than it has in relation to the matter now before the House.

The Clerk read as follows:

The CHAIRMAN. Without entering upon the question of the jurisdiction of one committee as related to that of any other, the Chair holds that under clause 12 of Rule XI, "to the military establishment and public defense, including the appropriation for its support and for that of the Military Academy," the Committee on Military Affairs has jurisdiction of this matter; and therefore they have properly jurisdiction of this subject-matter as to the erection of buildings.

The Chair will cause to be read the third clause of Rule XXI.

The Clerk read as follows:

"No appropriation shall be reported in any general appropriation bill, or in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress; nor shall any provision changing existing law be in order in any general appropriation bill or in any amendment thereto."

The CHAIRMAN. Without regard to the precedent cited by the gentleman from Illinois, the Chair decides that, within the meaning of the provision just read, the building proposed to be erected—"fire-proof building on site of public grounds at West Point"—is within the purview of the rule. The construction of a building is an incident to the maintenance of the Academy itself, the object being already in progress—the main object contemplated not only by the bill but by the very institution of the Academy itself.

Without reference to other decisions made from the Chair either in Committee of the Whole or otherwise, the present occupant of the chair is informed that the Speaker of the House on a former appropriation bill held that an appropriation for the construction of a new vessel was in continuation of the general object of maintaining a navy; and that decision of the Speaker "runs on all fours" with the decision which the Chair now makes when he overrules the point of order.

Mr. TOWNSHEND. Mr. Chairman, what do we learn from that decision? First, that the gentleman from New York [Mr. COX] when occupying the chair followed directly in the footsteps of the Speaker of the House, who had held that the construction of a new vessel was properly to be considered as in support of the naval establishment, and was in order and might be reported in a general appropriation bill for the support of the Navy. As the gentleman rendering the decision states, his decision runs on all fours with that decision of the Speaker. He holds that the construction of an entirely new building, being in the nature of a support of the military establishment, it being authorized by law, is in order, and that the Committee on Military Affairs, in furnishing means to that extent for the support of the Military Academy, could report a paragraph providing for an entirely new building. Now as to the decision of the gentleman from Georgia [Mr. BLOUNT]. I will not take time to read his decision in full, but the gentleman from Georgia had an entirely different question before him. The question before him arose upon the fortifications bill reported by the Committee on Appropriations.

The provision in the fortifications bill expressly declared that the torpedoes proposed in that bill were to be purchased for use as a part of the fortifications. The appropriation was confined by its language specifically to torpedoes for use on fortifications.

Mr. CUTCHEON. It was for fixed mines only.

Mr. TOWNSHEND. Yes; it was for fixed mines, which were a part of the fortifications. The provision in this bill, on the contrary, is for the purpose of purchasing a weapon; is for the purpose of purchasing material for the use of the Army—not necessarily in connection with a fort. If it is in order for the Committee on Military Affairs to report a provision for an entirely new building, and if that can be conceded to be a part of the military establishment, who can deny that a gun, that a torpedo, is not also essentially and properly a part of the military establishment? Can any one conceive of anything which can be more essentially considered as a part of the military establishment than torpedoes and guns, projectiles and arms?

I do not wish to occupy any further time.

The CHAIRMAN (Mr. DOCKERY). The Chair is ready to rule upon this question. The point of order submitted by the gentleman from Pennsylvania [Mr. RANDALL] raises the question of jurisdiction and is directed to the clause of this bill which provides—

For the purchase, under the direction and at the option of the Secretary of War, of movable submarine torpedoes propelled and controlled at will by power transmitted from shore stations, such torpedoes to have a speed of not less than 15 miles an hour on a 14-mile test, to carry 11,000 feet of cable, to steer to the right or left within a radius of 300 feet before or after diving under a spar or log, to carry not less than 400 pounds of dynamite or other high explosive, and before acceptance to meet the approval of the Board of Engineers, the same to be used and operated by the Engineer Corps of the Army at points upon navigable waters and at entrances of harbors where permanent fortifications do not exist, \$500,000.

For the purchase, under direction and at the option of the Secretary of War, of movable submarine torpedoes propelled and controlled at will by power transmitted from shore stations, such torpedoes to have a speed of not less than 15 miles an hour on a 14-mile test, to carry 11,000 feet of cable, to steer to the right or left within a radius of 300 feet before or after diving under a spar or log, to carry not less than 400 pounds of dynamite or other high explosive, and before acceptance to meet the approval of the Board of Engineers, the same to be used and operated by the Engineer Corps of the Army at points upon navigable waters and at entrances of harbors where permanent fortifications do not exist, \$500,000.

Since the close of the session yesterday the Chair has made a somewhat careful investigation of this question; and as a result of that investigation will say that even if he entertained a doubt as to the correctness of former rulings in respect to this controversy he would be inclined to follow those rulings, for the reason that the contrary course would involve the appropriation bills in much confusion and lead to a duplication of items. The Chair, however, entertains no doubt whatever as to the question of jurisdiction raised by the point of order. The distribution of the appropriation bills at the beginning of the first session of the last Congress made no change in the phraseology of the rule. The only effect of the change was to provide that certain appropriation bills which prior to that time had been under the control of the Appropriations Committee should be given to other committees. In this connection the Chair desires to submit an extract from a recent decision of the gentleman from Georgia [Mr. BLOUNT] as Chairman of the Committee of the Whole on the fortification bill, which decision in the opinion of the Chair reflects some light on this question and aids us in the endeavor to see our way to a proper conclusion.

In that decision it is stated that—

An examination of the statutes and of the practice of the House for a long series of years shows that prior to the adoption of the present rules the rules simply assigned the work of appropriations to the Committee on Appropriations. That committee subdivided their work into various general appropriation bills, not by virtue of any rule of the House, but for their own convenience. They were designated as the legislative, executive, and judicial bill, the sundry civil bill, the fortification bill, the District of Columbia bill, the pension bill, the deficiency bill, the military bill, the naval bill, and the bill in relation to post-offices and post-roads, etc.

The subject-matter of these several bills was designated by the Committee on Appropriations itself, and the Chair thinks that the only way of ascertaining the nature of these bills is by an examination of the substance of them. Under these designations they have been crystallized in the practice of the House until they have a significance as pregnant as the strongest language could give them. In the light of this practice the subjects contained in the paragraph—

Being the paragraph of the bill then under consideration—House bill 11917—

have almost from the beginning been assigned to the fortification bill.

The question at issue here is a question as to the jurisdiction over what is known as the "torpedo item" of this appropriation bill. Where does it belong, and what appropriation bill should carry it? In endeavoring to reach a just conclusion it occurs to the Chair that it is well to go back to the practice of the House in respect to this item before the change of rules distributed the appropriation bills; for that change of rules made no change in their phraseology, but simply assigned certain appropriation bills to committees which prior to that time had not been given the consideration of them. We find that beginning with 1874, without a single exception, the item providing for torpedoes has been carried in the fortification bill. Not only this, but since the adoption of the change of rules this item, as the Chair understands, though he is not quite positive as to this, has been carried in the fortification bill. The Chair thinks this is the fact, though it is not material to the question at issue.

Mr. CUTCHEON. There was no fortification bill in the Forty-ninth Congress.

The CHAIRMAN. The Chair was not certain as to that, but made the statement simply—

Mr. RANDALL. There was.

Mr. CUTCHEON. There was none that became a law.

Mr. RANDALL. In the Forty-ninth Congress there was a bill nevertheless.

The CHAIRMAN. The statement was made on the floor yesterday without contradiction to the effect that the "torpedo item" had been carried in the fortification bill of the Forty-ninth Congress. The Chair has not, however, investigated that question.

The Chair therefore thinks that the intent of the House in distributing these appropriation bills was to give to the fortification bill that which it carried prior to the distribution, to the Post-Office appropriation bill that which it carried prior to the distribution, and so with respect to the bills assigned to the other committees.

The Chair does not think it necessary to pass upon the question of order raised by the gentleman from Indiana. For these reasons the Chair sustains the point of order submitted by the gentleman from Pennsylvania.

Mr. CUTCHEON. I offer the amendment which I send to the desk, to take the place of that portion of the bill ruled out on the point of order.

The Clerk read as follows:

For the purchase, under direction and at the option of the Secretary of War, of movable submarine torpedoes propelled and controlled at will by power transmitted from shore stations, such torpedoes to have a speed of not less than 15 miles an hour on a 14-mile test, to carry 11,000 feet of cable, to steer to the right or left within a radius of 300 feet before or after diving under a spar or log, to carry not less than 400 pounds of dynamite or other high explosive, and before acceptance to meet the approval of the Board of Engineers, the same to be used and operated by the Engineer Corps of the Army at points upon navigable waters and at entrances of harbors where permanent fortifications do not exist, \$500,000.

Mr. SAYERS. I desire to raise the same point of order which has just been decided.

Mr. CUTCHEON. Mr. Chairman, I desire to be heard on the point of order.

The CHAIRMAN. The gentleman will proceed.

Mr. CUTCHEON. I desire to call the attention of the Chair to the difference between the amendment and the paragraph which has gone out on the point of order. In the first place, it leaves out that part embraced by the point of order made by the gentleman from Indiana [Mr. HOLMAN] in regard to the expenditure of the money; the next difference is, it requires this arm to be used and operated by the Engineer Corps of the United States Army; and in the next place it requires it to be operated by the Engineer Corps of the Army "at points upon navigable waters and at entrances of harbors where permanent fortifications do not exist."

This amendment, therefore, excludes the points raised and decided in the ruling of the Chair. It is absolutely certain it refers to a part of the military establishment. It is to be used and operated by the Engineer Corps of the regular Army. It excludes the possibility of this being claimed to be a fortification or to be used in connection with a fortification, because it expressly provides it shall be "at points upon navigable waters and at entrances of harbors where permanent fortifications do not exist."

This, then, Mr. Chairman, brings us down to the question, is a fish movable torpedo a fortification, and therefore to be appropriated for in the regular fortification bill, or is it merely an arm or weapon of the military establishment to be provided in the bill making appropriations for the support of the Army?

Mr. Chairman, let us take for illustration a difficulty which may occur at the present moment. Suppose we were to get into difficulty with a foreign nation and it should attempt to send a fleet up the Potomac River in order to attack this capital. Now we have no fortification either on Chesapeake Bay or on the Potomac River to stay the progress of that fleet. We have no means of defense for this city except by the Engineer Corps of the Army, which has been drilled in the use of the fish movable torpedoes. At any point on the river and operating for a distance of 2 miles, if a hostile fleet approaches they can propel these torpedoes against the enemy and destroy his vessels. This makes it apparent therefore, Mr. Chairman, to my mind that this is simply a weapon; that it is not a fortification nor anything that is to-day called a fortification.

To illustrate further: We have a treaty with Great Britain whereby we are excluded from maintaining upon the Great Lakes upon our northern border to exceed three revenue-cutters, carrying, I believe, one gun apiece. Suppose we should get into difficulty and the British should attempt to send a fleet into the Lakes. We have no vessel there to reach them or contend against them. We have no fort which could stay them; but we could ship a cargo of these movable torpedoes upon a freight-car, and with the Engineer Corps of the Army to operate them "at points upon navigable waters, and at entrances of harbors where permanent fortifications do not exist," in the language of the amendment, we could destroy that fleet or prevent it doing us any serious damage. We could plant these torpedoes on the Detroit River, where there is now no fortification, or upon the coast of St. Clair, where there is no fortification, or the Sault Ste. Marie, or the straits of Mackinaw, where there is no fortification. With these movable torpedoes planted at the entrance of harbors, and along the shores of navigable waters, making 15 miles, capable of rising, diving, and being deflected, we could, by merely digging a cellar in which the operator could be protected and command the situation, with twenty or thirty of these movable torpedoes destroy the enemy's fleet.

It is not an armament or fortification. It is simply a weapon of the Engineer Corps of the United States Army, and belongs in this bill.

Mr. RANDALL. Gentlemen should not confuse the question. The decision of the Chair was as to where this appropriation belonged. All he decided was that it belonged in the fortification bill. He has not decided who shall make the contract for these torpedoes, or how they shall be used. The naked question ruled upon by the Chairman is that this appropriation belongs on the fortification bill.

Mr. TOWNSHEND. One word. I may misunderstand what was the ruling of the Chair a few moments ago, but if I understood the Chair he does not base his ruling on the *rules*, but upon what was the *practice*, and that the *practice* was to put into the fortification bill appropriations for torpedoes to be used for harbor defense.

The CHAIRMAN. Will the gentleman from Illinois allow an interruption just there?

Mr. TOWNSHEND. Certainly.

The CHAIRMAN. That is the language used in every fortification bill except two. The Chair would not hold it material to the main question of jurisdiction, but that is the phraseology in respect to torpedoes of every appropriation bill except that for the fiscal year 1885 and the fiscal year 1886, in which bills the language, in substance, is the language of the "torpedo section" of the bill now under consideration.

Mr. TOWNSHEND. Then, if it may please the Chair, the language, with the exception of the acts of 1885 and 1886, has continuously been as stated, and the practice, with exceptions mentioned, has been unbroken, that no appropriations for torpedoes have been made in the ap-

propriation bill except for harbor defense. The unbroken practice has been to confine the appropriations for torpedoes in this bill for harbor defense.

The gentleman from Michigan [Mr. CUTCHEON] now presents a proposition for an appropriation not to be used in harbor defense or in connection with fortifications. It is for a very different branch of the service. As I have said, the unbroken practice has been to confine the appropriation in the fortifications bill to those torpedoes used only and solely in harbor defense.

Mr. CUTCHEON. Permit me to call the attention of the Chair to a single point that has not been adverted to, I think, in the discussion so far, that the first appropriation for \$100,000 for movable torpedoes was carried in the naval appropriation bill, in the act of 1883, passed by the Forty-seventh Congress, and for a very good reason, Mr. Chairman, as will be seen by considering the fact that a vessel of the Navy may take out a supply of naval torpedoes to sea and launch them from the vessel against the opposing fleet. It was carried then in the naval bill, which demonstrates the fact that it was not necessarily a matter for the fortifications bill.

The CHAIRMAN. The Chair would say in response to that suggestion that he intended, when delivering the opinion on the point of order submitted by the gentleman from Pennsylvania [Mr. RANDALL], to state that should the Appropriations Committee be deprived of its jurisdiction over this question it would seem that the entire proviso as to submarine torpedoes would more properly appear in the naval appropriation bill rather than the Army bill.

Mr. CUTCHEON. There are torpedoes and there are torpedoes. There are naval torpedoes to be used in connection with vessels, and there are land torpedoes to be used by the engineer forces operating from the land. This is not what may be called a land torpedo, but it is projected from the land against the opposing vessel.

Mr. SAYERS. I desire to call the attention of the Chair to the language of the last fortifications appropriation bill, which used these words:

For practical instruction of engineer troops in details of the service and for the purchase of submarine torpedoes controlled at will by power transmitted from shore stations, etc.

Mr. TOWNSHEND. From what is the gentleman reading?

Mr. SAYERS. I am reading from the fortifications appropriation act of the last Congress.

Mr. TOWNSHEND. Will the gentleman be kind enough to read from the beginning of that paragraph?

Mr. SAYERS. These words are of general signification—

Mr. TOWNSHEND. The beginning of the paragraph is this: For torpedoes for harbor defense.

The gentleman did not read that.

Mr. RANDALL. Oh, you can not do indirectly what by the decision of the Chair you are not permitted under the rules of the House to do directly.

The CHAIRMAN. The Chair has endeavored, in deciding the question of order, to make clear his opinion that the jurisdiction of the torpedo service under the *practice* of the House properly belongs to the fortifications bill. That was intended to be the decision of the Chair; but if the Chair did not so express himself in unmistakable language he was unfortunate in the use of the terms employed. That was the idea in the mind of the Chair at the time the decision was rendered. The Chair sees no reason to depart from the opinion then entertained, and therefore sustains the point of order.

Mr. TOWNSHEND. I offer a further amendment to this paragraph.

The CHAIRMAN. The gentleman will send it to the desk.

Mr. TOWNSHEND. I desire to offer the following amendment. In lieu of the paragraph stricken out on the point of order just decided by the Chair insert these words:

For purchase, under the direction and at the option of the Secretary of War, \$500,000.

Mr. SAYERS. Mr. Chairman, I raise the same point of order against that.

The CHAIRMAN. The Chair sustains the point of order.

Mr. RANDALL. It is trifling with the question.

Mr. SPINOLA. It does not seem like trifling with the question—

Mr. SAYERS. I raise the point of order that there is nothing before the committee.

Mr. SPINOLA. I move to strike out the last word.

The CHAIRMAN. What was the point of order raised by the gentleman from Texas?

Mr. SAYERS. I made the point of order that the gentleman from New York was proceeding to address the committee when there was nothing pending.

The CHAIRMAN. The gentleman had just risen, and of course the Chair had no means of determining for what purpose the gentleman had risen. The Chair understands the gentleman from New York now to move a *pro forma* amendment.

Mr. SPINOLA. I was about to state, Mr. Chairman, in view of the suggestion made a moment ago, that there is trifling with the decision under the decision of the Chair here, that there appears to be a disposition on the part of one or two of our friends to strike out all of the ap-

provision for torpedoes, and to strike it out upon the technical ground that it has not been recommended by a proper committee, looking at it from their standpoint. Now, must the country and its safety be jeopardized and placed in peril; must the seaboard cities be undefended simply to cater to a technicality on the part of a few of our friends; or should we do that, sir, in a statesmanlike way which the people of the whole country are looking for us to do—that is, to give ample protection to the *dozen or fifteen of our great seaboard cities now so entirely unprotected?*

You can commence, sir, away in the State of Maine and follow the coast all the way down as far as it extends, and there is no seaport city along that long line but what is left in such a position that in the event of a difficulty with any other country the city may be taken and held for ransom at an enormous sum.

We know that there is trouble of a great and serious character by which we might be brought into conflict with Germany, and under existing circumstances, let me say to my friends here, the great city of New York is unprotected, with its billions of money, and if once captured the ransom would be so high that it would almost stagger the whole Government of the country. But my friend says he does not live there. They live a long way from here. How does it affect my friends, the gentleman from Texas, or the gentleman from Pennsylvania, who lives away up at the head of a small river that is continually asking for appropriations to remove obstructions and remove islands?

Mr. RANDALL. But we have never asked to remove the garbage out of the harbor.

Mr. TOWNSHEND. You asked for an appropriation to remove an island.

Mr. SPINOLA. You asked for money to remove an island at a cost of two or three hundred thousand dollars last year. Now, I can only ask this of this House in the interest of the great commercial interests of the country, for the protection of all who live upon the seaboard, and for the Pacific coast as well as the Atlantic coast. The Chair has admitted in the decision that he has made that he was in some doubt, that he is not absolutely clear in his judgment; and when we have shaped the proposition in a new form so as to overcome the objection that he entertained, again objection is raised upon the same ground. I therefore think it is a fit subject to appeal to the judgment of this House upon, with all respect to the Chair, who has decided that it is not in order, as to whether we shall leave the people in this imperiled condition in case of difficulty with any nation or whether we shall do that which the whole country is looking for us to do and give such protection to our seaboard cities as will be warranted by our duty to them. I regret exceedingly to differ with my friend from Philadelphia [Mr. RANDALL], as well as with my friend from Texas [Mr. SAYERS].

This is a great public question, and it should not be treated upon a technical point. It is stricken out on a mere point of technicality as it stands before us to-day, and both my friends have placed it in that shape, and not upon its merits. I believe that it should be settled upon its merits, and I have no fear of the representatives of the American people deciding whether they shall place the country in such position, in case that we should have a difficulty with another country, as will fully guarantee the protection of our seacoast on both seas. I will say to my friends that if they do not let it rest upon this bill it will come in in some form. It may come in from the Senate, or it may come back in this very bill, and if it does you will have a great deal of trouble in getting it off.

Mr. SAYERS. You will have trouble in passing it.

Mr. SPINOLA. My friend from Texas says that we will have trouble in passing it; but I am speaking to-day to this House, and I appeal to both the gentleman from Texas and the gentleman from Pennsylvania to let us take the question upon its merits in the House and let it decide it. If it decides that it is not of sufficient merit to be provided for, I will say amen to their judgment.

The Clerk read as follows:

For purchase and repairs of instruments to be issued to officers of the Corps of Engineers, for use on public works and surveys, \$4,000.

Library of the Engineer School of Application: Purchase and binding of professional works of recent date treating of military and civil engineering, \$500.

Mr. TOWNSHEND. I raise the point of order against the paragraph just read. The appropriation is for a library for the Engineer School of Application, stationed at Willets Point, New York. I was about to remark that I am surprised that that item escaped the vigilant attention of the gentleman from Pennsylvania [Mr. RANDALL] and the gentleman from Texas [Mr. SAYERS]. That item is to make an appropriation for the School of Application at Willets Point, New York. It is known as the Torpedo School. The object of that school is to experiment with and to prepare the submerged mines, and to instruct the Army officers in the use of these torpedoes which it has been decided are exclusively to be provided for in the fortification bill. Now, if appropriation can not be made in the Army appropriation bill for the purchase of a single one of these torpedoes or the material out of which they are made, I certainly hold that the Committee on Military Affairs should not be burdened with an appropriation for the torpedo system. This is a part of the torpedo system, and a necessary part of that system; and the responsibility for the appropriation should rest where the

Chair and the gentleman from Pennsylvania decided it belongs. I insist on the point of order under the ruling which has just been made by the Chair.

Mr. RANDALL. If I understand that, I concur in the statement of the gentleman from Illinois. It is new legislation, and it is subject to the point of order.

Mr. TOWNSHEND. I insist upon the point of order.

Mr. CUTCHEON. Can I be heard for a moment?

Mr. TOWNSHEND. I will say, however, in this connection that it has been the practice of the House to insert this matter in this bill. It has always been put there ever since it was started. But if the ruling is correct upon the last item ruled upon, this should go out upon the point of order that I have raised.

Mr. CUTCHEON. I apprehend, Mr. Chairman, that the point of order is rather argumentative than otherwise. This library and Engineer School of Application is for the instruction of one branch of the military establishment, the Engineer Corps, who are posted at Willets Point. There can be no doubt at all but that this is for the support of a part of the military establishment, and although I do not like to differ with my chairman, yet I think the provision is rightly in this bill, both in theory and in practice, and I should stultify myself not to say so. I differ entirely with the Chairman's ruling on the last point of order; I think that item belongs in this bill, too, but I do not think that two wrongs make one right.

Mr. RANDALL. I simply said that if this changed existing law it was subject to the point of order. The gentleman from Michigan now states that this same paragraph is in the existing law.

Mr. CUTCHEON. It has been customary to make this appropriation on this bill.

Mr. RANDALL. Well, if it does not change existing law the point of order does not apply.

The CHAIRMAN. The Chair overrules the point of order. The Clerk will read.

The Clerk read as follows:

For a building to contain engineer models, \$8,000, or so much thereof as may be necessary.

Mr. TOWNSHEND. I raise the point of order upon that item. There is no existing law authorizing it. It is part of the torpedo system, and it belongs to the Committee on Fortifications, who it is claimed have exclusive charge of appropriations for torpedoes. That runs on all fours with the views of the gentleman from Texas [Mr. SAYERS] and the gentleman from Pennsylvania [Mr. RANDALL].

Mr. RANDALL. We will express our own views without having them filtered through the mind of the gentleman from Illinois.

Mr. CUTCHEON. Mr. Chairman, talking about "all fours," this is on all fours with the Military Academy item involved in the decision made by the gentleman from New York [Mr. COX]. At the present time there is an old tumble-down building at this place which is entirely unfit for the purpose, and we propose to give them a better one, a new brick building, in which to carry on their school and store their models. I am inclined to think that the gentleman from Texas [Mr. SAYERS] and the gentleman from Pennsylvania [Mr. RANDALL] are getting some light on the scope of previous points of order, but at the same time I want to see this provision kept in this bill.

Mr. TOWNSHEND. I wish to add, Mr. Chairman, that there is no question as to the merits of this appropriation or as to the necessity for it. Upon those points I have not the slightest doubt in my mind, but, as I desire that this bill may be confined to appropriations that are strictly in order, and as the Committee on Appropriations has constituted itself a guardian of this bill—a thing that the Committee on Military Affairs has never done with any bill emanating from the Committee on Appropriations—this shows that my committee has more confidence in their judgment than they seem to have in the judgment of the Committee on Military Affairs [laughter]—I feel bound to make the point of order.

Mr. Chairman, while I am on my feet I beg leave to congratulate my friend from Pennsylvania [Mr. RANDALL]. He has robbed the Committee on Ways and Means of the very essence of its jurisdiction and had it transferred to his own committee. He did not do it upon his own motion, but it was the spirit that animated him which induced others to rob that committee of its jurisdiction and transfer it to the Committee on Appropriations. I am not surprised, therefore, that he has become envious of the remnant of jurisdiction left with the Committee on Military Affairs and seeks to take away all that is left with us. I warn my friend who will soon bring in the Post-Office appropriation bill that he may find himself in the same predicament with the rest of us. It is not so very long since an effort was made here to emasculate the committee over which the gentleman from Pennsylvania presides and deprive it of its most important jurisdiction. He was then powerless to save his committee.

I stood with him hand in hand, shoulder to shoulder, and sought to prevent it from being emasculated of its power, but I find to-day that, Phoenix-like, he has risen up here with more power than he ever before possessed in this House. He has triumphed over the leading and what we all regarded, during the last summer at least, as the most potent committee in this House, the Committee on Ways and Means.

I do not therefore wonder that he is encouraged to go on and make new conquests, nor am I ashamed to acknowledge that the Committee on Military Affairs is forced to submit to the conqueror. [Laughter.]

Mr. RANDALL. I only want to leave you to your own reflections after the meanness of such a speech.

Mr. TOWNSHEND. Oh, the gentleman entirely misapprehends my speech. There was no meanness in it. There was simply a purpose on my part to express my admiration for the gentleman's power and influence, which dominate this House and override the established rules and practices of the House.

Mr. RANDALL. I am afraid you make that last remark at the expense of your sincerity. [Laughter.]

Mr. TOWNSHEND. My friend is again very much mistaken. He knows I am always sincere.

Mr. BUCHANAN. A single suggestion as to the point of order. Of course the point is not made seriously, because it can not be possible that the chairman of the committee which frames this bill would raise this point of order against the provisions of his own bill. But if it be true that it is made in sincerity, it certainly can not be possible that because for the time being a gentleman who happens to be chairman of the committee is temporarily dispossessed, as it were, of his ordinary stock of patience, the interests of the country should suffer.

The CHAIRMAN. The Chair would suggest, in response to the observations of the gentleman from Michigan [Mr. CUTCHEON], that the clause here is not only "on all fours" with the decision of the gentleman from New York [Mr. COX], but it is "on all fours" with the decision of the present occupant of the chair rendered on yesterday when he admitted the amendment offered by the gentleman from Ohio [Mr. OUTHWAITE] to provide for "officers' quarters" for the post at Columbus, Ohio. The Chair therefore overrules the point of order.

The Clerk read as follows:

For repairing and preserving ordnance and ordnance stores in the hands of troops and for issue at the arsenals and depots, \$5,000.

Mr. TOWNSHEND. The Committee on Military Affairs have instructed me to offer the amendment which I send to the desk.

The Clerk read as follows:

Amend by inserting the following after the word "dollars," in line 10, page 21:

For the purchase of machine-guns, musket caliber, American manufacture, \$20,000.

Mr. SAYERS. Mr. Chairman, I would like to inquire of the gentleman from Illinois what is to be the size of these guns.

Mr. TOWNSHEND. I ask that a communication from the War Department and a telegram be read which show the caliber of the guns.

Mr. SAYERS. My object in the inquiry was to determine whether I would raise a point of order. I will reserve the point.

Mr. TOWNSHEND. If the point of order is to be made, we had better have it disposed of before going into the merits of this matter.

Mr. SAYERS. I simply made the inquiry in order to determine whether the amendment was subject to a point of order.

The CHAIRMAN. Does the gentleman from Texas raise a point of order?

Mr. SAYERS. I desire to know the character of these proposed guns; when I have ascertained that I may not press the point. I reserve the point of order. If, as a gentleman suggests to me, these guns are to be musket caliber, then of course I do not raise the point of order.

The CHAIRMAN. The Chair understands that the amendment so provides.

Mr. CUTCHEON. I ask that it may be again read; I think the Clerk omitted one word.

Mr. TOWNSHEND. I do not wish to be understood as acquiescing in the assumption that we do not have jurisdiction over all calibers of Gatling guns, if such an assumption is made; that we can not authorize the purchase of these guns of any caliber for field service. I desire to contest that assumption before reaching the merits of the amendment.

The CHAIRMAN. The amendment will be again reported.

The Clerk again read the amendment.

Mr. SAYERS. I do not raise any point of order.

The amendment was agreed to.

The Clerk read as follows:

For manufacture of arms at the national armories, \$400,000: *Provided*, That no more than \$60,000 of the money appropriated for the Ordnance Department in all its branches shall be applied to the payment of civilian clerks in said department: *Provided further*, That hereafter the cost to the Ordnance Department of all ordnance stores issued to the States, Territories, and District of Columbia under the act of February 12, 1887, shall be credited to the appropriation for "manufacture of arms at national armories," and that said appropriation shall be available until exhausted: *And provided further*, That section 3709 of the Revised Statutes shall not apply to the purchase of supplies in the War Department, if the Secretary of War shall so order, when the amount actually needed shall not exceed in value the sum of \$200.

Mr. TOWNSHEND. I desire to offer an amendment.

Mr. HOLMAN. I wish to reserve a point of order on this paragraph.

Mr. TOWNSHEND. Let the amendment be read.

The Clerk read as follows:

Insert, after the word "armories," in line 20, the words "and used to procure like ordnance stores."

Mr. TOWNSHEND. I desire to have read a letter from the War Department on this subject.

The CHAIRMAN. The Chair understood the gentleman from Indiana [Mr. HOLMAN] to state that he desired to submit a point of order.

Mr. HOLMAN. I object to unlimited appropriations of money for the War Department.

Mr. TOWNSHEND. Let the letter be read.

Mr. HOLMAN. Very well.

The Clerk read as follows:

ORDNANCE OFFICE, WAR DEPARTMENT,  
Washington, D. C., February 2, 1889.

SIR: I have the honor to invite your attention to the proviso in the Army appropriation bill of the past and present sessions of Congress, which requires that the value of all the ordnance stores issued to the militia be refunded to the appropriation "Manufacture of arms."

The Department, of course, intended that the money value of the stores taken from the Army supplies for issue to the militia should be used to replace to the Army those supplies, otherwise the appropriations for the Army for ordnance stores other than small arms would annually have to be increased about \$200,000 or more. In order to remove a certain ambiguity in the proviso I request that you will have the proviso amended by inserting, after line 20, on page 12, the words "and used to procure like ordnance stores." This will remove all ambiguity and doubt as to the intent of the law.

A copy of H. R. 12383 showing the desired amendment is inclosed.

Respectfully, your obedient servant,

S. V. BENÉT,

Brigadier-General, Chief of Ordnance.

Hon. R. W. TOWNSHEND,  
Chairman Committee on Military Affairs,  
House of Representatives.

Mr. TOWNSHEND. The War Department does not wish to increase this fund appropriated for manufacture of arms at national armories, but desires authority to use it for like purposes as proposed in this proviso.

Mr. HOLMAN. I desire to state my point of order. Line 21 reads: And that said appropriation shall be available until exhausted.

Although this does not involve a very large sum of money, the amount being \$400,000, yet the provision is subject to the objection that it is in conflict with the Constitution. As to the next proposition, that embraced in the proviso "that section 3709 of the Revised Statutes shall not apply to the purchase of supplies in the War Department," it is clearly a new provision of law. That section of the Revised Statutes was adopted after long and very careful consideration. The language of the bill proposes to declare that this provision of the Revised Statutes shall not apply to a given case.

Mr. TOWNSHEND. I have no desire to say anything more. I do not care to discuss it further.

The CHAIRMAN. Does the gentleman from Indiana insist upon his point of order?

Mr. HOLMAN. I certainly do.

Mr. CUTCHEON. With regard to the availability of the appropriation it would be easy to avoid that objection, but in fact it is entirely unnecessary, as the general law covers that point.

Mr. TOWNSHEND. Why, it is in the law of the present year.

Mr. HOLMAN. My attention was not called to it at the time, but I certainly do object most strenuously to the inauguration of any system of continuing, in opposition to the provision of the Constitution, appropriations for the Army beyond two years. Continuing indefinitely appropriations for the Army can not be done in this way, unless it is done in violation of the Constitution.

Mr. TOWNSHEND. Does the gentleman say that is not in the present law?

Mr. HOLMAN. I do not care where it is; it is in violation of the Constitution of the United States, which provides that no appropriation for the Army shall be for a longer period than two years.

Mr. TOWNSHEND. If it is against the Constitution then it will not be available after two years.

Mr. HOLMAN. It is against the Constitution.

Mr. TOWNSHEND. But it is the present law, and if unconstitutional, as the gentleman alleges, it can not continue for longer than two years.

Mr. HOLMAN. The attention of the House was not called to it at the time.

Mr. MCADOO. Mr. Chairman, I believe the point of order to be well taken. This second proviso virtually repeals the militia law.

The CHAIRMAN. The Chair can not hear what the gentleman from New Jersey is saying.

Mr. MCADOO. I say that the second proviso virtually repeals the militia law enacted by the Forty-ninth Congress. I have that law before me at this time and will read it if the Chair desires me to do so.

The CHAIRMAN. The Chair would be glad to hear what the law is.

Mr. MCADOO. It is as follows:

*Be it enacted, etc.*, That section 1661 of the Revised Statutes be, and the same is hereby, amended and re-enacted so as to read as follows:

"SECTION 1. That the sum of \$400,000 is hereby annually appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the purpose of providing arms, ordnance stores, quartermaster's stores, and camp equipage for issue to the militia."

Now, the gentleman from Illinois, who has been complaining of usurpations by other committees, on the Committee on Military Affairs, has undertaken by this second proviso to turn over this appropriation

of \$400,000 for the militia to the regular Army. In that act of February 12, 1887, it is provided expressly that it shall be for the purpose of providing arms, ordnance stores, quartermaster's stores, and camp equipage for issuance to the militia. If the Chair has any doubt upon the subject, I will send up the act.

Mr. TOWNSHEND. The provision in the present law is the same, with this exception, that the words perpetuating the statute appear in a different part of the proviso. Now the proviso of the present law is this:

For manufacture, repair, and issue of arms at the national armories, \$400,000: Provided, That not more than \$60,000 of the money appropriated for the Ordnance Department in all its branches shall be applied to the payment of civilian clerks in said department: Provided further, That the cost to the Ordnance Department of all ordnance and ordnance stores issued to the States, Territories, and District of Columbia, under the act of February 12, 1887, shall be credited to the appropriation for "manufacture of arms at national armories," which appropriation for 1889 and thereafter shall be available until exhausted.

That is the law to-day. The militia law was repealed at the last session. If you strike out the proviso under the law of to-day the appropriation is made available as proposed in the pending bill.

The CHAIRMAN. The gentleman will please send up the provision to which he refers.

Mr. TOWNSHEND. It is the present law, and I call attention to the fact that the militia law has, to the extent mentioned in the bill, been repealed.

The CHAIRMAN. The Chair will call the attention of the gentleman from Illinois to the fact that the word "hereafter" does not appear in the law of last year.

Mr. CUTCHEON. It says "and thereafter."

Mr. TOWNSHEND. It includes the word "hereafter," as I have said, and makes the appropriation available as stated.

Mr. HOLMAN. It is possible, and I take it for granted, that the statement is correct, though I have not examined the matter, that the appropriation bill for the current year contains just such a provision. But if it does, Mr. Chairman, it shows more clearly the necessity of the Chair interposing when a point of order is raised, and the House interposing if the point of order is sustained, to prevent the adoption of any provision which is manifestly in violation of the Constitution. I concede as to the other departments of the Government that this practice has been in existence for many years. We appropriate in this form for the other departments, but the constitutional provision as to the limitation of appropriations for the military department of the Government can not be overlooked.

Mr. Chairman, I desire to have this constitutional provision read, which is higher than any rule of the House.

The CHAIRMAN. The Chair understood the gentleman to submit that provision of the Constitution is in support of the point of order; but in view of the fact that the proviso is in the last bill the Chair would prefer to let the House decide the question for itself.

Mr. HOLMAN. But it is palpably in contravention of the Constitution.

Mr. MCADOO. I submit, Mr. Chairman, the further point that it is new legislation.

Mr. RANDALL. If this is to remain in the bill there certainly ought to be some language put in limiting the appropriation.

Mr. HOLMAN. I submit an amendment that no expenditure of said sum of money shall extend beyond two years.

Mr. RANDALL. From the date of the act?

Mr. HOLMAN. Of course, from the date of the passage of the bill.

Mr. TOWNSHEND. I am perfectly willing that the amendment of the gentleman from Indiana may be accepted, though I see no necessity for it whatever. If it is unconstitutional to make the proviso the expenditure could not be made after two years. But to avoid controversy and further discussion, and to enable us to get through with the bill, I accept the amendment.

The CHAIRMAN. The Clerk will report the amendment submitted by the gentleman from Indiana.

The Clerk read as follows:

After the word "exhausted," in line 21, insert "not exceeding two years;" so that it will read: "And that said appropriation shall be available until exhausted, not exceeding two years."

Mr. MCADOO. Mr. Chairman, the gentleman from Indiana, with the consent of the chairman of the Military Committee, has submitted an amendment to this proviso which it seems is designed to limit its operation to two years. As I understand it, this proviso in itself is a change of the whole statute relating to the militia. The statute makes an appropriation of \$400,000 a year for the militia, and is a permanent one; but if this proviso against which the point of order was made is to remain in the bill, and the amendment of the gentleman from Indiana is accepted, you repeal or limit the operation of the statute to two years, and instead of its being a permanent statute you make it depend altogether upon the language embodied in the appropriation bill.

Mr. CUTCHEON. I think the gentleman is unnecessarily alarmed about the appropriation for the militia. It is a mere question of book-keeping. They get an appropriation of \$400,000 every year anyhow; and while I am heartily in favor of the appropriation for the militia system, which the gentleman has advocated so strenuously here, I do

not see that there is anything in this provision which can affect it in any way.

Mr. MCADOO. The proviso limits it to two years; and if the bill is adopted with that proviso in it, it manifestly takes the place of the existing statutes. Now, if I had known that this provision was in the last bill I should have opposed it with all the ability which I may possess. It is in this bill; the Chair has ruled upon it as being admissible under the rule, because of the fact that it is based upon a proviso embodied in the last appropriation bill. But if the amendment of the gentleman from Indiana is accepted, that, I take it, repeals the perpetuity of the present law and limits its operation to two years.

Mr. HOLMAN. Let me ask, Mr. Chairman, if the Chair has ruled upon the proviso to this paragraph?

The CHAIRMAN. The first proviso on page 21, or the second one?

Mr. HOLMAN. I refer to the proviso commencing with line 22.

The CHAIRMAN. The Chair has not ruled upon that.

Mr. HOLMAN. The point of order extends to that as well as to the other, that it changes existing law.

The CHAIRMAN. Does the gentleman make the point of order?

Mr. HOLMAN. I made it, or intended to make it, when I made the other.

The CHAIRMAN. The Chair will pass upon that question after the pending amendment is disposed of. The question is on the amendment offered by the gentleman from Indiana.

The amendment was agreed to.

Mr. RANDALL. Now, as to the third proviso. There has been no decision given on that.

The CHAIRMAN. The gentleman from Indiana will please state his point of order against that proviso again.

Mr. HOLMAN. The point of order—

Mr. TOWNSHEND. I submit that the gentleman from Indiana has waived his point of order by submitting an amendment to that proviso.

Mr. HOLMAN. I reserved the point of order.

Mr. TOWNSHEND. I understand that the gentleman from Indiana offered his point of order against the third proviso of the paragraph; but I have an amendment which I offer to the paragraph that has been read—the second proviso—which has not been disposed of.

The CHAIRMAN. The Clerk will report that amendment; and the Chair will hear the gentleman.

The Clerk read as follows:

Insert, after line 20, page 21, the words "and used to procure like ordnance stores."

The amendment was agreed to.

The CHAIRMAN. The gentleman from Indiana will please state the point of order again.

Mr. HOLMAN. I stated the point of order, if the Chair please, at the beginning, and will state it again. This is a proviso that section 3709 of the Revised Statutes shall not apply to the purchase of supplies, etc. It is clearly a new law, because it provides that this proviso of the Revised Statutes shall not have the application it now has. The proviso of the Revised Statutes referred to refers to supplies purchased by the War Department, while this proviso declares that the Revised Statutes shall not apply to that.

Mr. TOWNSHEND. Before the Chair rules upon the point of order I desire that he may allow me to have read the reason for this amendment. It is in the interest of economy, and I will ask that it be read.

The Clerk read as follows:

It is thought best by the committee to make permanent the provision that the cost to the Ordnance Department of ordnance stores issued to the States, etc., under the act of February 12, 1887, shall be credited to the appropriation for manufacture for arms at the national armories. The committee, after a very careful investigation and with considerable hesitation, have reported an amendment to section 3709 of the Revised Statutes so far as said section affects the War Department, and in support of the amendment submit the following correspondence of that Department:

ORDNANCE OFFICE, WAR DEPARTMENT,  
Washington, D. C., October 12, 1888.

SIR: The Chief of Ordnance has recommended that section 3709 of the Revised Statutes shall not apply to purchases of supplies of less value than \$200, and he requests that you will make report based on your experience in making small purchases by the present method of advertising for proposals.

It has been stated that these small purchases can not be made as economically by the present method as by resort to open-market purchase, and moreover that the responsible business houses which furnish acceptable materials in many cases refuse to make bids under advertisements for small orders, being unwilling to incur the trouble and the formality the present system requires, and that when induced by personal requests to send in proposals they are generally above the prices at which they offer to sell like supplies over their counters for cash.

He requests that you will give your experience in the matter and generally submit any evidence you possess or arguments you may have to offer as to why the open-market purchase of small quantities of supplies would be more advantageous to the United States than by purchasing them under advertisement as now practiced.

Where it is practicable to give facts and figures, please do so.

He requests that you will please forward your reports on this subject with the least practicable delay.

It is proposed to submit these reports to Congress in asking the exemption of small purchases from the operation of existing laws.

Respectfully, your obedient servant,

WILLIAM CROZIER,

Lieutenant Ordnance Department, United States Army.

The COMMANDING OFFICER.

Mr. TOWNSHEND. I have had the communication read hoping that the gentleman from Indiana would listen to it, in order that he might fully understand the motive of the Department and of the committee in inserting this proviso in this bill. It is in the interest of economy. When the Department desires to purchase a small amount of supplies they are required to advertise and go through all the expense they would have to go through if they were to purchase a large amount. Now, the Department feels that it would be great economy to dispense with the advertising for supplies when the amount needed does not exceed \$200.

It is unquestionably in the interest of economy. Sometimes it will cost nearly as much, and in some instances more, to pay for the advertisement than the articles purchased. If \$50 worth or less is required they have to advertise thirty days; and the Department may be required to pay more than \$50 for the advertisement. I do not know exactly how much the advertisements cost. Now, we have confined this to expenditures of \$200 or less; and we felt that we ought to have sufficient confidence in the integrity and the discretion of the officers of the War Department to at least permit them to buy \$200 worth without advertising for the lowest bidder.

I have no doubt that the point of order is good. The Committee on Military Affairs put the item upon this bill with great hesitation; and it was solely in the interest of economy we placed it there. If the gentleman from Indiana insists upon the point of order, and inflicts upon the Government such an enormous expenditure as would be required to advertise when the Department wants to buy \$10, \$20, \$30, or \$40 worth of supplies, he will have to take the responsibility of insisting upon his point of order.

Mr. HOLMAN. I ask that the section proposed in effect to be modified shall be read, and that will show who is in favor of economy in that matter. It was put upon the statute-book to prevent abuse in the purchase of supplies in connection with the Army, and has remained on the statute-book for twenty-four years.

The Clerk read as follows:

Sec. 3709. All purchases and contracts for supplies or services in any of the Departments of the Government, except for personal services, shall be made by advertising a sufficient time previously for proposals respecting the same when the public exigencies do not require the immediate delivery of the articles or performance of the service. When immediate delivery or performance is required by the public exigency the articles or service required may be procured by open purchase or contract at the places and in the manner in which such articles are usually bought and sold or such services engaged between individuals.

Mr. CUTCHEON. I would like to call the attention of the gentleman from Indiana to the fact that this amendment is proposed on the recommendation of the War Department, and that its operation is made entirely contingent upon the order of the Secretary of War. Unless he so orders this will not be done, and it is to be presumed that he will not so order unless in a case of urgency.

Mr. HOLMAN. But ought the Secretary of War, or any executive officer of the Government, to be permitted to make purchases in open market in this loose way, unless there is an emergency, and if there is an emergency, can not he do it under the law which I have just had read?

Mr. CUTCHEON. If \$200 is too wide a range of discretion, let the amount be reduced.

Mr. HOLMAN. Oh, when once you begin to break down a statute it soon disappears entirely.

The CHAIRMAN. The Chair sustains the point of order presented by the gentleman from Indiana [Mr. HOLMAN].

The Clerk read as follows:

For manufacture of arms at the national armories, \$400,000: *Provided*, That not more than \$60,000 of the money appropriated for the Ordnance Department in all its branches shall be applied to the payment of civilian clerks in said Department: *Provided further*, That hereafter the cost to the Ordnance Department of all ordnance stores issued to the States, Territories, and District of Columbia under the act of February 12, 1887, shall be credited to the appropriation for "manufacture of arms at national armories," and that said appropriation shall be available until exhausted: *And provided further*, That section 3709 of the Revised Statutes shall not apply to the purchase of supplies in the War Department, if the Secretary of War shall so order, when the amount actually needed shall not exceed in value the sum of \$200.

Mr. MORROW. Mr. Chairman, I desire to offer an amendment to come in at that point.

The Clerk read the amendment, as follows:

After line 2, on page 22, insert:

"For the purchase by the Secretary of War of four pneumatic dynamite guns of 15-inch caliber, and the necessary machinery to fire and handle the same, ammunition and carriages for the same, to be delivered free of cost to the Government at such point or points in the harbor of San Francisco as may be designated by the Secretary of War, \$250,000, or so much thereof as he may deem proper."

Mr. RANDALL. I make the point of order on that. The committee has no such jurisdiction.

Mr. TOWNSHEND. Mr. Chairman, upon the point of order I wish to be heard.

Mr. RANDALL. The point has been decided two or three times to-day.

Mr. TOWNSHEND. I hope the gentleman will speak loud enough to be heard or else that the Chair will preserve order.

The CHAIRMAN. The Chair will be glad if the gentleman from

Pennsylvania will indicate the bill in which he thinks this item should appear.

Mr. RANDALL. The fortifications bill.

Mr. TOWNSHEND. Mr. Chairman, I understand that the only point the gentleman makes is that this ought to be on the fortifications bill. I will not now discuss the merits of the amendment. The Committee on Military Affairs have not reported it; the amendment has been offered by the gentleman from California [Mr. MORROW] on his own responsibility.

But I wish to call the attention of the Chair to this fact. During the last session the Army appropriation bill was fought with the same stubbornness and ability by the members of the Committee on Appropriations that they now display in fighting this bill, yet the Army bill at that time contained just such a provision as the one now offered by the gentleman from California, and they did not succeed in striking it from the bill. The members of the Committee on Appropriations contested every feature which was in the nature of an appropriation that belonged, in their judgment, to the fortifications bill, and they succeeded in striking from the bill of last session everything that either they, or the Chairman of the Committee of the Whole, regarded as properly belonging to the fortifications bill. This provision, however, stood that test at the last session of the House and remained in the bill. It remained in the bill; it became a law upon that bill; a contract has been made under that law; and now the gentleman from California seeks only to do here what was done upon the bill of last session.

Can a provision like this be held to be in order at one session of a Congress and be held to be out of order at the next session? This weapon is as much in order on the Army appropriation bill as a provision for the purchase of small-arms at the armories, or for the purchase of any field-piece that might be needed for the operations of the Army in the interior. It is not necessarily a weapon to be used in defense of a fort. It is an offensive as well as a defensive weapon. It has been purchased by the Navy. The Secretary of the Navy recommends that a vessel be built and that her armament shall consist of these guns. The dynamite cruiser *Vesuvius* was constructed at a cost of nearly \$400,000 to carry an armament of these guns. These guns may be used out on the sea, a thousand miles away from our own coast; they may be used out on the plains; they may be used anywhere that field-pieces can be used.

I am now discussing simply the point of order. I feel, sir, that it is my duty to stand here and defend as much of the jurisdiction of our committee as I can. I know that the gentleman from Pennsylvania has been very successful in making inroads upon that committee in instances that every member of the Committee on Military Affairs regards as clearly belonging to that committee. If he is able to prevent us from reporting upon this bill appropriations for guns, then he ought to be permitted to strike from this bill every item coming under the head of "Ordnance" or "Engineer's Department." I repeat, Mr. Chairman, if this provision was regarded as in order last session, why is it not in order this session? It was the gentleman from Pennsylvania [Mr. RANDALL] himself who made the point of order against this item in the Army bill last session. It carried the same amendment. He objected then, claiming that it belonged to the fortifications bill. He sat in his seat when the Army appropriation bill was then under consideration, and when this very item was under consideration he suggested an amendment to it which was adopted.

Now, sir, if it was considered by him and by the Chair and by the House to be in order then, how can he stultify himself to-day by making an assault upon it? Does he feel that it is easier at this session to deprive the Committee on Military Affairs of its rightful jurisdiction than at the last session? Why did he not bring up his point of order when he sought to amend this provision last session? My memory being refreshed, I will go further and will remind the Chair that the gentleman himself [Mr. RANDALL] did raise the point of order against this provision and his point of order was overruled.

I call the attention of the Chair to the fact that a point of order was raised against that item of the bill by the gentleman from Pennsylvania, and his point of order was overruled.

Mr. MORROW. I desire to suggest that the objection raised at that time by the gentleman from Pennsylvania was based upon the fact that the provision contained the word "plants," and upon that word being stricken out the gentleman from Pennsylvania withdrew his objection. I ask the Clerk to read from the RECORD the proceedings in reference to that matter, showing the objection which was made by the gentleman from Pennsylvania at that time, and showing that on the provision being modified in accordance with his suggestion it was adopted as a part of the bill.

The Clerk read as follows:

The Clerk read as follows:

"For the purchase by the Secretary of War of pneumatic dynamite guns of different calibers, and the necessary plants, ammunition, and carriages for the same, for armaments and military use, \$400,000, or so much thereof as he may deem proper."

Mr. RANDALL. I desire to make the point of order against that paragraph. From time immemorial, or at least as far back as I remember, appropriations for this character of armament have been embraced in the fortification bill. I make the point of order against this paragraph, and I object especially to the words "and the necessary plants." It will not be contended that there is any law pro-

viding for a plant in this connection, and I can not view this provision in any other light than as an attempt to edge in the beginning of a plant for the manufacture of these guns by the Government. I need not go now into the merits of such an undertaking. I make the point of order against the paragraph, and more particularly against the words "and the necessary plants," on the ground that there is no law authorizing a necessary plant for any such purpose.

Mr. TOWNSHEND. There is no question, in my judgment, but that it is in order on this bill to appropriate for the purchase of arms, small or large; but under the construction which the gentleman from Pennsylvania puts upon the provision in the bill, namely, that it contemplates establishing a plant to manufacture these guns, it is possible that his point of order may be good, and to obviate that objection I will agree to strike out the word "plants." It was not contemplated at all to provide for the establishment of such a plant as the gentleman has in mind. The only purpose was to provide the machinery necessary for handling and firing the guns.

Mr. RANDALL. Then why not say so?

Mr. TOWNSHEND. I am willing to strike out "plants" and insert instead "machinery to fire and handle the same."

Mr. RANDALL. That will obviate the objection I have made to the language in the bill.

Mr. RANDALL. The gentleman from Illinois has argued that this amendment is designed to purchase weapons to be used anywhere on land. Now, the amendment in its very language states that these weapons are to be used in the harbor of San Francisco.

Mr. MORROW. To be delivered at the harbor of San Francisco.

Mr. RANDALL. To be delivered there?

Mr. MORROW. To be delivered there. I may say to the gentleman from Pennsylvania that the investigation I have made leads me to suppose that these guns will not be placed upon any fortification or in the immediate vicinity of any fortification.

Mr. RANDALL. If they are to be used at San Francisco, as the gentleman seems now to hesitate to say, then they belong, of course, to the coast defenses. Either they are intended for coast defense or, in my judgment, they will be useless; and, if intended for coast defense, they belong to the subject of fortifications.

Mr. MORROW. The object of the amendment is to do precisely what is proposed in the original act, namely, to provide pneumatic dynamite guns for the defense of the country. It is a matter belonging to the military establishment and the defense of the country, of which, as provided in the rule, the Committee on Military Affairs has jurisdiction. The jurisdiction of the Committee on Military Affairs in this matter was conceded last year when this provision was incorporated in the Army bill. It then went through with a simple suggestion from the gentleman from Pennsylvania that under the word "plants," as first embraced in this provision, it was possibly the purpose of the War Department to establish a plant for the manufacture of these guns, and on that ground he made objection. That particular objection has been obviated in this amendment.

It is not proposed to establish any plant for the manufacture of these guns; but it is proposed to procure four of these guns—not necessarily for the purpose of being used in connection with the fortification of San Francisco. On the contrary, it is more than likely, it is almost certain, so far as I understand the matter from those who have charge of it and who understand what will be done with these guns, that it is not intended to use them in connection with forts, but that they are intended to defend the country.

Mr. SAYERS. I would like to ask the gentleman one question.

Mr. MORROW. Very well.

Mr. SAYERS. The gentleman does not intend by what he has said to convey the idea that these guns will be used for field purposes, does he?

Mr. MORROW. I do not know that they will be used for field purposes.

Mr. SAYERS. Is the gentleman prepared to say that they will not be used for field purposes?

Mr. MORROW. I am not an engineer of the Army—

Mr. TOWNSHEND. I can not understand the bearing of this controversy as to the use which may be made of these guns. The principle for which I contend is that these are a part of the military establishment, a weapon which the Army is entitled to have if Congress deems it proper to make an appropriation for the purchase of them, as much so as any other kind of gun proper for the use of the Army. I can not understand why the Chair should inquire into the motives of the gentleman from California or what may be his views as to the use which the Army will make of these guns. The only question to be considered is, is the provision germane; is it in order on this bill? That has been answered by the ruling made at the last session, overruling the point of order made by the gentleman from Pennsylvania.

Mr. SAYERS. Is there any estimate for this?

Mr. TOWNSHEND. There was no estimate for it; and for that reason it was not embraced in the bill as reported. But I understand from the gentleman from California that he has a letter from the Secretary of War recommending the appropriation.

Mr. MORROW. The matter has been submitted to the Secretary of War and an estimate has been made of some \$250,000 for the purchase of additional guns.

Mr. RANDALL. Where is the estimate?

Mr. TOWNSHEND. It did not come to the committee in time for them to take action upon it before the bill was reported.

Mr. MORROW. There is an estimate in this respect: The Secretary of War has furnished a letter in which he states the necessity for these guns and indorses the propriety of an appropriation for the purpose.

Mr. TOWNSHEND. Estimates are not necessary to lay the foundation for jurisdiction.

Mr. SAYERS. I ask the gentleman from California [Mr. MORROW], if he has the letter in his possession, to send it up and have it read by the Clerk.

Mr. MORROW. It has been mislaid, but I will try to find it.

Mr. CUTCHEON. Mr. Chairman, I have nothing to say in regard to the merits of the amendment of the gentleman from California. It has not been considered by the Committee on Military Affairs. I concede an appropriation for a dynamite gun would be in order on the Navy appropriation bill, provided it was to be used on one of our naval vessels, as in the case of the *Vesuvius*.

I concede that it would be in order as a provision on the fortification bill provided it was a necessary part of our fortifications, unless the House had given that subject to another committee, as at the present session it has done. I concede that it would be strictly in order on an Army appropriation bill if it was to be operated by the military establishment. As nothing appears to the contrary I think it is in order and that it is to be taken for granted it will be operated by the military establishment. The appropriation made for the present year is as follows:

For the purchase by the Secretary of War of pneumatic dynamite guns of different calibers, and the necessary machinery to fire and handle the same, ammunition, and carriages for the same, all complete and mounted in place ready for military use, \$400,000, or so much thereof as he may deem proper.

The only point of difference in that law from the pending amendment is that it should be for military use; not for naval, but for military use.

There should be some of these pneumatic dynamite guns on the Pacific coast. We have a great city there. We have a magnificent commerce and it is inadequately defended. We have no high-power guns. We did own one there, but on the first fire it broke the carriage and was dumped into the ditch.

Mr. MORROW. Yes; when they fired it it broke the gun-carriage and rolled down the hill.

Mr. CUTCHEON. The first time it was fired it broke the carriage and is still left in the ditch. We ought to have some of these high-power guns for use on that coast, and we will have them if we can satisfy the scruples of the Committee on Appropriations.

Mr. Chairman, we certainly ought to be under obligations to the members of that committee for the care with which they scrutinized the work of the Committee on Military Affairs. I do not know really how the Committee on Military Affairs would get along if we did not have these gentlemen interested in our work and ready to scrutinize. If we can satisfy their scruples I am willing to let in the amendment of the gentleman from California [Mr. MORROW] provided it shall be limited to military use.

Mr. RANDALL. I am sorry the members of the Military Committee show so much temper about this matter.

Mr. CUTCHEON. No; they are the best-tempered men in the world.

Mr. RANDALL. I wish to say there was an appropriation last year.

Mr. TOWNSHEND. Last session.

Mr. RANDALL. That is last year. Under that act there was advertisement made for pneumatic dynamite guns. There was but one bidder. There was no competition. This amendment comes here without an estimate. It does not come with the approval of the Committee on Military Affairs.

Mr. TOWNSHEND. The question did not come before the Committee on Military Affairs.

Mr. RANDALL. You acknowledge you did not have jurisdiction over it.

Mr. TOWNSHEND. I do not admit that. It was not presented to the committee by the gentleman from California until after the Army appropriation bill had been reported to the House.

Mr. RANDALL. It could not have been reported in the bill, because there was no estimate for it.

Mr. TOWNSHEND. Estimates are not necessary to give jurisdiction according to the statement made the other day by the gentleman from Tennessee [Mr. McMILLIN].

Mr. RANDALL. Does the gentleman from Illinois say his committee can take jurisdiction without receiving any estimates?

Mr. TOWNSHEND. Yes; at the last session of Congress the estimates were sent to the committee.

Mr. MORROW. Mr. Chairman, I desire to say a word in reference to the origin of this amendment. An appropriation of \$400,000 was contained in the act of last year, and was intended to include the placing of guns on the Pacific coast.

When this contract was let, or rather when the bids were invited some time ago, it was ascertained that they could only place guns at New York, Boston, and another point, and that the placing of guns on the Pacific coast under that appropriation could not be done. Upon consultation with the Secretary of War in regard to the matter he stated to me the facts; and in the letter to which I have referred, but which has been mislaid, although I will find it and have it inserted in the RECORD in connection with my remarks, the Secretary of War states distinctly and strongly that this gun is required on the Pacific coast, and that under the appropriation of last year it was impossible to provide such a gun.

Furthermore, permit me to say, and perhaps it may be intrenching a little on the merits of the case, but it at least shows the good faith in the origin of this amendment, that San Francisco is perhaps the best place within the limits of the United States to-day for testing the value of this gun. It has been found from experiment that this gun is effective, as admitted by the gentleman from Pennsylvania two years ago last July, when the discussion of the fortifications bill took place, and when he called attention to the fact that the proposed gun would probably be one of the best defenses the country could have.

Now, at San Francisco you can place this gun at a reasonable elevation upon the hills surrounding that harbor where the shell can be dropped upon an incoming vessel, and it has been found that the effectiveness of the gun depends upon its elevation. If, therefore, the gun is to be effective it must be on the hills overlooking the bay or harbor of San Francisco, and there it will be of greater service as a defense than anything else that can be devised.

The CHAIRMAN. The Chair would like to ask the gentleman from California—

Mr. MORROW. If the Chair will permit me, I am not addressing myself to the merits except to show that the point of order should not be allowed to prevail against the amendment, because it is a fact that the Secretary of War has sent the communication to which I have referred, and which bears directly upon the necessity of the appropriation.

The CHAIRMAN. That is important in its relation to the point of order, and the Chair thinks that, in the absence of an estimate, it would not be improper to inquire into the character of the gun proposed by the amendment, and to ask the gentleman from California to state frankly to the Chair whether this gun is to be used as a field gun or for fortifications.

Mr. MORROW. I do not know, Mr. Chairman, that I could claim sufficient experience in military affairs or in military engineering to say what the Secretary of War will do or ought to do with the gun after it has been provided; but I want to answer the question as far as I can.

Mr. RANDALL. Common sense would be a good guide.

The CHAIRMAN. Will the gentleman from California repeat his answer to the question of the Chair? The attention of the Chair was momentarily directed to a remark of the gentleman from Pennsylvania.

Mr. MORROW. No doubt, Mr. Chairman, as a military maneuver common sense is a very good institution, and I think that common sense would suggest to the House now, as it did to the gentleman from Pennsylvania two years ago, that this gun will be a most admirable thing for the defenses of this country.

Now, whether we are to take this gun up and handle it with horses in the field, I do not pretend to determine. That would be a question for the Army engineers, I take it.

The CHAIRMAN. But the Chair will state that the fact as to whether or not the gun is to be used in a fortification or in the field will, in the absence of an estimate, have some influence in determining the bill in which this item should appear. If the estimate was here it would of course be a guide for the Chair, and therefore the Chair has requested the gentleman from California, who is doubtless familiar with the details of the proposition, to state the purpose of the amendment.

Mr. RANDALL. Obviously the only place it can be used is as a part of the fortifications of the harbor.

Mr. MORROW. It is impossible for me to state to the Chair what use will be made of this gun after it has been provided, except simply that it will be used as an arm of defense. My own judgment would be, and from the best information I can gather, that it would not be advisable to place this gun in the present fortifications of San Francisco if you mean to connect it with the fortifications already erected there. It will not be and could not be advantageously a part of them. It will, however, be a part of our harbor defenses.

Mr. CUTCHEON. Will the gentleman yield to me for a moment?

Mr. MORROW. Certainly.

Mr. REED. All of this trouble could be obviated by the gentleman withdrawing the point of order.

Mr. CUTCHEON. The question of jurisdiction, Mr. Chairman, does not come in here at all, because this appropriation does not come from the committee. It is simply for the Committee of the Whole to say whether it will place the amendment offered by the gentleman from California as an independent provision upon the bill or not. The House may say it will put it here or anywhere else. The Committee on Military Affairs does not, therefore, assume any jurisdiction of the matter, but it will be an assumption of jurisdiction by the House itself acting in Committee of the Whole if it should be held that the proposition does not legitimately belong to this bill. The Committee on Military Affairs having no estimate, leave this to the Committee of the Whole to say, under the ruling of the Chair and in all deference to the Chair, whether or not it will place the appropriation on this bill as the only available vehicle for carrying it at the present time.

Mr. REED. If it depends on a question of fact, ought the Chair to decide that question? If it depends on a question of fact, I suggest that the committee should decide it, and not the Chair.

The CHAIRMAN. The Chair was endeavoring to get at the facts in so far only as they relate to the point of order. The Chair, with some hesitation, sustains the point of order.

Mr. MORROW. Is that ruling on the character of the gun?

The CHAIRMAN. It is not a field gun.

Mr. MORROW. As I understood, the Chair stated that the point of order was sustained with reluctance.

The CHAIRMAN. The reluctance arises only from the fact that this provision is substantially the same as that which appears in the Army appropriation bill of last year.

Mr. MORROW. I think that this matter is in that sort of condition that the House, with no disrespect to the Chair, might pass upon this subject; and I therefore appeal from the decision of the Chair.

Mr. CUTCHEON. I would call the attention of the Chair for a moment to the fact that as this is for armament for the coast defenses, which has been conferred upon the Committee on Military Affairs, it would come in on this bill.

Mr. BLOUNT. Before the submission of the question on the appeal, I would like to ask what is to be submitted—whether the ruling shall stand or whether it is upon the merits of the question?

The CHAIRMAN. The Chair has sustained the point of order presented by the gentleman from Pennsylvania.

Mr. RANDALL. This belongs to fortifications, and the Chair could not decide in any other way.

Mr. TOWNSHEND. The gentleman from Pennsylvania decided, himself, last session that it belonged to the Army appropriation bill.

Mr. BLOUNT. I understood the gentleman from California to appeal from the decision of the Chair, and that it is now asked before the matter be put that the merits be discussed before the House.

Mr. MORROW. The Chair intimated that he was in doubt as to the facts.

Mr. BLOUNT. I wanted to know whether it was in a position that the committee could reach it in accordance with parliamentary law.

The CHAIRMAN. The question is, Shall the decision of the Chair stand as the judgment of the committee?

The question was put, and the Chair announced that he was in doubt as to the result.

Mr. MORROW. Division.

The committee divided; and there were—ayes 80, noes 19.

So the decision of the Chair stands as the judgment of the committee.

The Clerk read as follows:

For overhauling, cleaning, and preserving new ordnance stores on hand at the arsenals, \$5,000.

For firing the morning and evening gun at military posts, prescribed by General Orders No. 70, Headquarters of the Army, dated July 23, 1867, \$20,000, or so much thereof as may be necessary.

For targets for artillery practice, \$5,000.

Mr. MAISH. By direction of the Committee on Military Affairs I offer the following amendment.

The Clerk read as follows:

That the sum of \$15,000, or so much thereof as may be necessary, shall be, and the same is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to enable the Secretary of War to cause examinations and tests to be made in converting the existing ordnance of the War Department into steel-lined torpedo howitzers for throwing high explosives according to the plans of Stephen H. Emmons as stated in his memorial of February 2, 1889, referred to the Committee on Military Affairs.

Mr. RANDALL. I make the point of order upon that.

The CHAIRMAN. What point of order does the gentleman make?

Mr. RANDALL. That it belongs to the fortification bill?

Mr. MAISH. This does not state what the caliber of these guns shall be.

Mr. RANDALL. This matter of conversions has always been provided for in the fortification bills.

Mr. MAISH. These examinations and tests may be made of field-pieces as well as guns for fortifications, and if it is in order to make an appropriation to make such examinations for the larger ordnance of the Government, it certainly will not be out of order in making examination and making a test of one field-piece of the Army; I suppose that would be a question for the Secretary of War. How the gentleman can raise a question of order upon a mere proposition to make a test of the ordnance where the caliber and size of the gun are not stated, I do not understand. Of course it is only contemplated that the test shall be made in accordance with the rules of the House. That is all. The Committee on Military Affairs ask that at least \$15,000 may be appropriated to determine whether the scheme of Professor Emmons will convert these useless and obsolete guns to very effective weapons, which I believe it will do.

The committee informally rose to receive a message from the President, Mr. HOLMAN in the chair.

#### MESSAGE FROM THE PRESIDENT.

A message, in writing, from the President, by Mr. PRUDEN, one of his secretaries, was received.

The message also announced approval of a bill and joint resolutions of the following titles:

An act (H. R. 2557) for the relief of W. W. Welch;

Joint resolution (H. Res. 181) accepting the invitation of the Impe-

rial German Government to the United States to become a party to the International Geodetic Association; and

Joint resolution (H. Res. 246) authorizing the Secretaries of War and the Navy to loan the committee on inaugural ceremonies flags, etc.

ENROLLED BILL SIGNED.

Mr. ENLOE, from the Committee on Enrolled Bills, reported that the committee had examined and found duly enrolled a bill of the following title; when the Speaker signed the same:

A bill (S. 1305) to incorporate the Maritime Canal Company of Nicaragua.

ARMY APPROPRIATION BILL.

The committee resumed its session.

The CHAIRMAN. The Chair will submit this amendment to the committee.

The committee divided; and there were—ayes 41, noes 36.

Mr. RANDALL. No quorum.

The CHAIRMAN. The point of no quorum being made, the Chair will appoint to act as tellers the gentleman from Pennsylvania [Mr. MAISH] and the gentleman from Texas [Mr. SAYERS].

Mr. TOWNSHEND. If the gentleman from Pennsylvania is going to filibuster on this bill perhaps the committee had better rise.

Mr. RANDALL. What does the gentleman mean by talking about filibustering?

Mr. TOWNSHEND. Mr. Chairman, it is very evident that there is no quorum here, and if the gentleman from Pennsylvania insists—

Mr. RANDALL. I want to count those that are here.

Mr. TOWNSHEND. They have been counted already.

The committee divided; and the tellers reported—ayes 68, noes 62. So the amendment was agreed to.

Mr. MAISH. I ask permission to have printed in the RECORD, as a part of my remarks, the memorial of Professor Emmons upon this subject.

There was no objection, and it was so ordered.

The memorial is as follows:

HARRISON, N. Y., February 2, 1889.

To the Senate and House of Representatives of the United States in Congress assembled:

GENTLEMEN: In view of the attention now being paid to the subject of the national defenses I beg leave to submit for your consideration the accompanying paper and drawings; and in the hope that the information and suggestions therein contained may prove of some service, petition that it be referred to appropriate committee and have due consideration.

I am, gentlemen, your obedient servant,

STEPHEN H. EMMONS.

THE UTILIZATION OF EXISTING ARMAMENTS.

It is often assumed that unless a nation possesses a store of ordnance of the most modern type it is necessarily in a defenseless condition; and, inasmuch as such guns can not be made or procured at short notice, the inference is deduced that the coast line of the United States and many other countries must, for at least some years to come, remain at the mercy of the great European powers.

There is, of course, much truth in this view. To manufacture a large built-up steel gun is a work of many months under the most favorable circumstances, and of some years in countries where no first-class gun factories exist, and where, consequently, the heavy parts of ordnance have to be supplied from abroad. This point is clearly brought out in the following passage from General S. V. Benét's report as Chief of Ordnance for the United States for the year 1884:

"The difficulties above recounted in procuring steel from abroad, even for experimental guns, makes manifest, without lengthy comment, the necessity for home production. It is hoped that the very pressing need of the Department and the difficulties under which it now labors in attempting to secure suitable material for gun-construction may be relieved through the prompt and energetic action of Congress at its next session. The steel-makers of this country will not undertake the production of steel on a scale adequate to our wants without the inducement of being fairly remunerated for their outlays, and the immediate action on the part of Congress for holding out such inducements by liberal appropriations can not be overestimated. The truth of this statement is apparent when it is considered that, even after ample encouragement has been afforded, considerable time must elapse, say two years or more, before the requisite plant can be designed, constructed, and set up, and the production of steel in masses of sufficient size and of suitable quality for gun-construction can become a practical success. Then the manufacture and test of the experimental or typical guns will require at least two years more, even for the more moderate-sized calibers, before the manufacture of guns in quantity can be proceeded with."

In General Benét's report for 1887 the subject was again alluded to in terms so luminous and pregnant that I feel it incumbent upon me to make the following further quotation:

"It is believed to be the vital interest of the whole country that such liberal appropriations be made by Congress from year to year, until our present utter destitution as to modern guns be relieved, as shall furnish the substantial encouragement and aid that our steel industry demands. As a step in this direction I have asked in my annual estimate for an appropriation of \$1,500,000 for the procurement of forgings for 8-inch and 10-inch breech-loading steel guns. This sum should procure the steel for about fifty 8-inch guns and about forty 10-inch guns, and to allow the necessary time to erect additional plant this appropriation should be made available until expended."

"It is not necessary to enter into a discussion of the necessity for seacoast armament, nor of the possibility of future disbandment of armies and the settlement of international controversies with the pen instead of the sword. What may be in the near or distant future in this regard the most astute statesman can not divine. Our dealings, however, are with the immediate present, and if the recurrence of war is likely to follow ample preparation, Europe in arm would seem to indicate that the days of peaceful arbitration have not yet been reached. It can hardly be recommended that while waiting for this future possibility our shores should continue unguarded and at the mercy of the most insignificant belligerents."

"Rams and torpedoes and dynamite guns are powerful auxiliaries in harbor defense, but the war conditions yet obtaining will not dispense with the hard hammering of heavy shot moving with a high velocity, because these auxilia-

ries themselves need protection and of the most perfect character. The dynamite guns with a limited range can not be left to the mercy of the much longer-reaching guns of the enemy's ships. The attacking ships must be kept at a distance by heavy guns and long-range mortars—the comparatively low cost of mortars enabling us to compensate by numbers any lack of accuracy of fire. As a projectile force gunpowder yet stands supreme. It strikes a terrific blow at long distances; its arm reaches many miles; it plants its blow with unerring certainty. We can not dispense with such a force, so readily handled, so thoroughly understood."

"Heavy cannon are therefore a necessity, and must be provided, and our unprotected coasts demand that they be provided speedily. These necessities also demand that they be of the most approved quality; cannon of steel which have been adopted by the world after most thorough and satisfactory experiment and trial; cannon that will place this nation on an equality with the most powerful. It will cost money, but not more than the loss to the cities of New York and Brooklyn from one day's bombardment. All this and more is known to Congress and the country. Reports of board and committee, reports of official experts, the writings in the public press, individual views, all have kept this important matter before the people, and the responsibility for weal or woe, for success or disaster, must remain with the people. At this time no half measures will do. Congress should decide, and decide at once. Another year ought not to pass without a settled and well-defined policy in regard to the national defense."

If Congress has hitherto hesitated to adopt this policy in its entirety the hesitation has not arisen from any difference of opinion as to the urgent necessity of arming the national seaboard. All political parties and all authorities, whether military or civil, whether in offices of state, in the chambers of legislatures, or in halls of commerce, are alike agreed on so vital a question. But it may well be that from the height of the Capitol a broader and more far-reaching view is taken than in circles of more limited observation. To deliberately compete in armaments with the leading European nations would be to enter upon a policy of vast and uncontrollable expenditure with the certainty that by far the greater portion would produce results of but ephemeral value; and even to enter upon the purchase or manufacture of any considerable number of the huge guns now being made in Europe would not only involve an enormous cost *per se*, but would entail the provision of still more costly accessories in the shape of elaborate carriages, fortifications, ranges, and the like. To leave a coast defenseless may be unwise, but it may be still more unwise to unduly deplete the national resources.

If, however, it were possible by means of a very moderate expenditure and in a very short space of time to bring about some vast augmentation of the national defenses, Congress would probably at once adopt such a policy, while at the same time continuing a cautious progress in the direction indicated by the European advances in ordnance and fortification.

I propose to consider in the present paper whether any middle course of this kind be practicable.

SEC. 1.—*The distinguishing feature of modern ordnance.*

Among the earliest guns of which we have any account, or of which specimens are still to be found in military museums, we find breech-loading built-up rifles of great length, and we know that these weapons were used in combination with very slow-burning gunpowder. In other words, modern ordnance is but a reversion to ancient types.

Probably the only absolutely new features to be met with in the heavy artillery of the present day are, first, the projection of shells charged with high explosives; and, secondly, the employment of carriages that cause the guns to automatically disappear from sight after delivering their fire. But there is also much that is relatively new in the details and methods now adopted in connection with the old devices of rifling, hooping, breech-loading, length of chase, and slow-burning powder; and it will be found on examination that these novelties are all more or less founded on a better understanding and conception of guns in general considered as machines for developing and utilizing mechanical energy. This is indeed the main distinction between the artillery of the present day and that of either ancient or recent times.

The ideal gun indicated by theory is a tube of equal thickness from breech to muzzle, and the ideal gunpowder is a substance capable of generating gas at a rate corresponding to the increasing space opened up by the passage of the shot along the chase of the gun.

Suppose, for example, that it is desired to impress an energy of 5,000 foot-tons upon a shot having a cross-sectional area of 50 square inches and a travel of 10 feet in the gun. It is evident that a uniform pressure of 10 tons per square inch operating during the whole travel of the shot will give the energy in question; assuming, of course, that no allowance is to be made for friction, atmospheric resistance, and the like.

But the same result may equally well be attained by employing a volume of gas giving an initial pressure of 16.76 tons per square inch and a final pressure of 4.19 tons. Or we may use an initial pressure of 21.49 tons and a final pressure of 3.58 tons; or an initial pressure of 11.81 tons and a final pressure of 5.90 tons; or, in fact, any combination of initial and final pressure that according to the laws of gaseous expansion will give an average pressure of 10 tons per square inch during the whole travel of the shot in the bore of the gun. Accordingly, we may construct a table of various charges, thus:

Charge.	Maximum pressure.	Minimum pressure.	Average pressure.
A.....	10	10	10
B.....	16.76	4.19	10
C.....	21.49	3.58	10
D.....	11.81	5.90	10

All of these charges produce an equal effect upon the shot and will give us the desired 5,000 foot-tons of energy; and if this were the only point to be considered it would not matter which of the four charges we used. But when we consider the question of the strength of our gun the case is very different. The power of the gun is limited by the maximum strain it will bear without bursting; and a gun in which Charge A could be safely fired might not suffice for Charge C. Our choice must therefore be guided solely by the column of maximum pressures, and as the lowest possible figure in this column must always be equal to the average pressure, we find the ideal condition of working to be, as above stated, the employment of uniform pressure, which in its turn calls for uniform strength throughout the whole length of the gun.

The recognition of this principle of maximum power combined with minimum strain must be regarded as the distinguishing feature *par excellence* of modern ordnance. Its translation into practice has necessarily been attended by gradual approximation to the uniform-tube type, recent guns tapering towards the muzzle much less than was formerly the case. There is, indeed, one example of the ideal being actually attained. The pneumatic dynamite gun is a tube of equal thickness from breech to muzzle; and the avowed principle of its operation is the maintenance of an equal pressure from the commencement to the end of the shot's travel in the gun. It is true that this uniformity of pressure has

not yet been attained and may never be found entirely practicable in a pneumatic apparatus; but the fact remains that for any limitation of maximum pressure the maximum power is attained when such pressure is kept up until the shot leaves the gun.

The feature in question is of especial importance to nations desirous of rapidly and economically bringing their armaments up to a modern level of power without entering upon the construction of the costly type of guns recently adopted by the great European states.

Let us take the case of the famous Italian gun, having the following dimensions and powers, namely:

Caliber .....	45 centimeters (=17.7 inches).
Weight.....	99.9 tons.
Length of bore.....	30 feet 1 1/4 inches.
Length of shot-travel.....	25 feet 5 inches.
Weight of charge.....	507.1 pounds.
Weight of projectile.....	2,001.8 pounds.
Muzzle velocity.....	1,614 feet per second.
Muzzle energy.....	36,178 foot-tons.

and let us consider what kind of an "ideal" gun would suffice to compete with this formidable weapon.

Taking the cross-sectional area at 246 square inches and the travel of the shot at 25,417 feet, the muzzle energy of 36,178 foot-tons is found to be equivalent to an average pressure of 5,785 tons per square inch, or say 12,960 pounds. But as the muzzle energy represents only a portion of the total force exerted by the charge, the remainder being absorbed by forcing the projectile through the rifling and in other ways, we must add, say, 40 per cent, to the foregoing pressure. The average thus obtained is 18,144 pounds; and therefore if we can contrive to produce this pressure uniformly in a gun during a shot-travel of about 25 feet we shall be able to send a projectile on its course with all the energy of the shot from the Italian 100-ton gun.

The strain upon the metal forming the wall of a gun is found by multiplying the pressure per square inch by the number of inches in the radius of the bore; so that in the above case if our ideal gun have a bore of 17.7 inches diameter the pressure on the metal of the wall will be  $18,144 \times 8.85$ ; and this divided by the tensile strength per square inch of any metal will show how many inches in thickness the wall of the gun must be if made of such metal. Cast-steel, for example, may be taken as representing an available strength of 30,000 pounds per square inch. Hence

$$18,144 \times 8.85 = 5,352$$

30,000

Accordingly a cast-steel gun having walls of, say, 5 1/4 inches in thickness for its whole length and being of the same caliber and length as the Italian 100-ton gun should be a weapon of equal power. Such a gun would weigh about 25 tons and would cost say \$25,000.

If the estimate be made for a cast-iron gun lined and banded with steel the requisite thickness of metal may be taken at 8 inches, and the weight of the gun would be about 40 tons and the probable cost about \$12,000.

Starting though these figures may appear to be in their promise of a cheap, rapid, and efficient development of the national ordnance, no artillerist will dispute their accuracy. The objection urged will be raised not against the figures, but against the assumption on which they are based. It will be admitted that a cast-steel or cast-iron gun of the dimensions above stated would be a match for the Italian 100-ton gun if it were possible to so burn its charge as to keep up a uniform pressure of 18,144 pounds per square inch; but that this can be done will be a matter of doubt.

It may, however, be shown both theoretically and practically, that the problem is by no means an insoluble character.

For the purpose of a theoretical demonstration I will adopt the customary assumption that the force exerted by fired gunpowder is in the nature of a static pressure, and may be investigated by reference to the well-known laws of thermodynamics and gaseous matter. This assumption is not equally correct with that which is based on the laws of molecular impact, and which in another statement, drawn up at the request of the Board of Ordnance and Fortification, I have termed the "dynamic theory of explosion-stress;" but as the present case is concerned with the action of slow-burning gunpowder, and not with the sudden disruption of high explosives, the ordinary view may be adopted without involving any serious inaccuracy, and the conclusions to which it leads will be accepted without controversy.

A gas must expand in order to do work. So long as it is confined in any given space it simply presses upon the walls around it and sets up a certain condition of strain on such walls, and it is not until all or part of the wall gives way

that it performs work—i. e., the impressing of motion upon mass. In a gun the projectile may be regarded as one of the chamber-walls, and it is caused to move by the expansion of the gases generated by the gunpowder. If the gun were long enough any initial volume of gas would go on expanding and pushing forward the projectile until its pressure had fallen to that of the atmosphere in front of the projectile.

Now, as the work done—that is to say, the amount of motion imparted to the mass of the projectile—is measured by time and space as well as by pressure, it follows that the longer the projectile is acted on by the impelling gases the greater will be the energy imparted. Hence the same amount of gas will do more work in a long gun than in a short one; and if the work done under any particular degree of expansion be once known, the power of the same amount of gas may be calculated for all other degrees. This calculation has been made for the gases generated by the firing of gunpowder. In a memoir entitled "Researches in Explosives," by Captain Noble (late R. A.) and Sir F. Abel, published in the proceedings of the Royal Society, in 1879, a table was given showing the work capable of being performed in the bore of a gun by dry gunpowder of the Waltham Abbey standard. The accompanying diagram (Drawing No. 1) is in part based upon the data contained in such table.

It will be seen from the diagram in question that the amount of work to be obtained from one pound of gunpowder depends not only upon the space allowed for expansion of the gases while propelling the shot, but also upon the original space occupied by the gunpowder. This arises from the consideration that at any given temperature and pressure the gases generated by a given quantity of gunpowder occupy a given space, 27.73 cubic inches per pound of powder being the standard unity adopted by Noble and Abel. If, then, the powder be packed in a cartridge so as to occupy a greater space than 27.73 cubic inches per pound, the excess represents so much room for the gases to expand in before they begin to do any work; and the room thus employed to no dynamic purpose leaves so much the less room in the gun for useful expansion.

It must not, however, be supposed that this loose packing is of no utility. The pressure exerted by a gas is, at equal temperatures, inversely proportional to its volume. Accordingly, by giving gunpowder more than unit space, its gases, when fired, will exert less than unit pressure, so that by "air-spacing," as it is termed, we may reduce the initial pressure to any desired point.

Suppose, now, we have a cartridge 24 inches long and of 50 square inches in cross-section; and suppose the gun is uniformly of the same caliber as the cartridge. Suppose, further, that the air-spacing is such as to make the initial pressure of the gases 15 tons per square inch, and that the gunpowder is wholly and instantaneously exploded and is entirely converted into gas without any solid residue. When the shot has moved forward 24 inches the interior space will obviously be doubled, and the pressure will have fallen to 7.5 tons. When the shot has traveled 4 feet the space will be trebled and the pressure will have fallen to 5 tons. When the shot has gone 6 feet the space will be quadrupled and the pressure will have fallen to 3.75 tons, and so on. This condition of things roughly approximates to what ordinarily takes place when a gun charged with quick-burning powder is fired.

Let us now alter the circumstances by supposing that the cartridge explodes in two successive halves instead of simultaneously. When the first half explodes it will have a double "air-space" to begin with, and consequently the initial pressure will be greatly reduced—say to 12 tons. If the second half explodes when the shot has moved forward 24 inches the pressure will have fallen to 6 tons and then will be immediately brought up to 7.5 tons, after which the expansion and pressure will proceed as in the first example.

Finally, let us suppose that the cartridge explodes in four successive portions at the four stages before indicated. The initial pressure will be reduced by the operation of a quadrupled air-space to, say,  $\frac{3}{4}$  tons, and when the shot is at 24 inches from the starting point the pressure will be  $\frac{1}{4}$  tons. By the operation of the second quarter of the cartridge then exploding the pressure will be brought up to 6 tons and will fall to 4 tons at the distance of 4 feet. The third quarter of the cartridge will then bring the pressure up to  $\frac{1}{4}$  tons and this will fall to 3 tons at 6 feet, when the last portion of the cartridge will raise it to 3.75 tons.

The last example may be taken as a rough approximation to what obtains when a gun charged with the modern brown, slow-burning powder is fired; and for the purpose of ready comparison I have, in the accompanying drawing, No. 2, given diagrams (A) of the pressure indicated in the foregoing calculations. It will be seen that the greatest power, weight for weight, is exerted by the quick-burning powder, just as in steam-engines the greatest economy is obtained by high-pressure steam used expansively. But it will also be seen that if we are content to sacrifice mere economy of explosive material we may vastly lower the maximum strain on the gun and may make some approach, at least, towards uniformity of pressure.

The following table shows results attained in guns of various calibers under varying conditions of air-spacing and quick or slow burning powders:

Description of gun.	Country.	Muzzle energy developed per pound of powder.	Weight of charge.	Proportion of weight of charge to weight of projectile.	Total muzzle energy.	Density of loading.	Total volume of expansion.	Factor of effect.	Kind of powder employed.
8-inch R. M. L. howitzer.....	Great Britain .....	Foot-tons.	Pounds.	Pounds.	Foot-tons.				
100.60	10.50	180	.058	1,056	.734	16.55	.915	R. L. G. 2	
97.59	5	100	.05	488	.819	20.51	.78	Do.	
95.04	6	65	.090	570	1.00	19.35	.679	Do.	
91.13	7	180	.039	638	.490	24.83	.98	Do.	
89.42	8	65	.123	715	1.00	13.62	.70	Do.	
88.82	100	820	.122	8,882	.867	9.15	.87	P. 2	
88.54	3	100	.030	266	.489	32.52	.83	R. L. G. 2	
85.72	4.50	180	.025	336	.320	38.63	.94	Do.	
85.34	55	521	.105	4,693	.808	10.75	.835	P.	
85.23	253.5	1,157	.219	21,580					
83.70	85	615	.136	7,116	1.00	6.96	.89	P. 2	
82.40	85	546	.155	7,003	1.00	5.85	.85	P.	
80.52	2	100	.020	161	.326	48.79	.81	R. L. G. 2	
80.30	99.2	463	.214	7,966	1.00	5.84	.84		
79.92	130	820	.158	10,390	.924	6.74	.835	P. 2	
79.81	1.5	11.25	.133	129	.630	10.56	.95	R. L. G. 2	
79.76	3.5	180	.019	279	.240	49.67	.93	Do.	
79.36	85	629	.135	6,746	.767	7.8	.92	P. 2	
78.57	60	547	.109	4,714	.724	8.281	.93	P.	
77.68	12.3	560	.217	9,423	1.00	5.88	.82		
77.22	5	40	.125	336	.537	13.72	.92	R. L. G. 2	
77.21	70	410	.170	5,404	1.00	5.89	.79	P.	
77.03	123.5	558	.221	9,513	1.00	5.78	.83		

Description of gun.	Country.	Muzzle energy developed per pound of powder.	Weight of charge.	Weight of projectile.	Proportion of weight of charge to weight of projectile.	Total muzzle energy.	Density of loading.	Total volume of expansion.	Factor of effect.	Kind of powder employed.
4-inch R. B. L. (13 cwt)	Great Britain ...	Foot-tons.	Pounds.	Pounds.	Foot-tons.					R. L. G. 2
12.5-inch R. M. L. (38 tons)	do.	74.24	3.25	.25	.130	.241	.714	8.54	.88	P. 2
9-inch R. M. L. (Krupp)	do.	73.90	160	.820	.195	11.825	.924	5.48	.845	P.
17.72-inch R. M. L.	do.	73.88	50	.257	.194	3.694	1.00	5.74	.76	Prismatic black.
12-inch R. B. L. (Krupp)	Germany	72.68	450	2,000	.225	33.222	.735	7.96	.91	
3-inch 13-pounder R. M. L., 8 cwt.	Great Britain ...	71.53	202.8	725.3	.273	1.740	1.00	4.75	.82	R. L. G. 2
7-inch R. M. L., 90 ew.	do.	71.52	17	.160	.236	.224	.797	6.96	.84	S. P.
12-inch R. B. L. (Obuchoff)	Russian	70.45	282.2	738.4	.372	19.880	.990	9.06	.63	
5-inch R. B. L. (mark I)	Great Britain ...	70.19	16	.50	.320	1.123	.870	5.92	.824	S. P.
9-inch R. M. L.	do.	71.12	33	.256	.129	2.347	.760	8.69	.797	P.
2,236-inch 6-pounder R. B. L., Hotchkiss quick-firing.	do.	69.82	1,969	6	.328	137.5	1.00	6.44	.688	C. 2 Levran Lerry.
3.6-inch 16-pounder R. M. L., 12 cwt.	do.	68.94	3	16.25	.184	.207	1.00	8.37	.62	R. L. G. 2
6.3-inch R. M. L. howitzer.	do.	68.42	4	.70	.057	.274	.686	12.82	.71	R. L. G. 2
10-inch R. M. L.	do.	68.36	44	.410	.107	3.003	1.00	9.37	.59	P.
12-inch R. M. L., 35 tons.	do.	68.30	140	.714	.196	9.563	.926	4.73	.77	P. 2
8-inch R. M. L.	do.	68.29	35	.180	.194	2.390	.990	6.11	.695	P.
6.3-inch 80-pounder, R. M. L.	do.	67.31	20	.80	.250	1.346	1.065	6.37	.67	P.
12.5-inch R. M. L., 38 tons.	do.	67.14	210	.820	.256	14.100	.972	4.34	.81	Prismatic P. 2
2.5-inch R. M. L. (jointed 400 pounds.)	do.	67.08	1.5	.7	.214	.161	.770	7.84	.78	R. L. G. 2
5-inch R. B. L. (mark II)	do.	67.07	16	.50	.320	1.098	.870	5.86	.79	S. P.
16-inch R. M. L., 80 tons.	do.	66.20	450	1,700	.265	29.793	.836	4.85	.875	Prismatic black.
3-inch 9-pounder, R. M. L., 6 cwt.	do.	64.88	1.5	9.75	.154	.97	.856	9.00	.649	R. L. G. 2
7-inch R. M. L., 7 tons.	do.	64.75	30	.115	.261	1.942	.900	5.83	.665	P.
7-inch R. M. L., 6½ tons.	do.	64.75	17	.115	.147	1.101	.990	9.06	.57	P.
8-inch R. M. L.	do.	64.75	26	.180	.116	1.349	1.00	10.18	.54	P. 2
16-inch R. M. L., 80 tons.	do.	64.01	337.5	1,700	.198	11.825	.924	6.47	.68	S. P.
3-inch 12-pounder, R. B. L., 7 cwt.	do.	63.34	4	12.5	.320	.253	.940	5.77	.693	
6-inch R. B. L., Armstrong	Spain	63.04	38.8	.50	.485	2.446	1.00	4.33	.74	Prismatic P. 2
12.5-inch R. M. L. (mark II)	Great Britain ...	62.41	157.5	.820	.192	9.829	.728	5.88	.865	S. P.
5-inch R. B. L.	do.	62.39	8	.50	.160	.499	.435	11.682	.925	Prismatic black.
6.3-inch R. M. L. howitzer	do.	62.37	2	.70	.028	.125	.335	25.29	.78	R. L. G. 2
7-inch R. M. L., 6½ tons.	do.	61.80	30	.115	.261	1.854	.960	5.14	.675	P.
4-inch R. B. L., 13 cwt.	do.	60.48	2.5	21.8125	.115	.151	.541	11.08	.79	R. L. G. 2
3-inch 7-pounder, R. M. L., 200 pounds (steel)	do.	60.47	.75	.7.25	.103	.45.4	.543	12.23	.755	Do.
12-inch R. B. L.	do.	60.06	295	.714	.413	17.721	.838	4.71	.85	Prismatic brown.
8-inch R. B. L. (marks II and IV)	do.	59.99	100	.210	.476	5.999	.907	4.86	.75	Prismatic black.
9-pounder R. B. L., 6 cwt	do.	58.29	1.125	8.5	.132	.65.6				R. L. G. 2
12-inch R. B. L.	do.	58.20	221.25	.714	.304	12.877	.628	6.28	.78	Prismatic brown.
14.66-inch R. B. L., 7½ tons	France	57.27	54	1,180	.463	31.272	1.00			P. 2
6-inch R. B. L. (marks III)	Great Britain ...	56.49	42	.100	.420	.272	.854	4.24	.80	P. 2 (218).
17-inch R. B. L., Armstrong	Italy	56.49	890.5	1,799	.500	50.810	1.00			Prismatic black.
6-inch R. B. L. (marks II)	Great Britain ...	56.18	34	.100	.340	1.910	.683	4.97	.93	Prismatic brown.
8-inch R. B. L. (marks I V III)	do.	55.52	100	.210	.476	5.552	.902	4.23	.735	Prismatic black.
9.2-inch R. B. L.	do.	55.44	160	.380	.421	8.870	.960	4.81	.70	Prismatic black.
8-inch R. B. L. (marks II and IV)	do.	53.06	50	.210	.238	2.653	.454	9.63	.86	Prismatic black.
6-inch R. B. L. (mark III)	do.	52.40	21	.100	.210	1.100	.425	8.48	.82	P. 2
4-inch R. B. L. (marks I and III)	do.	52.14	12	.25	.480	.626	.800	4.63	.755	S. P.
8-inch R. B. L. (marks I and III)	do.	49.19	50	.210	.238	2.460	.454	8.47	.73	Prismatic black.
4-inch R. B. L., 22 cwt	do.	46.27	12	.25	.480	.555	.722	4.35	.795	S. P.
6-inch multicharge gun	United States	24.23	120	.110	.109	2.908	1.00	3.32	.327	
Martin-Henry rifle		67.70	.0121	.068	.177	.8219	.781	15.92	.60	

It will surely be admitted that by following the lines indicated in the practical experience here set forth a much closer approach may yet be made to an "ideal" gun; and in confirmation of this view I may point to an accomplished fact. I refer to the "multicharge" gun tried at Sandy Hook in 1883 and 1884. With respect to this gun I find the following emphatic report by the Ordnance Board, printed on page 232 of the report of the Chief of Ordnance for 1884: "There seems to be no doubt that a higher energy has been obtained with this gun with its successive charges and with moderate and safer pressures than can result from any gun of the same caliber using only one charge."

It is true that in other respects the opinion of the board was adverse to the gun; but these features were quite apart from that which alone is here being considered. My purpose is accomplished by the citation of so eminent an authority as the Board of Ordnance of the United States in testimony of the fact that it is possible in practice to lower the maximum pressure in guns and maintain a relatively uniform propulsion without necessarily falling below the modern standards of muzzle energy.

As the firing records of the multicharge gun are of great practical interest, I have, in drawing No. 2, added a diagram prepared from the data in question. I doubt, though, if the effective working pressure were really those shown by the gauges; and my reasons for so doubting are as follows:

First. Taking the nine shots with the 110-pound projectile recorded on page 148 of the report of the Chief of Ordnance for 1885, I find the average muzzle energy to be 2,908 foot-tons; and as the charge of powder was 120 pounds, it follows that the duty per pound of powder was only 24.23 foot-tons. Now, if the charge were of unit density of loading the total expansion would have been about 3.3 volumes, and the theoretical duty of the powder would therefore have been about 74 foot-tons per pound; so that the factor of effect can only have been .327, which is inadmissible on the assumption that anything like the pressures indicated were at work on the projectile.

Second. On the assumption that the pressures in question existed, the force exerted in the gun must have been as shown in the diagram in drawing No. 2. The average pressure developed of 23,422 pounds would have given a muzzle energy of 7,210 foot-tons which again is far too high when contrasted with the actual energy of 2,908.

Third. If it be borne in mind that each successive section of the charge had an augmented chamber-space, and that therefore a large portion of the expansion took place without doing work on the projectile, we shall arrive at very different figures. The theoretical muzzle energy calculated in this way is 3,110 foot-tons, and the actual energy of 2,908 foot-tons represents a factor of effect of .925, which is in itself not only satisfactory, but likely enough.

Fourth. The much lower pressures recorded at the loading holes, simultaneously with those noted at the pockets, seem to show that the gauge indications were by no means a guide to what actually took place inside the gun. Indeed the true theoretical duty above mentioned corresponds to an average pressure

of only 10,266 pounds, whereas the gauges represent the average as 23,422 pounds.

It will be noted that in this particular gun the powder duty was extremely low; but there is nothing in the nature of the case in general to prevent a much higher result being attained. An actual muzzle energy of 50 tons per pound of powder may reasonably be looked for when a charge is exploded in sections or burnt with comparative slowness. Nor, as I have before shown, is it necessary for the gun in which such a charge is fired to be of any exceptional magnitude or weight.

#### SEC. 2.—High explosives.

No armament is worthy of the name in these days unless it provide for the utilization of the prodigious forces placed by modern science at the disposition of the soldier and sailor and military engineer. Every student of the art of war must concur with General H. L. Abbot's recently expressed opinion that "high explosives will doubtless be used with armies in the field, in regular sieges, in naval battles upon the ocean, and in contests between ships and forts." And if any doubt could possibly remain I think it would disappear from the mind of any one considering the facts cited in General Abbot's paper (Forum, September, 1888); as an example of which I may perhaps be permitted to quote the following passage:

"Much larger calibers are used in siege operations, and the defense will have to face a vastly more formidable fire than ever before. The French have adopted melinite for charging shells, and are rumored to throw enormous quantities, namely 200 pounds. The Germans, after several years of experimenting, have selected Walsrode wet gun-cotton for this purpose. Charged with the latter a 6-inch shell, 6 calibers long, carries 22 pounds; and under favorable conditions throws out 9 cubic yards of sand from its crater, 13 feet in diameter and 4 feet deep. An 8-inch mortar shell 6 calibers long carries gun-cotton charged from 42 to 57 pounds in weight, and throws out 20 cubic yards of sand. The 11-inch mortar shell is charged with 110 pounds of this high explosive, and its use has been proved to be entirely practicable.

Missiles like this will entail extensive modifications even in the most recent types of permanent fortifications erected for land defense; and the subject is now discussed among European engineers in what appears to be almost a spirit of panic. \* \* \* Very recently a series of experiments has been conducted at Kummersdorf upon a fort modeled after the pattern used by France upon her German frontier, and, it is claimed, with results which proved that the parts best covered, even the magazines, can be reached with overwhelming effect. When earth cover, even the 16 feet which General Brialmont has considered sufficient, is trusted, the first shells blow out such enormous craters that the weak masonry arch is soon reached and penetrated; but in the case of the largest shells (11-inch) even 16 feet of earth cover is deemed hardly adequate against the first projectile.

Such shells are, indeed, aerial torpedoes; and compared with the slow movement of even the swiftest submarine torpedo yet invented, or with the necessarily restricted utility of stationary mines, their employment must greatly simplify the problem of coast defense and can not be dispensed with in any adequate system of fortification. It becomes a matter of urgent practical importance, therefore, to determine the conditions under which the use of aerial projectiles charged with high explosives is practicable.

The first point for consideration is the question of whether the choice of the artillerist and military engineer is limited to any particular class or classes of explosives, or whether all high explosives are alike applicable.

We can at once eliminate the fulminates, the dynamites, and the chlorate mixtures from the list. Their sensibility to shock is too great to allow of their being hurled from any apparatus with a velocity sufficient for reasonable range and accuracy; and the dynamites and chlorate mixtures are moreover subject to rapid deterioration or dangerous changes of molecular structure when kept for any length of time. It is true that dynamite prepared with nitro-glycerine of absolute purity has been preserved apparently unchanged for years; but under practical conditions it is generally found that a period of from three to six months is sufficient to produce a marked unfavorable change. The same observations apply with almost equal force to explosive gelatine, and in fact to all explosives in which nitro-glycerine is the active ingredient.

The remaining high explosives at present known may be divided into two classes, the gun-cotton and the nitro-hydrocarbons. Both kinds are adopted in practice, but some doubt still attaches to the former. The experience of the British Government was distinctly unfavorable to the employment of gun-cotton as a bursting charge for shells, and though the Germans have now tentatively adopted the Walsrode gun-cotton for this purpose, it must be remembered that after a like attempt the Austrian Government found reason to relinquish it; and it should also be borne in mind that the special variety of the French melinite, in which gun-cotton was understood to be incorporated, gave rise to serious accidents.

Of the nitro-hydrocarbon class two explosives have been practically tested, namely, melinite and roburite; and according to the meager accounts yet made public the results have been of a satisfactory character—so much so, in fact that both the British and Italian authorities are understood to be seriously contemplating the adoption of some form of melinite as the standard high explosive for the charging of shells and similar uses. Roburite is probably regarded with some distrust, owing to its containing chlorine.

The exact composition of melinite as at present manufactured is not known, but the original specification of its inventor described it as consisting simply of fused picric acid, and it seems to be generally understood that the main ingredient is still picric acid or some closely allied body. On the whole, therefore, it is correct to assert that of all the high explosives hitherto introduced the phenol group (picric acid being trinitrophenol) has alone been found fully equal to the practical requirements of the military and naval services. I say the "phenol" rather than the "picric acid" group because melinite at present employed does not consist only of picric acid. It contains at least one other allied nitro-hydrocarbon (creosylite), and as I have been informed that the "picric acid" of commerce formerly employed by the French Government has been within the last year replaced by a "specially purified" variety, I think it probable that the new substance is not picric acid at all, but is "eacid."

This is a new acid which I discovered in 1885, which is prepared from picric acid, and concerning which I in 1887 gave information (with a sample) to an officer dispatched by the French Government to this country. If, then, the United States authorities should think fit to adopt a high explosive of the phenol class there will be no difficulty in procuring the same, as the emminente now made in this country is the practical equivalent of (if, indeed, it be not identical with) the French melinite.

The second point for consideration is the question of the velocity that may safely be imparted to a projectile charged with a high explosive so as not to induce premature explosion by the shock of the propelling charge. French and German experience combined with the result of all the experiments hitherto tried by the Bureau of Ordnance in this country would seem to show that while the employment of dynamite and explosive gelatine as the bursting charge for shells in gunpowder-fired guns has always been attended sooner or later with disastrous results, the safer class of high explosives before referred to may be used with comparative safety. But a much more extended experience is obviously required in order to place this conclusion beyond doubt; and no person accustomed to the handling of the peculiar bodies in question will be surprised to hear of many a gun being destroyed if attempts be made to subject melinite or gun-cotton charged shells to the full impact, heat, and friction that gunpowder will withstand with safety.

It may, however, be taken as already fully demonstrated that shell charged with a high explosive of the phenol group may be safely fired from an ordinary piece of ordnance if the shock and initial pressure be kept within moderate limits. Every artillerist will, I think, agree that if the pressure do not exceed 10 tons per square inch at any time from the instant of firing to that of the projectile leaving the muzzle of the gun the limit of safety will be well maintained, and any velocity that is possible may be imparted. Hence if the velocity is to equal that attained when the maximum firing pressure is more than 10 tons per square inch, it follows that a greater uniformity of pressure than usual is necessary.

Accordingly we are here again brought face to face with what I have in the preceding section of this paper denominated the "distinguishing feature of modern ordnance." Whether we regard rapidity and economy of construction combined with maximum power for a given weight of material, or whether we regard the conditions essential for employing ordnance in the projection of aerial torpedoes, we are alike led to the conclusion that our guns should be so fashioned and operated as to work with low and continued pressures rather than with those that are high at first and then rapidly diminish.

#### SEC. 3.—*The conversion of existing ordnance.*

It by no means follows from what has preceded that a nation desirous of rapidly providing itself with a formidable armament need at once construct a large quantity of guns of the new type referred to. Every nation of any importance has a considerable store of smooth-bore cast-iron ordnance; and the conversion of these guns into vastly more powerful weapons is a simple, speedy, and economical operation.

As a practical illustration I will take the case of the United States, and will show how all the important parts of the coast may, in a few months and at a most moderate cost, be put into a state of comparatively good defense; so far, that is to say, as a provision of powerful torpedo-howitzers is concerned.

The material already exists. I allude to the 308 15-inch Rodman guns which not many years ago stood in the very forefront of the world's artillery. They are admittedly magnificent specimens of their type. They cost some millions of dollars; they are in excellent condition; and it will be a reproach to the good sense and ingenuity of the nation if they be simply discarded as old iron, and not made to do the yeoman's service of which they are yet abundantly capable.

The accompanying drawing, No. 3, shows how a Rodman 15-inch muzzle-loading gun may be converted into a breech-loading torpedo-howitzer of tremendous power. All that is necessary is to bore through the existing breech and insert a comparatively short lining tube of steel screwed into the metal of the gun as is customary in such cases. This lining-tube is fitted internally with an interrupted screw for the reception of a movable breech-plug, the con-

struction of which constitutes the main feature of the converted gun. A central cylindrical hole extends through the plug and other cylindrical chambers of larger diameter extend from the front of the plug rearwardly into its substance. These chambers contain the gunpowder forming the propelling charge; and a starting charge is placed in the central cavity, which is closed in the rear by a subsidiary breech-block carrying a firing-pin or other suitable ignition device.

The torpedo to be fired from the gun is an elongated shell charged with high explosive and having its base extended backward in the form of a stud which fits in the central cavity of the main breech-plug. Hence, when the starting charge is exploded, a relatively weak impulse is communicated to the torpedo, which commences to move forward at a moderate rate of speed, and then, immediately the stud leaves the central tube, the heated gas inflames the main portions of the charge in the surrounding chambers, and these burn from the front backward, keeping up the whole evolution of gas which urges the projectile forward throughout the whole length of the gun.

By this device the shock of firing is reduced to a minimum and a comparatively uniform pressure is maintained until the shot leaves the gun. It will also be obvious that by suitably adjusting the air-spacing of the several sections of the charge and by properly selecting the character of the powder employed the pressure may be fixed at 10 tons per square inch or at any other possible amount; while, owing to the front ignition of the main sections, the whole of the powder may be utilized instead of being blown out in a partially consumed state, as is almost invariably the case in guns of ordinary types.

If a still further nicety of adjustment be at any time desirable the same may be attained by providing studs of varying lengths to fit in the front end of all the cavities so that the sections may all be successively discharged, or by carrying the main chambers through the breech-plug and fitting each one with a subsidiary breech-block they may be loaded and fired as independent charges.

It is not necessary for the stud or studs to be attached directly to the base of the projectile. A wad, thus provided, may be interposed between the breech-plug and the projectile.

If the dimensions and details shown by the drawing be adopted the following would be the main features of a converted 15-inch Rodman:

Caliber.....	.....inches.....	15
Total length.....	.....feet.....	16
Weight.....	.....tons.....	25
Charge.....	.....pounds.....	115
Weight of filled shell, large, carrying 534 pounds of high explosive.....	.....do.....	1,665
Small, carrying 200 pounds of high explosive.....	.....do.....	734
Muzzle velocity of large shell.....	.....feet per second.....	705
Muzzle velocity of small shell.....	.....do.....	1,063
Total muzzle energy.....	.....foot-tons.....	5,750
Muzzle energy per ton of gun.....	.....do.....	230
Muzzle energy per pound of powder.....	.....do.....	50

It will probably be considered by artillerists that with these muzzle velocities the effective range of the gun may be considered as extending to 3 miles.

I have purposely worked out the design on the basis of employing projectiles of maximum size; but much smaller shells may be used as desired, either by adopting a sub-caliber form, as originally proposed and employed by Stafford during the late war, or by reducing the caliber of the gun by carrying the lining tube forward through the whole bore, as in the case of the conversions hitherto effected.

I have also purposely retained the gun as a smooth-bore; first, because for a torpedo of maximum size it is essential to employ the full caliber of 15 inches; and, secondly, because it has been admitted both by the action of Congress and by the reports of the Chief of Ordnance and other authorities that a smooth-bore torpedo gun may be accepted in practice as a valuable adjunct to any system of seacoast defense. But if a reduction of caliber from 15 to, say, 12 inches be permissible, the converted gun may be rifled and thus made available for long-range shooting.

It will be understood that, owing to the Rodman guns having been originally constructed for firing spherical shot, they were made much shorter than modern guns of the same caliber which fire elongated projectiles. Hence the converted weapons must be regarded as howitzers or mortars rather than as guns proper; and if shells of maximum size are to be fired they will, of course, nearly fill the bore of the piece, as shown in my drawing. This, however, is a circumstance of no practical moment except so far as the employment of so huge and heavy a projectile may limit the velocity attainable with the moderate pressure proposed. Still the velocity even of the largest torpedo will be considerable enough for practical requirements, and in the event of higher velocities being desired, they can always be attained by diminishing the size of the torpedo.

#### SEC. 4.—*New guns.*

Should the converted Rodmans be found to work well, an important step forward will have been taken towards the solution of the problem of the construction of the new ordnance so urgently required. The success of the torpedo-howitzer will place beyond a doubt the possibility of constructing and efficiently operating long-range rifled-guns upon the same principle of moderate and continued powder-pressure. It will be seen that with a very moderate expenditure, and in a relatively short period, the country may be supplied with breech-loading rifled ordnance, capable of exerting even greater power, and having much greater endurance than the costly guns now being fabricated by European nations.

#### SEC. 5.—*Gun-carriages and fortifications.*

The mere construction of a gun is but one-half of the task to be accomplished before a shot can be fired. The gun must be mounted, and the combined gun and mount must be so placed as to be in some measure protected from hostile fire.

It may be said broadly that the United States at present have no gun-carriages or fortifications available for use in the event of any part of the coast being attacked by an enemy armed with modern high-power guns and high-explosive shells. And the vast expense attendant upon the carriages and defenses now deemed necessary by most of the European military engineers is calculated to induce great caution in adopting any such plans. What is needed is some system of a simple and economical character which can be at once adopted, and which will provide for the principal requirements of the case and will constitute a safe resting stage at which to await the future developments of the military art.

The requirements in question are as follows:

First. The gun must be so mounted as not to remain exposed to hostile fire for more than the time required for its discharge. It must be loaded and trained under cover. In other words, its carriage must be of what is known as the "disappearing" type.

Second. The gunners while firing must be protected from rifle bullets and the fire of machine-guns and light ordnance, which otherwise may inflict great damage even during the short periods during which alone the gun is visible.

Third. The mechanism for the "disappearance," raising, and running out of the gun must all be self-contained and automatic. It must be free from all accessories such as steam-engines, hydraulic pumps, air-compressors, and the like. On this condition alone can a gun be mounted at a moderate expense and in any situation.

Fourth. The whole of the working arrangements, whether for loading, trav-

ersing, elevating, disappearing, raising or running out, must be so devised as to be capable of being carried out by the gunners alone without the aid of extra machinery.

Fifth. The fortification must not present any part exposed to horizontal or slightly curved hostile fire.

A study of these requirements must compel the conclusion that the only thoroughly efficient method of gun-mounting and fortification is to adopt a "disappearing" carriage in a sunken emplacement. In accordance with this view I have prepared the accompanying drawings, Nos. 4 and 5, which show in side elevation and plan respectively a gun-carriage and fortification complying with the aforesaid conditions, while drawing No. 3, previously referred to, shows the devices for loading the gun and protecting the gunner when the weapon is in the firing position.

The fort, it will be observed, is simply a circular pit in the ground, having a tunnel shelter for the gunners and their munitions, etc. It can not be struck except by high-angle fire of extreme accuracy, and may, therefore, be deemed invulnerable against a seacoast attack; while the all-round fire of its gun should protect it from any flank or rear assault attempted by a landing party.

The power required for depressing and raising the gun-platform is obtained by utilizing the recoil flat-wire ropes being attached to a brace behind the mount and carried over rollers forward, downward, backward, and upward to a fastening affixed to the underside of the platform. Hence, when the gun recoils, it pulls the platform downwards, and in so doing it lifts the counterpoises, which somewhat more than balance the gun, mount, and platform. A self-acting check, not shown in the drawing, prevents the counterpoises from descending until it is released, when the loading and training are finished. The platform then rises, and, while ascending the gun is automatically run out into the firing position.

The loading devices will be clearly understood by an inspection of drawing No. 3. The breech-plug is drawn out by the windlass-tackle, and successively assumes the position shown by the dotted lines.

When it is thus depressed below the table-rest a fair way is left for the projectile, which can be lifted by the tackle and pushed into the gun. The breech-plug, which has meantime been loaded, is then replaced, tightened, and locked, and the gun is ready for firing.

The elevation of the gun is effected by side wedges, which bear against a cross-bar underneath the breech of the gun, and are actuated backward and forward by racks and pinions, while the traversing is carried out by a worm-wheel on the supporting frame of the platform gearing into a circular rack on the bed-plate, a massive pintle in the center of both frame and bed-plate, serving as the pivot around which the whole apparatus revolves.

The drawings are submitted merely by way of explanation and illustration; and it will be understood that the dimensions and constructive details may be modified to meet particular cases. It will also be seen that the particular dimensions shown are such as to render the carriage still available even if the 25-ton converted Rodman be replaced by some much heavier gun.

#### SEC. 6.—Estimates of cost.

The cost of guns, projectiles, carriages, and fort constructed in accordance with the foregoing proposals may be estimated as follows:

First. A single 15-inch Rodman gun converted into a torpedo howitzer and provided with an armored mount and loading devices complete, as shown in drawing No. —	\$25,000
Second. A projectile for the same, charged with 500 pounds of emmenite and complete for firing.	850
Third. A subcaliber projectile for the same, charged with 200 pounds of emmenite and complete for firing.	400
Fourth. One hundred rounds of the 500-pound torpedo.	80,000
Fifth. One hundred rounds of the 200-pound torpedo.	35,000
Sixth. A single disappearing platform for a converted 15-inch torpedo howitzer and armored mount, as shown in drawings Nos. 4 and 5, complete, with bed-plate, pintle, and counterpoises.	35,000
Seventh. A one-gun battery, complete, as shown in the several drawings: <i>i.e.</i> , a converted 15-inch torpedo-howitzer, with armored mount, loading devices, and disappearing platform, and 100 rounds of torpedoes fully charged—50 being of 200 pounds, and 50 of 50 pounds capacity.	60,000
Eighth. A single 15-inch Rodman gun converted into a torpedo-howitzer without mount or carriage.	12,000

The above estimates do not include any provision for freight or erection, the cost of which will, of course, vary for each locality.

Mr. TRACEY. I desire to offer the amendment which I send to the desk.

The Clerk read as follows:

After line 10, on page 22, insert:

"For the purchase, under the direction of the Secretary of War, of land convenient to the Watervliet arsenal suitable for proof and firing of seacoast guns, \$15,000."

The amendment was agreed to.

Mr. TOWNSHEND. Mr. Chairman, I am directed by the Committee on Military Affairs to offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

That the Secretary of War be, and he is hereby, authorized to appoint a board of not exceeding five officers of the Army to examine and report upon a site for an ordnance testing and proving ground, to be used in the testing and proving of heavy ordnance, having in view in the selection of said site its accessibility by land and water, means of transportation, and suitability for the purpose intended, and also the actual and reasonable cost and value of the land and the least sum for which the same can be procured. And said board shall report thereon to the Secretary of War, to be submitted to Congress at its next session. And in case the said board shall select a site and recommend its purchase, the Secretary of War is hereby authorized to secure written proposals for the sale of the tract so recommended, until such time as Congress may act upon the recommendation of said board and of the Secretary of War.

Mr. SAYERS. I desire to make the point of order against that amendment, that it proposes new legislation. There is no law authorizing the purchase of such grounds and that provision has no place upon an appropriation bill. If it is desired to make such a purchase it will be necessary for the committee to report a bill and let it become a law before the appropriation can be made.

Mr. TOWNSHEND. I have been unable to hear what the gentleman says as to the ground of his point of order.

Mr. SAYERS. The point of order is that there is no law which authorizes the purchase of such grounds.

Mr. CUTCHEON. This amendment does not authorize the purchase, either.

Mr. SAYERS. Yes, sir.

Mr. TOWNSHEND. The gentleman from Texas has wholly misconceived the nature of this amendment. The amendment does not involve the expenditure of one single dollar. The reasons for bringing it in here are these: A bill was introduced by the gentleman from New Jersey [Mr. HIRES] providing for the purchase of a particular tract of land some 10 miles in length and 2 miles wide, and designating the boundaries of the tract. The War Department has declared that it is necessary for the Government to own a new proving-ground in order to test the long-range guns which were ordered last session. The only proving-ground that the Government now has is at Sandy Hook. Its range is only a few miles on land, and in endeavoring to test long-range guns they are very much interfered with by passing vessels, because the ocean there is a thoroughfare for many vessels. The Secretary of War has been anxious, therefore, to secure a proving-ground of sufficient extent in the interior to test properly long-range, nine and ten mile guns.

That proposition of the gentleman from New Jersey [Mr. HIRES] came before the committee designating the particular tract and specifying the amount which should be paid for it. The committee was unwilling to bring in a bill limiting the choice of the Department to any particular locality. It was also unwilling, with such light as it had, to recommend any appropriation; but in order that some steps might be taken to guard the Government against extravagance in this matter, and at the same time to enable the War Department to make proper inquiry as to where a suitable proving-ground might be obtained at the cheapest price, we have proposed this amendment. It is the desire of the Department that this provision shall become a part of the Army bill. Under the ruling made by the gentleman from New York [Mr. COX], when the Military Academy bill was before the House, this amendment is in order.

A similar proposition has just been adopted by the Committee of the Whole for the purchase of ground near Watervliet arsenal, to be used for a like purpose. What was the amount of the appropriation?

Mr. TRACEY. Fifteen thousand dollars.

Mr. TOWNSHEND. This proposition does not contemplate the expenditure of one dollar; and I can not understand why gentlemen who were willing to allow an appropriation of \$15,000 for the purchase of ground for a similar purpose near the Watervliet arsenal should raise a point of order upon a proposition which does not provide for any appropriation whatever, but simply seeks to guard the Government against extravagant expenditure. If I did not know what lovers of economy these gentlemen are, I would imagine that they were willing that this ground, which the gentleman's amendment specifically designated, should be purchased; but I believe that they desire to accomplish as much economy as possible. The point of order, in my judgment, has no foundation whatever. The amendment is in the interest of economy, it is designed for the benefit of the public service, and it makes no appropriation whatever.

Mr. SAYERS. I wish to ask the gentleman from Illinois whether there is any law authorizing the purchase of this ground?

Mr. TOWNSHEND. As much so as in the case embraced in the amendment to which I have just referred.

Mr. RANDALL. This is an entering wedge for the purchase of a new testing-ground; otherwise it has no object.

MR. TOWNSHEND. UNLESS A PROVING-GROUND OF PROPER LENGTH IS OBTAINED ON LAND THE LONG-RANGE GUNS FOR WHICH YOU APPROPRIATED MILLIONS AT THE LAST SESSION CAN NOT BE PROPERLY TESTED.

Mr. RANDALL. The gentleman now acknowledges what I have just stated.

Mr. TOWNSHEND. This is for the purpose of enabling the War Department to detail its officers to go and find the cheapest and most eligible proving-ground, instead of providing in the bill for the purchase of what might afterwards be found to be a high-priced proving-ground, such as we believe to be contemplated in the proposition of my friend from New Jersey. I am satisfied that a better proving-ground than he proposes can be found at far less cost. This proposition is in the interest of the Government. The Committee on Military Affairs proposes it as a substitute for that of the gentleman from New Jersey. If gentlemen want to guard the Treasury let them show their patriotism by helping the Committee on Military Affairs in this endeavor.

Mr. HOOKER. I rise for the purpose of asking that a letter of the Secretary of War on this subject be read.

Mr. RANDALL. What has become of the point of order?

Mr. HOOKER. The point of order will be decided after this letter has been read; and the gentleman from Pennsylvania will no doubt accept the decision with his usual placidity and amiability.

The Clerk read as follows:

WAR DEPARTMENT, Washington City, January 23, 1889.

SIR: I have the honor to acknowledge the receipt of your letter of the 11th instant, requesting the views of this Department upon House resolution 248, Fifteenth Congress, second session, to authorize the Secretary of War to purchase a certain tract of land in Atlantic and Cumberland Counties, New Jersey, as a site for testing heavy ordnance and making experiments in gunnery.

In reply I beg to transmit a report of the 17th instant, on the subject, with its inclosures, from the Chief of Ordnance, from which it appears that the Government reservation at Sandy Hook, now used as a proving-ground, is entirely too

contracted in its dimensions, and that while it serves its purpose admirably for experiments over and into deep water to try the power and efficacy of dynamite and other high explosives, yet in view of the fact that the first step has been taken to manufacture high-power guns, a suitable range over which to test the powerful guns of the near future ought to be provided.

A board of ordnance officers having been ordered last summer to select a favorable site for the purpose, it inspected a number of sites, but was most favorably impressed with the tract of land mentioned in the resolution, it appearing to furnish a good and sufficient firing line from 8½ to 9 miles in length, and being sufficiently remote from settlements to avoid probable danger of accident or damage to private property, while facilities for rail communication are such that guns weighing 120 tons may be transported without transhipment from Watervliet arsenal to Richland, 2½ miles distant from the northern boundary of the tract.

It appears that this site and the one at the east end of Long Island are the only ones now available for a proving-ground, and the opportunity of securing such ground within a reasonable distance of New York City should not be lost.

I therefore recommend the purchase of the tract in question.

I also inclose a report of the 7th instant on the subject, from the major-general commanding the Army, together with two maps of the proposed proving-ground and its vicinity.

Very respectfully,

WM. C. ENDICOTT,  
Secretary of War.

Hon. R. W. TOWNSHEND,  
Chairman Committee on Military Affairs, House of Representatives.

Mr. SAYERS. I now call for the decision of the Chair.

The CHAIRMAN. The Chair will call the attention of the gentleman from Illinois [Mr. TOWNSHEND] to the fact that this provision is obnoxious to the rule in that it proposes new legislation. It carries no appropriation; nevertheless the proposition is new legislation, and if the point of order is insisted upon—

Mr. SAYERS. I insist on the point of order.

The CHAIRMAN. The Chair must sustain it.

The Clerk proceeded with the reading of the bill.

Mr. TOWNSHEND. I am authorized by the committee to send up another amendment, but will refrain from doing so. I know it will meet with opposition from the gentleman from Pennsylvania, and therefore, in order to save the time of the House, I will not present it.

Mr. RANDALL. That is a violent presumption on the part of the gentleman from Illinois.

Mr. TOWNSHEND. The gentleman has opposed every amendment submitted from the Committee on Military Affairs. I move the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. DOCKERY reported that the Committee of the Whole House on the state of the Union had had under consideration the bill (H. R. 12383) making appropriations for the support of the Army for the fiscal year ending June 30, 1890, and for other purposes, and had directed him to report the same back to the House with sundry amendments.

Mr. TOWNSHEND. I move that the amendments of the committee be agreed to in gross.

There was no objection, and it was ordered accordingly.

The bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. TOWNSHEND 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.

#### ENROLLED BILLS SIGNED.

Mr. ENLOE, from the Committee on Enrolled Bills, reported that they had examined and found duly enrolled bills of the following titles; when the Speaker signed the same:

A bill (H. R. 1860) to amend section 1883 of the Revised Statutes; and

A bill (H. R. 331) for the relief of David Meriwether.

#### SAMOA.

The SPEAKER laid before the House the following message from the President:

#### To the Senate and House of Representatives:

I transmit herewith a further report of the Secretary of State, with accompanying correspondence, relating to Samoa, and the joint protocols of a conference held in this city in the summer of 1887, to the publication of which the Governments of Germany and Great Britain have consented.

GROVER CLEVELAND.

EXECUTIVE MANSION, February 8, 1889.

Mr. HOOKER. I ask that the message just read, together with the accompanying documents, be printed in the RECORD. This is a matter of importance and of great interest to the whole country.

There was no objection, and it was ordered accordingly.

#### To the President:

In further supplement to the information heretofore laid by you before the Congress in relation to affairs in Samoa, your last message being under date of February 1, the undersigned now has the honor to submit, with a view of their transmission to Congress, certain documents and correspondence on the subject referred to.

The inclosures consist of the reply of our minister at Berlin to my telegraphic instructions of January 31, 1889, and a note from me to Count Arco, the German minister, in relation thereto, under date of February 1, 1889; the proposal of Prince Bismarck for a resumption of the conference of 1887 between the representatives of the three treaty powers for the pacification of Samoa on the basis

of native independence and the equality of rights among the treaty powers, and my response, under your instructions, thereto.

I have also the honor to report that the Governments of Germany and Great Britain have expressed their consent to the publication of the joint protocols of the conference held in this city in the summer of 1887, and which was suspended at my suggestion, for reasons stated, on July 23, 1887.

The subject of our relations to Samoa and our rights and duties under treaty stipulations with that country and with the other treaty powers of Great Britain and Germany, under the comity of international law, having been placed by you before the Congress, it seems proper that the fullest information in the hands of the Executive should be furnished, and the agreement to consider the discussions of the conference of 1887 as confidential has alone caused the papers now sent to have been up to this time withheld from publication.

Respectfully submitted.

T. F. BAYARD.

DEPARTMENT OF STATE,  
Washington, February 7, 1889.

#### No. 1.

Mr. Pendleton to Mr. Bayard.

[Telegram.]

#### LEGATION OF THE UNITED STATES, Berlin, February 1, 1889.

A telegram from Mr. Pendleton on February 1, 1889, informed the Department that the reported action of the German consul at Apia, who, it appeared, against the protest of the British consul, had declared foreigners under martial law was contrary to instructions, was regretted, and had been rebuked; and that the German Government would adhere strictly to treaty status. Mr. Pendleton added that this statement from the German secretary of state for foreign affairs anticipated the representations Mr. Pendleton was instructed to make, and he would therefore withhold them for the present.

#### No. 2.

Mr. Bayard to Count Arco.

DEPARTMENT OF STATE, Washington, February 1, 1889.

MY DEAR COUNT ARCO: Referring to my note of yesterday, I have now the pleasure to inform you that a telegram just received from Mr. Pendleton, at Berlin, states that the object of my instruction to him in reference to the declaration of martial law by the German consul at Apia had been anticipated, and at the foreign office he had been informed that the assumptions of the German consul at Apia were disavowed, and that such action, if it had been taken, was regretted and rebuked by the German Government.

This was wholly in the line of the *note verbale* you read me this morning.

Believe me, very truly, yours,

T. F. BAYARD.

#### No. 3.

Prince Bismarck to Count Arco.

[Memorandum of instructions of Prince Bismarck to the minister of Germany, read by the latter to the Secretary of State February 4, 1889.]

The present situation in Samoa regarding the interests of the three treaty powers renders it necessary to renew the attempt to bring the future of those islands to an understanding.

The position of the three treaty powers in the civilized world makes it their duty to stop the bloody combat accompanied by barbarous customs of those not numerous tribes, for whose welfare, according to the judgment of the civilized world, it is a duty of the treaty powers to provide.

Prince Bismarck, in consequence, considers it a duty of the participating Governments to put an end, by the agreement of the treaty powers, to the troubles which have originated in Samoa, and by restitution of peace among the Samoans themselves, and so make an end of future bloodshed and the horrors of a civil war conducted with barbarous cruelty among the natives.

The best remedy seems to be a resumption of the consultation which took place between the representative of Germany, England, and the United States in the year 1887, at Washington, and at that time adjourned without any possibility of their representatives coming to any agreement.

In consequence, I have been requested by Prince Bismarck to propose to you to resume with Germany and the British Government the consultation regarding the Samoan question.

The last conference took place at Washington. According to the equal rights of the three treaty powers, it seems proper that the place for the negotiations should change in regular turn. Based upon this opinion, I am directed to invite the Government of the United States to a conference regarding Samoa, to take place at Berlin, and a similar invitation has been sent to the British Government.

I am also directed to declare that any supposition that Germany would not feel satisfied with a neutral position in the Samoan Islands is unfounded, as we have already declared in the last conference (of 1887) it is neither our intention to put in question the independence of the island group nor the equal rights of the treaty powers. We simply desire to create a condition which offers permanent security for bringing to an end bloodshed and decapitation, and which grants permanent safety to the commercial interests of the three treaty powers in Samoa.

#### No. 4.

Mr. Bayard to Count Arco.

DEPARTMENT OF STATE, Washington, February 5, 1889.

SIR: The President having been made acquainted fully with the tenor of the instructions received by you from Prince Bismarck and read by you yesterday for my transcription, he requests me to say that he fully shares in the desire expressed by the Prince Chancellor to bring the blessings of peace and order to the remote and feeble community of semi-civilized people inhabiting the islands of Samoa; and that he clearly recognizes the duty of the powerful nations of Christendom to deal with these people in a spirit of magnanimity and benevolence.

On behalf of the United States Government the President instructs me to express his acceptance of the proposal of the Government of Germany to resume the consultation held in this city between the representatives of the United States, Germany, and Great Britain, which was suspended on the 26th day of July, 1887, such consultation to be renewed, as it was undertaken, for the purpose of establishing peace and an orderly stable government in the Samoan Islands on the basis of their recognized independence and the equal rights of the three treaty powers. The resumption of such conference as it is now proposed by Prince Bismarck, upon the general lines advanced by each of the three powers, as set forth in the protocols of the conference as far as it has progressed, and embracing certain points of agreement, appears to present a hopeful prospect for securing the welfare of the Samoan people and such a neutralization of territorial jurisdiction as will prevent preponderant control by any nation and secure equal rights of commerce and navigation to all.

The sooner this conference can be resumed the better. And in view of the late deplorable scenes of bloodshed which have been exhibited upon Samoan soil, entailing deeply regrettable loss to Germany, it appears to be essential that a truce should be forthwith proclaimed and further armed action should be arrested. A contention of arms by such scanty band as the Samoans against the vast armaments of Germany has, of course, but one result assured in advance, and would be manifestly futile. There is no feature of equality in such a struggle.

As the assurance of Prince Bismarck that the pacification of the Samoan group and the occupation of a neutral position are his only objects, is as frankly accepted by the United States as it is tendered by Germany, it is suggested, in furtherance of the desired result of the conference, that instructions to suspend belligerent action, and await the action of such conference, should at once be telegraphed to their respective officers in Samoa by the three treaty powers.

To continue to prosecute a war of destruction and reprisal, even upon admitted provocation, would surely not consist with the objects of any of the three powers. It is hoped, therefore, that orders of the nature indicated will be forwarded to Samoa without delay.

The announcement of the conference between the treaty powers, it is confidently expected, will at once cause a cessation of hostility among the natives; and their speedy election of a king would certainly be a long step towards harmony. Except as the condition may be changed by a free election of a king by the natives, it is deemed essential that affairs in Samoa should remain *in statu quo* pending the conference.

If we may indulge the hope which the adoption of these suggestions promises for a successful issue of the conference, the Government of the United States will at once take steps to be properly represented at the meetings of such conference in Berlin.

The statements you read to me as emanating from the German consul at Samoa, in which he finds fault with the conduct of Captain Leary of the Nipsie, and of Mr. Blacklock, the United States consul, as violative of the instructions of this Government to maintain an impartial attitude in the conflicts in Samoa, do not appear to be substantiated by an avowal of any personal knowledge of the facts, but must have been based upon information and belief only, or are reported at second hand, and must be classed as merely hearsay evidence.

These conflicting statements of the German consul will be brought to the attention of Captain Leary and Mr. Blacklock, and their reply will be communicated. Much allowance must be made for the excitement prevailing in Samoa, which is not favorable to accuracy or moderation of statement, especially of those concerned as actors.

Accept, sir, a renewed assurance of my highest consideration.

T. F. BAYARD.

No. 5.  
*Protocol of first-Samoan conference,*  
[Confidential.]

DEPARTMENT OF STATE, Washington, June 25, 1887.

The conference was formally opened by Mr. Bayard inquiring whether the British and German ministers had received his note inclosing a draught of a plan for the settlement of Samoan affairs, and whether they had prepared any comments upon it. Both had received it.

Mr. von Alvensleben then stated that he had made a memorandum, which he would read, but could not give out of his hand. His Government had sent him general instructions before knowing Mr. Bayard's suggestions, and those instructions therefore did not cover all the different points suggested. He was, however, willing that the views of his Government should be put down in the protocol of the conference as he read them.

Mr. Bayard said the conference was suggested a year ago: that the three Governments had sent out commissioners to make investigation and report; that reports had been made and exchanged; that an expression of the views of the United States had been desired; that an informal conference had been held, which ended in the request by the ministers of Great Britain and Germany that those views should be reduced to writing; that this had been done and the plan placed in their hands, and that it seemed proper that the views of the other two Governments should be handed him in the same way.

This however, Mr. von Alvensleben declined to do, and for this reason Sir Lionel West also decided not to give a copy of the memorandum which he had prepared; but they agreed that their statements, as read by them, should be taken down by a stenographer and embodied in the protocol of the conference.

The plan previously submitted by Mr. Bayard on the part of the United States, and which is to be taken as if read at the conference, is as follows:

PLAN FOR THE ESTABLISHMENT OF PEACE AND CIVILIZATION IN SAMOA UNDER THE CO-OPERATIVE SUPPORT OF THE GOVERNMENTS OF THE UNITED STATES, GERMANY, AND GREAT BRITAIN.

1. The independence and autonomy of the kingdom composed of these islands are to be preserved free from the control or preponderating influence of any foreign government, and it was in pursuance of this understanding that commissioners were recently sent by the three powers respectively to investigate and report upon the condition of the islands, and that the respective consuls of the three powers at the islands were changed.

2. It is the desire of the United States, and equally of Germany and Great Britain, to assist the natives of Samoa to form and administer their government.

3. The due and orderly commencement of the new government will be the recognition of a native king; and a respect for native customs and traditions, which the three powers have recognized by their several existing treaties, would seem to require the continuance of Malietoa Laupepa as king and of Tamasese as vice-king. The kingship of the islands has for many years been filled by the election of the head of the Malietoa family, of Malietoa Talavoa, until his death in 1880, and of Malietoa Laupepa in March, 1881, in which same year Tamasese was elected vice-king. These voluntary native elections and the governments so established were severally recognized by the United States, Germany, and Great Britain, and the treaties now existing between these powers and Samoa should have all the binding force attendant upon such formal obligations.

4. A written constitution of government should be adopted, and on the following lines: An election by the native inhabitants should be held at once for chiefs from the several districts of Samoa who are to be the council of the king. The number of these chiefs may be as follows: From Aana, 2; from Atua, 2; from Apolima and Manono, 1; from Savaii, 6; from Taumasaga, 2; from Tutuila, Mauna, Olosega, Ofa, and Aunu, 2. By the king and these chiefs the constitution should be adopted and proclaimed. This constitution should provide for a legislature which should, as heretofore, consist of a king's council or *timua*, and a legislative assembly or *faipule*. The former should consist of the king, the vice-king, three ministers to be nominated by the three treaty powers, and chiefs from the several districts of Samoa, the latter to be elected for life. The *faipule* should be elected by the people in the ratio of one representative for every 2,000 of the population and for the term of three years. Those chosen at the first election should be divided into three classes, so that one-third should thereafter be elected in each year.

5. The chief secretary and minister for foreign affairs, the treasurer, and the

minister of the interior, should be appointed by the king upon the nomination of the three treaty powers, and should serve for a term of — years, unless removed by the king upon the application of the three treaty powers. These ministers should have seats on the floor of the *faipule* and take part in the debates.

6. A municipal government shall be formed for Apia without interference by the foreign consuls. The government of the municipality shall consist of a council with local legislative powers, and a mayor or chief executive officer, to be appointed by the king and council.

7. Foreign consuls shall retain criminal jurisdiction over their own countrymen, respectively, as heretofore.

8. A court for the administration of justice among the natives shall be constituted, the judges to be appointed by the king and council without regard to their nationality, and the police officers and minor officials of the court shall be selected from the natives.

9. The constitution should prohibit the imposition of pecuniary fines upon natives, and sentences for criminal offenses should be terms of imprisonment with labor on the public roads, buildings, and grounds.

10. The sale of deadly weapons or ammunition therefor should be prohibited, as well as the sale of intoxicating liquors.

11. A land commission should forthwith be organized before whom all claims of title to land by foreigners shall be submitted and whose judgment shall be final.

This commission shall consist of five members appointed by the king, of whom three shall be nominated by the three treaty powers, *i.e.*, one by each of the said powers, and the remaining two selected by the king. They shall obtain the services of a competent engineer and assistants, who shall make correct survey and plots of land respectively claimed, the cost of which survey and plots shall be paid by the claimants respectively. The said land commission shall inquire into the nature and extent of each and every land claim by foreigners, and whether good or valuable consideration was paid therefor, and no land shall be awarded to any claimant unless it be proved that at least value to the extent of — per acre had been paid therefor, and in all cases where an illegal or immoral consideration has been given, where liquor, or fire-arms or weapons of any description form the consideration such claims shall be declared invalid and the land shall forthwith be restored to the control of the Government of Samoa.

12. The judges of the land commission shall each receive a salary of — per annum, to be paid out of the revenues of the kingdom, and shall appoint a clerk who shall duly keep the records of their proceedings.

13. It shall be the duty of the said land commission to survey and set apart of the unclaimed or unoccupied land one-tenth part thereof to be rented for the use and support of the public schools.

14. To assist in raising revenue for the support of the government, customs and tonnage dues shall be levied at the several ports of entry, and to this end each of the treaty powers will negotiate identical treaties with Samoa in which the rates of said duties shall be established.

15. Each of the treaty powers will alternately keep four months in each year a man-of-war in Samoan waters to assist in maintaining the government so to be established and to preserve peace and order.

Mr. von Alvensleben then read his memorandum, which was as follows:

The unsettled condition of affairs on the Samoan Islands having gradually become more and more injurious to the foreign residents and to the commercial interests of the three treaty powers, the latter had to take into serious consideration the means by which the lasting peace and order could be restored there. With this view and the understanding that the independence of Samoa under a native government was to be maintained, and that no monopolies should be created there by any foreign power, the three treaty powers have agreed to the proposition of the Government of the United States of America to hold a conference of plenipotentiaries. It was further agreed that, in order to get complete and reliable information on which the conference would have to base its deliberations, special commissioners should be sent and instructed by the respective governments to report on the condition of those islands. These reports having shown that the weakness and incapacity of the actual government are the principal causes of the present untenable state of affairs in the Samoan Islands, the Imperial German Government is of the opinion that an agreement upon the following points would be apt to lead to the intended result:

1. King Malietoa having notoriously violated his treaty obligations towards Germany, and having even among the natives comparatively but few partisans, while a completely organized counter-government has been formed under Tamasese, a new election of king will have to take place according to the customs of the country. This election is to be freely made by the chiefs and the people of Samoa. This would meet the suggestion made by the honorable Secretary of State to the two other powers when this conference was proposed. It was said in those instructions "the three powers to uphold a competent and acceptable chief, to be chosen by the natives." The same proceeding has been observed previously when several chiefs arose as pretenders, and the treaty powers then recognized as king the one who had been elected by a majority of the population. As to the actual number of Malietoa's partisans, a statement drawn up by Mr. Travers shows that the party of Tamasese is four times as large as Malietoa's. The whole population of the Samoan Islands, except Manu, numbers 33,450, of which 5,800 comprise the party of Malietoa, 7,400 are indifferent, and 20,250 stand by Tamasese.

2. As far as merely Samoan affairs are concerned, the administration of the country to be carried on, as was hitherto the case, by the king assisted by the native council, composed of the most prominent chiefs. The competence of the king and the co-operation of the native council will have to be defined by special agreement.

3. Experience having shown the incapability of the Samoans to maintain order and peace in their country, a foreign representative to be appointed as adviser to the king in order to strengthen the latter's authority.

This adviser, who is to act as the mandatory of the three treaty powers, will have to discharge, under the nominal responsibility of the king, the government affairs. He will have to control all necessary measures with regard to the maintenance of public order in general, and especially to the security of any kind of property of foreign residents. This adviser, whose position would be virtually that of a prime minister, to be nominated by the treaty power having for the time being the preponderating interests in Samoa. The nomination needs the approval of the two other powers. The first appointment to be made for the term of five years in the first instance, and at the expiration of that period a fresh appointment to be made on the same terms and conditions. In the event of the appointment becoming vacant during the said term of five years, through the death, resignation, or removal of the adviser, another person shall be similarly appointed to hold the office for the remainder of the said term.

4. In order to avoid every misapprehension of the situation by the placing of the representative of one of the treaty powers in the most prominent position of the Samoan administration, it will be expedient to formally acknowledge anew the principle, already contained in the existing treaties with Samoa, of absolute equality of treatment in respect of commerce, navigation, jurisdiction, and all other matters whatsoever to be secured to the three powers and to their subjects and citizens.

5. The irregularities which are known to have occurred in regard to the acquisition of land, and the disputes to which they have led between foreigners and natives make, it appear expedient to consider the establishment of a special international court for the decision of claims and disputes relating to land. For

the composition of this court due consideration will have to be given to the nationality of the parties.

6. It will have to be one of the principal tasks of the new administration to regulate the finances and to draw up a budget in accordance with the needs of foreigners and natives. For this purpose, and in order to raise the requisite funds for the proper administration of the islands, as well as for promoting foreign trade and commerce, the question of levying taxes on foreigners with the consent of the three treaty powers will have to be considered.

7. As the German interests in Samoa outweigh actually those of the two other powers, Germany is entitled to nominate the first adviser, in accordance with the provisions established above under No. 3.

8. The existing treaties with Samoa to be maintained, and the declarations made previously by Germany, the United States, and Great Britain with regard to the independence of Samoa to be confirmed, in order to avoid the appearance as if the present interference in the Samoan administration implied an intention of the annexation of Samoa by a foreign power.

Sir Lionel West then read his memorandum, which was as follows:

Mr. West: These are the views of Her Majesty's Government:

It is understood that the three powers have no desire to found colonies in Samoa or to obtain commercial monopolies. Their sole wish is to establish the right and equality of commerce and navigation for their respective subjects and citizens. Assuming, then, that the three powers have no desire to destroy the independence of Samoa, but only seek to establish the right and equality of their commerce and navigation, a declaration to this effect might be made by them as a preliminary step. It was, however, deemed expedient to ascertain the exact state of affairs in the islands by sending special commissioners who should report thereupon. The reports are now before the plenipotentiaries of the three powers assembled in conference, and their general tenor leads to the conclusion that the Samoan natives are incapable of forming independently a stable and efficient administration for preserving their own independence and for securing to each power full freedom of commerce, navigation, and jurisdiction of all matters affecting their respective subjects and citizens.

Under these circumstances Her Majesty's Government are prepared to advocate an agreement between the three powers on the principle that one of them should, as the mandatory of the other two, exercise as adviser of the Samoan Government supervision and control over the native affairs for a limited time, and should be charged with the duty of controlling the measures necessary for the better maintenance of public order in general, and especially for the security of the property of foreign subjects and citizens. Such a course seems indicated in Mr. Bates's report when he says: "The real function of the intervening powers in Samoa will of necessity be actual administration of government. Nothing short of this, at least for a time, will remedy the existing condition of things."

Such seems to be also the opinion of Mr. Travers and Mr. Thurston.

All three commissioners seem to recognize also the difficulty of tripartite control, such as more or less has been hitherto exercised; while at the same time they deprecate the establishment of the exclusive control of either one of the three powers. Assuming that the establishment of a native government, to be carried on by the king, who may be elected, assisted by a native council, is necessary to preserve the autonomy and independence of the islands, and which can only be established under foreign control, and assuming that tripartite control is impracticable, the solution of the difficulty would seem to be an alternate control for a limited period of either one of the three powers. In the event of coming to this agreement the question naturally arises as to which power should be chosen the mandatory of the other two in the first instance, and Her Majesty's Government consider that preponderating commercial interests should be taken into consideration in deciding it.

Since Mr. Thurston, Mr. Travers, and Mr. Bates all seem to concur that this preponderance is possessed by Germany to a greater or less extent, Her Majesty's Government are therefore prepared to consent to the mandatory power being exercised by the German representative for the first term of five years, absolute equality of treatment in respect of commerce, navigation, and jurisdiction, and all other matters whatsoever be secured to the three powers and to their subjects and citizens.

In view of conflicting statements and disputes relating to land and land claims Her Majesty's Government advocate the establishment of an international land court to take cognizance thereof, and they also propose that the question of levying taxes on foreigners for revenue purposes shall be taken into consideration. In order to facilitate the working of the international land court they propose that the existing land claims of foreigners should be disposed of by a commission previous to its establishment. The reports of Mr. Travers and Mr. Bates point to some such arrangement as necessary for the adjustment of pending disputes. Mr. Bates recommends a specially constituted court to take cognizance of land claims.

As far as consular jurisdiction is concerned, it seems to be expedient that it should remain unaltered, and only, therefore, requires the reassertion in any final convention or agreement concluded.

The conflicting claims to the sovereignty of the islands seem to render it necessary that a fresh appeal should be made to the native population for the election of a king. Since 1879-'80 King Malietoa has been recognized by Germany, Great Britain, and the United States as King of Samoa. Tamasese was appointed vice-king, and is now in open rebellion against Malietoa. War has only been averted by urging upon King Malietoa to await the decision of the three treaty powers; and a proclamation was subsequently issued by the three consuls, denying recognition to Tamasese as king; but as it appears that he is not disposed to submit to Malietoa, a new election seems therefore imperatively called for before the government can be properly constituted, and Her Majesty's Government express no opinion, favorably or adversely, to the election of Malietoa.

Under any circumstances, in the opinion of Her Majesty's Government, existing treaties should be maintained. These treaties, it may be remarked, are not signed by Malietoa, but are in the name of the Government of Samoa.

Sir Lionel West said he was ready to discuss the various points suggested in the memorandums.

Mr. Bayard said he would not be ready to discuss them until an opportunity had been given him of reading the British and German views as taken down by the stenographer.

The conference then adjourned to meet at a time subsequently to be agreed upon.

T. F. BAYARD.  
ALVENSLEBEN.  
L. S. SACKVILLE WEST.

No. 6.

Protocol of second Samoan conference.

[Confidential.]

DEPARTMENT OF STATE, Washington, July 2, 1887.

Mr. Bayard said he understood that all agreed upon the following points: That there should be no annexation of the islands by any of the treaty powers; that the independence and autonomy of the islands were to be preserved, with equality of rights of commerce and navigation for the citizens or subjects of the treaty powers; that a native government was to be established and assisted to maintain itself; that the present jurisdiction of consuls over their own countrymen should be preserved; that the present treaties be maintained so far as

the rights of the three powers under them are concerned; that means of raising revenue for the support of the government should be devised, and that the question of taxing foreigners should be considered; that impost and tonnage duties should be established by identic treaties between the three powers and the Samoan Government; that a land court should be formed to settle titles and holdings of lands in the group. It had been admitted that the claims of foreigners to lands exceeded the entire area of the islands, and this was the best proof that the claims required overhauling by a court whose decision should be final.

Mr. Bayard further said that while it had been agreed that a native government should be established and assisted to maintain itself, the powers were not agreed as to its details. Great Britain and Germany proposed that there should be only a king and a council of chiefs. The United States suggested a king, a council of chiefs, and a legislative assembly, composed of representatives elected by the people of the islands. He was, however, inclined to believe that the greater the simplicity of the framework of the government the better, and he was disposed to place among the points of agreement that the native government should consist of the king and his council of chiefs.

Mr. von Alvensleben said if there was such a legislative assembly as Mr. Bayard had proposed it should have a consultative and not a deciding vote, and that with this understanding he was not opposed to such an assembly.

Mr. Bayard replied that Germany had proposed its omission, and that it was in order not to stand upon form, but to get a substantial agreement, that he had deferred to that proposal. He desired to facilitate agreement, and at the same time thought it not unadvisable to simplify the government as much as possible.

Sir Lionel West said he did not think his memorandum referred to the subject of identic treaties respecting impost and tonnage duties. He saw, however, no objection to the idea of identic treaties. After some further discussion it was decided that this should be taken as agreed upon in conference.

Mr. Bayard said there were some other points on which the propositions of the powers did not run so closely together. The first was as to the kingship. The United States, in view of existing treaties, and of the declarations continuously made, until within a very few months, by the consuls of the three treaty powers, had proposed the continued recognition of Malietoa Laupepa as king, and of Tamasese as vice-king. The British and German Governments proposed a new election. In this, for the sake of coming to an agreement, he was disposed to concur. The United States would not object to a new election, but it should be a native election, free and unawed. The customs of the Samoans should prevail in it, and the result of the election should be announced to and declared by the three consuls, who should not otherwise participate in the proceedings.

Mr. von Alvensleben inquired whether that could be prevented.

Mr. Bayard replied that that comment would apply to the whole of the transaction. The islands were very remote from the countries whose representatives were now considering their government, and unless the agents of the three Governments were actuated by a sense of absolute fairness to each other and a desire to carry it out there would be little hope, and he proposed that the agent of the United States should do nothing inconsistent with its action in the matter.

Sir Lionel West said he could assent to that proposition. The natives must elect the king, and the election must be free.

Mr. von Alvensleben inquired whether they should not take into consideration the probability of the natives not arriving at an election. Malietoa's party might say they had elected their man; Tamasese's party might say: "We have our man; we won't proceed to an election." It was not unlikely, according to report, that the natives would proceed to an election. Should not a certain time be fixed within which the election should take place? If it should not take place within that time, then the three powers should agree on a king.

Mr. Bayard said he did not anticipate the failure of the election; but it was in order to avoid any difficulty that he had proposed to let Malietoa remain as king, to which Germany and Great Britain objected.

Sir Lionel West said his Government had expressed no opinion hostile or adverse to Malietoa.

Mr. Bayard said he had not the slightest objection to the election of Malietoa if the people of Samoa should choose him. At present, however, there seemed to be no chance for him, if the statement made by Mr. von Alvensleben, that he was in a small minority, was just. But there was a difference of opinion on that subject.

Mr. von Alvensleben asked whether the newly-elected king should not be approved by the powers.

Mr. Bayard answered, no; that, on the contrary, there was to be a free election.

Mr. von Alvensleben inquired whether he would not have to be recognized by the powers.

Mr. Bayard said, yes; but that the election should be free and not interfered with.

Mr. von Alvensleben said the people might nominate the king and the powers confirm him.

Mr. Bayard said that would virtually give the powers the control of the choice of a king. It would not be a native selection if it had to be made subject to the approval of somebody else. The object of the present arrangement was not to obliterate the rights of the islanders, but to assist them in forming a civilized government; that a virtual neutralization of this group of islands was desirable, and this was to be secured by the abstention of the three powers from seeking any special control. This principle should underlie all that they were proposing. There had been a proposition from Germany which had met with a certain degree of recognition from Great Britain, that the power having a preponderating degree of present commercial interest should exercise a preponderating influence.

Mr. von Alvensleben said, not commercial altogether, because the Germans had also the greatest land interest.

Mr. Bayard said that was the claim. It would be this: That because Germany has a preponderance of numbers, of land, and of commerce she should, therefore, have a preponderance of weight in the counsels. It seemed to him that this proposition was in conflict with the principle upon which they propose to proceed, and that it was one that would increase as they progress. That is to say, that the ultimate result of admitting such a principle as that and proceeding upon such a basis would be to reduce the islands into a Germanic possession. Now, that is certainly in conflict with the idea of virtual neutralization of the islands with which they set out, and not in accordance with the agreed plan, even upon the agreed points of the plan, and he referred to it now because they were approaching the question of the appointment of the chief executive officers who would have more actual or practical power in controlling affairs than others. He could illustrate it better by saying that Germany proposed to have one prime minister. The United States proposed three ministers—a minister of foreign affairs, a minister of finance and treasury, and a minister of the interior—who should manage questions of lands and the like, and that they should be associated with the king and one native, making a council in that way of odd numbers, in which the three powers should have a majority, but that those officers should be separate and be appointed by the king, the idea being native appointment on foreign nomination. The German idea was that they should have a prime minister who should be the great executive, and control all, a depository of executive power, and that because Germany had more land, people, and commerce than the other two.

Sir Lionel West said only for a time.

Mr. Bayard said for five years as a basis, and a renewal again on the same terms. The suggestion was inconsistent with the principle with which they propose to conduct this arrangement, because it was at once starting upon a road that can lead but into one direction, and that is the complete domination of one power.

Mr. von Alvensleben said the imperial government wanted to nominate and have the appointment subject to the approval of the other two powers, and therefore they gave every guaranty that was possible.

Mr. Bayard said he wished to draw attention to the fact that the importance of these islands is mainly because of their geographical position. They lie in the pathway of a commerce that is just being developed. The opening of the trans-continental railways had given to this group of islands an interest which they never had before, and, moreover, we all hope for the penetration of the Isthmus in some way or other. If that occurs, a new feature of interest will be added to them. Great Britain, and Germany, and Spain, and France at this time hold the island groups in Polynesia, and something more than mere islands. Great Britain owns Fiji and New Zealand and other islands. He said nothing of the continent of Australia. Great Britain has her settlement on New Guinea. Germany has the Marshall group and the Solomon Islands. She also has a settlement, and a very important one, on New Guinea. Spain has the Carolines; France makes claim to the New Hebrides. With a great ocean front on the Pacific, the United States have not acquired a foot of land in that region, but they were the first as a power to make a treaty with the Samoans. Our treaty antedates the rest, and there was in it no special privilege of any kind. There was a cession to the United States for their use for a naval and coaling station of the harbor of Pango-Pango, which remains now as it was at the time it was ceded. It seemed to him that it was equally important to Germany and to all the other commercial nations, and to the United States, that there should be a general line of action tending to secure the neutralization of that group of islands. There is something beyond the mere material present value of the land or the products, and it was for that reason the United States desired to see that group of islands maintained for the common use of nations, and the United States should receive the ready support of Great Britain and Germany in endeavoring to impress upon Samoa its counsels in favor of the proposed government. He would not go into a comparison of the relative importance of the Pacific commerce to the United States or to others. The interest of the United States was very great and quite equal to any other, and perhaps in some aspects greater, because less remote from the United States than from Great Britain or Germany, and because anything that is needed there as outposts these two countries have already acquired. The political policies of the United States are not such as to give the slightest alarm to the commercial interest of any other country. The policy of this Government in respect to acquisition of remote points has been pretty well defined, and it was for that reason that the Government of the United States was more disinterested by reason of its policies and by reason of its position in this matter than perhaps any other government equal in importance and having the same prospective interests in the commerce of the Pacific. Germany had proposed to take the nomination because at the time they had a greater amount of land, people, and money. He did not know what would be the result of the land commission upon German claims to title.

Mr. von Alvensleben said that if there was any change it would be a very slight change, because all the German land titles had been surveyed by surveyors sent out from Germany. The whole amount of German property in cultivated land exceeded six times the land owned by other nations.

Mr. Bayard said he had an impression from all accounts that the cultivation of the land had been done largely by the Germans. What their title was to it he did not mean to say, because he had no knowledge. He meant to say that the reason of the principle they started upon was logically in favor of the nation not disposed, and which could not be disposed by its politics, to gain a preponderating influence in the islands.

Referring to the land question, Mr. Bayard further said that, out of respect for native customs, he had proposed that the land court should consist of three foreigners, one to be nominated by each of the powers, and two natives; but the plan submitted by Mr. von Alvensleben proposed only three foreigners.

Mr. von Alvensleben said that was only a land commission to prepare for the court.

Mr. Bayard did not perceive the utility of this.

Mr. von Alvensleben said the object of the commission would be to investigate.

Mr. Bayard said he did not see the necessity of that. The land court proposed by him could send for papers, examine witnesses, and give judgment.

Mr. von Alvensleben said the commission was intended to examine all the deeds, and, so far as possible, settle questions of title, leaving only such titles as they were not satisfied with to the court.

Mr. Bayard thought both functions germane to the same object, and that a single body would be more simple, and could with equal certainty and justice deal with the business, as if there were a commission to examine and a court subsequently to decide.

Sir Lionel West said it was intended to facilitate the action of the court by the creation of the commission.

Mr. Bayard said it was not an intricate matter, and if there was the right kind of court, with fair-minded men who would deal with each other with justness between themselves and the people, they would move with more celerity and with more stability than if there were two bodies. There would be two rules of decision by having two different bodies.

Mr. von Alvensleben thought that general principles should be established, and that there should be an appeal from the land commission to the land court, whose decision should be final. He also asked how investigations could be made.

Mr. Bayard said the area to be gone over was not extensive, and that there was no function a board of commissioners could perform that the court could not equally perform.

Mr. von Alvensleben inquired what Mr. Bayard proposed in place of the German proposition of an adviser to the king, and read, in support of the proposition of his government, the following remarks:

"The opinion of the Imperial German Government that a lasting improvement of the condition of the Samoan Islands can not be expected from the actual existing native government, but only by foreign intervention, has been strengthened by the reports of the special commissioners, which are now before the conference. Such intervention can not be carried out with prospect of success in the way that the consuls of the three treaty powers at Apia attempt to assert simultaneously their influence with the Samoan authorities. The history of the last ten years shows that this only leads to rivalry between the foreign representatives and to increase the weakness of the power of the native government. For the same reason it would be without any chance of success to try to strengthen the existing condition of affairs by calling the three consuls simultaneously into the Samoan administration. There is only one course left for asserting foreign influence with the Samoan Government, which is so necessary for the general interest, and this is to place one foreign officer at the head of the administration and to invest him with sufficient rights and powers to take the measures required for the maintenance of peace and order as well as for the prosperous development of commerce and intercourse. As the authority of this official is to be noticeable in an unequivocal way to the foreigners as well as to the natives, it is commendable that the appointment should not be left to the Samoan Government, but be made by agreement between the treaty powers. At the same time it would appear that the power having to protect the largest interests in Sa-

moa should be given the right to nominate the official whose duty it shall be to control the native government. That Germany is the power having the largest interests is questioned by nobody. Taking into consideration the dimensions and the value of the German interests represented in Samoa, and the great credit which Germany essentially deserves for having brought the Samoan Islands to their actual importance, it can not be fairly contested that Germany must be recognized by the other powers as being entitled to receive this mandate. Germany, or better, her subjects, pay alone half of all the taxes. The value of the German commerce with Samoa, without including the South Pacific, doubles the English and American commerce together. German subjects own in Samoa nearly double as much uncultivated land and nearly six times as much cultivated land. It can not therefore be expected that she should consent to remain more or less excluded from the efficient control of the country and have it pass to one of the two powers who have less interests."

Mr. Bayard thought there was a misapprehension on Mr. von Alvensleben's part as to any design of exclusion. On the contrary, perfect equality as to all was proposed. That would not affect in the least the question of the rights of German subjects or their property. The idea of the United States was that there should be one law for all, and that no one power should be more than another in the control of those questions.

Mr. von Alvensleben thought it more natural that the power that had the largest interests should also, after giving all the guarantees to the other powers, be nearest to control and the most responsible for it.

Mr. Bayard said it seemed to him that that reasoning forgot entirely the principle upon which the whole movement proceeded; that is, the native government to preserve its own existence, while the contrary is that contended for by Germany. The idea of the United States was that there should be an equality of rights between the powers.

Mr. von Alvensleben said that was intended. The powers ought to have equality of rights.

Mr. Bayard said another feature in the proposition submitted by him was that there was no suggestion of continuance of interference by the consuls in the government of that country, except with regard to the persons or interests of their individual citizens.

Mr. von Alvensleben said he introduced the three consuls for the purpose of showing that Mr. Bayard's proposal of three ministers would be equivalent to the three party government; that the three representatives would almost come to the same thing.

Mr. Bayard said that up to the present time the three consuls had been recognized as three equals co-operating for an end, and under that Germany certainly could not find fault with the result, because her preponderance had been continually increasing, and the interference of the German consul with affairs in Samoa had been very marked, if he could take the accounts of the dispatches of the American vice-consul. There had, however, been no suggestion in his plan that there should be anything more of a consular government. He desired something to do away with the injustice which, it is said, has been done these people. It is not becoming that the three powers should be in a group of islands where the land claims of their citizens exceed the whole territory of those islands. Mr. Thurston, the British commissioner, had put that with complete force when he said they were absolutely punishing these people for acts which were the necessary result and consequence of the kind of government they had endured.

Sir Lionel West said his Government seemed to incline to a foreign control, because they thought without it there could be no stable government. Mr. Bates distinctly states it in his report; Mr. Thurston states it, that without this intervention it is impossible to establish a stable government, and his Government were willing that this control should be exercised by a person appointed by one of the powers, as the mandatary of the other two.

Mr. Bayard inquired what were his views about the native courts and the abolition of pecuniary fines?

Sir Lionel West said he thought they should agree as to those points.

Mr. Bayard inquired the views of the representatives of Germany and Great Britain as to his proposition as to titles to lands founded on the sales of fire-arms, etc.?

Sir Lionel West said his Government were inclined to support that proposition.

Mr. von Alvensleben said he did not think the proposition should have been stated so widely. The words "immoral" and "illegal" consideration had been used. It was difficult to define what was immoral.

Mr. Bayard said he had no objection to defining it.

Mr. von Alvensleben said if it meant the sale of fire-arms it did not touch the Germans altogether.

It might, however, have happened that those people really would not take any money if they could get fire-arms. If it was shown that they really gave the land away, they ought to get an additional sum. He suggested that what had been paid should be taken into consideration, and if it was too small an additional sum could be fixed by the land commission or the land court.

Mr. Bayard inquired as to his proposition to intrust minor offices, those that touch the natives themselves, to natives instead of foreigners.

Sir Lionel West said it was a difficult matter, but the principle ought to be that they should be natives.

Mr. Bayard said it would be a great means of native education, and that the natives should be educated in self-government.

Sir Lionel West asked whether he did not think that a very good reason for establishing foreign control?

Mr. Bayard said foreign assistance and native government should be combined. Hence he had proposed that in the council of the king there should be three foreigners, a minister of foreign affairs, of the interior, and a treasurer. These ministers would doubtless have a paramount voice, but they would be associated with two natives. One might be a German, another an Englishman, and another an American. Their functions would, in a great measure, be independent, and ought to be.

Mr. von Alvensleben asked whether they would be chosen by the foreign powers.

Mr. Bayard said yes.

Mr. von Alvensleben said it would be difficult to find three such persons in Samoa not identified with what had been going on there, and that if they were so chosen he was afraid they would not be able to withdraw from the influence of their nationality.

Mr. Bayard said if there was only one man he would not be able to overcome the influence of his nationality, but if there were three men with distinct, different functions, they would act as a check upon each other. But if the nominee of one of the powers acted merely as a partisan, his Government should remove him. There should be the readiest disposition in this regard, and the United States had already shown its disposition to act promptly.

Mr. von Alvensleben said he had been instructed to lay before the conference, in order to facilitate its work, a draught of a convention between the three treaty powers, a memorandum on the land disputes, and a memorandum on the financial question. These were, respectively, as follows:

[Translation.]

"DRAUGHT AGREEMENT BETWEEN GERMANY, ENGLAND, AND THE UNITED STATES OF AMERICA CONCERNING THE SAMOAN ISLANDS.

"The Governments of His Majesty the Emperor of Germany, Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and of the

United States of America, inspired by the desire of establishing a better settlement of affairs on the Samoan Islands, have agreed upon the following dispositions:

"ART. I. A new election of a king shall take place in Samoa, with which object a meeting of the chiefs of all the districts entitled thereto in the Samoan Islands shall be summoned within two months from the day of the conclusion of this agreement.

"The king can be nominated either for life or for a certain number of years; his nomination must be confirmed by the three treaty powers.

"ART. II. The administration of the common affairs of the Samoan Islands shall be conducted by the king assisted by a council composed of representatives of the different districts; the convocation and composition of the latter in detail shall be reserved for a subsequent arrangement.

"ART. III. The treaty power which for the time-being has the preponderating interests in Samoa shall, with the concurrence of the two other powers, appoint a representative, to be invested with the functions of adviser to the Government of Samoa.

"He will be first appointed for a term of five years, and after the expiration of this period a new nomination shall take place for the same time and under the same conditions.

"In the event of the appointment of the representative falling vacant during the five years period by death, resignation, or any other cause, another official shall be similarly appointed, to hold office for the remainder of the said term.

"The representative, as the mandatary of the three treaty powers, will be charged with the duty of controlling the measures necessary for the efficacious maintenance of peace and order in general, and especially for the security of the plantations, dwellings, and other property of foreign subjects in Samoa.

"ART. IV. The agreement as to the establishment of a municipality in Apia concluded between Germany, England, and the United States on the 2d September, 1879, and prolonged for an indefinite period on the 29th September, 1883, shall cease to be in force on and after the —.

"ART. V. Absolute equality of treatment in respect of commerce, navigation, jurisdiction, and other matters shall be secured to the three treaty powers and their subjects and citizens in Samoa.

"ART. VI. With the view to the examination and decision of disputes relative to land, a commission shall be established, before which all disputed land claims are to be lodged within a fixed period. There shall be an appeal from the decision of the commission to a special court of land disputes within a period not exceeding three months. The composition and jurisdiction of the commission and of the court are defined in Annex I.

"ART. VII. In order to raise the necessary funds for the proper administration of the Samoan Islands and for the development of foreign trade, commerce, and navigation, the Government of Samoa shall have the right to levy the dues and taxes specified in Annex II.

"ART. VIII. The existing treaties of friendship, commerce, and navigation between the three powers and Samoa shall be maintained, and no alteration with regard to them shall take place without the consent of the treaty power thereby affected.

"ART. IX. The Governments of the three treaty powers renew and confirm on this occasion their former declarations in regard to the maintenance of the independence and neutrality of the Samoan Islands."

[Translation.]

#### LAND DISPUTES.

"The disputes relating to real estate and the acquisition of land in Samoa demand a special treatment.

"This sort of dispute is to be withdrawn from the cognizance of the consuls and from the jurisdiction of the English high commissioner, respectively. It is consonant to the general principles of justice that disputes relating to real estate should be decided by the laws and courts of the country in which the object of the dispute is situated. In the present case, however, it must further be taken into consideration that in the absence of any sort of legal provision as to the conditions, requirements, and formalities necessary for the valid transfer of land, and in consequence of the utter complication existing in the ownership, irregularities, and, it may be, acts of injustice, have occurred which absolutely demand an impartial decision based upon a thorough examination and investigation of the matter. Such disputes are to be settled in a uniform procedure and according to uniform principles to be previously laid down by the treaty powers with the agreement of the Samoan Government, by an authority to be specially constituted, and in the last instance by a land court to be specially created. For this purpose it would seem advisable, after establishing the general principles on which the decision as to the validity of land transfers are to be based, first, to appoint a commission composed of three members, each of the three treaty powers naming one. Before this commission all claims which are raised by foreigners with regard to land in the Samoan Islands must be filed within a certain period, the claims must be accompanied by the titles and other documents, or duly authenticated copies relating thereto.

"The members of the commission are appointed by the Samoan Government on the proposal of the treaty powers and receive their salaries, the amount of which is to be fixed beforehand, from the former. A part of the expenses caused thereby will be covered by fees to be levied by the commission for their work according to a fixed tariff; the remainder will be defrayed out of the general cost of the administration, since it would not be fair that real estate should have to bear alone the whole of the not inconsiderable cost, amounting probably at least to a sum of more than \$30,000.

"The presidency of the commission would, according to the state of affairs, be assigned to the representative of the power which has the most extensive interests in the country.

"As far as the title deeds do not in themselves offer room for doubt as to the legality of the acquisition, all lands acquired before the conclusion of the German-Samoan and English-Samoan treaties, respectively, that is, before the 24th January and 28th August, 1879, respectively, and also under the same conditions, all lands which, within the last two or three years, have been put under cultivation by the new owner, shall be registered as validly acquired without prejudice to the claims of third persons. On the other hand, the acquisition shall not be regarded as legal, and registration shall be provisionally refused in cases where the claimant is only in a position to produce as a proof of his legal acquisition of the land a so-called promise of sale, as well as in cases where the land has not been surveyed within two or three years following the conclusion of the sale, or where the deed of sale contains no precise description of the boundaries of the land sold, or where at the time of the conclusion of the contract the price of the land has not been paid in full to the seller, without prejudice, however, to the claimant's right to demand a judicial decision. The commission shall be invested with the right of citing before them, through the local authorities, for examination, and of hearing, as witnesses, the sellers and any other persons, whom they may think fit to supply information. A very important question, especially touching land disputes between foreigners, concerns the determination of the right of ownership and disposition of the land sold, on the part of native sellers. Numerous cases will present themselves in which one and the same piece of land has been sold by different persons, styling themselves the owners, to different parties, or in which pieces of land have been sold by persons whose right to the ownership and disposition of that land is disputed on the part of other Samoans. In this case the commission shall be empowered, through the local government of the district in which the disputed land lies, to

institute a native commission to determine the seller's right of ownership and to lay the result of such investigations, together with the underlying motives, before the foreign commission; this decision, however, shall not be binding on the latter. Such native commissions would have also to be charged with the examination, and, if required, with the decision, of land disputes existing between the Samoans themselves. Pieces of land which for ten years or more have, without dispute, been cultivated, or at least made use of by foreigners, shall, without further inquiry, be regarded as property legally owned or acquired by prescription.

"Claims of third parties to such pieces of land shall be brought to judicial decision only then and in so far as, in accordance to the dispositions with regard to the interruption of the prescription, the claim to the land has been presented to the actual holder in written form at least once within the period of ten years. The foreign commission must further be authorized to give a provisional decision as to disputes relating to possession and ownership of land, or to effect an amicable arrangement. The litigant shall have the right of appeal from the decisions of the commission, or of demanding a judicial decision by the land court. Whenever Samoans are involved as parties in such disputes, the foreign commission shall invoke the co-operation of a Samoan chief to be nominated by the government of the district where the land lies, or of the Samoan judge in Apia.

"The final settlement of the land disputes takes place by the judicial decision of the land court. The latter is composed of a judge to be nominated by the Samoan Government, and of the consul or of one of the prominent country-men of the litigant.

"There is no appeal from the decisions of this court."

#### FINANCE—ESTIMATE OF YEARLY BUDGET—REVENUE.

1. Capitation tax on Samoans.....	\$37,500
2. Property tax on boats (250 at \$4).....	1,000
3. Property tax on fire-arms (500 at \$2).....	1,000
4. Tax on houses and on land used for commercial purposes, 1 per cent. ad valorem—	
(a) Present yield of the municipality.....	2,600
(b) Increase to be expected at once.....	1,300
(c) Houses and property outside of Apia.....	2,000
5. Controlling dues on all sorts of plantation laborers (1,000 at \$2).....	2,000
6. Import dues on laborers (250 at \$5).....	1,250
7. Charges for registry of deeds of sale, one-half per cent. of the selling price.....	500
8. Stamp-tax on documents relating to transfers of property, 1 per cent. of the selling price.....	1,000
9. Trade tax—	
I. Commercial enterprises—	
(a) Yield of the municipality.....	720
(b) Expected increase.....	1,000
(c) Business outside Apia (50 at \$40).....	2,000
(d) Trading ships—	
A. Present yield of the municipality.....	120
B. By increase of existing duties.....	480
II. Artisans, clerks, and liberal professions—	
(a) Present yield of the municipality.....	420
(b) Increased yield through immigration.....	800
III. White laborers—	
(a) Domestic servants and factory hands (100 at \$5).....	500
(b) Independent workmen (100 at \$5).....	500
10. Taxes for tavern licenses—	
(a) Present yield of municipality.....	775
(b) Increase and immigration.....	1,000
11. Statistical commercial dues—	
(a) General dues on imports of merchandise, 1 per cent. ad valorem in 1885, \$4,686, 13 cents.....	4,686
(b) From the increased imports to be expected, about 20 per cent.....	937
(c) General dues on exports—	
A. Copra, 3,000 tons, at \$1.....	3,000
B. Cotton, 200,000 lbs., at 50 cents per 100 lbs.....	1,000
C. Coffee, 15,000 lbs., \$7,500, 2 per cent.....	150
12. Customs—	
(a) Import tax on spirituous liquors:	
A. 2,000 cases of beer, at \$1.....	2,000
B. 3,000 gallons of brandy, at \$2.....	6,000
C. 1,500 gallons of wine, at \$2.....	3,000
(b) Import tax on arms, 200, at \$2.....	400
(c) Import tax on powder and ammunition, 1,500 pounds, at 25 cents.....	375
13. Pilot dues—	
(a) Present yield of the municipality.....	2,400
(b) Expected increase.....	600
14. Quarantine dues—	
(a) Present yield of the municipality.....	250
15. Judicial fees.....	2,000
16. Fines—	
(a) Present yield of the municipality.....	800
(b) Expected increase within the municipality.....	400
(c) Outside the municipality, and in the whole of Samoa.....	2,000
17. Postal receipts.....	1,000
Total.....	89,463

#### FINANCE.

"In drawing up the inclosed budget of receipts the principle has been followed of leaving Samoa the character of a free-trade country. Quite apart from the fact that in Article III of the treaty of commerce between the United States of America and Samoa provision is made for the exemption of the cargoes of all American ships from duties of every sort, the introduction of merely financial duties (Finanzöölle) seemed undesirable in the interest of a free and unrestricted development of Samoan commerce. On the other hand, no objection could be raised to taking into consideration a small statistical duty at the rate of 1 per cent. ad valorem on merchandise imported into the islands, as well as a duty at about the same rate on products exported from Samoa—at present only copra, cotton, and to a small extent coffee are in question. Only for spirituous liquors, arms, and ammunition real import duties have been introduced into the budget. The consumption of brandy, especially on the part of the natives, shall be checked thereby. For the sake of uniformity an import duty will also be imposed upon beer and wine, both articles of consumption which are used only by the better situated classes and which can easily bear a comparatively not very high tax. Also the import of arms shall be restricted by the duties imposed. It may well be taken for granted that the Government of the United States would also give their consent to the proposed taxes and statistical duties.

"Moreover, the budget of receipts has been drawn up on the model of the existing arrangements, and the greater number of items have been based upon the taxes hitherto levied by the municipal administration of Apia. Great care has been taken with regard to the calculation of an increase to be expected to result from a more developed commerce, and it may be said in general that the

items have been fixed at a very low rate. The taxation of the natives has similarly been based on the model of existing institutions. More than \$20,000 have been raised by the Government of Tumua alone by a capitation tax paid by districts. The Government of Malietoa has also attempted to exact a capitation tax, it is true, without success. The fault, however, lay neither with the system of taxation nor with the rate of the tax, but exclusively with the weakness and inactivity of the government and the want of the necessary administrative apparatus. The taxation of the natives seemed the less objectionable, as the native element, it would appear, is called to be the first to participate in the advantages of the new Government, and as, besides that, by the plan proposed a considerable part of the taxes raised shall be expended on the salaries and fixed remuneration of Samoan officials.

"With regard to the several items of the receipts the following remarks may be made:

*Ad. 1.—Capitation on Samoans, \$37,500.* The population of the Samoan Islands, with the exception of the Manua group, may now be taken as between 33,000 and 35,000 souls. The sum total of the capitation tax represents, therefore, about \$1.10 per head of the whole population, and about \$3 per head of the adult male portion thereof. The Samoans are perfectly conscious of their obligation to contribute to the public revenue in the way of a capitation tax. It has practically been introduced for many years, even though, as already observed, it has not been regularly levied. In 1872 a capitation tax of \$1 for adult males, 50 cents for young people, and 25 cents for male children, without distinction of age, was imposed in order to defray the expenses of buying arms. The fixing of the rate per head served only as a measure for the calculation of the tax. The government in Leulomoega has twice during last year imposed a tax of \$1 per head on the male population. The tax was levied by districts and handed over to the government. The ambition of the several districts to contribute as large sums as possible led to the result that the total sum of the taxes actually paid was considerably in excess of the sum calculated for according to the rate fixed of \$1 per head of the male population.

"If the government there has now actually raised in its districts alone already more than \$20,000 a year by a capitation tax, the figure set down in the budget for the whole of Samoa of \$37,500 can hardly be regarded as excessive, all the less so, as the islands, not counting the yield of the German plantations, produce now in copra alone 3,000 tons, and could yield, with a moderate increase of activity, to which the obligation to pay the taxes may well give the necessary impetus, a considerably larger quantity, on the proceeds of which the population does not rely for its sustenance.

"In Tonga, for instance, with a population of 20,000 souls, a capitation tax of \$60,000 a year is raised.

"In practice it would be advisable to apportion the whole tax among the several districts according to the number of the male population and to charge the governors with the task of levying it.

"The taxes are to be paid in cash. Payments in kind would necessitate complicated organization, which would be better avoided at the first establishment of an administration. The system of money payments which exists in Tonga has, besides, worked satisfactorily, while in Fiji the system of payment in kind has afforded less good results. Moreover, the Samoans are accustomed to pay their taxes in money. From political reasons the payment of taxes by giving arms in lieu of money might perhaps be taken into consideration.

*Ad. 2 and 3.—Boats and fire-arms are suitable objects for a tax on property.* The rates provided for are fixed at an exceedingly low figure. It may well be assumed that there are over two thousand guns in the country. At first, however, payment of the taxes will be frequently eluded.

*"Ad. 4.—*

#### "LAND TAX.

"The land taxes on houses and other real estate, serving for commercial purposes, which are already in force in Apia, can be maintained at the same rate of 1 per cent, ad valorem; as yet they have given no cause of complaint. The revenues will be considerably increased by a valuation representing more accurately the real values, as well as by the increased activity in building on the part of foreigners who may be expected to flock in in consequence of the establishment of an orderly state of affairs. The value of the houses and other establishments outside Apia is put, after a careful examination, at \$200,000. A direct taxation of the plantations is not intended, as they are already affected indirectly by other taxes, such as the dues for the control of laborers (*Arbeitercontrollgebühren*) or those levied on the importation of laborers, and the exportation of products, and as, besides, it would seem to be in the interests of the government to encourage the cultivation of plantations.

*"Ad. 5 and 6.—Controlling dues (Kontrollsteuern) on all sorts of plantation laborers and import dues on laborers.* It seems appropriate that a tax should be raised for the control exercised through the authorities over the laborers; in the same way a tax on each imported foreign laborer is justified.

*"Ad. 7 and 8.—A valuation of the revenue to be derived from the dues levied for the registration of contracts of sale, as well as from a stamp-tax levied at the rate of 1 per cent, ad valorem on all documents relating to the transfer of property is almost impossible; but in any case the figures set down are estimated at a very low rate.*

*"Ad. 9.—*

#### "TAXES ON TRADES (GEWERBESTEUER).

"The municipality of Apia levies a trade-tax on all commercial businesses, ships engaged in trade there, on artisans, and commercial clerks. It is advisable to maintain these taxes. A more accurate valuation, the immigration of foreigners, and the taxation of all trades pursued outside Apia, will probably result in a greater increase of revenue than that estimated in the budget. Special mention must be made of the ships calling at the harbor of Apia for commercial purposes (trading vessels). They have not approximately the same expenses of business that the resident merchants have; they turn over their capital more quickly, and have, by existing regulations, only to pay a single tax of \$10. For the protection of native industry it is desirable that ships of this sort should be subjected to a due five times as great.

"Under 9, III, provision is also made for a trade-tax on white laborers.

*"Ad. 10.—The license tax for taverns now yields to the municipality a return of \$775. By raising the rate of this tax itself as well as by an increase in the number of taverns, which is to be expected, in consequence of the greater influx of foreigners, an increase of revenue to the amount of \$1,000 may be reckoned on, and all the more so as the taverns established outside Apia will now be subject to the tax.*

*"Ad. 11 and 12.—The rates set down under the items 'statistical commercial dues on imports and exports,' and 'import duties' have been arrived at after careful investigation of the statistics hitherto known, and by following the principle that as small a burden as possible shall be laid upon commerce. For imports a duty of 1 per cent, ad valorem seems appropriate; the tax on exported products will be about 1½ to 2 per cent. In the budget drawn up by an American, Mr. Moors, provision was made for a tax of 3 per cent. The smaller rate of 1 per cent, here set down relieves the government of all the apparatus of custom officers. The collection of the tax can be left to the harbor-master. This is taking for granted that Apia should be declared the only port of entry, an arrangement which will not be found burdensome by anybody, and which will also prove useful for the control of navigation.*

*"Ad. 13 to 17.—With respect to the pilot dues, it is believed that they will undergo a small increase. This has in fact been already effected by the new German*

steamer communication, and will be still more the case in consequence of the increase of shipping which is to be expected. The judicial fees and fines can not be approximately calculated. The figures set down appear very low. The revenue to be derived from the postal service has been calculated on the statistical returns of the municipal postmaster in Apia."

Mr. von Alvensleben inquired what length of time the king should be chosen for, and suggested that that might be left for the natives.

Mr. Bayard said he thought so; he preferred to follow the Samoan customs and traditions.

Mr. von Alvensleben said he thought his government might not object to a vice-king, but he wished for the present to reserve his opinion on that subject.

Sir Lionel West said his government might object.

Mr. Bayard said he had suggested it in his original proposition in order to enable the Samoans to gratify their recognition of their leading people, as well as to provide for a succession in case of the death of the king.

The conference then adjourned to meet again at such time as should be agreed upon.

T. F. BAYARD,  
ALVENSLEBEN,  
L. S. SACKVILLE WEST.

#### No. 7.

##### *Protocol of third Samoan conference.*

[Confidential.]

DEPARTMENT OF STATE, Washington, July 9, 1887.

Mr. Bayard said that at the last meeting Mr. von Alvensleben seemed to withdraw or qualify his objection to the Faipule. With a view to simplicity in the government, and with a disposition to concede everything that might be done for coming to an agreement, he had not stood upon that point, and he desired to know what ideas Mr. von Alvensleben would approve in relation to the Faipule.

Mr. von Alvensleben said it had been agreed that there should be a king and a council of native chiefs. It might be well, instead of keeping the whole Taimua as a council, to take the principal chief, or such as may be appointed, from the Taimua into the king's council, and thus do away with the Taimua as such. The Taimuas really do the business, not, however, without conferring first their Faipules. By taking some member into the king's council from the Faipule, these also might be done away with. But the Faipules might as well be kept, with only a consultative vote on Samoan matters.

Sir Lionel West said then it would not be a legislative body.

Mr. von Alvensleben said they might be a legislative body, but would only have a consultative vote. Their powers should be limited. They ought to have the right of accepting or rejecting the propositions made to them by the king and the council. The more you limit this body the more easily it will be managed.

Sir Lionel West asked whether they might not do away with it altogether?

Mr. von Alvensleben said he had no objection, but he thought its preservation might bring the Samoans more readily to accept this arrangement. If it was thought better to do away with it, he had no objection. And perhaps the Taimuas might also be called together every year only to select a certain number out of their body who should for a certain time—for a year, or two, or three—belong to the king's council. This would still reduce the number.

Mr. Bayard said he understood that Mr. von Alvensleben's suggestion was that their duties should simply be consultative, and that he did not propose to give legislative power.

Mr. von Alvensleben said: To the king and council, yes; but not to the Faipule.

Mr. Bayard said that was the only one they had under consideration—the legislative branch which he proposed, but which was rejected by both the other members of the conference.

Mr. von Alvensleben said that if Mr. Bayard thought it better to do away with the Faipule, he had no objection.

Sir Lionel West said he also had none.

Mr. von Alvensleben said if it was thought to be in the interests of the whole settlement, and of disposing of the matter favorably, he had no objection to keeping the Faipule.

Mr. Bayard said his idea of the whole matter was that the simpler their scheme for the government of this people the better; but he would be strongly disposed to respect their traditions and customs as far as may be, and let them have those governmental bodies that they have been accustomed to, and if the Faipule was one, to maintain it.

Mr. von Alvensleben thought there was no difficulty. There would be no objection to keep them on. It would perhaps be well to reduce them in number and to limit their legislative powers. They should only be allowed to accept or to reject what was submitted by the king's council. They could then do no harm.

Mr. Bayard inquired whether he meant that their consent should be essential to the enactment of measures.

Mr. von Alvensleben replied yes, in native affairs. He should like to repeat that he was quite ready to do away with it, if that was preferred.

Mr. Bayard then referred to the land question. His suggestion was that a land court should be formed before whom all claims for land in the islands should be brought and whose decisions should be final; but it had been suggested that a land commission should precede the land court, so that there should be an appeal. His comment upon that was that it was an unnecessary complication of duties, and a reduplication of officials, costly, and tending to conflict, and opposed to that simplicity in the affairs of this very simple people, that he thought one of the wisest features of his suggestion. There was no complex system of land laws in Samoa.

Sir Lionel West said there was not even a basis of a land system.

Mr. Bayard said consequently no great learning in land laws was required by the adjudicators. What was needed was substantial justice, of which the first element was honest dealing between the persons who had acquired these lands and those who were the prior owners and controllers of them. He could not perceive any necessity whatever, but, on the contrary, a good deal that was useless and embarrassing in having two sets of men to act upon these questions. International commissions had been frequent, before whom had been brought questions of boundary between adjacent countries and questions of losses growing out of claims mutually against the parties, but he had never heard in any case that it was necessary to precede the tribunal of arbitration and settlement by another commission to sift out in advance, and he thought it would be difficult to find a precedent for it.

Sir Lionel West then read to the conference the following observations:

"With regard to the proposed land commission Her Majesty's Government are strongly of the opinion that it will be found necessary to facilitate the labors of the land court when established. Land claims in Samoa are of a very complicated nature, and it will be absolutely necessary to collect such preliminary evidence in order to facilitate the final decisions of the special court. The obtaining of such evidence and the adjustment of existing disputes by mutual concessions could not properly be confined to a final court of appeal, whose judicial competency might be thereby impaired. It appears to me that the labors of the commission which it is proposed to appoint should be directed to the collection and classification of all existing claims which can not be adjusted by compro-

mise for submission to the land court, which, after pronouncing upon them, would for the future be free to deal with all land questions arising upon their own merits. It must be borne in mind that not even a basis of a land system prevails in Samoa at present, and it is this basis which it is sought to establish by the preliminary labors of the commission. If this principle is admitted, the composition of the commission and the nature of its labors will have to be defined."

Sir Lionel West said that was the opinion of his Government, which they strongly recommend.

Mr. Bayard said he did not precisely understand what the question of compilation of title was when it is admitted that there was no system under which the titles had come. It was agreed upon as a fact that more land was claimed by foreigners in this group than the islands themselves contain. That alone shows the necessity of examining the base of claim by foreigners to any land at all in Samoa.

Sir Lionel West said: But not by a judicial court in the first instance.

Mr. Bayard said it was merely a question whether the means was appropriate to the end. His experience in the United States in dealing with land questions led him to believe that they could remedy the scandal of crowding these people out of existence on their own soil.

Sir Lionel West: In the future, yes.

Mr. Bayard said it was done already, according to these claims. These people are asked to give up all their land absolutely, and yet to live honestly. The best thing they could do was to rectify so gross a condition of things as that implied, and they all agreed as to that. The question was merely of appropriate means to that end. In his judgment, if a competent court was established under the influence of the treaty powers, such court to consist of three foreigners and two natives, and it was agreed that upon the fact being made known that they are duly commissioned and sworn to do justice in these land cases, that all of the land claims, without exception, should be brought before them—what use and what part a commission could play in that he could not see. The court could cause to be filed before them within a stated period the claims of every foreigner to land in Samoa, accompanied by his muniments of title, whatever they may be. There was no necessity for a commission to summon people to file their claims. If notice was given of the appointment of a land court, and proclamation is made that before them were to be filed all the claims for land in Samoa, those who did not make the claim to land would be supposed not to have any and those having claims would come forward and support them with proper testimony. It would not be a question of the commission hunting up claims.

Sir Lionel West said there were a good many cases which might be settled by a commission and not go to the court at all.

Mr. Bayard said a court was just as simple in its operation as a commission could be, and all the results of substantial justice would be reached by single adjudication, which with a single body could be speedily had. Many of the claims were no doubt honest and would be readily established. In other cases of persons having large amounts of land improperly obtained for improper considerations under fictitious or constructive grants, the land court could pass upon them instantly and decide upon them justly without the interposition of a land commission. The commission, in other words could do nothing the courts could not.

Sir Lionel West: In your opinion the commission will not facilitate the court?

Mr. Bayard: On the contrary it would embarrass it, and would increase our difficulty in finding the number of competent persons for these tribunals.

Sir Lionel West said his Government was strongly in favor of the commission and Mr. von Alvensleben's Government was also.

Mr. von Alvensleben said the intention of his Government is also to facilitate, and the commission should be organized principally for the reason that it would make the settlements easier. He had been told that there were very many claims and that there was not one spot of Samoa that was not claimed either by foreigners or by Samoans or by both, and there were many lands which have been sold two or three times to different people, and he knew from very good authority that such cases would be presented where one Samoan sold it to one foreigner, another Samoan came and sold the same to another foreigner, and thus the claim stood. It had, perhaps, been surveyed by the one and not by the other; so that the claimants' cases would be easily settled as soon as they saw that the commission only wanted to act with fairness.

Mr. Bayard said he was still unable to perceive what function the commission could perform that the court could not equally and more efficiently perform; nor could he see any use of passing these proceedings through two tribunals. The court should be invested with power to call on every man who claims to own and hold land in Samoa, to lay before them the groundwork of his title, and he must come and uphold it, otherwise he would be without that validation of his title which is essential in Samoa. International commissions had been many, arbitrations had been many, and such a thing as preceding the judgment of arbitration by the finding of a commission was unheard of.

Sir Lionel West said: Not the finding of the commission, but the collection of evidence.

Mr. Bayard said the object of the commission appeared to be only to make business for the court, which could, however, call all the cases into its cognizance and settle them.

Another matter he desired to mention was the question of the creation of a single mandatory, or the placing of powers in the hands of three chief executive officers, who should represent the three treaty powers, the king being the fourth, and a native to be the fifth. The effect of such a tribunal would be to give the three powers combined a majority and the decision. He could not see how the principle upon which we have agreed for the establishment of government in Samoa could be accomplished under the German plan.

Sir Lionel West: Which is approved by my Government.

Mr. Bayard said he did not understand that it was approved. He did not understand that Sir Lionel had any definite proposition on that point. It seemed to him very plain that if the German plan was followed it would necessarily result in creating those islands, whatever might be their nominal government, into a German possession, and that was not in accord with the plan on which they had all agreed in the beginning of this conference.

Sir Lionel West then read the following paper in regard to the mandatory scheme:

"It is admitted by the three powers that foreign intervention can alone insure the stability of the native government which it is sought to establish in Samoa, and that the tripartite control which has heretofore been exercised has proved abortive. The mandatory scheme does not involve the recognition of any preponderating interests which, as the Secretary of State has justly remarked, ought not to be taken into account in dealing with the matters before the conference. The German Government, as well as Her Majesty's Government, moreover, do not assert preponderance of interests as an argument in favor of the scheme. Indeed, they have asserted that there shall be absolute equality of treatment in respect to commerce, navigation, and jurisdiction, should it be adopted, but Her Majesty's Government are willing, seeing the great interest Germany has in Samoa, to accord to the German representative the first term of five years as the mandatory of the other two powers. Her Majesty's Government do not see that any exclusive control is involved in this arrangement as under any circumstances the mandatory power can only be exercised with the consent of the other two powers, and it seems, therefore, a matter of small importance which power should be the first to exercise it. The argument in favor of the mandatory scheme is that it will prevent the control from falling

into the hands of those connected with local interests and do away with the tripartite control which has been the cause of so many disputes and which has, in fact, led to the present conference. It is to this end, therefore, that Her Majesty's Government favor it as the only measure of establishing a salutary foreign control. I would submit that the scheme, proposed under No. 5, of the Secretary of State seems to fall short of this object, inasmuch as it leaves the door open to the same local influences that have hitherto prevailed owing to the difficulty of insuring impartial nominations in the king's council."

Mr. Bayard said he observed Sir Lionel spoke of the government that was first to take the mandatory office. Did he mean that there was to be an alteration, and that the power taking it first, after a term of years, was to be succeeded by another?

Sir Lionel West said it would be alternative, with the consent of the other two.

Mr. Bayard inquired what was the object of saying first? Why not say perpetual?

Sir Lionel West said it must be alternative if it came once to each.

T. F. BAYARD.  
ALVENSLEBEN.  
L. S. SACKVILLE WEST.

#### No. 8.

#### *Protocol of fourth Samoan conference.*

[Confidential.]

DEPARTMENT OF STATE, Washington, July 16, 1887.

Mr. West said that as there was some misapprehension about the phrase "alternate control" in the memorandum which he submitted at the first conference, he desired to present the following paper:

"There seems to be some misapprehension as to the meaning of the phrase which occurs in the memorandum which I submitted to the first conference and of the remarks thereupon in the last conference. The phrase 'alternate control for a limited time' does not imply that the representative of each power shall be elected the mandatory in rotation, but merely indicates that the mandatory scheme bears an alternate character: for should German preponderance cease at the end of the first five years the next power possessing it in succession would according to the German plan exercise the mandatory power. It is distinctly understood that under the German plan preponderating interests for the time-being should be taken into consideration in deciding the question as to which power should designate the representative under the approval of the other two powers."

Mr. von Alvensleben then read the following paper:

"Concerning the nomination of the adviser to the king as the mandatory of the three treaty powers to be appointed with the concurrence of the two other powers by the power whose interests are preponderating there for the time-being, Mr. Bayard repeated at the last meeting an intimation he had already made at the former meeting, that whatever may be the nominal government of the Samoan Islands it seemed to him very plain that if the German plan was followed it would necessarily result in creating them into a German possession. I presume that by referring to Germany in this association Mr. Bayard intended merely to exemplify his objection to the mandatory scheme in general, and that if, for instance, under the proposed conditions and terms the United States were called upon to make the nomination, Mr. Bayard would raise the same objections, for the reason that these islands could not be prevented from becoming an American possession. I am, however, satisfied that the Imperial Government would readily concur in such appointment, not entertaining any apprehension of the kind alluded to by Mr. Bayard, a similar result being beyond any doubt excluded if the guarantees contained in the German proposition be secured. I desire at the same time to express my regrets that the sudden end put to our last meeting prevented my making these remarks already then."

Mr. Bayard said the papers read by Sir Lionel West and also by Mr. von Alvensleben in some degree anticipated the very matters he wished to bring before them. The proposition, as he understood it, of Germany was that a preponderating interest in land and commerce should determine the selection of the chief executive officer of the proposed new government, who should hold that power for a term of years; and then came the question, at the end of that term what was to become of the office and powers so exercised? Perhaps the best answer he could give to his proposition was that the exercise of this power should alternate. There was in his mind what he supposed to be the admitted basis of this entire discussion, that is, the equality of the three powers; and it mattered not whether the mandatory was an American, or a German, or an Englishman; the result of perpetuating power in the hands of either would have the same result. There was not the slightest meaning in the illustration made by him of the deposit of this power in the hands of the German which would not have been equally applicable to the vesting of the power in an American on the same principle. He had understood Sir Lionel West's former statements to propose that the exercise of the mandatory power should be alternate, but that owing to Germany's great interests she should have the appointment for the "first term of five years." That, however, seemed to be qualified by the paper just read by him.

Sir Lionel West said that the power might be exercised in alternation; but there was a great difference between alternation and rotation.

Mr. Bayard said he had not the slightest desire to see the American influence preponderating over the German or English; but he did desire to see the native influence upheld by all three equally and for a common purpose. The effect of exercising mandatory power in alternation would be to impose a wholesome check upon a disposition to abuse it. If an American should be chosen as the mandatory (he would not say German, because it seemed to have led to criticism), the reflection that at the end of his term he would have to hand the power over to an officer of another government would greatly lessen the inducement to be partial toward his own countrymen and their commercial interests. The selection of any power because it had the preponderating interest seemed necessarily to tend to make that which was strong still stronger, and that which was not so strong still weaker. The effect of the mandatory power in the islands would not be confined to the interests of the three powers. This is not the case of the unopposed occupation of an empty country. It is the case of a community, a primitive people, whose existence and rights the three treaty powers have separately and voluntarily recognized by solemn treaty. He did not think any arrangement permissible that would allow the Samoans to be crowded out of their natural and native homes.

He desired also to advert to the importance of the practical neutralization of the islands, both to the safety of the islanders and their commerce. The recognition of a preponderating commercial interest, and the power of political control in any one foreign power, would certainly endanger that neutrality, if that power should become involved in war.

Mr. von Alvensleben inquired whether Mr. Bayard still maintained No. 5 of his original proposition, or whether he made a new proposition that the mandatory should be chosen by the powers alternately?

Mr. Bayard said he still believed in the subdivision of powers; that if there were only two ministers, one of foreign affairs and commerce, and the other of the interior and treasury, there would still be a check upon the disposition to misuse power.

Mr. von Alvensleben then read, in relation to Mr. Bayard's proposition No. 5, the following paper:

"By adopting Mr. Bayard's plan to put the executive power into the hands of five, the powers would follow precisely the same course of policy which has lead, as is generally acknowledged, to the most unsatisfactory results in Samoa. A co-operative assistance of the three powers in the sense of Mr. Bayard's suggestion has hitherto taken place only in the municipal board at Apia, but it has been proved that such a threefold co-operation is not only ineffectual but injurious to the utmost degree to all foreign interests as well as to those of the natives. After such an experience, fully confirmed by the reports of the special commissioners, especially those of Mr. Travers and Mr. Bates, who, in plain terms, assert that the three-party control would be inappropriate means to arrive at the solution of the task of this conference, it ought, under all circumstances, to be avoided to take a similar scheme into consideration with a view of assisting the Samoans in their management of government affairs. According to Mr. Bayard's plan, the tripartition existing, as stated, at present only in the municipality of Apia shall be extended to the executive power of the new government, with the only difference that not the three consuls, but the same number of foreigners, one of them to be nominated by the three treaty powers, shall be invested with the respective functions of the three highest officials. Without dwelling upon the obviously very considerable difficulties of finding among so small a foreign population persons fit to hold so important offices, I think it necessary to point out another serious objection to which Mr. Bayard's plan gives rise. The latter, as I understand it, can aim only at such persons who have not been involved or compromised in any way in the events of the last years. On the other hand, it may well be assumed that all prominent foreigners, and the very persons who would alone have the qualifications for such officers, have been obliged, in the course of events, to support one party or the other in the disputes of political strife, and it would seem to be demanding a superhuman self-denial that those persons should suddenly break with their entire political past. In my opinion it would be in direct opposition with the object of this conference that a rivalry of the influence of the three powers, which, as they themselves acknowledge, is the principal cause of the unsound condition of the state of affairs in Samoa, and which consequently ought to disappear, should again be solemnly sanctioned and revived in the new organization of the government, although in a somewhat different shape from what it is in the municipal board. The purpose of this conference is to secure lasting peace and order, and in this respect the interests of the natives and the foreigners are identical. However, by adopting Mr. Bayard's plan the conference would lay the germ of death at the very bottom of its reformatory work and incur the grave responsibility of having done so deliberately; that is to say, without paying due attention to the experiences made in Samoa, nor to the warnings which are contained in the reports of the special commissioners, forming the basis of our negotiations. It being acknowledged that the natives in Samoa are unable to create or maintain any government without the support of the powers, assistance must be lent them in the most efficient manner. The first step in this direction must be that the powers keep a united position towards the Samoans, and that this united position finds expression in their common organ, the recognized adviser of the Samoan Government. Only in such a way will it be possible to elude all party intrigues from the very beginning, as the natives would then be aware that no political party whatever could count upon any assistance from one single power. I may be allowed to quote from Mr. Thurston's report giving a characteristic of the Samoan people. Under 109, it is said: 'The great object of a Samoan party when seeking to gain an ascendency is to intrigue for foreign support, and hence much of the trouble that has arisen.'

"The proposition of the Imperial Government, according to which the power having for the time being the preponderating interest in Samoa shall have the right of nominating the adviser, is now before the conference. The co-operation provided for by the two other powers with regard to the nomination, the limitation of the term of office to five years, the proposed express declaration to secure to the three treaty powers and their subjects in Samoa entire equality of treatment with regard to commerce, navigation, and jurisdiction, and other matters are sufficient guarantees to remove from the very beginning the danger that by transferring that mandate to one power a political monopoly would be established in favor of the latter. A further very efficient guaranty of the same kind is to be found in Article IX of the draught convention, which I had the honor to lay before you, suggesting that an express and repeated declaration should be made of the independence and neutrality of the Samoan Islands. I therefore conclude that it is not the German but the American plan which is inconsistent with the principles of this conference."

Mr. Bayard said he would like to say another word about the question of having both a land commission and a land court. The Samoans were the natural owners of the soil, but suddenly, in the course of ten years, a lot of claimants had sprung up from foreign lands who actually demanded more than the soil itself contained. For that reason he thought it the right of the Samoans as a people to have citation made by the land court to all the foreign holders of land on the islands in order that their titles might be brought before that court for examination. He did not understand what compromises the land commission could make or approve that the court could not equally approve. But it would be very little satisfaction to the Samoan natives to have a compromise adjusted by this land commission between two foreigners, neither of whom had any right to the land they were disputing about. The court, upon its organization, could issue its proclamation calling for all claimants of title in Samoa to file in that court by a given day a statement of their claim to title, whence derived, with plats and surveys, if any, so that the court could pass upon them. If there should be a question of conflict of title between the two claimants involving questions of fact, it would be in the power of the court to appoint commissioners to ascertain facts; but that was not the thing meant by the word commission in the proposition of either of the other member of the conference.

Mr. von Alvensleben said it was a board which is a beginning, and which is entirely temporary, intended to cease after the general claims have been looked into and those settled which could be settled by the land commission. Then it will cease and there will be left a land court.

Mr. Bayard said he should not stand in the way of this piece of machinery if it was considered upon reflection desirable to the end. If it was proposed that the commissioners should have some duty in connection with the settlement of land questions, which was not final, but that in the end there was to be final control in the land court, his object would be reached, because it would be provided that every land title in Samoa should be subjected to the examination of that court and that claimants of title should be capable of being summoned in the public interest and not in that of the rival claimants. Claimants should not rest undisturbed in the possession of land that belonged to Samoan people and for which the present occupants had never given a valuable consideration. If these simple, primitive people have no other means of support than agriculture, and their lands are taken from them, no matter how, there is nothing left for them but to be subjected to the most wretched servitude or else to die. He thought against that the most substantial provision should be made by electing a tribunal who could call before them everybody holding land in Samoa, and compel them to show their titles.

Sir Lionel West said the idea of the commission was simply to facilitate this, and he thought it would.

Mr. Bayard said it was a question of judgment, and he had submitted his reasons for thinking differently. It would be difficult to get men in Samoa for the two bodies.

Mr. von Alvensleben said he thought these gentlemen ought to be sent out from abroad, because every foreigner and every Samoan is engaged and inter-

ested in the land question; that Mr. Bayard had said that if there was a single court, composed of three foreigners and two natives, foreign interests would be protected, but this would not follow, because the foreigners had never kept together.

Mr. Bayard observed that perhaps that was right.

Mr. von Alvensleben said his Government, at any rate, felt the greatest sympathy for the Samoans, and meant to help them in a sincere way.

Mr. Bayard said he felt that he could not perform a more benevolent service to the people of Samoa than by having the land titles in the kingdom overhauled.

Mr. von Alvensleben said his Government was of the same opinion, and he read in illustration from the memorandum on land disputes, submitted at the second conference, the following:

"This sort of dispute is to be withdrawn from the cognizance of the consuls, and from the jurisdiction of the English high commissioner, respectively; it is consonant to the general principles of justice that disputes relating to real estate should be decided by the laws and courts of the country in which the object of the dispute is situated. In the present case, however, it must be further taken into consideration that in the absence of any sort of legal provision as to the conditions, requirements, and formalities necessary for the valid transfer of land, and in consequence of the utter complication existing in the ownership, irregularities, and, it may be, acts of injustice have occurred which absolutely demand an impartial decision based upon a thorough examination and investigation of the matter.

"Such disputes are to be settled in a uniform procedure, and according to uniform principles to be previously laid down by the treaty powers with the agreement of the Samoan Government, by an authority to be specially instituted, and, in the last instance, by a land court to be specially created. For this purpose it would seem advisable, after establishing the general principles on which the decisions as to the validity of land transfers are to be based, first, to appoint a commission, composed of three members, each of the three treaty powers naming one. Before this commission all claims which are raised by foreigners with regard to land in the Samoan Islands must be filed within a certain period; the claims must be accompanied by the titles and other documents or duly authenticated copies relating thereto."

Mr. Bayard said that proceeding in his mind upon a theory of what he might call the rights of the State of Samoa in these cases, which were very distinct, and oftentimes adverse to the rights of these foreign claimants, it was the right of Samoa to call all these claims into court and compel a submission of the claim of title to the land commission or court, because there was a great deal of public land occupied by people having no right to it. Such persons would desire no contest, for they were content with their possession; but he proposed that they should be called into court, and their right to occupy should be established by them or else they lose it.

Mr. von Alvensleben said that as soon as any political adventurer got to the islands the first thing he did was to tell the Samoans, 'You must trust me; I will get all the land back for you. I will take it away from the foreigners and you will get it.' As soon as they learn that it is intended to regulate the land claims, they will come forward with no end of claims; but as soon as they see there are certain rules established, and that the foreigners do not mean to deal with claims not justified, they will be willing to come to an amicable settlement.

Mr. Bayard inquired whether he agreed that all land titles in Samoa ought to be overhauled.

Mr. von Alvensleben said he thought there ought to be some limit how far to go back. He thought they ought not to go further back than the time of the English and German treaties.

Mr. Bayard said that as the American treaty was the first, he was willing to go back to that. As it was agreed that there should be an overhauling of land titles, the question is, who is to do it? How could the commission proposed by the other members of the conference settle the question where a Samoan was concerned?

Mr. von Alvensleben said his proposition was that the members of the commission were to be appointed by the Samoan Government on the proposal of the treaty powers. It was further said in his memorandum: 'As far as the title deeds do not in themselves offer room for doubt as to the legality of the acquisition, all lands acquired before the conclusion of the German-Samoan and English-Samoan treaties, respectively, that is, before the 24th of January and 28th of August, 1879, respectively, and also, under the same conditions, all lands which within the last two or three years have been put under cultivation by the new owner, shall be registered as validly acquired, without prejudice to the claims of third persons. On the other hand, the acquisition shall not be regarded as legal, and registration shall be provisionally refused in cases where the claimant is only in a position to produce as a proof of his legal acquisition of the land a so-called promise of sale, as well as in cases where the land has not been surveyed within two or three years following the conclusion of the sale, or where the deed of sale contains no precise description of the boundaries of the land sold, or where at the time of the conclusion of the contract the price of the land has not been paid in full to the seller, without prejudice, however, to the claimant's right to demand a judicial decision. The commission shall be invested with the right of citing before them, through the local authorities, for examination and of hearing, as witnesses, the sellers and any other persons whom they may think fit to supply information. A very important question, especially touching land disputes between foreigners, concerns the determination of the right of ownership and disposition of the land sold, on the part of native sellers. Numerous cases will present themselves in which one and the same piece of land has been sold by different persons, styling themselves the owners, to different parties, or in which pieces of land have been sold by persons whose right to the ownership and disposition of that land is disputed on the part of other Samoans. In this case the commission shall be empowered, through the local government of the district in which the disputed land lies, to institute a native commission to determine the seller's right of ownership, and to lay the result of such investigations, together with the underlying motives, before the foreign commission; this decision, however, shall not be binding on the latter. Such native commissions would have also to be charged with the examination, and, if required, with the decision of land disputes existing between the Samoans themselves. Pieces of land which for ten years or more have, without dispute, been cultivated, or at least made use of by foreigners, shall, without further inquiry, be regarded as property legally owned or acquired by prescription.'

Mr. von Alvensleben said they needed a native commission to help in these cases.

Sir Lionel West said that was his idea; that the commission should facilitate.

T. F. BAYARD.

ALVENSLEBEN.

L. S. SACKVILLE WEST.

No. 9.

Protocol of fifth Samoan conference.

[Confidential.]

DEPARTMENT OF STATE, Washington, July 21, 1887.

Mr. Bayard said that in the protocol of the second conference a number of agreed points were stated, one of which was that there should be a free and unawed native election of a king, without the interference of foreigners. The proposition submitted by him at the first conference was for the election of a

king and vice-king. His object was to recognize the customs and wishes of the Samoans, and to provide for a succession in case of the death of a king, so that there would be no interregnum. He was still disposed to include in the plan of government the election of a vice-king; and he desired to submit whether it would not be well, if the king and vice-king should be elected for a term of years, to provide that the term should last until a successor was chosen, in order to prevent an interregnum.

Sir Lionel West inquired whether he meant that the king should be elected for a term of years?

Mr. Bayard said he was disposed to follow the customs of the country.

Mr. von Alvensleben said he also thought the customs of the country should be followed wherever it could be done.

The election of a vice-king was then placed among the agreed points.

Mr. Bayard then referred to the question of a Faipule, and inquired whether there was objection to that.

Sir Lionel West asked whether he would make it a legislative body.

Mr. Bayard said it should retain whatever its function was before.

Mr. von Alvensleben said they did not meet regularly, although no matter of importance was transacted without their being consulted about it.

Sir Lionel West said he supposed it might be called a legislative assembly.

Mr. Bayard said that he had found the faipule in the commissioners' report of existing customs as a legislative assembly, and for that reason he had retained it as such in his plan. The question was whether it would tend to give satisfaction to the people to have this popular assembly to which they could send their representatives.

Mr. von Alvensleben inquired whether it would not be best to agree that the Faipule should exist, but not to define its powers yet? This would be left to a further understanding. The Taimua would be taken into the king's council.

Mr. Bayard said that it might be agreed that the election should cover a king, a vice-king, and a Faipule, without any further definition as yet of the Faipule power.

Mr. von Alvensleben said that the Faipule should be elected by districts on a certain ratio of population—say, as proposed, one representative for every 2,000 of population, and not over the whole country, because the Samoans would not understand it.

Mr. Bayard said he understood that there would be required the aggregate vote of the whole group for the king and vice-king, but that each district would elect its own representatives to the Faipule.

Sir Lionel West said by that they recognized the broad principle of an elective assembly.

Mr. Bayard: Yes.

Mr. Bayard then referred to the land question, in respect to which there were three propositions before the conference. On page 3 of the protocol of the first conference, it would be found that he had proposed a single land commission or court of original and final jurisdiction, who should inquire into the nature and extent of each and every land claim by foreigners. It was proposed that this commission should consist of five members, appointed by the king, three to be appointed on the nomination of the powers and the remaining two to be selected by the king in order to recognize Samoan customs in relation to land.

In the paper submitted by the British minister at the first conference it was proposed that there should be an "international land court," and that in order to facilitate its workings "the existing land claims of foreigners should be disposed of by a commission," previously to the establishment of the international land court. (Protocol, first conference, page 7.) Before coming to the German proposition, he desired to ask whether the plan of Great Britain contemplated anything more than a commission in aid of the court and whether that was the extent of the machinery proposed by the British Government to test the land question.

Sir Lionel West said it was.

Mr. Bayard said that in the paper submitted by the German minister at the first conference, it was said that "the irregularities which are known to have occurred in regard to the acquisition of land, and the disputes to which they have led between foreigners and natives, make it appear expedient to consider the establishment of a special international court for the decision of claims and disputes relating to land;" and it was further said that in "the composition of this court due consideration will have to be given to the nationality of the parties." (Protocol, first conference, page 6.) In the second conference the German minister explained that the international body would constitute merely a commission to prepare for the court; and he submitted, by instruction of his Government, a memorandum on land disputes, containing a scheme of procedure. In this memorandum it is declared to be "consonant to the general principles of justice that disputes relating to real estate should be decided by the laws and courts of the country in which the object of dispute is situated;" and it is then proposed first to appoint a commission composed of three members, each of the three treaty powers naming one. Now, agreeing to the doctrine that disputes concerning realty should be decided by the laws and courts of the country in which it is situated, it seems that the courts whose judgments were to settle those conflicting claims ought to contain a native element. If, in addition to the three foreigners, there were two natives in the tribunal, the result would be that in the discussion of cases prior to judgment, a knowledge would be given of native customs and native rules in respect of the transmission of land. The opinions of the two natives would not be conclusive upon the other three judges, but would inform them, and the further object would be reached that the natives would feel that whatever the decision, they had a voice in making it, and they would pay greater respect and more voluntary obedience to the tribunals in which their customs and people had been fairly represented.

He had been unable to change his opinion that there is no function which the two bodies—the commission and the court—can perform which the court could not efficiently perform with more directness and less complication. Still, if Great Britain and Germany agreed that it was desirable, he would, in order to reach an agreement, recommend the establishment of a land court and also of a land commission, who may perform preliminary functions of arranging business, with the understanding that the final decision rests with the court. He inquired whether the theory of the British suggestion went beyond this.

Sir Lionel West: No; not at all. You have described it.

Mr. Bayard: Then the statement I made last will be satisfactory to your Government?

Sir Lionel West: I think so, thoroughly.

Mr. Bayard said he hoped it would be so to the Government of Germany, although he found in the more elaborate plan of the German Government a pursuit of the idea of commissions that was not very definite. In this plan, submitted at the second conference, it was declared to be "consonant to the general principles of justice that disputes relating to real estate should be decided by the laws and courts of the country in which the object of the dispute is situated;" that owing, however, to the condition of Samoa, it is necessary that the disputes there should be "settled in a uniform procedure and according to uniform principles to be previously laid down by the treaty powers with the agreement of the Samoan Government, by an authority to be specially instituted, and in the last instance by a land court to be specially created;" that the first body or commission should consist of three members, each of the powers naming one, to be appointed by the Samoan Government on the proposal of the powers; that before this commission all claims which are raised by foreigners with regard to land in the Samoan Islands must be filed within a certain period, the claims must be accompanied by the titles and other documents or duly

authenticated copies relating thereto (second protocol, pages 12, 13); that the "commission shall be invested with the right of citing before them, through the local authorities, for examination, and of having as witnesses the sellers and any other persons whom they think fit to supply information;" that in case, however, of sales by different natives of the same piece of land claimed by all, the commission may institute a native commission, but the decision of the latter is not to be binding on the former. The foreign commission is to be "authorized to give a provisional decision as to disputes relating to possession and ownership of land, or to effect an amicable arrangement. Whenever Samoans are involved as parties in such disputes, the foreign commission shall invoke the co-operation of a Samoan chief to be nominated by the government of the district where the land lies or of the Samoan judge at Apia." From the decision of the commission there is to be an appeal to the land court, which is to be "composed of a judge nominated by the Samoan Government and of the consul or of one of the prominent countrymen of the litigant."

Such was the plan submitted by the German minister in detail. It differed in two material points from the plan proposed by the British minister at the first conference. His proposition was that there should be an "international land court," preceded by a commission. The "international court" suggested by the German minister at the first conference meant the land commission. The "land court" described in the plan submitted by him at the second conference is not international in the sense in which it is supposed that term was intended to be understood when used by the British minister at the first conference to designate the tribunal of final decision. The second point of difference was that the German plan contains a provision for a third commission or numerous commissions to be set up at the option of the principal or foreign commission. Thus, Mr. Bayard said, there were three plans before the conference. The first was that submitted by him for a single body of five members, three foreigners and two natives; the second was that submitted by the British minister for a commission and an international land court; and the third was that submitted by the German minister for a foreign commission of three members, to be assisted in certain cases by a native person, a land court whose composition is not definitely stated, and such native commissions as the foreign commission may see fit to call into existence.

It was proposed in the memorandum submitted by the German minister that the "final settlement" of land disputes should take place by the "judicial decision of the land court." But it is to be composed only of a judge to be nominated by the Samoan Government and of the consul, or one of the prominent countrymen of the litigant.

He observed that the term "litigant" was employed in this relation as meaning the foreign claimant. The plan says "the consul or one of the prominent countrymen of the litigant." If that was the uniform signification of the term as used in the plan, then it made no provision for an appeal by a native from the decision of the land commission. "The litigant shall have the right of appeal from the decisions of the commission, or of demanding a judicial decision by the land court." (Second protocol, page 14.) Did this give a native claimant a right of appeal?

Another feature to be noticed in the plan submitted by the German minister for a land court was that while it was referred to as a court of appeal, it had no settled constitution and could not be guided by any settled rules. With such a body, or diversity or multiplicity of bodies, to sit in final judgment, it was not seen how the result of a uniform land system could be expected or reached.

Moreover, the plan for this court did not contain the recognition of a native element, and instead of containing anything like simplicity (he thought the English plan had exceeded practical utility) it would lead to the continual employment of inconvenient native commissions without any uniformity of decision, which, after all, is the great basis of safety as to land title.

Mr. von Alvensleben said he wished to draw attention to one paragraph in his memorandum, namely: "In the present case, however, it must further be taken into consideration that in the absence of any sort of legal provision as to the conditions, requirements, and formalities necessary for the valid transfer of land, and in consequence of the utter complication existing in the ownership, irregularities and, it may be, acts of injustice have occurred which absolutely demand an impartial decision based upon a thorough examination of investigation of the matter."

Although the decision of land disputes by the law and custom of the place is a proper principle, there should, in the present instance, be an application of some modifications to that principle, and his government wished the Samoans to be heard in dealing with these land claims. He did not think it possible that the natives should belong to the court as they are too much interested, just as much as every foreigner who is there; and therefore he thought such a commission could only be composed of people who went to Samoa free from local influences, and who were sent out by their Governments. But in order to take into consideration the interests of the natives they would call native commissions as soon as native interests were involved, and the settlement would be made according to the customs of the country.

Mr. Bayard said that a tribunal of three foreigners might reach a disinterested decision, but that was not what was proposed. The memorandum of the German minister said: "The final settlement of the land disputes takes place by the judicial decision of the land court." And further: "The latter is composed of a judge, to be nominated by the Samoan Government, and of the consul or one of the prominent countrymen of the litigant."

Mr. von Alvensleben said the intention was that this land court should be composed of a judge to be named by the Samoan Government and the consuls or prominent countrymen of the nationalities to which the parties belong, so that the different parties should each be represented.

Mr. Bayard said that was creating, therefore, a special court in each case.

Mr. von Alvensleben said, certainly; judges would change according to the nationality of the parties. There will always be a Samoan judge appointed by the Samoan Government, and he would be assisted by the representatives of the parties. If there were two parties of different nationalities engaged in a dispute, they would both be represented. If a German and an American, there would be the consuls of the two countries, and they would assist the judge.

Mr. Bayard said: Suppose a German and an Englishman take an appeal from the decision of the land commission, before what tribunal would they go? Before a judge named by the Samoan Government; a man named by the Englishman and another named by the German. The litigants would take care to select their own friends, and then the judge appointed by the Samoan Government would make the final decision. Was it supposed that by creating a special tribunal in each case, uniformity in decision would be attained? The idea had been to find something as near civilization as possible, and in judicial decisions it was essential that there should be stability and a system; that the laws should be laid down by the court, and that it should adhere to them. And unless there was some uniformity of decision there would be hopeless injustice. If, in each case, after the land commission, composed of representatives of the three powers, had acted, there was an appeal in the manner suggested by the German minister, each tribunal would have a law for itself.

Another thing he would notice was the proposition to introduce the consul of the litigant into the tribunal, although the interference of the consuls in other matters was deemed unadvisable, on account of their partisanship. He desired to inquire also whether the object of the conference would not be better reached by infusing into the court of last resort a native element which would, as a matter of numbers, be under the control of the representatives of the three treaty powers. According to the plan of five proposed by him, there would be native

representation and uniformity of decision, and the court would not ask what was the nationality of the claimant, but what was the basis of his claim? Besides, in all courts of last resort, there ought to be uneven numbers to prevent a deadlock. According to the German minister's plan, if there were three claimants the court would consist of four members.

Mr. von Alvensleben inquired who ought to preside in the tribunal proposed by Mr. Bayard?

Mr. Bayard said he would let the five men select him. This, however, was very important. He might be a German. He would have no more power than the rest. The object of having a presiding judge was to direct the business of the court, and the majority of the court would make the decision.

Mr. von Alvensleben said experience had taught that the foreigners never kept together.

Mr. Bayard said that the foreign officials in Samoa heretofore had not been there as judges under the Samoan Government, but as the official representatives of foreign powers.

Mr. von Alvensleben said that if the five judges were taken from Samoa there would be divisions from the beginning; because everybody there was interested in some way or another.

Mr. Bayard said that if a judge was interested he could not sit. He supposed, however, that men could be found who did not own land.

Mr. von Alvensleben said he thought not. As to the Samoans, they were all related to each other, and the characteristic given of them by Mr. Thurston is that they are rather untruthful; so that they would be quite ready if they could get the favor of any nationality in a land dispute to favor that nationality for that purpose. He was opposed to such a composition of the court as that.

Mr. Bayard asked whether he would exclude the Samoans from all voice in the decision of the titles of land?

Mr. von Alvensleben said he thought the proportion of two Samoans and three foreigners was not according to the plan of his government. Besides, the foreigners in Samoa were certainly not less interested in the land question than the Samoans: so that if one can not find disinterested foreigners there, one will have to take them from abroad.

Mr. Bayard said: Suppose you eliminate, for the purpose of discussion, the Samoan element entirely, and you create three judges as a court of final resort; you first let the commission organize and take what testimony they please, and make what finding they please. If the finding is satisfactory to the parties concerned it stands; if an appeal can be taken by either it comes before the court composed of the nominees of the three governments. Would that relieve the question?

Mr. von Alvensleben said: No; that would come almost to the same thing. We say we are ready to have the judge placed by the Samoan Government at the head of this supreme land court, and to have called as his assistants the two representatives of the nationalities concerned. He thought, however, that the principal point of all was that an understanding should be reached in regard to the formation of the government, because all these discussions on the settling of land disputes seemed to him at present but preliminary.

Mr. Bayard inquired whether the land commission was not an essential part of that government?

Mr. von Alvensleben said that the salary of the judges had to be paid by the government, so that he thought the land commission could only begin its work after the government had been established. He had proposed that the judge should be appointed by the Samoan Government. As there was a judge to be appointed by the Samoan Government, he thought it one of the principal things that they should agree on the government, and he asked whether Mr. Bayard stood on his proposition that the powers of the government should be given to five men, or whether he was inclined to accept the German proposition, which is to place the executive power in the king and advisor.

Mr. Bayard said he did not leave the composition of the land court as a separate body to depend upon the composition of the executive branch of the government. If it did the executive power would control the judge. The king of Samoa had already been named. There was also a suggestion of creating a mandatory, having all the powers of the king's office, but not having the name. That has not been agreed to, but it has been suggested.

Mr. von Alvensleben said the mandatory or adviser would have to appoint the judge and the king would have to confirm him.

Mr. Bayard said it seemed to him that that reduced the matter to an absolutism. They embarked upon the conference with a declaration of the absolute equality of the three powers, and that they were acting in an advisory capacity towards the Samoan people, and that they desired to preserve the independence and autonomy of the islands and absolute equality of treatment in respect of commerce, navigation, jurisdiction, etc.; and it is further stated that it was intended that there was to be no inequality whatever in respect to the influence to be exerted by the three governments upon this community; that, whether their interest was little or large, the basis of their approach to this question was the equality of the three treaty powers in dealing with the subject of Samoan government. At no time, to his knowledge, had he made a suggestion of the inequality of the three powers in dealing with the subject before them. They approached it with equal responsibility and equal right to deal with it. It was understood that they all had agreements in the form of treaties with this people and were disposed to stand by them. This is found in the united representation of the three powers that the existing treaties were to remain. When he submitted his plan for the establishment of peace, he touched the matter in such a way as to recognize Samoan rights and interests, and also an equality in the action of the three governments towards them. The first intimation he found that there was to be an unequal degree of influence exercised by any one of the three powers was in the remarks of Mr. von Alvensleben at the second conference (Protocol, page 7), in which he says:

"There is only one course left for asserting foreign influence with the Samoan Government, which is so necessary for the general interest, and this is to place one foreign officer at the head of the administration, and to invest him with sufficient rights and powers to take the measures required for the maintenance of peace and order as well as for the prosperous development of commerce and intercourse. As the authority of this official is to be noticeable in an unequivocal way to the foreigners as well as to the natives, it is commendable that the appointment should not be left to the Samoan Government, but be made by agreement between the treaty powers. At the same time it would appear that the power having to protect the largest interests in Samoa should be given the right to nominate the official whose duty it shall be to control the native government."

Mr. Bayard said the executive power should not be given to protect the largest interests in Samoa at all; it was to protect all the interests in Samoa. If a German agent or governor or mandatory was appointed, he should be appointed just as much in the interest of the American people as the German.

Mr. von Alvensleben said that was understood by his Government.

Mr. Bayard said then it ought to appear as the principle the powers were acting on. It had been said that the "power to protect the largest interests in Samoa should be given the right to nominate the official whose duty it shall be to control the native government." If this was to be a government for all, there was no reason why a right should be given to protect certain interests. The German minister had further said: "It can not therefore be expected that she (Germany) should consent to remain more or less excluded from the efficient control of the country and have it pass to one of the two powers who have less interests." That was a clear proposition of inequality on its very face. If Germany could not be expected to consent to remain more or less excluded, how

could she expect another power to remain so? There was upon the very proposition of exclusion the mark of inequality, which is in contradiction to the idea with which the conference began.

In Sir Lionel West's memorandum on page 7 of the protocol of the first conference, he states thus: "Assuming that tripartite control is impracticable, the solution of the difficulty would seem to be an alternate control for a limited period of either one of the three powers. In the event of coming to this agreement, the question naturally arises as to which power should be chosen the mandatory of the other two in the first instance, and her Majesty's Government consider that preponderating commercial interests should be taken into consideration in deciding it." In the paper which he read at the third conference Sir Lionel West said: "It is admitted by the three powers that foreign intervention can alone insure the stability of the native government which it is sought to establish in Samoa, and that the tripartite control which has heretofore been exercised has proved abortive. The mandatory scheme does not involve the recognition of any preponderating interests which, as the Secretary of State has justly remarked, ought not to be taken into account in dealing with the matters before the conference. The German Government, as well as Her Majesty's Government, moreover, do not assert preponderance of interests as an argument in favor of the scheme. Indeed, they have asserted that there shall be absolute equality of treatment in respect to commerce, navigation, and jurisdiction, should it be adopted; but Her Majesty's Government are willing, seeing the great interest Germany has in Samoa, to accord to the German representative the first term of five years as mandatory of the other two powers. Her Majesty's Government do not see that any exclusive control is involved in this arrangement, as under any circumstances the mandatory power can only be exercised with the consent of the other two powers, and it seems, therefore, a matter of small importance which power should be the first to exercise it." Mr. Bayard said these two statements seemed to him to conflict. Sir Lionel West said he thought they were in perfect accord.

Mr. Bayard then asked whether he could read, as expressive of Sir Lionel's views, that "the mandatory scheme does not involve the recognition of any preponderating interests, which ought not to be taken into account in dealing with the matters before the conference."

Sir Lionel West: Certainly.

Mr. Bayard asked Mr. von Alvensleben whether he agreed to that.

Mr. von Alvensleben said he thought that the preponderating interests had to be taken into consideration for the purpose of finding who was to be intrusted with the mandate.

Mr. Bayard asked whether in the statement that it "can not be expected that Germany should consent to remain more or less excluded from the official control of the country and have it pass to one of the two countries who have less interests," Mr. von Alvensleben would be willing to strike out Germany and insert the United States or Great Britain.

Mr. von Alvensleben said as soon as the United States or Great Britain had the largest interests.

Mr. Bayard said that was not the question. How could Germany expect either Great Britain or the United States to agree to a scheme which would more or less "exclude" them from the efficient control of the country? That placed the matter in a position in which he was unwilling to see it placed.

Sir Lionel West said he did not understand that the German plan involved exclusive control.

Mr. von Alvensleben said it did not, as all guarantees had been stated which were thought necessary to surround the mandate.

Mr. Bayard said he had adverted to the matter to save time, and he thought that if they could have settled the question of the land commission they would have made a great headway. He looked upon that as being the corner-stone of the whole arrangement, to find some harmonious rule for the regulation of land ownership in the group, and of making consistent decisions in an established court. The German minister, however, had in this relation brought up the question what was to be the Samoan Government which was to appoint the land court, and this had led him to notice what seemed to him to be the conflicting statements of the British minister; but as he had explained them preponderating interests ought not to be taken into account in dealing with matters before the conference.

Sir Lionel West: Certainly not; then we would be unequal.

Mr. Bayard said the proposition in the German plan was to make the preponderating interests the beginning, end, and middle of the whole scheme of government.

Sir Lionel West said he did not see it.

Mr. Bayard said he thought he could show it, and would endeavor to do it at the next meeting in writing. Under the acknowledgment of the equality of the three powers suggestions had been made which would necessarily create an inequality which would grow; and the land scheme had been brought within the same principle.

Sir Lionel West said his Government had made no specific proposition as to the constitution of the land court.

T. F. BAYARD,  
ALVENSLEBEN,  
L. S. SACKVILLE WEST.

No. 10.

Protocol of sixth Samoan conference.

[Confidential.]

DEPARTMENT OF STATE, Washington, July 26, 1887.

Mr. von Alvensleben read the following paper:

"I fail to perceive how Mr. Bayard could draw the inference he did at our last meeting from the statement which closed the memorandum I read at the second conference. This sentence was merely intended to illustrate the mandatory scheme as proposed by the Imperial Government, and can not fairly be taken alone, as it then may lead to misapprehensions such as I find Mr. Bayard to be under. The meaning of that sentence is that Germany having the largest interest in Samoa she claims to be intrusted by the two other powers to exercise there, as well for her own interests as for those of Great Britain and the United States, the efficient control. If this would seem to create any appearance of inequality of rights, this would, however, be merely an appearance, as naturally the establishment of the whole government can only be made in this conference by the co-operation of the three treaty powers on a thoroughly equal footing, and therefore the mandatory scheme can only be carried out with their consent. I hardly need repeat, as the three special commissioners agreed in their reports, no native government would offer any guarantees of stability unless it is assisted and controlled by one common organ of the three powers. This is the argument on which the mandatory scheme has been based, and not on the mere fact of the preponderating interests of either one power."

Mr. Bayard said he would not at the moment make any comment on that statement, because upon hearing it read he did not recognize any substantial change in the result. The plan submitted by the German minister remained unaltered in its principle, and necessarily in its results, by the paper which he had just read.

Mr. Bayard then read, in accordance with the purpose expressed by him at the last conference, the following paper:

"In the 'Plan for the establishment of peace and civilization in Samoa under the co-operative support of the Governments of the United States, Germany,

and Great Britain,' submitted by me on behalf of the United States (Protocol first conference, page 2) I expressed my conception of the purpose of the present conference in the following language:

"1. The independence and autonomy of the kingdom composed of these islands are to be preserved free from the control or preponderating influence of any foreign government, and it was in pursuance of this understanding that commissioners were recently sent by the three powers respectively to investigate and report upon the condition of the islands, and that the respective consuls of the three powers at the islands were changed." Immediately after this declaration, and as necessary inference therefrom, I stated the following proposition:

"2. It is the desire of the United States, and equally of Germany and Great Britain, to assist the natives of Samoa to form and administer their government."

"In respect to the principal object of the conference—the maintenance of the independence and autonomy of the Samoan Islands and the co-operative support of a native government—I am pleased to notice that my understanding is confirmed by the respective declarations of the German and British ministers. The memorandum read by the former at the first meeting of the conference began as follows:

"The unsettled condition of affairs on the Samoan Islands having gradually become more and more injurious to the foreign residents and to the commercial interests of the three treaty powers, the latter had to take into serious consideration the means by which the lasting peace and order could be restored there. With this view and the understanding that the independence of Samoa under a native government was to be maintained, and that no monopolies should be created there by any foreign power, the three treaty powers have agreed to the proposition of the Government of the United States of America to hold a conference of plenipotentiaries. It was further agreed that, in order to get complete and reliable information on which the conference would have to base its deliberations, special commissioners should be sent and instructed by the respective governments to report on the condition of those islands."

The memorandum read by the British minister at the same meeting was as follows:

"It is understood that the three powers have no desire to found colonies in Samoa or to obtain commercial monopolies.

"Their sole wish is to establish the right and equality of commerce and navigation for their respective subjects and citizens. Assuming, then, that the three powers have no desire to destroy the independence of Samoa, but only seek to establish the right and equality of their commerce and navigation, a declaration to this effect might be made by them as a preliminary step. It was, however, deemed expedient to ascertain the exact state of affairs in the islands by sending special commissioners who should report thereupon."

"It may therefore be regarded as fully recognized and established that the object of the United States in proposing the present conference, and of all three powers in sending commissioners to the Samoan Islands to report on the condition of affairs, was to maintain the autonomy and independence of the islands under a native government.

"Such being the declared object of the conference, I have listened with regret to plans and suggestions that appeared to me to depend upon the recognition of an inequality of interest of the three powers in the political, moral, and commercial welfare of the islands, and to look unequivocally to the virtual suppression of their native government. And in this relation I shall refer first to the plan suggested by the German minister, and approved by the British minister, for the appointment of an adviser to the king. In the memorandum read by the German minister at the first meeting of the conference the functions of the proposed foreign adviser are described as follows:

"This adviser, who is to act as the mandatory of the three treaty powers, will have to discharge, under the nominal responsibility of the king, the government affairs. He will have to control all necessary measures with regard to the maintenance of public order in general, and especially to the security of any kind of property of foreign residents. This adviser, whose position would be virtually that of a prime minister, to be nominated by the treaty power having for the time being the preponderating interests in Samoa. The nomination needs the approval of the two other powers. The first appointment to be made for the term of five years in the first instance, and at the expiration of that period a fresh appointment to be made on the same terms and conditions. In the event of the appointment becoming vacant during the said term of five years, through the death, resignation, or removal of the adviser, another person shall be similarly appointed to hold the office for the remainder of the said term."

"The three leading features of this plan are: (1) That the 'responsibility' of the king in the affairs of the government is to be merely 'nominal'; (2) that the adviser is to 'control all necessary measures' to an undefined extent; (3) that he is to be appointed by the power having the 'preponderating interests' in Samoa, and that, at the expiration of five years, a fresh appointment is to be made 'on the same terms and conditions.' It is true, it is stated, that the nomination is to receive 'the approval of the two other powers.' But this merely affects the nominee, and not the power that makes the appointment; for 'preponderance of interests' is merely a question of fact. And the preponderance of material interests of any one power in the islands being acknowledged, that power would, if the plan submitted by the German minister be accepted, have the right to appoint and reappoint as long as such preponderance continued, whether another power objected or not. Thus, while the actual appointment by the power having preponderating material interests would have to be approved by the other two powers, its right to make the appointment could not be questioned as long as the preponderance lasted.

"That this proposition (however consonant it was supposed to be with the declared object of the conference) might suggest a doubt seems not to have been unappreciated, for, immediately after the statement of the plan, the German minister said:

"In order to avoid every misapprehension of the situation by the placing of the representative of one of the treaty powers in the most prominent position of the Samoan administration, it will be expedient to formally acknowledge anew the principle—already contained in the existing treaties with Samoa—of absolute equality of treatment in respect of commerce, navigation, jurisdiction, and all other matters whatsoever to be secured to the three powers and to their subjects and citizens."

"How far the proposition of the German minister in respect to the adviser is supported by the British minister, I am unable precisely to ascertain. In the memorandum read by the latter at the first meeting of the conference I find the following:

"All three commissioners seem to recognize also the difficulty of tripartite control, such as more or less has been hitherto exercised; while at the same time they deprecate the establishment of the exclusive control of either one of the three powers. Assuming that the establishment of a native government, to be carried on by the king, who may be elected, assisted by a native council, is necessary to preserve the autonomy and independence of the islands, and which can only be established under foreign control, and assuming that tripartite control is impracticable, the solution of the difficulty would seem to be an alternate control for a limited period of either one of the three powers. In the event of coming to this agreement the question naturally arises as to which power should be chosen the mandatory of the other two in the first instance, and Her Majesty's Government consider that preponderating commercial interests should be taken into consideration in deciding it.

"Since Mr. Thurston, Mr. Travers, and Mr. Bates all seem to concur that this preponderance is possessed by Germany to a greater or less extent. Her Majesty's Government are therefore prepared to consent to the mandatory power

being exercised by the German representative for first term of five years, absolute equality of treatment in respect of commerce, navigation, and jurisdiction, and all other matters whatsoever to be secured to the three powers and to their subjects and citizens."

"Thus, while the British minister concurred in the proposition for a single adviser, he said that, in the event of an agreement on that point the question would arise as to which power should be chosen as the 'mandatory of the other two in the first instance'; that Her Majesty's Government considered that preponderating commercial interests should be 'taken into consideration in deciding it'; and that as Germany had the preponderating interests Her Majesty's Government were prepared to consent to the mandatory power 'being exercised by the German representative for the first term of five years.'

"In a paper read by him at the third session of the conference the British minister said (Protocol, page 6) that the mandatory scheme did not involve 'the recognition of any preponderating interests which, as the Secretary of State has justly remarked, ought not to be taken into account in dealing with the matters before the conference'; that Her Majesty's Government did not see that any 'exclusive control' was involved in the arrangement, as the mandatory power 'could only be exercised with the consent of the other two powers,' and it seemed, therefore, a matter of small importance which should be the first to exercise it."

"When I observed that the British minister spoke of the government that was to be the 'first' to take the mandatory office, and inquired whether he meant that there was to be an alternation, and that the power taking the office 'first' was, after five years, to be succeeded by another, he replied that it would be alternative, 'with the consent of the other two,' and when I further inquired what was the object of saying 'first,' and why not say 'perpetual,' he replied that it must be alternative 'if it came once to each.'

"At the fourth session of the conference the British minister, in explanation of the phrase, 'alternate control for a limited time,' previously employed by him, said that it did 'not imply that the representative of each power' should be elected in 'rotation,' but merely that the mandatory scheme bore an 'alternate character'; for, should German preponderance cease at the end of the first five years the next power possessing it in succession would, according to the German plan, exercise the mandatory power. It is distinctly understood that under the German plan preponderating interests for the time being should be taken into consideration in deciding the question as to which power should designate the representative under the approval of the other two powers."

"This statement, I observe, while it advert to a preponderance of interests, goes no further than to say that 'preponderating interests for the time being should be taken into consideration in deciding the question as to which power should designate the representative under the approval of the other two powers'; and, as the British minister stated, at our last meeting, that his prior declaration that 'the mandatory scheme does not involve the recognition of any preponderating interests which ought not to be taken into account in dealing with the matters before the conference,' could be read as expressive of his views, I am unable to find an express adherence on his part to what I understand to be the proposition of the German minister, namely, that while the first and subsequent appointments of a mandatory are to be made by one power subject to the approval of the other two, yet the power having the preponderance of interests is to have the unquestioned right of appointment, subject only to the approval by the other powers of the person appointed.

"Between this proposition and the proposition that the power having the preponderance of interest shall appoint, if the other two powers consent, there is to my mind a vast and essential difference. The latter proposition, while not without objectionable features, would not place the right of appointment solely on the ground of preponderance of interests. It could not be exercised on that ground alone, because the consent of the other powers would be required to the exercise of the appointing power each time an appointment had to be made.

"But if it be admitted that the power having the preponderance of material interests shall for that reason make the appointment, subject only to the approval of the appointed by the other powers, then, in my opinion, preponderance of interests and consequent inequality of influence are made the actual basis and controlling principle of the whole scheme of government.

"Of this view of the mandatory scheme, as presented by the German minister, I can find no stronger confirmation than his own argument in its favor, in which, after stating the preponderance of German interests, he says: 'It can not, therefore, be expected that she (Germany) should consent to remain more or less excluded from the efficient control of the country and have it pass to one of the two powers who have less interests.' (Protocol, second conference, page 7.)

"If placing the powers of the adviser in the hands of a representative of one of the other powers would mean the exclusion of Germany, then I am unable to see why placing those powers in the hands of a representative of Germany would not equally mean the exclusion of the other powers from influence in the management of affairs.

"But this is not all. Not only is the idea of exclusive control thus pointedly deduced from the mandatory scheme and made an objection to the exercise of the mandatory powers for the 'efficient control of the country' by any other power than that having preponderance of interests, but the scheme as set forth involves, in my opinion, the virtual displacement of native government, and, instead of native government with foreign assistance, means the absolute and undefined control of the affairs of the islands by a single foreigner. On this point I quote from the German minister's exposition of the mandatory scheme at the second session of the conference (Protocol, page 7), as follows:

"There is only one course left for asserting foreign influence with the Samoan Government, which is so necessary for the general interest, and this is to place one foreign officer at the head of the administration and to invest him with sufficient rights and powers to take the measures required for the maintenance of peace and order, as well as for the prosperous development of commerce and intercourse. As the authority of this official is to be noticeable in an unequivocal way to the foreigners as well as to the natives, it is commendable that the appointment should not be left to the Samoan Government, but be made by agreement between the treaty powers. At the same time it would appear that the power having to protect the largest interests in Samoa should be given the right to nominate the official whose duty it shall be to control the native government."

"In my opinion, to give a single adviser 'sufficient rights and powers to take the measures required,' not only for the 'maintenance of peace and order,' but as well for the 'prosperous development of commerce and intercourse,' is to invest that foreign official with the absolute power (legislative as well as executive) of government; and to say further that his appointment (not nomination) 'should not be left to the Samoan Government, but be made by agreement between the treaty powers,' and that it shall be his 'duty' 'to control the native government,' only emphasizes the virtual destruction of the native independence and autonomy. The result would be the same whether the adviser exercised his powers with impartiality or whether he was influenced in his official conduct by the fact, of which his appointment would be the evidence, that the most extensive foreign interests with which he had to deal were those of his own countrymen."

"To these objections to the advisory plan as presented, which have been substantially stated by me heretofore, the only answer I have as yet seen is that the power which is to appoint the adviser gives, under the plan, every reasonable 'guaranty' for the fair exercise of the functions with which he is to be invested. This argument, as it seems to me, instead of meeting the objections, admits their validity. The United States did not enter upon the present proceeding with the idea that it was either to give to or receive from any foreign power any guaranty

for the good government of the Samoan Islands, and, indeed, such a step would have been inconsistent with its general and well-understood policy. It had treated with the Samoan Government as an independent and responsible government, and to that government alone has looked for the performance of its conventional engagements and protection of American interests thereunder. So it has been with other governments represented in this conference. A guaranty, however, necessarily suggests the idea of actual and responsible control. And for one power to give, and the other powers to accept from it, a guaranty for the good government of the islands, far from being in the direction of the maintenance of the native autonomy and independence, which the powers have heretofore always recognized, would be a step backwards and in the direction of the effectual enfeeblement and ultimate obliteration of the native autonomy.

"When we consider the outline of the plan for the settlement of land titles submitted by the German minister, the sweeping and pervasive authority of the 'adviser' is disclosed with equal clearness. In the plan proposed by me for the support of the native government the land question occupied an essentially prominent place. The same may be said of the plan submitted by the other members of the conference; for, as it was admitted that the land claims of foreigners far exceeded the area of the islands, the necessity of providing for the natives some means of escape from demands so clearly unwarranted was recognized on all hands. These plans are now before the conference. That submitted by me was for a single judicial body, of original and final jurisdiction, to consist of five members who should be appointed by the king, three on the several nomination of the three treaty powers, and two of his own selection. The British minister proposed a land commission, to be succeeded by an 'International Land court.' The German minister, in his plan, has proposed a land commission of three foreigners, with power to create subcommissions of natives, whose decisions, however, are not to be conclusive on the questions submitted to them, and this foreign commission to be followed by a land court.

"This land court is to be composed of a judge appointed by the 'Samoan Government,' and the consul or consuls, or a prominent countryman or countrymen, of the litigant or litigants. I adverted at our last meeting to the fact that I had discovered no provision in this plan for an appeal by a native from the commission to the land court, and also to the uncertain and shifting constitution of this tribunal, which would preclude uniformity and certainty of decision, and might, in certain cases, lead to a deadlock.

"But the point to which I desire now to advert is that the 'Samoan Government,' which is thus to appoint the 'judge' of this land court of last resort, is the foreign adviser, who, as the German minister stated, would make the appointment, the king simply confirming it. As the appeals to the land court would, perhaps, generally rest between two contestants or claimants, this would give the adviser the appointment of the person to cast the deciding vote. There is, moreover, nothing in the plan to prevent the adviser from acting as the judge himself (as, indeed, I understand the German minister to intimate might be done), thus combining the functions of supreme executive and legislative control with those of supreme land judge. And it can hardly be supposed that the addition of judicial to executive and legislative functions would detract from his authority.

"The plan submitted by me provided, in my judgment, for the full recognition of native rights, as well as for the complete protection of foreign interests. The suggestion heretofore made that, by reason of not voting together, the foreign judges would not secure foreign claimants against the interested views and inclinations of the two native judges, is not, to my mind, by any means conclusive against the plan. I should not think it desirable to see the foreign judges assuming a position suggestive of opposition to native claimants, and indicative of an opinion that their claims were generally not well founded.

"As to the places from which the foreign judges proposed by me, as well as the foreign members of the executive council, should come, I make no suggestion or proposition as to whether they should be Samoan residents or sent out from the territory of the power making the nomination. Should the latter alternative be thought desirable, I can see no objection to its adoption.

"In reply to the argument made by the German minister against the plan proposed by me for an executive council, that it would involve and perpetuate the calamities of tripartite control, as heretofore attempted in the municipality of Apia, I desire to point out, in the first place, that the council proposed by me was to consist of five persons and not of three, and that two of the five, the king and the vice-king, were to be native Samoans. In the second place, it is to be observed that, following out the idea that the government was to be native, independent, and autonomous, the three foreign nominees proposed by me were not, like the consuls, to be the official representatives of the three powers, but were to be appointed by the King of Samoa, and to be officers of the Samoan Government in the fullest sense, receiving their salaries from that Government and in no way dependent upon, or under or subject to the control of, any foreign power. The principle of my proposition was not new. It has been acted upon in the mixed tribunals in Egypt, and has been adopted by the three powers represented in this conference in the constitution of judicial tribunals elsewhere, and, far from having been found to contain the 'germ of death,' has operated for the promotion of justice and to the great and acknowledged satisfaction of all concerned.

"It will thus be seen that the further this conference has progressed, and the views and objects of the plan presented by the German minister are developed by him, the further we find ourselves departing from any substantial recognition of a native autonomy for Samoa and the consequent independence of that island group.

"The plan as proposed and explained by Mr. von Alvensleben is substantially a foreign autocratic government, based on mercantile interests, and all experience has shown what must necessarily result from such an attempt; and that under it the defeat of the objects we have all distinctly proposed is certain.

"I do not see why we should not recognize at the outset and encourage in Samoa a spirit of self-governing freedom and self-respect. Germany and the United States have heretofore given strong indications of their desire for this by their prompt disavowals of the arbitrary and unauthorized acts of their respective consuls (Steubel and Greenbaum). And it is noticeable that the conduct of foreigners has been the cause of more disorder and discontent in Samoa than any spontaneous action of the natives, who, whenever they have acted improperly or immorally, would appear to have done so upon the instigation of some foreign agent.

"We can not, therefore, condemn native self-government in advance, for it has not been tried, and a plan containing such elements is entitled to favorable consideration and to be fairly tested.

"Would it not, therefore, be well for us to adjourn this conference until the autumn, and thus give time to the ministers of Germany and Great Britain to submit these protocols to their respective Governments in order that instructions may be received by them of a more definite character, by aid of which we may be enabled to come to an agreement?"

In reference to the paper read by the German minister, Mr. Bayard desires to add that he considered his original proposition for an executive council of five—three foreigners and two natives—to be in close pursuance of the recommendations of the American and British commissioners, and that he had not found in the report of either of those gentlemen any concurrence in the opinion that the native government should be "assisted and controlled by one common organ of the three powers."

Sir Lionel West: You propose then to postpone the conference for the reasons you have stated?

Mr. Bayard: Yes.

Sir L. West: Under the circumstances I do not see that there is any other course to be taken. You propose that the conference is to adjourn, and not be broken up.

Mr. Bayard said his proposition was to adjourn until the autumn, for the reasons he had stated. He thought it essential that the government of the islands should rest upon sound principles, and he had endeavored to show what he thought would be the logical results of the measures laid down by the German minister, and as they had been discussed in the conference.

Sir L. West: We will simply inform our Governments that you propose adjournment for reasons stated in writing.

Mr. von Alvensleben: Principally because of the mandatory scheme, which Mr. Bayard did not think acceptable.

Mr. Bayard: And for which I have submitted reasons. I consider that it would lead to results destructive to the express purpose and objects of this conference.

The following memorandum in reference to certain observations in Mr. Bayard's paper is added at the request of the German minister:

"Mr. Bayard made in his memorandum a remark which would, if correct, reflect unfavorably upon the conduct of the former German representative in Samoa. As the proposition of the adjournment of the conference put an end to our present deliberations I was prevented from saying, in reply to that intimation, what I am much interested to see added to the protocol; this is, that I am thoroughly unaware of the facts on which Mr. Bayard may base his criticisms of Dr. Stuebel's conduct.

"If Mr. Bayard thinks, as it seems, that Dr. Stuebel's departure from Apia soon after the arrival of the German special commissioner there gave expression to a supposed disapproval by the Imperial Government, I desire to state that it was merely to prove the readiness of my Government for complying with Mr. Bayard's proposition to change the consular representatives of the three treaty powers, that a leave of absence was granted to Dr. Stuebel, and that there was no other reason whatever for his departure from Apia."

T. F. BAYARD.  
ALVENSLEBEN.  
L. S. SACKVILLE WEST.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McCook, its Secretary, announced the passage of the bill (H. R. 11658) making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1890, and for other purposes, with amendments; in which concurrence was requested.

It also announced the passage without amendment of bills of the following titles:

A bill (H. R. 11693) to amend section 565 of the Revised Statutes relating to the District of Columbia; and

A bill (H. R. 1368) to quiet title of settlers on the Des Moines River lands in the State of Iowa, and for other purposes.

It also announced non-concurrence in the amendments of the House to the bill (S. 3132) to provide for trial by jury in the police court of the District of Columbia, and for other purposes, requested a conference on the disagreeing votes of the two Houses, and had appointed as conferees on the part of the Senate Mr. FAULKNER, Mr. SPOONER, and Mr. FARWELL.

It also announced the passage of the bill (S. 3932) to provide for the expenses, compensation, and mileage of a special messenger sent by the Secretary of State to the State of Florida for the certificate of the electoral vote of that State of A. D. 1888 for President and Vice-President of the United States, in pursuance of the provisions of section 141 of the Revised Statutes as amended by the act approved October 19, 1888; in which concurrence was asked.

It also announced that the Senate had agreed to the amendments of the House to bills of the following titles:

A bill (S. 3858) in relation to dead and fallen timber on Indian lands; and

A bill (S. 3800) directing a survey of a road from the Aqueduct Bridge to Mount Vernon, and making an appropriation therefor.

It also announced that the Secretary of the Senate had been directed to furnish the House of Representatives, in compliance with its request, a duplicate copy of the concurrent resolution directing the manner of the enrollment of the bill (S. 2305) to authorize and provide for the disposition of useless papers in the Executive Departments.

#### RELIEF OF CERTAIN VOLUNTEER AND REGULAR SOLDIERS, ETC.

Mr. STEELE. I ask by unanimous consent to call up the bill (H. R. 6106) for the relief of certain volunteer and regular soldiers of the late war and the war with Mexico, returned from the Senate with amendments.

Mr. McMILLIN. Let the amendments be reported.

Mr. STEELE. I move that the amendments be non-concurred in and the conference asked on the part of the Senate be granted.

The Senate amendments were read.

Mr. DUNN. I object.

The SPEAKER. The bill, with the amendments of the Senate, remains upon the Speaker's table.

Mr. CUTCHEON. Will not the gentleman from Arkansas allow the gentleman from New York to make a brief statement in regard to this bill?

Mr. DUNN. I have no objection to that, but I think it had better go over, especially as the gentleman from Missouri wants to take up the appropriation bill.

Mr. HOLMAN. Why not allow it to go to conference?

Mr. DUNN. I think it had better be considered by the House.

The SPEAKER. Objection is made.

#### ENROLLED BILLS SIGNED.

Mr. ENLOE, from the Committee on Enrolled Bills, reported that

the committee had examined and found duly enrolled bills of the following titles; when the Speaker signed the same:

A bill (H. R. 1860) to amend section 603 of the Revised Statutes; and  
A bill (H. R. 331) for the relief of David Meriwether.

MAJ. GEN. HENRY J. HUNT.

MR. SPINOLA. Mr. Speaker, the gentleman from Missouri yields to me to ask a favor of the House, which I will state in a moment's time. I ask unanimous consent to discharge the committee from the consideration of the bill for the retirement of Maj. Gen. Henry J. Hunt, and put it now upon its passage. I ask it for the reason that he is at the point of death, and in all probability before the bill can become a law he will have been called to his final account. I therefore ask to take the bill up and put it upon its passage.

THE SPEAKER. The bill will be read, subject to objection.

MR. McMILLIN. Let the report be read also.

The bill was read at length.

THE SPEAKER. Is there objection to the present consideration of the bill?

MR. KILGORE. I understand that this officer is on the retired-list now with the rank of colonel. Is that so?

MR. WHEELER. That is true.

MR. KILGORE. Then I object.

MR. WHEELER. It is also true that in the Forty-eighth Congress the House passed this bill by a three-fourth vote, and the Senate passed the bill by a unanimous vote.

MR. KILGORE. Regular order.

#### AGRICULTURAL APPROPRIATION BILL.

MR. HATCH. I renew the motion that the House resolve itself into Committee of the Whole to consider the agricultural appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, Mr. STONE, of Kentucky, in the chair.

THE CHAIRMAN. The House is now in Committee of the Whole for the purpose of considering general appropriation bills, and the Clerk will report the title of the first bill.

The Clerk read as follows:

A bill (H. R. 12485) making an appropriation for the Department of Agriculture for the fiscal year ending June 30, 1890, and for other purposes.

MR. HATCH. I ask unanimous consent to dispense with the first reading of the bill, and also that general debate upon it may be considered as closed, and that the bill be now read by sections for debate and amendment under the five-minute rule.

MR. MORGAN. Before that is done I desire to reserve all points of order upon the bill.

MR. HATCH. Points of order have been already reserved.

THE CHAIRMAN. Without objection the first reading of the bill will be dispensed with, and the gentleman from Missouri asks unanimous consent that general debate be considered as closed. Is there objection?

There was no objection.

The Clerk read as follows:

Seed division: For the purchase, propagation, and distribution, as required by law, of seeds, bulbs, trees, shrubs, vines, cuttings, and plants, and expenses of labor, transportation, paper, twine, gum, printing, postal-cards, and all necessary material and repairs for putting up and distributing the same, and to be distributed in localities adapted to their culture, \$100,000.

MR. ENLOE. I offer an amendment to that paragraph.

MR. HATCH. What is it?

MR. ENLOE. I move to strike out all after line 21, on page 10, down to the end of line 3, on page 11, the paragraph which has just been read.

MR. BUCHANAN. The whole of this paragraph has not yet been read.

MR. HOLMAN. Oh, yes; this is one independent paragraph.

MR. ENLOE. If the gentleman desires to have the entire paragraph read I have no objection. But I offer this amendment, Mr. Chairman, with the object in view of trying to retire the United States Government from the wholesale seed business, and to try to retire the members of Congress from the retail seed business. I offered a similar amendment to the same paragraph of a similar bill in the first session of the Fiftieth Congress, proposing to cut this abuse down then one-half.

This amendment now proposes to cut it up by the roots, and if I could succeed in getting the amendment adopted I should propose also to strike out that part of the bill which provides an appropriation of \$8,400 for the pay of the superintendent and clerks in the seed division. In addition to that, I should also propose to go further and strike out the sum of \$4,200 appropriated for printing seed-pockets, labels, postal-cards, circulars, etc. So that if the proposition shall be adopted the amount in the aggregate that would be saved would reach the sum of \$112,600.

I know that this is a proposition that will not meet with the favor of many gentlemen on this floor, because it proposes to deprive them of the privilege of distributing seeds to their constituents. I understand that the object of the Government in establishing this bureau, or the object of Congress in making the first appropriation for the purchase of seeds, rather, was a very proper one. It contemplated the buying of new and valuable varieties of seeds and letting the Government take

the risk and expense of making the experiments and tests to see whether they were adapted to our soil and climate, and thus save the farmers of the country that risk, in which way the appropriations for this purpose were designed to promote agriculture.

But, sir, we have departed very far from the original object in making the first appropriation. That appropriation was made in 1839, and the amount provided for the purchase of seeds and plants was the small sum of \$1,000. Congress in 1851 increased the appropriation to \$5,000 per annum. In 1862 the Bureau of Agriculture was established and the sum of \$62,000 was appropriated for this purpose. It has thus continued steadily to grow in popularity with the members of Congress until to-day we are appropriating \$100,000 annually for the purchase of seeds and for distributing them amongst our constituents. Congress, when it created the Bureau of Agriculture, declared the general designs and duties of the bureau to be—

To acquire and to diffuse among the people of the United States useful information on subjects connected with agriculture in the most comprehensive sense of that word, and to procure and propagate and distribute among the people new and valuable seeds and plants.

So it will be seen that the original idea was that the bureau should propagate and distribute new and valuable seeds and plants, but it was not within the contemplation of Congress at that time to go to the seed-growers and buy the same seeds that are sold everywhere by merchants and distribute them among the farmers.

While this system is perhaps a boon to some people in this country, and has the approval and support of a great many men who have become attached to it, especially members of Congress who send these seeds to their constituents for campaign purposes, yet it does seem to me that it has grown into such an abuse, and a moss-covered abuse at that, that we can not longer permit it to pass the House in an appropriation bill without at least an effort to abolish it. The time has come when the object which was originally sought in purchasing seeds for distribution no longer furnishes a reason for such legislation.

It was an evil principle in the beginning, however much we may approve the purpose in view. Insignificant as the sum expended may appear, and small as the benefit received by the individual citizen who receives the seed is, still it is part and parcel of the legislation of a political school in this country which is steadily seeking to destroy self-reliance and to teach people to look to the Federal Treasury for gifts.

I can remember the good old days when the good women in the country homes carefully saved their own garden seeds every year and always had not only enough for their own use but some to give away to their neighbors. It is not generally so any more. Some look to the Government for a supply, and some look to the seed stores. A few of the more provident still pursue the wise plan of caring for small things and saving garden seeds at home.

Of the thousands of papers of seeds sent out by members with the request from the Bureau of Agriculture for reports of results, how many are ever heard from? Instead of sending back reports to the Commissioner of Agriculture of the failure or success of the experiments with the seeds, as the law intends, the majority think nothing about it and care less.

Some persons who receive the seeds do not even save seed from them when they are satisfactory, and often the very next season the member who sent them will receive postal-cards and letters asking for the same seeds, and frequently the order of one constituent is of such proportions that even the Bureau of Agriculture can not supply all the varieties embraced in the order.

MR. HATCH. I understand the gentleman from Tennessee desires to speak not only to this paragraph, but also to that which follows it. I am perfectly willing to yield the gentleman five minutes more.

MR. ENLOE. As I understood the chairman of the committee, I was to be allowed, if I did not make any objection to the request to dispense with general debate, some twenty-five minutes.

MR. HATCH. As I understood, the gentleman was going to make a proposition on the point of order that was to be raised on the next paragraph.

MR. ENLOE. I do not propose to discuss the point of order. I propose to discuss the question on its merits. As to the point of order, I do not care.

MR. HATCH. I ask unanimous consent that the gentleman may be allowed to proceed fifteen minutes.

MR. BREWER. Mr. Chairman, I hope that the same privilege will be extended to others.

MR. HATCH. If there is any disposition to speak against it, that would be all right; but I do not think when the gentleman gets through it will be found necessary to occupy more than five minutes. [Laughter.] If the gentleman from Michigan wants time, I will see that he is allowed the privilege of speaking.

MR. BREWER. I do not think it will be necessary to speak at all, but still I desire to have the right to do so.

MR. BUCHANAN. As I understand the proceedings on this paragraph, it is not to prevent the point of order being made on the next.

MR. HATCH. The point of order is against the next paragraph, which has not been read.

MR. BUCHANAN. But the amendment the gentleman proposes reaches to that paragraph also.

Mr. HATCH. The gentleman does not desire to repeat his speech.

Mr. FARQUHAR. That paragraph has not been read.

Mr. HATCH. The gentleman has an amendment to make, not as to the administration of the seed division, nor as to how it shall be conducted, but he proposes to strike it out.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri that the gentleman from Tennessee may be allowed to proceed for fifteen minutes? The Chair hears none.

Mr. ENLOE. I am very much obliged to the gentlemen who feel so much personal concern about their supply of garden seed, for the courtesy they have extended me in allowing me to proceed in accordance with what I conceived to be my right under the agreement.

When I was interrupted I was proceeding to discuss the present method of distributing the seeds through members of Congress. In 1880 the politician laid his relentless grasp upon the seed division, and took for his own perquisite, to be distributed as he might elect, two-thirds of all the seeds purchased by the Commissioner of Agriculture.

The number of papers received this year by each member is seven thousand, and such great agricultural centers as New York and Chicago, where they raise no other agricultural product but "bulls" and "bears" to toss the prices up, and to ride the prices down, receive the same quantity that goes to the great agricultural empire in the "wild and woolly West" represented by my friend from Texas [Mr. LANHAM].

Now, let us work out the scheme for distribution. Seven thousand papers of seeds to be distributed among 150,000 inhabitants would give each inhabitant of a Congressional district one paper of seeds about every twenty-one years if equitably distributed, and if you were to count the seeds perhaps each inhabitant would receive about one seed every year, and every one knows that a farmer can not do much good with one seed.

Mr. MORGAN. Do you think a farmer can be seduced into giving his vote by a single seed?

Mr. ENLOE. No, sir; I am not talking about seduction. But, Mr. Chairman, if you are going to continue this business and the Government is going to run a wholesale seed house, I am in favor of putting it right down on a business basis and making the appropriation large enough so that everybody who pays taxes shall get seeds. Let the postmaster make the distribution. Let every man make his requisition upon the postmaster for the quantity of seed he wants, and let the postmaster draw upon the Department and thus give everybody an equal chance.

As it is, the distribution is unequal, unjust, and unfair, and I am opposed to taking money out of the pockets of one set of people to buy seed and giving all the seed to another portion of the people—because a great many of them never see a seed from the Department, because no man can distribute them equally. I know, furthermore, that there is great difficulty growing out of the transmission of these seeds through the mails. A man sees that his neighbor is receiving seed, and he says that he wants some, too, and he sits down and writes to his representative, and the consequence is that the mail of members of Congress is burdened with applications for seed, and the members are said to be so overworked that there is a proposition now pending to give them clerks in order to relieve them of the burden of work that is cast upon them by this seed business and other duties outside their legislative business.

I am opposed to the seed distribution, and against the proposition to give clerks to members, but if this system is sustained it will not be long before we will be called upon to pay from two to three hundred thousand dollars annually for clerks for the members of the House. I entertain the opinion if one man is to have his garden seeds furnished by the United States Government that every other tax-payer is equally entitled to them. But if you are going to have tests made, and reports made, and are going to disseminate information among the farmers according to the original purpose in creating the Bureau of Agriculture, then this appropriation is much larger than is necessary for that object.

Another view of the matter is this, and it is the business view: We appropriate \$100,000 for seed annually, but the actual amount that is invested in seed, common seed at that, is only \$49,137.97. The expense of handling them is \$50,862.03. The expense of transmitting them through the mails, 205 tons of matter, as estimated by the Commissioner, is \$32,800 more, for I am informed by the Third Assistant Postmaster-General that it costs about 8 cents a pound to handle this class of matter in the mails.

Sir, when you come to sum it all up—how much you spend for seed, how much you pay for clerks and officials to handle them, how much you pay for the transmission of the seed—you find that in order to send out \$49,000 worth of seeds you expend \$96,000 for salaries and expenses of handling generally. Therefore I say it is not a good business operation.

Mr. SOWDEN. Abolish the Department.

Mr. ENLOE. Yes, I would like to abolish all of the Department that is conducted on such principles of humbuggery as this is; and this item is not all there is in the bill.

Let me call attention to another fact. We made an appropriation of \$535,000 last session to establish experiment stations all over the country. There is a provision in this bill appropriating \$600,000 more

for the same purpose, and this sum, or a greater one, will be the annual cost.

Section 2 of the act creating these stations says:

That it shall be the object and duty of said experiment stations to conduct original researches or verify experiments on the physiology of plants and animals, the diseases to which they are severally subject, with the remedies for the same; the chemical composition of useful plants at their different stages of growth; the comparative advantages of rotative cropping as pursued under a varying series of crops; the capacity of new plants or trees for acclimation; the analysis of soils and water; the chemical composition of manures, natural or artificial, with experiments designed to test their comparative effects on crops of different kinds; the adaptation and value of grasses and forage plants; the composition and digestibility of the different kinds of food for domestic animals; the scientific and economic questions involved in the production of butter and cheese, and such other researches or experiments bearing directly on the agricultural industry of the United States as may in such case be deemed advisable, having due regard to the varying conditions and needs of the respective States or Territories.

So it will be seen that we are paying more than a half million of dollars for stations in every State and Territory of the Union to make lists and furnish information beneficial to agriculture. I am in favor of an appropriation to disseminate all kinds of useful knowledge on this subject. I would have the reports of these experiment stations and the agricultural reports printed in much larger numbers and distributed broadcast all over the country, so that all the people might have an opportunity to profit by them; and I would have them published in plain English, that people generally can understand. But, sir, I am opposed to the waste of public money in this little electioneering scheme, which looks to me more like a piece of contemptible demagogic than wise statesmanship.

Mr. DUNHAM. Why not introduce a bill to cut down the salaries of members of Congress and save the people some money?

Mr. ENLOE. If I were to introduce such a bill the gentleman would not let it pass through this House if he could prevent it by filibustering. [Laughter.]

Mr. DUNHAM. Is that the reason you do not introduce it? I give you notice now that if you introduce such a bill I will vote for it. [Laughter.]

Mr. ENLOE. Are you a member of the next Congress?

Mr. DUNHAM. No, sir.

Mr. ENLOE. Then your self-sacrifice is easily understood. [Laughter.]

Mr. WHEELER. I am, and I will vote for it and speak for it.

Mr. ENLOE. There are a number of gentlemen upon this floor who have a decided advantage over me as members in many respects. Many gentlemen can hire clerks to distribute seeds and conduct their correspondence. They have the money; I have not. They can buy seeds and distribute them. They have the money; I have not. But I can afford to serve the people for as little money as any gentleman on this floor, and if there is anybody here who thinks that he gets more salary than he earns he can cover it back into the Treasury.

Mr. DUNHAM. I will agree to cover back half of mine if you will do the same with yours. [Laughter.]

Mr. ENLOE. Well, you go ahead and cover in yours, and I will see about mine later. [Laughter.] Now, Mr. Chairman, this bureau has become almost a Department of the Government. We have passed a bill through both Houses of Congress proposing to make the Commissioner of Agriculture a Cabinet officer and to give him a seat in the Cabinet, and I think he ought to be charged with some more responsible duty than that of distributing seed. I think this Department ought to be elevated so that the people might look to it for light and knowledge on the subject of agriculture, but not look to it as an agency for the distribution of garden seeds that can be bought cheaper at home, or, better still, raised at home.

At my request, the Commissioner of Agriculture submitted to me a statement of the number of experiment stations which have been established, and I find that every State in this Union has established an experiment station; and some of them two or three such stations. I find furthermore that nearly every State has organized a board of agriculture, has appointed a secretary or commissioner of agriculture, through whom, if the people want to buy seed by wholesale for free distribution, they can do so by means of money appropriated from the treasury of the State.

Why should the Commissioner of Agriculture, charged with looking after the agricultural interests of the whole country, give his attention to the distribution of these seed? I know that gentlemen are disposed to ridicule the idea of anything that will interfere with what is treated as a personal perquisite. So far as that is concerned, this opposition has not disturbed me in the least. It is a well-known fact that an office is easily created and an abuse is easily established, but patriotism rarely and with great difficulty rises to the point of abolishing the one or reforming the other, except under the stinging lash of outraged public opinion.

Gentlemen who object to the view I take of this matter are at liberty to vote against my proposition. But I believe that the agitation of this question, if properly carried before the people, will elicit a voice on the part of the farmers of this country demanding that Congress shall abandon the distribution of seeds. If I favored a continuation of this system I would provide that instead of the distribution being made through members of Congress, an appropriation should be made to en-

able the commissioners of agriculture in the respective States to make the distribution; for the present system is only an indirect way of collecting taxes from the people and returning the money again to them in the shape of seeds, less about two-thirds paid out for salaries and expenses.

Mr. OATES. Is that the proposition of the gentleman from Tennessee?

Mr. ENLOE. No, sir; my proposition is to abolish the system. I do not regard that as a constitutional proposition.

Mr. OATES. I agree with the gentleman.

Mr. ENLOE. I think that any gentleman of the sound judgment and discretion of my friend from Alabama would agree with me.

A MEMBER. How about oats? [Laughter.]

Mr. ENLOE. Well, Oates will grow in almost any part of this country.

A MEMBER. The Agricultural Department does not distribute any.

Mr. ENLOE. The Agricultural Department does not distribute any of the Alabama quality.

Now, Mr. Chairman, I have occupied about as much time on this question as I care to occupy. I only want to say that the farmers of this country, as I understand them, are not begging the Government for seed, but they are demanding that the hand of the tax-gatherer shall be taken out of their pockets, and that they shall be given an opportunity to keep some part of that which they earn by their toil. If you will do that for the farmer, his own industry, and the God above us, who sends the sunshine and the rain, and imparts fertility to the soil, will do the rest.

Mr. Chairman, with these remarks I submit this amendment. If the House sees proper to vote it down, all right; I will still distribute all the seed allotted to me, but if I had the power to prevent it, there should never be another seed distributed by a member of Congress. As a matter of useful information I will append certain tables furnished to me by the Commissioner of Agriculture showing the number and location of experiment stations, and the States having State commissioners, State boards of agriculture, or other State officers charged with the care of the interests of agriculture.

#### Agricultural experiment stations.

Name.	Director.	Post-office.	State.
Agricultural Experiment Station.	J. S. Newman.....	Auburn .....	Ala.
Canebrake Agricultural Experiment Station.	W. H. Newman, assistant in charge.	Uniontown .....	Ala.
Arkansas Agricultural Experiment Station.	A. E. Menke, D. Sc .....	Fayetteville .....	Ark.
Agricultural Experiment Station.	E. W. Hilgard, Ph. D., LL. D.	Berkeley .....	Cal.
Agricultural Experiment Station.	Chas. L. Ingersoll, M. S.	Fort Collins .....	Colo.
Connecticut Agricultural Experiment Station.	Professor S. W. Johnson, M. S.	New Haven .....	Conn.
Storrs's School Agricultural Experiment Station.	Professor W. O. Atwater, Ph. D.	Middletown .....	Conn.
Experiment Station of Dakota Agricultural College.	Lewis McLouth, A. M., Ph. D.	Brookings .....	Dak.
Delaware Agricultural Experiment Station.	Arthur T. Neale, Ph. D.	Newark .....	Del.
Agricultural Experiment Station of Florida.	Rev. J. P. De Pass .....	Lake City .....	Fla.
Agricultural Experiment Station.	Dr. W. L. Jones .....	Athens .....	Ga.
Agricultural Experiment Station.	Selim H. Peabody, Ph. D., LL. D.	Champaign .....	Ill.
Agricultural Experiment Station of Indiana.	Horace E. Stockbridge, Ph. D.	La Fayette .....	Ind.
Agricultural Experiment Station.	R. P. Speer .....	Ames .....	Iowa.
Kansas Experiment Station.	E. M. Shelton, M. S. ....	Manhattan .....	Kans.
Kentucky Agricultural Experiment Station.	M. A. Scovell, M. S. ....	Lexington .....	Ky.
Sugar Experiment Station No. 1.	W. C. Stubbs, A. M., Ph. D.	Kenner .....	La.
Louisiana Agricultural Experiment Station No. 2.	W. C. Stubbs, A. M., Ph. D.	Baton Rouge .....	La.
North Louisiana Experiment Station No. 3.	W. C. Stubbs, A. M., Ph. D.	Calhoun .....	La.
Maine Agricultural Experiment Station.	W. H. Jordan, M. S. ....	Orono .....	Me.
Maryland Agricultural Experiment Station.	Henry E. Alvord, C. E.	Agricultural College .....	Md.
Hatch Experiment Station.	Henry H. Goodell .....	Amherst .....	Mass.
State Agricultural Experiment Station.	Professor Charles A. Goessmann .....	do .....	Mass.
Agricultural Experiment Station.	Edwin Willets, M. A. ....	Agricultural College .....	Mich.
Agricultural Experiment Station.	Edward D. Porter, Ph. D.	St. Anthony Park .....	Minn.
Mississippi Agricultural Experiment Station.	S. M. Tracy, M. S. ....	Agricultural College .....	Miss.
Missouri Agricultural Experiment Station.	Professor J. W. Sanborn, B. S.	Columbia .....	Mo.
Agricultural Experiment Station of Nebraska.	Charles E. Bessey, M. S. Ph. D.	Lincoln .....	Nebr.
Nevada Agricultural Experiment Station.	Le Roy D. Brown, Ph. D.	Reno .....	Nev.
New Hampshire Agricultural Experiment Station.	G. H. Whitehead, B. S. ....	Hanover .....	N. H.

#### Agricultural experiment stations—Continued.

Name.	Director.	Post-office.	State.
New Jersey State Agricultural Experiment Station.	George H. Cook, LL. D.	New Brunswick .....	N. J.
New York Agricultural Experiment Station.	Peter Collier, Ph. D.	Geneva .....	N. Y.
Cornell University Agricultural Experiment Station.	J. P. Roberts, Ag. M.	Ithaca .....	N. Y.
North Carolina Agricultural Experiment Station.	H. B. Battle, Ph. D.	Raleigh .....	N. C.
Ohio Agricultural Experiment Station.	Charles E. Thorne .....	Columbus .....	Ohio.
Oregon Experiment Station.	E. Grimm, B. Sc. ....	Corvallis .....	Oregon.
Agricultural Experiment Station.	H. P. Armsby, Ph. D.	State College .....	Pa.
Rhode Island State Agricultural Experiment Station.	Charles O. Flagg, B. S., director <i>pro tem.</i>	Kingston .....	R. I.
South Carolina Agricultural Experiment Station.	J. M. McBryde, Ph. D., LL. D.	Columbia .....	S. C.
Agricultural Experiment Station.	Charles W. Dabney, Jr., Ph. D.	Knoxville .....	Tenn.
Texas Agricultural Experiment Station.	F. A. Gulley, M. Sc.	College Station .....	Tex.
Vermont State Agricultural Experiment Station.	W. W. Cooke, M. A.	Burlington .....	Vt.
Virginia Agricultural Experiment Station.	Col. William Ballard Preston .....	Blacksburg .....	Va.
West Virginia Experiment Station.	John A. Myers, M. A.	Morgantown .....	W. Va.
Agricultural Experiment Station.	W. A. Henry, B. Agr.	Madison .....	Wis.

#### States and Territories having boards of agriculture or other official agricultural organizations.

States.	Designation.
Alabama .....	Commissioner of Agriculture.
Arkansas .....	Compiler of Agricultural Statistics.
California .....	*State Board of Agriculture.
Colorado .....	State Board of Agriculture.
Connecticut .....	State Board of Agriculture.
Dakota .....	Compiler of Agricultural Statistics.
Delaware .....	State Board of Agriculture.
Florida .....	Commissioner of Agriculture.
Georgia .....	Commissioner of Agriculture.
Illinois .....	State Board of Agriculture.
Indiana .....	State Board of Agriculture.
Iowa .....	State Agricultural Society.
Kansas .....	State Board of Agriculture.
Kentucky .....	Commissioner of Agriculture.
Louisiana .....	Commissioner of Agriculture.
Maine .....	Board of Agriculture.
Maryland .....	Board of Agriculture.
Massachusetts .....	Board of Agriculture.
Michigan .....	Board of Immigration (including Agricultural Statistics).
Minnesota .....	Commissioner of Agriculture, etc.
Mississippi .....	State Board of Agriculture.
Missouri .....	Board of Agriculture.
Nebraska .....	Board of Agriculture.
New Hampshire .....	Board of Agriculture.
New Jersey .....	Board of Agriculture.
New York .....	Commissioner of Agriculture.
North Carolina .....	Board of Agriculture.
Ohio .....	Board of Agriculture.
Oregon .....	State Board of Agriculture.
Pennsylvania .....	Commissioner of Agriculture.
Rhode Island .....	Commissioner of Agriculture.
South Carolina .....	Commissioner of Agriculture.
Tennessee .....	Commissioner of Statistics.
Texas .....	Board of Agriculture.
Utah .....	Board of Agriculture.
Vermont .....	Board of Agriculture.
Virginia .....	Commissioner of Agriculture.
West Virginia .....	Professor of Agriculture.

Mr. HATCH. Mr. Chairman, the gentleman from Tennessee [Mr. ENLOE] unquestionably misapprehends the law under which these seeds are distributed. If he has ever read the original act, he has certainly forgotten it. The law requires that the Commissioner of Agriculture in the expenditure of this appropriation shall propagate and, at the request of members of Congress, distribute rare and valuable seeds suited to the localities to which they are sent. Now, if the gentleman has any criticism to make upon the present Commissioner of Agriculture or any former Commissioner of Agriculture in reference to the execution of this law, why does he not make a criticism of that kind instead of directing his criticism against the law itself?

Mr. ENLOE. Will the gentleman let me answer him?

Mr. HATCH. The gentleman said he had occupied all the time he wanted.

Mr. ENLOE. But the gentleman has asked me a question, and I would like to answer it.

Mr. HATCH. I expect to occupy only five minutes, and I do not care to have my time taken up with interruptions.

Mr. ENLOE. I would like to answer the gentleman's question; it will take but a moment. I have no criticisms to make in reference to the present Commissioner of Agriculture or any other. I understand the Commissioner simply executes the wishes of members of Congress, who desire the kinds of seed the people call for.

Mr. HATCH. Well, that is the severest criticism that the gentleman could pass upon either the Commissioner of Agriculture or members of this House. It is the duty of the Commissioner of Agriculture to execute that law so as to distribute throughout the United States such rare and valuable seeds as have been found of benefit to the agriculture of the country.

Mr. ENLOE. Does the gentleman believe he does it now?

Mr. HATCH. I do believe it. I not only believe it, but I know it. I can give one instance. A former Commissioner of Agriculture, alert as he was in matters of this kind, finding that an old farmer up in Pennsylvania had discovered a new kind of wheat, the Fultz wheat, distributed that throughout the length and breadth of this land; and it has been worth more to the agriculture and the wealth of this country than all the appropriations made to the Department of Agriculture in fifty years.

Mr. SOWDEN. The case was the same with the Scotland oats.

Mr. HATCH. It has proved to be worth more than the gentleman from Tennessee and all her other Representatives for the next fifty years will be worth to that State.

Mr. McMILLIN. Will the gentleman include in his remarks the State of Missouri?

Mr. HATCH. Yes, sir; and two or three other States.

Mr. McMILLIN. I am glad the gentleman is magnanimous enough to include himself.

Mr. HATCH. If I should make any exception it would be in the case of my friend [Mr. McMILLIN] who has just interrupted me.

Mr. SPINOLA. I have here a note from the Department of Agriculture notifying me that there are subject to my distribution "one hundred papers of ruta-baga." Does the gentleman think that a "rare and valuable seed?"

Mr. HATCH. I do not think that ruta-baga or turnip seed is either "rare" or "valuable." I do not think such seed ought to be included in this distribution. I have taken this same ground on this floor every time this bill has been up.

Mr. SPINOLA. Here are also "20 quarts of mangel-wurzel." Do these come under that high designation of "rare and valuable seed?"

Mr. HATCH. I think not, unless they be a new variety of mangel-wurzel.

Mr. SPINOLA. Here again are "10 quarts of melon barley."

Mr. HATCH. The proposition of the gentleman from Tennessee [Mr. ENLOE] is not to correct any abuses in this distribution, if they exist; it is simply to strike from the bill the appropriation for any seed distribution at all. Now, the farmers of the country do not get a great deal from the Government. They pay the largest share of taxes according to their numbers and wealth. They are more heavily tax-ridden than any other class. About all they get in return is what they get through published reports of the Department of Agriculture and from the tests made of rare and valuable seeds and plants.

Every time the gentleman from Tennessee comes back to the execution of the law. The misfortune is that the Democratic party was defeated in November last. If the present President had been re-elected he might have consulted the gentleman from Tennessee and put him at the head of the Department of Agriculture, and then everything would have been lovely. [Laughter.]

Mr. ENLOE. I understand that the gentleman from Missouri was the one upon whom the mantle of that office was to fall.

Mr. HATCH. I had no aspiration in that direction. [Cries of "Vote!" "Vote!"]

Mr. ENLOE. Not now. [Laughter, and cries of "Vote!" "Vote!"] Mr. BREWER. Mr. Chairman, I am not in favor of the amendment proposed by the gentleman from Tennessee [Mr. ENLOE] striking out the entire appropriation for the purchase, propagation, and distribution of seeds, bulbs, plants, vines, etc.; yet I am not satisfied with the present mode of distribution, nor even with the mode provided for in this bill. When Congress organized the Agricultural Bureau in 1862 it made it the duty of that bureau, among other things,

To acquire and to diffuse among the people of the United States useful information on subjects connected with agriculture in the most comprehensive sense of that word, and to procure and propagate and distribute among the people new and valuable seeds and plants.

Appropriations have been made each year since for the purpose of carrying out that provision of law, and I have no doubt but that the distribution of such seeds, plants, etc., has been beneficial to the people, as stated by the honorable gentleman from Missouri [Mr. HATCH]. But it is far less beneficial now than it was twenty and twenty-five years ago. Then seeds, bulbs, and plants were not cultivated for sale to any such extent as they are to-day. Then the great seed farms and seed stores of Sibley, Ferry, and others throughout the country did not exist, but now these great establishments are found in nearly every State, and they are annually gathering seeds not only from all parts of our own country, but from all parts of the world, and these seeds can now be purchased for a small sum in every village in the country.

Nine-tenths of the seeds now distributed, either through the Agricultural Department or by Senators and Congressmen, are of the most common kind, and can be found in almost any seed store throughout the country. They are not such seeds as were contemplated under the law which I have quoted. They are not new and rare. This is perhaps not the fault of the Commissioner, who makes the purchase, but the fault of Congress. We appropriate \$100,000 annually for the purchase of such seeds and plants, when \$10,000 would buy a sufficient quantity of all kinds that may be called new and rare varieties.

Of all the seeds, plants, cuttings, etc., that are sent out annually by Congressmen, I think it can be safely said that not 5 per cent. of those who receive them ever make any report of the result of their experiment in testing the same, and it is perhaps just as well that they do not, for, as I have stated, as a general thing the same seed, or seeds of the same kind, could have been procured at the village store, and are common to the neighborhood. I apprehend that very few members on this floor receive many letters or calls for seeds and plants for the purpose of experimenting with the same; but a very large proportion of such requests come from people who wish the seeds simply for their own use, and often because they are thereby saved the expense of purchasing the same elsewhere.

Many of our constituents seem to understand that Congressmen have an unlimited supply of seeds of all kinds which are for free distribution. They do not understand that the law providing for the distribution of such seeds was enacted for the public good, instead of for subserving private interests. The growth of our country and the great advancement in practical and scientific agriculture, together with the wonderful increase in the production of seeds, plants, etc., and the collection and distribution of the same by private parties, have made the present process of purchase and distribution through Congressmen almost worthless.

A majority of the Committee on Agriculture have, I take it, arrived at a similar conclusion, for I find they have made provision for distributing such seeds through the agricultural experimental stations in the several States. In order to utilize to the fullest extent the advantages of our several agricultural colleges, or other institutions where the different branches of agriculture are taught, Congress about two years ago established in each State and Territory an experimental station at one such institution of learning, and we are appropriating in this bill \$600,000 to carry out that object for one year. The act establishing these stations, amongst other things, makes the following provision:

That it shall be the object and duty of said experiment stations to conduct original researches or verify experiments on the physiology of plants and animals, the diseases to which they are severally subject, with the remedies for the same; the chemical composition of useful plants at their different stages of growth; the comparative advantages of rotative cropping as pursued under a varying series of crops; the capacity of new plants or trees for acclimation; the analysis of soils and water; the chemical composition of manures, natural or artificial, with experiments designed to test their comparative effects on crops of different kinds; the adaptation and value of grasses and forage plants; the composition and digestibility of the different kinds of food for domestic animals; the scientific and economic questions involved in the production of butter and cheese, and such other researches or experiments bearing directly on the agricultural industry of the United States as may in such case be deemed advisable, having due regard to the varying conditions and needs of the respective States or Territories.

All these institutions where experimental stations are established have farms connected with them where practical and scientific agriculture is taught. These institutions are located in different climates, and the farms are possessed of different kinds of soil. Bulletins are published by these institutions as often as may be deemed necessary, giving to the public the result of all experiments made, whether it be in the raising of stock or the growing of plants or grain. Here we learn not only as to the growing and production of grain and other crops and the manner of producing the same, but we also are informed as to the kind and quality of the soil where the same can be produced or grown to the best advantage, the kind of manure that is best to use, and everything that can be necessary and useful for the people engaged in agricultural pursuit.

Here, then, is the place to make experiments. These stations were established for that very purpose, and if we would only supply such rare seeds, plants, bulbs, etc., as the law provides for purchasing, to these stations to the extent that they can be experimented with each year, we would accomplish more good, in my judgment, to the country with an expenditure of \$10,000 than we now accomplish with the \$100,000 annually appropriated for that purpose. But supposing there shall be more seeds, etc., placed in the hands of the superintendents of these stations than can be utilized by them, they being connected with an agricultural institution, are constantly thrown among the very best class of farmers, and they know what farmers would themselves take an interest in making experiments, and the result of their work, too, could be given in the bulletins as issued.

A far better result must be obtained and the people be far more benefited by the course suggested than by the manner of distributing seeds at the present time. They now go out in a haphazard sort of way, because they are asked for, or because Congressmen do not know what else to do with them, only to send them to such persons as they may for the time being have in mind. But few farmers comparatively can give a report, if they were so inclined, that would be of any prac-

tical benefit. The new kinds of plants, seeds, and grains that are discovered or grown now are not large, and they are discovered and put in circulation or distributed by our great seed dealers much sooner than they can be by the Agricultural Department.

What the farmers now desire, and what will be to their great advantage, is to know how best to grow the various seeds, grains, plants, etc., that they can buy at the seed stores or raise for themselves; in what kind of soil can they be grown to the best advantage, when should the same be planted, grown, and harvested, how best cared for and utilized when gathered, etc. At these agricultural stations is where these experiments should be made, and the result disseminated among the people. Here is the only place where they can be made with success. I do not hope or expect that this bill will be so amended as to carry out the suggestions here made, but I desire to call the attention of the House, as well as the country, to the subject-matter under discussion, fully believing that the policy here suggested will be ere long enacted into a law. I am aware that it is thought by many on this floor that the present manner or method of distributing these seeds tends to strengthen them with their constituents, as does the distribution of public patronage through their personal influence. My judgment is to the contrary.

I believe the privilege of distributing public patronage and seeds as now provided is a source of weakness to the member who exercises the same. The name of Mr. B comes into your mind, and thinking he might like some garden seeds, or his wife some flower seeds, you send the same; but the name of Mr. C does not happen to strike your mind and hence he gets no seeds. Mr. C and his wife learn that Mr. and Mrs. B have some garden and flower seeds, and Mr. and Mrs. C feel slighted, and perhaps you have lost their good-will and support as well. But whether the present system of distributing seeds helps the Congressman who makes the distribution or not ought not to affect our action. What is for the best interests of the people we represent and for the country at large is what we should seek to determine, and our constituents will be satisfied.

Mr. HATCH. I hope we will have a vote. [Cries of "Vote?" "Vote?"]

The amendment of Mr. ENLOE was rejected.

The Clerk read as follows:

The Commissioner of Agriculture shall apportion among the States, on the basis of their representation in Congress, all seeds, trees, shrubs, vines, cuttings, and plants, and shall furnish for distribution the part allotted to each State to the experiment stations established in said State under the provisions of the act of March 2, 1857, entitled "An act to establish agricultural experiment stations in connection with the colleges established in the several States under the provisions of an act approved July 2, 1862, and of the acts supplementary thereto;" and in case any State or Territory shall have failed to establish agricultural experiment stations in accordance with the provisions of said act of March 2, 1857, the seeds, shrubs, vines, cuttings, and plants allotted to said State shall be furnished by the Commissioner of Agriculture to the commissioner or secretary of agriculture of said State or Territory for distribution. The Commissioner of Agriculture shall report, as provided in this act, the place where purchased and the quantity and price of seeds purchased and the date of purchase; and in making distribution, as hereinbefore directed, he shall have due regard for the adaptation of the seeds, trees, shrubs, vines, cuttings, and plants to the climate and soil of the different States. All seeds, trees, shrubs, vines, cuttings, and plants furnished by the Commissioner of Agriculture to the agricultural experiment stations or to the commissioners or secretaries shall be transmitted through the United States mails free of charge for postage, in accordance with the existing law regulating the transmission of such matter through the mails from the Department of Agriculture.

Mr. McCCLAMMY. I make the point of order against that whole paragraph.

Mr. HATCH. I desire to state for the information of the committee that this paragraph was inserted by a majority vote of the committee, a bare majority of those voting when there was not a full membership present, striking out the present existing law; and of course it was my duty to report the bill as it passed the committee. But the point of order has been made by a member of the committee who voted in the minority, and I hope the Chair and the committee will give to the gentleman from Massachusetts [Mr. BURNETT] who offered this amendment in the House such time as he may desire to explain the paragraph before the Chair decides the point of order.

The CHAIRMAN. The Chair will ask the gentleman from Massachusetts how much time he desires?

Mr. HATCH. If the gentleman from North Carolina desires first to state his point of order I hope he will be permitted to do so.

Mr. McCCLAMMY. My point of order is that this changes existing law by providing a different method from that heretofore provided by law for the distribution of seeds. It is new legislation, and not in order upon this bill.

I reserve my time.

The CHAIRMAN. How much time does the gentleman from Massachusetts desire?

Mr. BURNETT. I should like to have fifteen minutes.

The CHAIRMAN. Without objection, the gentleman will be permitted to proceed for fifteen minutes.

There was no objection.

Mr. BURNETT. Mr. Chairman, in offering this resolution before our committee I had occasion to look the matter up and found that this provision is incorporated in the Revised Statutes, section 537. To this statute was added in 1880, by a resolution passed in the Forty-sixth Congress, the present method of distributing the seeds, that is, through

the members of the Senate and the House. The Revised Statutes, as our chairman has said, under which these seeds are now distributed, provides:

SEC. 527. The purchase and distribution of seeds by the Department of Agriculture shall be confined to such seeds as are rare and uncommon to the country, or such as can be made more profitable by frequent changes from one part of our own country to another; and the purchase or propagation and distribution of trees, plants, shrubs, vines, and cuttings shall be confined to such as are adapted to general cultivation and to promote the general interests of horticulture and agriculture throughout the United States.

In looking at the expenditures for the seed department for the fiscal year ending June 30, 1888, I find a most wonderful state of affairs. The rare, valuable, and uncommon seeds, plants, shrubs, trees, etc., I looked for almost in vain. In making a brief synopsis of this statement of the Department I found that 4,655,519 packages of seed were distributed, at a cost of \$49,137.87, or about 1 cent a package.

Upon a further investigation of the subject I found that the miscellaneous and rare seeds, so far as I could make them out from the different bills, was only an item of \$1,483.83. For instance, our chairman speaks of wheat. Now, how much wheat was distributed? The amount paid for it was \$224.95, and only 354 packages were sent out by the different members of the House.

A rare and valuable forage plant, the teosinte, lately brought to the attention of the Southern farmers, of wonderful food-producing qualities, containing less woody fiber and more albumenoids than any other forage plant now growing in the extreme South, was not distributed at all through Members of Congress or Senators, but all through the experiment stations, agricultural societies, or through the miscellaneous applications; the amount sent out was 3,186 packages of this plant, costing \$34, but not one, as I have said, through the members of the House. Take flower seeds; 383,486 packages were distributed.

Mr. HOPKINS, of Illinois. Does the gentleman know why the members did not send out any of that plant to which he has referred?

Mr. DINGLEY. It was not included in the list furnished for distribution.

Mr. HOPKINS, of Illinois. Is it not because the official in charge did not do his duty?

Mr. BURNETT. The cost of the flower seed was \$1,496.80, or a trifle over 4 mills a paper; and one of my colleagues said to-day, in my presence, that some flower seed he had sent to a lady had proved to be of the most common varieties, and she had written him that they were no better than the common plants growing in her front-door yard. The number of packages sent out in 1881 was 3,000, and this year the number was 8,800, and to obtain this large number of packages pressure was brought upon the Commissioner of Agriculture by members of Congress, who wanted them for distribution, and in large quantities. I know as a matter of fact that the members representing country districts have been obliged to go and buy seed from city members or from the seedsmen, in some instances in very large quantities.

A MEMBER. Who was it?

Mr. BUCHANAN. Let us know what member has been selling his seed.

Mr. CONGER. What sort of a constituency?

Mr. BURNETT. I think there is no fair-minded man but that will agree with me that, through these various experimental stations we have established in the various States or through the commissioners or secretaries of agriculture in other States, these seeds can be better distributed. But I would have you go a step further. I would appropriate, under section 527, a thousand dollars to each of the experimental stations in the various States for this purpose. I do appreciate the fact that these seeds rightly distributed will do a great deal of good if they are rare and valuable. I think that every member of the House will bear with me, or at least the country members will, that they have had applications for a whole list of garden seeds. I know of one member from Massachusetts where a man asked him to send seed enough and of variety sufficient to plant his whole garden. We did not spend for plants, trees, or cuttings but \$90; for tree seed \$4.25. I am sorry that this point of order has been raised, and I hope that my friend from Tennessee [Mr. ENLOE] will offer an amendment which will accomplish this object in another way.

Mr. MORGAN withdraws his remarks for revision. [See Appendix.]

Mr. HATCH. I yield one minute to the gentleman from North Carolina [Mr. McCCLAMMY].

Mr. McCCLAMMY. But for the closing remark of the gentleman from Massachusetts I should not have desired to address the House. I represent an agricultural district, and I know something of the workings of this system. I know in what high regard these seeds are held by the people. The whole question contained in the proposition to strike out this provision and to provide for a different distribution of these seeds can be put in a nutshell. It is a matter of easy solution and one which has afforded me great pleasure in contemplation at times. We are free American citizens, and when positions such as these are thrust upon us and the duties become too onerous to be borne we can lay back on our privileges and forward our resignations. [Laughter and applause.]

Mr. HATCH. I have but a single word to say in reply to the gentleman from Massachusetts in regard to this amendment.

Mr. COBB. Before the gentleman proceeds I would like to ask him a question for information, if he will yield to me.

Mr. HATCH. Certainly.

Mr. COBB. Is it not true that the Department of Agriculture, instead of propagating the vegetable seeds which are sent throughout the country, buy them from the seed dealers; and are they not the same seed as those sent throughout the country by these seed dealers for sale at retail?

Mr. HATCH. There is no question about that; and it is one of the duties imposed upon him by this act that he shall, as well as propagate, distribute these rare and valuable seeds. Now, I call the attention of the committee to the fact that these experimental stations have been established but a single year. They are now working under their first appropriation. Many of them have just started. They are not in a condition at the present time, in my judgment, to make as equitable and judicious a distribution of the seed under this appropriation as the members of Congress could do.

No gentleman on this floor has a higher regard for the experimental stations or greater faith in the promise of those institutions than I have, but I do not believe that the time has yet come when this duty ought to be imposed upon them. I hope the Chair will now give us a decision upon the point of order.

Mr. BURNETT. I desire to offer an amendment.

Mr. HATCH. There is a point of order pending.

The CHAIRMAN (Mr. STONE, of Kentucky). The Chair is of opinion that under section 3 of Rule XXI this paragraph is clearly out of order, and should not be in this bill.

Mr. HATCH. I now offer as an amendment a paragraph from the existing law in lieu of the paragraph just stricken out. I am instructed by the committee to offer this amendment.

Mr. BURNETT. I desire to offer a substitute for the amendment of the gentleman from Missouri.

Mr. HATCH. The amendment that I send up is first in order.

The CHAIRMAN. The amendment will be read.

The Clerk read the amendment, as follows:

An equal proportion of two-thirds of all seeds, trees, shrubs, vines, cuttings, and plants shall, upon their request, be supplied to Senators, Representatives, and Delegates in Congress for distribution among their constituents; and the person receiving such seeds shall inform the Department of results of the experiments therewith: *Provided*, That all seeds, plants, and cuttings herein allotted to Senators, Representatives, and Delegates to Congress for distribution remaining uncalled for at the end of the fiscal year shall be distributed by the Commissioner of Agriculture: *And provided also*, That the Commissioner shall report, as provided in this act, the place, quantity, and price of seeds purchased, and the date of purchase. But nothing in this paragraph shall be construed to prevent the Commissioner of Agriculture from sending flower, garden, and other seeds to those who apply for the same. And the amount herein appropriated shall not be diverted or used for any other purpose but for the purchase, propagation, and distribution of improved and valuable seeds, bulbs, trees, shrubs, vines, cuttings, and plants: *But provided, however*, That the Commissioner shall not distribute to any Senator, Representative, or Delegate seeds entirely unfit for the climate and locality he represents, but shall distribute the same so that each member may have seeds of equal value, as may be, and the best adapted to the locality he represents.

Mr. HATCH. Now, Mr. Chairman, I desire simply to state that that is existing law without one single change.

Mr. BURNETT. I ask that my substitute be now read.

Mr. HATCH. I desire to reserve the point of order on the amendment of the gentleman from Massachusetts [Mr. BURNETT].

The Clerk read as follows:

Substitute for the amendment just read the following:

"For the purchase and distribution of such new, rare, and valuable seeds, bulbs, trees, shrubs, vines, cuttings, and plants, as have not been previously tested, for the use of agricultural experiment stations, \$40,000, or so much thereof as may be necessary. The Commissioner of Agriculture shall report, as provided in this act, the place where purchased and the quantity and price of articles purchased, and the date of purchase, and the quantity and character of seeds, bulbs, trees, shrubs, vines, cuttings, and plants sent to each experiment station, and such matter shall be transmitted to the experiment stations free of charge for postage, in accordance with existing law regulating the transmission of such matter through the mails from the Department of Agriculture."

Mr. HATCH. I make the point of order on that amendment that it is almost identical in substance with the proposition which the Chair has already ruled out. In addition to that, it is subject to another point of order. We have already agreed to a paragraph fixing the amount at \$100,000 and—

Mr. ENLOE. Mr. Chairman—

Mr. HATCH. We have only ten minutes left before the hour for the recess, and the gentleman from Tennessee [Mr. ENLOE] has had all the time he has asked, and I trust he will not delay the bill.

Mr. ENLOE. I do not ask any time now except on this point of order. If the gentleman will point out where this amendment changes the existing law, the gentleman from Massachusetts [Mr. BURNETT] will withdraw it.

Mr. HATCH. It provides \$40,000 for seeds, etc., to be sent to the experimental stations.

Mr. ENLOE. That is only for the furtherance of the duties of those stations. They are charged with the duty of propagating, and this amendment proposes to furnish them seeds with which to do it.

Mr. HATCH. They have got an appropriation of \$15,000, which covers all that, so far as the experimental stations are concerned. I insist upon the point of order.

The CHAIRMAN. The Chair is clearly of opinion that the proposed substitute would be out of order under clause 3 of Rule XXI.

Mr. HATCH. Now let us have a vote on my amendment.

The amendment offered by Mr. HATCH was agreed to.

The Clerk read as follows:

Printing seed-pockets, labels, postal-cards, circulars, etc., labor, paper, ink, type, and other necessary material for printing, and for repairing presses, \$4,200.

Mr. HATCH. I desire unanimous consent that this afternoon's session be extended ten minutes so that we may conclude this bill before the recess. I am afraid it can not be done in the five minutes remaining. As this order will have to be made in the House, I move that the committee rise for that purpose.

The motion was agreed to.

The committee accordingly rose; and Mr. CRISP having taken the chair as Speaker *pro tempore*, Mr. STONE, of Kentucky, reported that the Committee of the Whole on the state of the Union, having had under consideration the bill (H. R. 12485) making an appropriation for the Department of Agriculture for the fiscal year ending June 30, 1890, and for other purposes, had come to no resolution thereon.

Mr. HATCH. I move that the House again resolve itself into Committee of the Whole on the state of the Union to resume the consideration of the agricultural appropriation bill; and pending that motion I ask unanimous consent that the time for taking the recess be extended until the completion of this bill, no other business to be in order.

Mr. WHEELER. I ask unanimous consent that we meet this evening at 7 o'clock, instead of half past 7.

Mr. HATCH. Oh, no; that is a change of the rules.

The SPEAKER *pro tempore*. The gentleman from Missouri asks unanimous consent that the hour for taking the recess be extended so far beyond 5 o'clock as may be necessary to finish the consideration of the agricultural appropriation bill, no other business to be in order.

Mr. KILGORE. I would like to know how much time that will take.

Mr. HATCH. Certainly not more than ten minutes.

The SPEAKER *pro tempore*. Is there objection to the request of the gentleman from Missouri [Mr. HATCH]? The Chair hears no objection, and it is so ordered. The question is now on the motion of the gentleman from Missouri that the House again resolve itself into Committee of the Whole to resume the consideration of the agricultural appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole (Mr. STONE, of Kentucky, in the chair) and resumed the consideration of the bill (H. R. 12485) making an appropriation for the Department of Agriculture for the fiscal year ending June 30, 1890, and for other purposes.

The Clerk read as follows:

Salaries and expenses Bureau of Animal Industry: For carrying out the provisions of the act of May 29, 1884, establishing the Bureau of Animal Industry, \$500,000; and the Commissioner of Agriculture is hereby authorized to use any part of this sum he may deem necessary or expedient, and in such manner as he may think best, to prevent the spread of pleuro-pneumonia, and for this purpose to employ as many persons as he may deem necessary, and to expend any part of this sum in the purchase and destruction of diseased or exposed animals and the quarantine of the same whenever in his judgment it is essential to prevent the spread of pleuro-pneumonia from one State into another, and of this sum an amount not exceeding \$15,000 may be applied to the payment of expenses incurred during the fiscal year 1888: *Provided*, That \$15,000, or so much thereof as may be necessary, may be expended in continuation of the investigations and experiments, to be conducted within the United States, into the nature, causes, and remedies for the prevention and cure of hog cholera and swine plague.

Mr. HATCH. I desire to submit a verbal amendment—to strike out in the paragraph just read the words "and of this sum an amount not exceeding \$15,000 may be applied to the payment of expenses incurred during the fiscal year 1888."

The amendment was agreed to.

The Clerk resumed and concluded the reading of the bill.

Mr. HATCH. I move that the committee rise and report the bill to the House with the amendments.

The motion was agreed to.

The committee accordingly rose; and Mr. CRISP having taken the chair as Speaker *pro tempore*, Mr. STONE, of Kentucky, reported that the Committee of the Whole on the state of the Union, having had under consideration the bill (H. R. 12485) making an appropriation for the Department of Agriculture for the fiscal year ending June 30, 1890, and for other purposes, had directed him to report the same back with sundry amendments and with the recommendation that it be passed as amended.

The amendments reported from the Committee of the Whole on the state of the Union were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. HATCH 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.

## LEAVE TO PRINT.

Mr. HATCH. I ask unanimous consent that gentlemen who have spoken on the bill just passed may have leave to extend their remarks in the RECORD, and that all other gentlemen who desire to do so may print remarks upon the bill.

There being no objection, the leave requested was granted.

The SPEAKER *pro tempore*. By order of the House previously made, a recess will now be taken until this evening at half past 7 o'clock.

## EVENING SESSION.

The recess having expired, the House reassembled at half past 7 o'clock p. m., and was called to order by Mr. ANDERSON, of Illinois, as Speaker *pro tempore*.

The Clerk read the following:

SPEAKER'S ROOM, HOUSE OF REPRESENTATIVES, February 8, 1889.

Hon. GEORGE A. ANDERSON, of Illinois, is hereby designated to preside at the session of the House this evening.

JOHN G. CARLISLE, Speaker.

Hon. JOHN B. CLARK, Clerk.

MRS. R. S. HORTON.

Mr. MORRILL. Before the House goes into the Committee of the Whole, I ask that it will indulge me by concurring in some Senate amendments to House bills—amendments which do not change the bills in substance, but only make them more explicit.

There being no objection, the House proceeded to the consideration of the amendments of the Senate to the bill (H. R. 8) to restore Mrs. R. S. Horton upon the pension-roll.

The amendments were read, as follows:

Page 1, line 2, strike out the words "or restore."

Page 1, line 4, after the word "pension-roll," insert "and pay her a pension from the passage of this act."

Amend the title of the bill so as to read: "A bill to replace Mrs. R. S. Horton upon the pension-roll."

Mr. MORRILL. I move that the amendments be concurred in.

The motion was agreed to.

ELIJAH W. PENNY.

The House proceeded to the consideration of the Senate amendment to the bill (H. R. 2261) to increase the pension of Elijah W. Penny.

The amendment was read, as follows:

Strike out all after the word "volunteers," page 1, line 4, down to and including the word "act," in line 8, and insert "by paying him the sum of \$12 a month for wound in the side, in addition to the amount to which he is entitled by law for loss of arm at the shoulder."

Mr. MORRILL. I move that the amendment be concurred in.

The motion was agreed to.

## ORDER OF BUSINESS.

Mr. CHIPMAN. I move that the House resolve itself into Committee of the Whole to consider bills under the special order, and I ask consent at the same time that the course heretofore pursued, of calling the names of members alphabetically, be continued to-night, commencing where we left off on the last occasion.

The SPEAKER *pro tempore*. The gentleman from Michigan moves that the House resolve itself into Committee of the Whole under the special order.

Mr. ROGERS. I do not think the Chair has stated the full proposition. If I understood the gentleman from Michigan, he embraced in his motion a request that the order heretofore pursued, of calling the names alphabetically, be continued.

Mr. CHIPMAN. I did, sir.

Mr. ROGERS. In that connection I wanted to make a request. Mr. RUSSELL, of Massachusetts, requested me the other day, on being called away from here, in his behalf to call up a certain case in the District of Columbia. Of course the House will understand that the party is without any representative on this floor; but he is an old Mexican soldier as well as a Union soldier in the late war, and personally I promised to do so. While desirous of obliging Mr. RUSSELL, I have a case of my own in Arkansas which I ought to call up, and I ask that I may be permitted to call up a case for Mr. RUSSELL also.

Mr. DUNHAM. I ask the same privilege in behalf of an absent colleague who can not be present at the session this evening.

Mr. CHIPMAN. Let these requests be made in committee.

The SPEAKER *pro tempore*. The gentleman from Michigan objects.

The motion of Mr. CHIPMAN was agreed to.

The House accordingly resolved itself into Committee of the Whole on the Private Calendar, Mr. DOCKERY in the chair.

The CHAIRMAN. The House is now in Committee of the Whole under the special order; and if there be no objection the order of business heretofore pursued will be continued this evening.

There was no objection.

Mr. WHEELER. I ask unanimous consent, in view of the fact that my name will be reached in a few minutes on the call, and as I have an important engagement which I wish to attend to, that I may be permitted now to call up for consideration a bill.

Mr. THOMPSON, of Ohio. I think we had better have the regular order.

Mr. WHEELER. Then I ask unanimous consent that my name be passed over to-night with the privilege of calling up a bill on next Friday night.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

## STEPHEN L. KEARNEY.

Mr. ROGERS. I call up for consideration the bill (H. R. 9408) granting an increase of pension to Stephen L. Kearney, for Mr. RUSSELL, of Massachusetts, and I will ask consent hereafter to call up my own bill.

The bill is as follows:

*Be it enacted, etc.* That the Secretary of the Interior be, and he is hereby authorized and directed to place the name of Stephen L. Kearney, late a first lieutenant of the Third Regiment of Colored Troops in the service of the United States, on the pension-roll of the United States at the rate of \$17 per month, in lieu of the pension of \$8 per month he is now receiving under certificate No. 13026 as a Mexican veteran under act approved January 29, 1887. This act shall be in force from its passage.

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

Applicant was a soldier in the regular Army during the war with Mexico, and served during the late war as a lieutenant in the Fifteenth Regiment of Massachusetts Volunteers, and as first lieutenant in Company G, Third Regiment United States Colored Troops; and while serving with the last-mentioned regiment in Florida he contracted rheumatism, for which he was allowed a pension of \$4.25 per month under the general law, which pension he surrendered in order to receive the benefits of the act of January 29, 1887, under which act he is now receiving \$8 per month. He asks to be placed upon the pension-roll at the rate of \$17 per month, the established rate per month of pension for a first lieutenant, the grade in which he was serving at the time he became disabled.

Your committee, in view of the fact that petitioner is suffering from rheumatism to such an extent as to render him unable to perform manual labor, and as there is no doubt as to the fact that his disability is due to his long and faithful service, report back the bill with the recommendation that it do pass, with the following amendment: Strike out "seventeen dollars," on line 7, and insert in lieu thereof "twelve dollars and twenty-five cents."

The amendment recommended by the committee was adopted.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

## THOMPSON D. HATFIELD.

Mr. ROMEIS. I ask consideration of the bill (S. 3335) granting a pension to Thompson D. Hatfield.

The bill is as follows:

*Be it enacted, etc.* That the Secretary of the Interior be, and he is hereby authorized and directed to place on the pension-roll the name of Thompson D. Hatfield, at the rate of \$25 a month, this sum to be paid only to the legally appointed guardian of said Thompson D. Hatfield, an insane person, for the purpose of his support and maintenance.

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

The Committee on Invalid Pensions, to whom was referred the bill (S. 3335) granting a pension to Thompson D. Hatfield, have had the same under consideration, and beg leave to submit the following report:

The facts in the case are fully set forth in the report of the Senate Committee on Pensions, which is as follows:

"Thompson D. Hatfield, the claimant, is a son of David Hatfield, who was commissioned as a captain in Company A, First Regiment New Jersey Volunteer Infantry, May 21, 1861, and he was mustered into the United States service for the period of three years from that time. He was promoted to be major May 28, 1861, and served in the war of the rebellion until July 30, 1862, at which time he died of wounds received a few days before in battle with the enemy at Gaines's Farm, Virginia. He volunteered as a private, and is said to have been among the first, perhaps the very first, who volunteered under the first proclamation calling out the military forces of the United States by President Lincoln.

"The record shows him to have been a very useful and gallant officer.

"The widow of Major Hatfield drew a pension, and her minor children at that time drew also a pension, among whom was the claimant, from July, 1873, until September 22, 1877, when the entire pension ceased by operation of law, the children having each attained the age of sixteen or over. The widow of Major Hatfield had in the mean time married, and her pension ceased upon the marriage, so that there is no pension drawn now by any member of the family.

"Major Hatfield himself, the claimant's father, had also served as a private in the war with Mexico in Company G, Tenth Regiment United States Infantry, and was honorably discharged from said service. The claimant is the oldest son of Major Hatfield. He has been an invalid from epilepsy almost from infancy. He is incurably insane and is hopelessly imbecile, and is now a patient in Morris Plains asylum for the insane, in the State of New Jersey, where he has been confined for many years.

"His mother and her second husband are without any means or property beyond that necessary for their own support, and the expenses of the maintenance of the insane claimant are quite a burden upon the family, none of whom seem to be persons having any means of livelihood beyond their own labor. We are of the opinion, from the peculiar circumstances of the case, and from the faithful service and death of his father, that the claimant has an equitable right to the relief prayed for in his own behalf.

"We therefore recommend the passage of the bill with the following amendment: Insert, after the word 'month,' these words: 'This sum to be paid only to the legally appointed guardian of said Thompson D. Hatfield, an insane person, for the purpose of his support and maintenance.'"

Your committee likewise recommend the passage of the bill.

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

Mr. DUNHAM (when the name of Mr. ROWELL was called). At the request of my colleague, who is necessarily absent for a time, I ask to call up the bill which I send to the desk.

Mr. FINLEY. I object, Mr. Chairman, and ask the regular order.

GEORGE H. BURGESS.

Mr. RUSSELL, of Connecticut, called up the bill (H. R. 1300) granting a pension to George H. Burgess.

The bill is as follows:

*Be it enacted, etc.*, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of George H. Burgess, late corporal in Company H, Twenty-sixth Connecticut Volunteers, the pension to be payable to the legally constituted guardian of said Burgess.

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

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 11300) granting a pension to George H. Burgess, have had the same under consideration and beg leave to submit the following report:

George H. Burgess served as corporal in Company H, Twenty-sixth Regiment Connecticut Volunteers, from September 2, 1862, until August 17, 1863, and is now an inmate of the Bloomingdale Asylum (New York) for the Insane. It is alleged that insanity is due to dysentery and typhoid fever, from which soldier suffered during service. Because of claimant's need circumstances and the large expenditure of money necessary to obtain letters of guardianship in the State of New York, as well as the length of time necessary to establish a claim of this character at the Pension Bureau, no application for pension has been filed in behalf of this insane soldier.

In support of the claim now before Congress the following evidence has been filed:

Daniel Champlin, captain of aforesaid company, testifies that at enlistment soldier was a healthy, able-bodied, robust, young man; that while on duty at Camp Parapet, Louisiana, some time in March or April, 1863, he contracted typhoid fever, and was sent to the regimental hospital.

Elias Babcock testifies that he was a member of the same regiment and knows that Burgess was taken to the hospital with typhoid fever. Affiant was also sick at said hospital, but recovered first and left Burgess there still under treatment.

Orderly Sergeant Morgan testifies that Burgess was a faithful soldier and of good character and temperate habits. Was in hospital two or three times, and in particular during the months of February and March, 1863, as appears from affiant's diary of events.

Others testify to soldier's sickness while in the Army, but are unable to state the nature thereof.

The Adjutant-General reports that the records of the regimental hospital of the Twenty-sixth Regiment of Connecticut Volunteers are not on file.

Henry Burgess, soldier's father, testifies that immediately after his discharge soldier came to affiant's house, where he made his home for some time. He was then suffering from dysentery and the effects of typhoid fever, such as nervousness. Had no severe sickness after discharge, but grew more nervous every year until his nervousness assumed the symptoms of insanity, which so increased that in September, 1887, it became necessary to commit him to the Bloomingdale Asylum. Insanity was never known or heard of either on his father's or mother's side of the family.

Soldier's wife testifies to continuous spells of melancholia from 1868, when she was married to him.

Dr. Charles E. Brayten testifies that he has been acquainted with the soldier for twenty years or more. Treated him for insomnia in 1882 and thereafter. The complaint grew worse until about 1885 marked symptoms of paresis appeared, and in August, 1887, at affiant's recommendation he was removed to the Retreat for the Insane.

Assistant Medical Superintendent Lyon, of the Bloomingdale Asylum, certifies that soldier is now in the demented stage of general paresis. Affiant believes that if it is proved that soldier had typhoid fever and dysentery while in the military service of the United States while still immature, such sickness and the exposure may have seriously affected a naturally nervous person and predisposed him to serious mental disease later in life.

Dr. Charles H. Nichols, medical superintendent of the Bloomingdale Asylum, who during the war and for many years thereafter was in charge of the Government Asylum for the Insane near this city, also gives the opinion that if Burgess had, as alleged, both typhoid fever and dysentery while in the military service of the United States at the tender age of eighteen or younger, it is highly probable that those diseases were the remote causes of the cerebral disorder from which he is now suffering.

The soldier has no property or estate, and for his future sustenance is entirely dependent upon his relatives, who are not in circumstances warranting them in assuming the same.

That soldier suffered from diseases in the Army which in the opinion of medical experts can be accepted as remote cause of insanity is clearly established. It is likewise shown that mental disturbances followed upon said diseases, which slowly but gradually developed into insanity. Soldier's habits were good. In the absence of any other known cause for his unfortunate condition, backed by the medical opinions above referred to, your committee feel justified in giving him the benefit of what doubts there may exist in the case, and therefore report favorably on the bill and ask that it do pass.

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

#### ORDER OF BUSINESS.

The name of Mr. RUSSELL, of Massachusetts, was called.

Mr. ROGERS. Mr. Chairman, I now renew my request made a few moments ago, and ask unanimous consent, as this is an exceptional case, to call up a bill. I hope the gentleman from Kentucky will not object.

Mr. FINLEY. I will contract with the gentleman not to object if I may be allowed to call up and pass by unanimous consent a bill increasing the pension of Frank L. Wolford, of my district, from \$30 to \$50 per month.

Mr. ROGERS. I certainly will make no objection, as far as I am concerned.

Mr. FINLEY. I want to have the agreement entered into by the committee. This is a case that ought to be considered and passed.

Mr. STRUBLE. Is the gentleman you have named your predecessor in Congress?

Mr. FINLEY. Yes, sir. If I yield now for unanimous consent in this instance, I want to have it understood that I may call up this bill and pass it.

Mr. MACDONALD. I object.

#### MARY C. THOMPSON.

Mr. SAWYER called up the bill (S. 3428) granting a pension to Mary C. Thompson.

The bill is as follows:

*Be it enacted, etc.*, That the Secretary of the Interior be, and he is hereby, au-

thorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Mary C. Thompson, widow of the late Dr. Fillmore Thompson, of Hot Springs, Ark., who was chief guide to the expedition of General Frederick Steele, during the spring of the year 1864, undertaken for the purpose of co-operating with General Banks, and who lost his life by reason of exposure in said service, and to pay her a pension corresponding with the grade of captain.

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

The Committee on Invalid Pensions, to whom was referred the bill (S. 3428) granting a pension to Mary C. Thompson, have had the same under consideration, and beg leave to submit the following report:

The facts in the case appear fully in the report of the Committee on Pensions, United States Senate, which is as follows:

The petitioner is the widow of the late Dr. Fillmore Thompson, of Hot Springs, Ark., where, at the breaking out of the rebellion, he resided. He was a thorough and intense Unionist, and rendered valuable assistance to many of the persecuted loyal people of that section, and by reason of which he endangered his own safety so that he was obliged to seek protection within the Union lines at Little Rock, then occupied by General Fred. Steele. He was employed by General Steele as chief guide and scout in his expedition to Camden in the spring of 1864, for the purpose of co-operating with General Banks in his Louisiana campaign, and continued to act as such until the final return of said expedition to Little Rock.

Prof. J. B. Wheeler, of the United States Military Academy at West Point, thus testifies by affidavit in regard to Dr. Thompson:

"That as the chief engineer officer he accompanied the march of the expedition under Maj. Gen. Fred Steele, which moved south in March, 1864, to co-operate with and, if possible, to effect a junction with the United States forces under command of Maj. Gen. N. P. Banks, then moving toward Shreveport, on the Red River, in Louisiana.

"That during this march and the return he was daily thrown in contact with the principal guide, one Dr. F. Thompson, a former resident of Hot Springs, Ark., who had sought protection within the United States lines against violence from the inhabitants of that part of the State with which he was threatened by reason of his well-known Union feelings.

"That from his personal knowledge he knows of the peculiar fitness of the said Thompson for the place of principal guide, and attributes largely the successful progress of the expedition, as far south as it proceeded, to said Thompson's thorough knowledge of the roads, the crossing of streams, and the sentiments and opinions of the inhabitants of that part of the country.

"That the return march of the expedition, followed as it was by a victorious enemy, who received a severe check at Jenkins Ferry, was greatly aided by the said Thompson's intimate acquaintance with the roads and character of the country used and crossed by the army in its retreat.

"That during this retreat all the members were more or less sufferers from fatigue and exposure.

"That shortly after the return of the expedition Dr. Thompson was taken sick and very soon thereafter died.

"That the deponent understood at the time of said Thompson's death that it, as well as the sickness, were largely, if not entirely, caused by the fatigues and exposures that said Thompson had undergone during the time he accompanied the expedition as its principal guide.

"J. B. WHEELER."

"Dr. Thompson, upon his return to Little Rock, was attended by several physicians, all of whom certify that the disease of which he died was, in their opinion, the result of fatigue, exposure, and injuries received in this service. He left a widow and several children without means of support. There is no general law under which services of this character can be recognized; but there are precedents for allowing pensions to guides or scouts for disabilities, and to their widows in case of death.

"The bill is reported with an amendment, striking out all after the word 'pension,' in the twelfth line, and inserting 'corresponding with the grade of captain,' and a recommendation that it do pass."

Your committee believe the case to be a meritorious one and to come within established precedents, but respectfully decline to concur in the rate of pension fixed in the bill, and therefore return the same with the recommendation that it do pass, amended, however, by striking out all after the word "service," in line 9, and inserting therein instead the words "at the rate of \$12 per month."

The amendment recommended by the committee was agreed to.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

PATRICK GERAGHTY.

Mr. McMILLIN. Mr. Chairman, at the last session of the committee my name was called, but owing to the fact that the report in the case I desired to ask consideration of had not been received, the right was given me to call up a bill to-night. I now ask consideration of the bill (H. R. 12506) granting an increase of pension to Patrick Geraghty.

The bill is as follows:

*Be it enacted, etc.*, That the Secretary of the Interior be, and he is hereby, authorized and directed to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of Patrick Geraghty, late a private of Company G, Fourth Regiment United States Cavalry, at the rate of \$8 per month, in lieu of the pension now received by him.

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

The Committee on Invalid Pensions, to whom was referred the petition of Patrick Geraghty for an increase of pension, beg leave to submit the following report:

Patrick Geraghty served in Company G, First Regiment United States Cavalry, subsequently the Fourth United States Cavalry, from March 13, 1857, to March 14, 1865, and is now a pensioner at the rate of \$2 per month for malarial poisoning and chronic diarrhea. He has filed a petition, signed by a large number of prominent citizens of Tennessee, asking an increase of his pension on the ground that the disability is much greater from aforesaid causes than that recognized by the Pension Office. The pensioner is a great sufferer from dyspepsia, as shown by the medical examinations, but evidently its connection with the diarrhea is not admitted in the rating of the pension.

Hon. BENTON McMILLIN, of the House, who is personally acquainted with the pensioner, has appeared before your committee, and from his statements touching the old soldier's condition it is evident that his pension is too low to be commensurate with the degree of disability actually existing in the case. That neighbors who come in almost daily contact with a person suffering from a complication of diseases are more competent to judge of the real degree of disability therefrom than an examining surgeon who has no personal acquaintance with and only hastily examines him can not be denied.

Your committee are clearly of the opinion that \$2 a month is not sufficient to

compensate a soldier who served faithfully eight years, became broken down in service, and has been ever since almost entirely disqualified for the performance of manual labor, and therefore return the petition with the accompanying bill with the recommendation that it do pass.

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

ROBERT KELLY.

MR. MORRILL. At the request of my friend from Missouri [Mr. DOCKERY], at the last meeting of the committee permission was given to me to call up a bill to-night. I was then necessarily absent. I now ask consideration of the bill (S. 2530) granting a pension to Robert Kelly.

The bill is as follows:

*Be it enacted, etc.* That the Secretary of the Interior be, and he is hereby authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Robert Kelly, late a private in Company B, Third Regiment Maryland Volunteers.

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

The Committee on Invalid Pensions, to whom was referred the bill (S. 2530) granting a pension to Robert Kelly, submit the following report:

The report of the Committee on Pensions in the Senate is herewith adopted, and the passage of the bill recommended.

[Senate Report No. 2406, Fifteenth Congress, second session.]

The Committee on Pensions, to whom was referred the bill (S. 2530) granting a pension to Robert Kelly, have examined the same, and report:

The claimant under the bill was private in Company B, Third Maryland Volunteers. He made application for pension on the ground of disease of eye, which resulted in loss of sight, incurred while in service. The claim was rejected by the Pension Bureau "on the ground that the alleged disability was not incurred while in the service of the United States."

The committee are unable, in a careful review of the record and testimony, to find any ground on which to sustain the judgment of the Pension Bureau.

The fact of enlistment is presumptive evidence of soundness at that time, and particularly of so important an organ to a soldier as his right eye. This presumption is made reasonably certain by all the testimony in the case, based on personal or professional knowledge, an abstract of which is herewith given.

Dr. William C. Klemann knew claimant from 1855, and treated him before enlistment for malarious diseases, but knew of no defect of vision at that time. Attended claimant's family before the war, and believes his sight was good.

William F. Burns, president of Eutaw Savings Bank, testifies he has known claimant since boyhood; "worked for me from his boyhood up; one of his eyes was crossed, I think, but his sight was not affected; his health was good."

Paul Helene knew claimant from March, 1857; was keeping store, and saw him nearly every day; never noticed anything wrong with claimant's eyes prior to enlistment.

Samuel Stallings has known claimant since he was a small boy; saw him nearly every day previous to enlistment; noticed a peculiarity about one of his eyes, a kind of squint; his sight was all right.

Daniel W. Oxworth was a comrade of claimant and knew him from 1846 up to enlistment; one eye was inclined towards the nose; knew of no affection of the sight before service; claimant was relieved from duty on account of eyes.

Henry J. Ward, another comrade, knew claimant several years before the war; was in his company day after day before enlistment; one eye was smaller than the other; knew of no affection of sight.

William H. Higdon, Caroline Schlickerman, John Purper, Capt. James Roff, Henry Schlickerman, and Thomas Brown were neighbors, and intimate with claimant for years before enlistment, and testify that they knew of no defect of vision; while Edward Anderson associated with him familiarly and for years before enlistment, was his companion on gunning expeditions, and never noticed that he had any affection of his eyes.

This concurrence of competent testimony would seem to settle the fact of claimant's soundness when he entered the service. The following extract from the report of the Adjutant-General makes it certain that claimant was unsound when he left the service:

"Detachment muster-out roll, dated May 28, 1862, reports him discharged on that date at Baltimore, for disability, by order of General Dix; cause, cataract of right eye."

The committee report favorably on the bill and recommend it for passage.

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

ESTHER GOULD.

MR. SHERMAN called up for consideration the bill (S. 3319) granting a pension to Esther Gould.

The bill was read, as follows:

*Be it enacted, etc.* That the Secretary of the Interior be, and he is hereby authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Esther Gould, late volunteer nurse during the war of the rebellion, and pay her a pension of \$25 per month from this date.

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

The Committee on Invalid Pensions, to whom was referred the bill (S. 3319) granting a pension to Esther Gould, submit the following report:

That the evidence presented to your committee fully substantiates the report of the Senate committee, which is hereto attached and adopted as their report. Your committee, fully believing this case to be a very meritorious one, recommend that the same pass with the following amendment, by adding thereto:

"Said pension to be in lieu of any pension she may now be receiving."

SENATE REPORT.

The Committee on Pensions, to whom was referred the bill (S. 3319) granting a pension to Mrs. Esther Gould, have examined the same, and report:

This is a bill to pension Mrs. Esther Gould, who was a volunteer army nurse during the war of the rebellion, and whose record in this capacity shows that she rendered faithful and valuable service.

In a letter of recommendation, dated July 20, 1866, R. B. Bouteouc, late brevet colonel and surgeon in charge of Harewood Hospital, Washington, D. C., says: "Mrs. Esther Gould has been in the employ of the United States as matron at Harewood United States General Hospital at Washington, D. C., for the last three years;" and he certifies that her services were performed in a faithful and satisfactory manner.

The committee also have proof to the same effect from a number of witnesses who have a personal knowledge of Mrs. Gould's services.

Frank A. Speare testifies that she was a nurse in Judiciary Square and Harewood Hospitals from March, 1862, to 1865, inclusive.

Jeremiah C. Allen certifies that he was chief ward-master at Judiciary Square Hospital in 1863, and that she performed satisfactory service.

Joseph H. Voorhees was an inmate of Judiciary Square Hospital, and remembers her valuable service, and that she was transferred to Harewood Hospital.

Surgeon Bouteouc again certifies that she was one of the most competent and faithful nurses in the United States Army, and that her health was impaired in consequence of her devotion.

Dr. Bond, late of Pennsylvania Cavalry Volunteers, certifies to her faithfulness and efficiency in Harewood Hospital, and that she is afflicted with chronic rheumatism, the result of her arduous labors as army nurse.

Dr. Dorsey, one of the surgeons at Harewood, certifies to his knowledge of her service from 1863 to 1866.

Mrs. Gould says, in her letter to the committee, that her husband and son entered the Army; they have never returned, nor has word ever come to her of or from them; so she realizes that they are numbered among the unknown dead.

She says she has recently been dismissed from the Government Printing Office, and refused restoration; that she is in extreme need, in consequence of which she has been compelled to seek relief from Congress.

The case needs no comment.

The bill is reported favorably with a recommendation that it do pass.

MR. SAWYER. I wish to say a word in reference to that case for the purpose of asking that the amendment be not adopted. When the bill came from the Senate and was referred to myself as a member of the committee, and when I examined it and presented my report, the question was asked whether she was not drawing a pension on the death of her husband. I hastily looked through the testimony furnished to the committee and was not satisfied, from the evidence presented, whether she was or was not; and for that reason the amendment was put in.

I have taken the pains—so has Senator HISCOCK, who introduced the bill—to inquire whether she is now drawing a pension. We have both become satisfied that she is not, and the only reason for asking that the amendment be not concurred in now is simply because it is so late in the session I am fearful that it will prevent the passage of the bill, as it would involve its going back to the Senate. I therefore hope that the amendment will be voted down.

MR. MORRILL. It can be voted down.

The question was taken, and the amendment was disagreed to.

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

HARLAN E. KING.

MR. SHIVELY called up the bill (H. R. 11430) to increase the pension of Harlan E. King.

The bill was read, as follows:

*Be it enacted, etc.* That the Secretary of the Interior be, and he is hereby authorized and directed to pay to Harlan E. King, late private in Company C, Thirty-sixth Regiment Illinois Volunteer Infantry, a pension of \$50 per month, in lieu of the pension which he is now receiving.

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

The claimant is now pensioned at the rate of \$30 per month for gunshot wound of left thigh and resulting varicose veins. He filed application for increase, alleging that he was entitled to increase on account of gunshot wound of left thigh, which has resulted in producing varicose veins of the left thigh and leg and of the lower part of the abdomen, and that as a result of said wound his testicles have shrunk to about one-eighth their former and natural size, rendering him wholly impotent; that said varicose veins began to appear in 1869, and his testicles have been shrinking since 1867. Both said results have been increasing until the present condition has been reached.

Irvin J. Becknell, M. D., a medical graduate, testifies that he began treating claimant at the city hospital, Indianapolis, about April, 1872. After fully describing the case, he says:

"During the time (about fifteen years) of my almost constant observation and treatment of his case, have known him to suffer excruciating pain in leg, and have often been called upon to give him anodynes internally or to apply morphine directly to the ulcer for the relief of pain. For weeks at a time said applicant has been unable to leave his room, requiring the services of an attendant. He is entirely unfit to do manual labor. Think his disability is liable to remain permanent in its present degree, or more likely to become worse. I would prefer having my leg amputated at the thigh to be in his condition. The matter of amputation has been repeatedly mentioned, and I have always given it as my opinion that he would not survive the operation. His entire system seems diseased, and it seems necessary for him to take remedies for the improvement of his blood nearly constantly."

William T. Fulton testifies that he has known applicant for seven years past, and during that time has made his home and boarded at the same place with said claimant, and he knows from personal knowledge that said claimant has during all that time at frequent intervals been confined to his room and bed for periods ranging from four to ten weeks at a time, during which time his meals would have to be carried to him and he would require the aid and assistance of some one.

Enoch Rhorer testifies that he has been well acquainted with claimant about fourteen years, and during the last seven years claimant has resided with him all the time except one year, and during that time, every year thereof, at frequent intervals, claimant would be confined to his room for periods ranging from one week to ten weeks, during which time he had to see that his meals were carried to him, and he required the aid and assistance of some one in his room all the time to dress and bathe his leg, give him medicine, and otherwise take care of him.

Isaac H. Hall, Alonzo Doty, and Jacob H. Martin, all neighbors who have been acquainted with claimant many years, testify substantially to the foregoing facts.

The claimant appeared before the medical board of the Pension Office and was examined September 13, 1888. The examination revealed about the condition above stated, but under existing laws no higher rating could be made than that under which the claimant is now pensioned.

From a careful consideration of the evidence the committee believe that the condition of claimant's disability is such as to warrant a higher rating than he now receives, and we therefore submit a favorable report and recommend that in line 6 strike out the word "fifty" and insert "forty-five," and when so amended that the bill do pass.

The amendment was agreed to; and the bill as amended was laid

aside to be reported to the House with the recommendation that it do pass.

MARIA BRASTED.

Mr. SMITH, of Wisconsin, called up for consideration the bill (H. R. 6598) granting a pension to Maria Brasted.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Interior be, and he is hereby authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Maria Brasted, mother of Daniel W. Brasted, deceased, late private Company A, Thirty-fifth Regiment Wisconsin Volunteer Infantry.

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

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6598) granting a pension to Maria Brasted, submit the following report:

The beneficiary is the mother of Daniel W. Brasted, late a private in Company A, Thirty-fifth Regiment Wisconsin Volunteers, who enlisted February 15, 1864, and died August 12, 1864, at Barrack Hospital, New Orleans, La., from diarrhea.

The mother filed her claim for pension June 8, 1880, and the same was rejected December, 1885, on the ground of "non-dependence at son's death, in 1864, the avails of husband's labor and income from property being sufficient for maintenance." The son was never married. The claimant had three sons in the Army, two of whom are now dead, one son, Daniel, dying in the service and the other having since died.

The evidence on file in the Pension Office and additional evidence filed with this committee show to the satisfaction of the committee that the beneficiary is now a poor woman, with an invalid husband and largely dependent upon the charity of others for a livelihood. While there may have been some disagreement in the evidence as to the ability of her husband for the support of his family in 1864, when their son died, the evidence of the dependence and destitution of the claimant at the present time is clear and satisfactory, and the committee believe that this poor woman, who gave three sons to her country's service, two of whom are now dead, one dying in the service, now in her old age and poverty is justly entitled to the relief granted by this bill, and therefore recommend that the bill do pass.

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

ABBY J. SLOCUM.

Mr. SPOONER called up for consideration the bill (S. 169) granting an increase of pension to Abby J. Slocum.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Interior be, and he is hereby authorized and directed to place the name of Abby J. Slocum, widow of John S. Slocum, late colonel of the Second Rhode Island Volunteer Infantry, on the pension-roll at the rate of \$50 per month, in lieu of the rate of pension she now receives.

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

The Committee on Invalid Pensions, to whom was referred the bill (S. 169) granting an increase of pension to Abby J. Slocum, respectfully report:

That your committee adopt the Senate report upon said bill, which is as follows:

"[Senate Report No. 163, Fiftieth Congress, first session.]

"The Committee on Pensions, to whom was referred a bill granting an increase of pension to Abby J. Slocum, have examined the same, and report:

"John S. Slocum served with much credit in the volunteer service during the Mexican war; that in April, 1861, he was appointed colonel of the Second Rhode Island Volunteers, took an active and conspicuous part in the first engagement at Bull Run, and was mortally wounded while gallantly leading his regiment in that battle. His conduct on that occasion was warmly commended by his associates and superior officers, and he would have undoubtedly been promoted to a general command if he had survived the battle. His widow, who is now in needy circumstances, having two children and an aged mother dependent upon her for support, was the daughter of Hon. Charles T. James, formerly a Senator of the United States from Rhode Island. A bill of the same tenor passed the Senate in the first session Forty-eighth Congress, and again in the Forty-ninth Congress. She is now receiving a colonel's pension under the general law, and your committee recommend that it be increased to \$50, and recommend the passage of the bill."

Your committee believe that good reason exists in this exceptional case for a departure from their ordinary rule.

The gallant husband of the pensioner earned the promotion, which was prevented only by his death, upon the field of battle, in the desperate engagement with the enemy, where he received the fatal wound which speedily terminated his life.

He was an exceptionally brilliant officer, esteemed, admired, and beloved, not only by his comrades, but by the people of his State, many of whom, including citizens of the highest character and influence in both private and official life, have urged the action proposed by the bill for the relief of his needy widow and family.

Your committee recommend the passage of the bill.

Mr. CHEADLE. I will state to the gentleman that I am perfectly willing for that bill to go over to a full House. If that is not acceptable I shall call a quorum.

Mr. SPOONER. Mr. Chairman, it seems to me that this is an exceptional case in which no member would use such methods to forbid the House any opportunity to consider the bill, for that is practically, I think, what the suggestion of the gentleman means. The husband of the widow for whom this bill proposes to provide served with great gallantry in the Mexican war, and upon the breaking out of the late war of the rebellion he was appointed to the colonelcy of our Second Rhode Island Regiment, the first three-year regiment from my State which went into the war. He distinguished himself at the battle of Bull Run, and was mortally wounded upon that battle-field in the gallant discharge of his duty at the head of his regiment.

His widow is the daughter of Mr. James, who was formerly a Senator from the State of Rhode Island in the United States Senate. By misfortune in business he was himself impoverished before his death. Not only her aged mother, the widow of the Senator, but the two

daughters of Colonel Slocum are dependent upon the widow for their support. She is in extremely needy circumstances, as has been stated in the report which has been read. This matter has been called to my attention in the most earnest manner by many of the most prominent citizens of my own State, including the governor of the State; and, as the urgency and propriety of this legislation has been so earnestly called to my attention, I desire to call the attention of the House to it as strongly as circumstances and necessary brevity will permit.

Mr. MACDONALD. I would suggest to the gentleman from Rhode Island that in view of the fact that the gentleman from Indiana says he will call a quorum on this bill it is merely taking time for him to go on with it.

Mr. SPOONER. I think there are about as large a number of members present as are usually engaged in enacting the most important legislation.

Mr. MACDONALD. But he does it to be consistent.

Mr. SPOONER (to Mr. CHEADLE). Does the gentleman insist upon calling a quorum?

Mr. CHEADLE. I do.

Mr. SPOONER. If I can do nothing better, I ask that the bill be laid aside with a favorable report, the previous question considered ordered, and that a vote be taken on the bill in a full House on Friday next.

Mr. FELTON. I understood the gentleman from Indiana to say that he had no objection to this matter being placed before the House. Now, it strikes me that this is the first stage necessary to that proceeding—that this bill should first be passed in committee to-night to be considered by the House, and then the gentleman's wish will be accomplished and it can be decided by a full House. If I understand the gentleman aright, he has no objection to the bill being passed in the committee, to be laid aside for consideration by a full House.

Mr. CHEADLE. Not at all.

Mr. SPOONER. With the previous question ordered?

The CHAIRMAN. If there be no objection, that order will be made. There was no objection, and it was so ordered.

ALEXANDER M. BOATRIGHT.

Mr. STEWART, of Texas (when his name was reached). I call up the bill (H. R. 11741) granting a pension to Alexander M. Boatright. The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Interior be, and he is hereby authorized and directed to place upon the pension-rolls the name of Alexander M. Boatright, late of Captain Houston's company, Colonel Sanford's volunteers, subject to the provisions and limitations of the pension laws.

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

The Committee on Pensions, to whom was referred the bill (H. R. 11741) granting a pension to Alexander M. Boatright, have considered the same, and report as follows:

The claimant served in Capt. A. M. Houston's company, Colonel Sanford's regiment Illinois volunteers, in the Black Hawk war of 1832, and was honorably discharged therefrom.

He is now seventy-nine years of age, with no property of any kind, and physically unable to perform any manual labor. These facts are well shown by the testimony before your committee. The claimant alleges that he was wounded during his service, but he is unable at this late date to find comrades by whom he can establish his claim.

Your committee are of the opinion that this aged veteran should be granted a pension, and therefore recommend the passage of the bill, amended by striking out the words "subject to the provisions and limitations of the pension laws," and inserting in lieu thereof the words "Illinois militia, and pay him a pension of \$20 per month."

The amendment recommended by the committee was agreed to; and the bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

DORCUS ALFORD.

Mr. STEWART, of Georgia (when his name was reached). I call up the bill (H. R. 10474) granting a pension to Dorcus Alford.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Interior be, and hereby is, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Dorcus Alford, of Fulton County, Georgia, widow of James Alford, a third lieutenant in the Creek Indian war of 1836.

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

The Committee on Pensions, to whom was referred the bill (H. R. 10474) granting a pension to Dorcus Alford, have considered the same, and report as follows:

The husband of the claimant, James Alford, was an ensign in Capt. Young Mann's company of Georgia infantry, in the Indian war of 1836, and was honorably discharged therefrom.

The claimant is now seventy-five years of age, without property of any kind, and in very needy circumstances. These facts are shown by the testimony of reliable neighbors, and by the postmaster of the town in which she resides.

Your committee are of the opinion that she should be granted a service pension, and therefore report back the bill to the House recommending its passage. Amend, however, by striking out the words "third lieutenant," in line 7, and inserting the word "ensign" in their place.

The amendment was agreed to.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

JOHN Y. HOOPER.

Mr. STOCKDALE (when his name was reached). I call up the bill (H. R. 10639) granting a pension to John Y. Hooper.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Interior be, and he is hereby au-

thorized and directed to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of John Y. Hooper, late of Company F, First Regiment Nebraska Volunteer Cavalry, and who is now an inmate of the hospital for the insane at St. Peter, in the State of Minnesota, and that the pension allowed him be paid to his legally constituted guardian.

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

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 10639) granting a pension to John Y. Hooper, have had the same under consideration, and beg leave to submit the following report:

John Y. Hooper enlisted as musician of Company F, First Regiment Nebraska Cavalry, June 24, 1861, was promoted to chief bugler, and mustered out of service August 10, 1864. He applied for pension November 16, 1872, on account of scrotal hernia, incurred in the winter of 1864, while on a forced night march in Arkansas, by being thrown upon the pommel of his saddle by the sudden stopping of his horse.

The claim has been rejected by the Pension Bureau because of the insufficiency of the evidence to connect the disability with the service. It is true that there is no direct evidence as to the origin of the disability; but there is, in the opinion of your committee, sufficient evidence to show that the claimant was sound at enlistment, and that at the date of discharge he was suffering from the disability for which he claims pension.

James B. Sly, late lieutenant of Company M, First Minnesota Heavy Artillery, testifies to a long and intimate acquaintance with the claimant prior to the service, which acquaintance was kept up during the war by correspondence. Affiant received a letter from the claimant in the early spring of 1864, in which he stated that he had hurt himself by being thrown on the pommel of his saddle, but that he should stick to his duty, and hoped it would come out all right. Upon affiant's return from the service he found the claimant under the care of Dr. Pashley, now deceased, for scrotal hernia.

Friend J. Whitlock, also a reputable citizen, testifies to claimant's prior soundness and the injury in the service, of which claimant advised him during their continuous correspondence. Met soldier upon his return home in August, 1864, and found him suffering from hernia. Used a self-privileged supporter. Affiant had several trusses of different makes, one of which he adjusted to claimant.

Charles M. Hooper testifies that he slept with the claimant from his return from the Army in August, 1864, until April, 1865, and knows that the latter suffered from scrotal hernia during that entire period.

Continuance of the disability is likewise shown by lay and medical evidence. The claimant is now an inmate of an insane asylum. It is hardly possible that, under the circumstances, any additional evidence can be obtained.

The claimant, as well as his witnesses, are reputable, and their statements are in no way controverted. While the evidence is only circumstantial, yet your committee deem it sufficient to warrant favorable consideration of the claim, and therefore return the bill with the recommendation that it do pass.

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

#### STEPHEN WILLIAMS.

Mr. STONE, of Kentucky (when his name was reached). I call up the bill (H. R. 11586) for the relief of Stephen Williams.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Stephen Williams, subject to the provisions and limitations of the pension laws.

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

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 11586) for the relief of Stephen Williams, have considered the same, and now report:

The claimant was a private in Company E, Fourteenth Illinois Cavalry. In declaration plea, April 23, 1881, he alleges that while at Nicholasville, Ky., in October, 1864, received injury to head by a blow from a gunstock. The claim was rejected upon the ground that the alleged injury to head was not incurred while in line of duty, having been received in a personal quarrel. The evidence is sufficient to establish the fact that claimant received the blow on his head from a comrade, the only question being as to whether he was in line of duty at the time the accident occurred. The committee are inclined to give the claimant the benefit of the doubt, and therefore submit a favorable report and recommend the passage of the bill, with the following amendment: In line 5, after the word "Williams," insert of "Company E, Fourteenth Illinois Cavalry."

The amendment recommended by the committee was agreed to, and the bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

#### ELIZABETH MYERS.

Mr. STONE, of Missouri (when his name was reached). I call up the bill (H. R. 424) granting a pension to Elizabeth Myers.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Interior be, and he hereby is, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth Myers, of Appleton City, St. Clair County, Mo., widow of John H. Myers, deceased, late private in Company F, of the Sixtieth Regiment of Missouri Enrolled Militia; and she shall be paid from and after the passage of this act at the rate of \$12 per month.

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

The Committee on Invalid Pensions, to whom was referred House bill 424, have had the same under consideration, and beg leave to submit the following report:

Elizabeth Myers, the proposed beneficiary in the bill, is the widow of John H. Myers, who served as private of Company F, Sixtieth Regiment Enrolled Missouri Militia, and who died of wounds received in action with the enemy in Bates County, Missouri, April 3, 1863, while holding the rank of first sergeant of said company.

The widow did not apply for pension until December 30, 1881, at which time the claims on account of service in the militia organizations were no longer admissible under the provisions of paragraph 3, section 493, Revised Statutes.

The services and death of the soldier under the circumstances above set forth are clearly established by the records of the Third Auditor of the Treasury Department in the settlement with the State of Missouri, reimbursing the same for expenses incurred in the organization of the militia during the late war.

The case under consideration comes within the well-established rules of the House regarding the pension claims of militiamen and their dependents, now barred under the general laws, and the proof of the death of the soldier, as well as the continuous widowhood of the applicant, being conclusive, your committee return the bill with the recommendation that it do pass.

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

#### J. D. HAWORTH.

Mr. STRUBLE (when his name was reached). I call up the bill (S. 3435) granting a pension to J. D. Haworth.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of J. D. Haworth, late a member of Company H, Thirty-third Regiment of Iowa Volunteer Infantry, and who was transferred on account of disability to Company H, Twenty-first Veteran Reserve Corps.

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

The Committee on Invalid Pensions, to whom was referred the bill (S. 3435) granting a pension to J. D. Haworth, respectfully report:

That the claimant, James D. Haworth, was a member of Company H, Thirty-third Regiment of Iowa Infantry, and was transferred, on account of disability, to the Veteran Reserve Corps. In his declaration for pension, filed February 20, 1879, the claimant alleges complete loss of right eye and injury to the left. The Pension Bureau rejected his claim on the ground that his eyes were defective before enlistment.

The applicant, in nearly a blind condition, appeals again to Congress. He claims that while on the Yazoo Pass expedition, from exposure and a nervous affection caused by an attack of fever, his eyes became affected, from which he experienced loss of right and impairment of left. He was treated in hospitals at St. Louis and Little Rock. Hospital records corroborate this, but do not mention the disease for which he was treated.

The captain of his company testifies that he was sent to hospital on account of disease of eyes and never returned to duty, and a comrade gives similar and stronger evidence.

The surgeon of his regiment treated him for blindness of right eye and weakness of left, for which he sent him to hospital. The board of medical examiners at Fairfield, Iowa, report total blindness of right eye from disease of optic nerve; that his disability is equal to the loss of a hand or foot.

In the opinion of the committee the decision of the Pension Office is not justified by the facts. It is based upon confidential correspondence and special examinations, from which it is clear that the adverse evidence is inspired by personal enmity, the existence of which is clearly brought out in the investigation.

Members of the claimant's family have testified to impairment of vision when he was a child, but they only tell what they thought at the time, without substantiating their statements by expressions of positive knowledge. They do not appear to have taken sufficient interest in the matter to have informed themselves to an extent that would qualify them for giving an intelligent opinion. There is evidence contributed by persons who were with him week after week, month after month, from his boyhood up, to show that there were no indications of defective sight.

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

#### WILLIAM LOGAN.

Mr. SYMES (when his name was reached). I call up the bill (H. R. 8801) granting a pension to William Logan.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of William Logan, late a teamster in the Quartermaster's Department, United States Army, with the same rate of pension to which a private soldier would be entitled for like disabilities.

The report (by Mr. THOMPSON, of California) was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 8801) granting a pension to William Logan, have had the same under consideration, and beg leave to submit the following report:

William Logan enlisted in Company F, Eighteenth Regiment, United States Infantry, and served faithfully until discharged.

He subsequently entered the civil service of the United States as teamster at Fort Lewis, Colo. While thus employed and asleep in his quarters at said fort on the night of December 23, 1882, he was severely wounded by a ball from a rifle in the hands of the corporal of the guard, who was shooting at a dog, the ball penetrating an inch pine board, striking claimant's right heel and left foot, seriously injuring the same, and necessitating two amputations.

Claimant in support of his application to Congress for special-act pension, filed through his attorney, Allen Rutherford, of this city, the testimony of the quartermaster, Lieutenant Campbell, by whom employed, of the officers of the day on the night of the injury, Lieutenant Kerr, Twenty-second Infantry, and of two soldiers of the same command, who were on guard duty on that night, all fully corroborating the claimant's allegations as to the circumstances under which he was wounded. He also filed a recommendation to Congress for pension, signed by all of the officers of the post. These papers were placed in the hands of the member having charge of the bill in the Forty-ninth Congress, but have been lost or misplaced, and can not now be found. Their purport, however, is shown by the brief of the case now in the hands of the attorney, as appears from his certificate on file with your committee.

Since the introduction of the bill under consideration, claimant has procured the affidavit of Charles Boss and Samuel Lowden, late members of Company H, Twenty-second United States Infantry, and now inmates of the Soldiers' Home, District of Columbia, likewise corroborating claimant's allegations. Their services and presence at Fort Lewis have been verified by the Adjutant-General.

Your committee have, with a few exceptions, declined to make favorable recommendations in cases of civil employes of the Government, unless the pension asked for was for wounds or injuries received while rendering service in battle. The case under consideration is one of extreme hardship. Claimant had served his country faithfully as a soldier.

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

#### ANNIE BALSER.

Mr. TARSNEY (when his name was reached). I call up the bill (H. R. 11924) granting a pension to Annie Balser.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Interior be, and he is hereby, directed to place upon the pension-roll, at \$18 per month, the name of Annie Balser, the helpless and invalid daughter of William Balser, late a member of Company F, Nineteenth Wisconsin Infantry, subject to the provisions and limitations of the pension laws, and pay the same to her legally constituted guardian.

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

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 11924) granting a pension to Annie Balser, submit the following report:

The beneficiary under this act is the idiotic daughter of William Balser, late a member of Company F, Nineteenth Wisconsin Infantry. She received a pension on account of the death of her father until she was sixteen years of age. She is now utterly destitute and totally unable to do anything for her own support, requiring the constant care of others. In addition to being an imbecile she has been a cripple from birth. No pension is now paid on account of the death of the soldier. Congress has in many similar cases afforded relief by special act, and your committee report the bill back with the recommendation that it pass.

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

EMILY CROSS.

Mr. JOSEPH D. TAYLOR (when his name was called). I call up the bill (H. R. 10301) for the relief of Emily Cross.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Interior be, and he is hereby authorized and directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Emily Cross, mother of Robert S. Cross, late private of Company F, Thirtieth Regiment Ohio Volunteer Infantry.

The report (by Mr. THOMPSON, of Ohio) was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 10301) for the relief of Emily Cross, have considered the same, and beg leave to report:

That the claimant is the widow of Rev. David Cross, who died on the 24th of March, 1888, leaving no estate except a promissory note calling for \$100, which will not be due for three years, and a small house and lot which was purchased for \$450, on which there is a mortgage for the purchase-money of \$275, with interest on the same from 1866, which the deceased had been unable to pay on account of his having no income or means of support sufficient to enable him to pay any part of the interest, his family having been to some extent aided by charity during the last years of his life.

The said claimant and the said Rev. David Cross, her deceased husband, had three sons who enlisted early in the war, and two of them before they were of age, only one of whom lived to return, one having been shot and another having died in the hospital, and the one who returned has always been in such poor health that he was unable to render any assistance to his father or mother. The father and sons were devoted patriots, and although the father was a minister and had been preaching over thirty years he took a superannuated relation in order to let his sons enter the Army, and while two sons laid down their lives in their country's defense the third only came home with an honorable discharge after the war had fully closed.

The sons who were in the service were unmarried and were the only means of support the father and mother had, except the small salary which the father had as a Methodist minister, and this he gave up when his sons entered the Army. That the only means of support that the mother of those sons now has is the pittance which the church and the neighbors give her. The little home which her husband left is so encumbered with a mortgage that she has given up the idea of redeeming it. No pension was ever paid to any one on account of the services of said three sons. In the opinion of the committee the claimant is an object of charity and benevolence, and deserves to be pensioned on account of her sons, who gave their lives to the country's defense, and the committee therefore recommend the passage of the bill.

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

NANCY HAMILTON.

Mr. THOMAS, of Kentucky (when his name was reached). I call up the bill (H. R. 10882) granting a pension to Nancy Hamilton.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Interior be, and he is hereby authorized and directed to restore to the pension-roll, subject to the provisions and limitations of the pension laws, the name of Nancy Hamilton, widow of David Hamilton, late of Company K, Fourteenth Regiment of Kentucky Volunteers.

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

This claimant was granted pension by certificate No. 115720, at the rate of \$8 per month, commencing February 6, 1867, the date of the death of the soldier, and in 1877 the claim was investigated by an agent of the Pension Office, under the *ex parte* system of investigation, and the name of the pensioner dropped from the rolls, to take effect September 4, 1877, the date of last payment of pension, on evidence adduced by the special agent tending to show that the cause of death of the soldier was not the result of his military service.

An application for restoration of the pension was made, in which the claimant alleged that the disease, inflammatory rheumatism, which was incurred in the service, continued to the time of his death and was the cause thereof, and in corroboration of her allegation she furnished the testimony of the attending physician (Dr. James N. Draper), showing that at time of the soldier's discharge from the service he was suffering from inflammatory rheumatism of the left ankle of a severe and obstinate character, and that the leg suppurred, becoming a running ulcer, until mortification set in.

On January 2, 1866, the affiant amputated the limb, which healed, and the patient was doing very well until January, 1867, when he was taken with stranguary; the bladder was in a state of mortification, resulting in death February 6, 1867. The remote cause of death was the amputation of the leg, and the immediate cause from the enlargement of the neck of the bladder from disease of the leg, the result of inflammatory rheumatism.

It is shown by medical testimony that the soldier was sound and healthy at the date of enlistment, and it is shown beyond peradventure that inflammatory rheumatism was contracted in the service and in the line of duty.

The claim for restoration was rejected by the Pension Office on the ground that the cause of death was not chargeable to the military service.

The records show that the soldier entered the service December 10, 1861, and served faithfully until September 15, 1865, and returned home broken down by reason of disease contracted therein; was a burden to his family and friends, and died within eighteen months after his discharge.

In view of the fact that he suffered continuously from inflammatory rheumatism, resulting in mortification of his left leg, necessitating its amputation, and that the mortification ensued in another part of the body (no other predisposing cause shown), the committee are of the opinion that the adverse action was not warranted, and recommend that the bill do pass restoring the name of the claimant to the pension-rolls.

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

MARINDA WAKEFIELD REED.

Mr. THOMPSON, of Ohio. I call up the bill (H. R. 10791) granting a pension to Marinda Wakefield Reed.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Interior be, and he is hereby authorized and directed to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of Marinda Wakefield Reed, widow of William Alexander Reed, deceased, late of Company D, Ninety-first Regiment of Ohio Volunteer Infantry, war of 1861.

The report (by Mr. THOMPSON, of Ohio) was read, as follows:

Marinda Wakefield Reed is the widow of William Alexander Reed, deceased, who was a sergeant of Company D, Ninety-first Regiment of Ohio Volunteer Infantry, in the war of 1861. Said soldier enlisted July 31, 1862; was mustered out June 24, 1865, and died September 14, 1876. He died of consumption. The widow applied for a pension November 18, 1876, and her application was rejected "on the ground that there is no evidence on file to connect the fatal disease with the service." The records of the Surgeon-General's Office show that he was admitted to the general hospital at Gallipolis, Ohio, July 2, 1864, for treatment for chronic diarrhea, and returned to duty September 22, 1864, and was afterwards admitted to Augur General Hospital, Alexandria, Va., for treatment for intermittent fever October 5, 1864. These diseases were the result of exposure and hardships during the "Lynchburgh raid" in June, 1864.

While in hospital at Alexandria, Va., he was permitted to go home on furlough to vote at the Presidential election in November, 1864, and on his return was readmitted to the hospital January 18, 1865. While on his way home, traveling by the Baltimore and Ohio Railroad, while descending Cheat Mountain, West Virginia, on the 5th day of November, 1864, the train of cars in which he was riding was thrown from the track, and he was severely injured in the right shoulder and side, and it is clearly shown by the evidence that the disease or which he died resulted from this injury. Indeed, no question was made about the cause of death, but the adverse decision of the Pension Office was put solely upon the ground that being on furlough when hurt he was not in line of duty, and therefore the death cause was not due to the service.

Under the general law the claimant would have been entitled to a pension if the soldier had been on sick-leave at the time of the injury; and when we consider the fact that at the time he was furloughed he was in the hospital sick, and had been sick for some time, owing to exposure and hardships to which he was subjected while in the line of his duty, we must regard the decision against claimant as technical and the case one for special relief by the action of Congress, and we therefore recommend the passage of the bill.

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

MRS. SUE B. JOHNSON.

Mr. WHEELER (when Mr. TRACEY's name was called). I ask unanimous consent that the gentleman from New York [Mr. TRACEY] be allowed to call up his bill when my name shall be called, and that I be permitted now to call up a bill.

The CHAIRMAN. If there be no objection that arrangement will be made.

There was no objection.

Mr. WHEELER. I call up the bill (S. 3864) to increase the pension of Mrs. Sue B. Johnson.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Interior be, and he is hereby authorized and directed to increase the pension of Mrs. Sue B. Johnson, widow of Gilbert M. L. Johnson, late colonel of the Thirteenth Regiment of Indiana Cavalry and brigadier-general by brevet, to the sum of \$50 per month.

The report (by Mr. HUNTER) was as follows:

The Committee on Invalid Pensions, to whom was referred the bill (S. 3864) to increase the pension of Sue B. Johnson, have had the same under consideration, and adopt the Senate report hereto attached, and amend the bill by striking out the word "fifty" after the word "of" in seventh line, and inserting in lieu thereof "thirty."

[Senate Report No. 2461, Fifty-first Congress, second session.]

The Committee on Pensions, to whom was referred the bill to increase the pension of Mrs. Sue B. Johnson, have examined the same, and report:

That all the facts and considerations bearing upon or affecting the case of the claimant have been fully set forth in the report of the committee of the House of Representatives on Invalid Pensions, which the committee adopt and make part of this report. The report is as follows:

"They find that the late husband of the beneficiary of the proposed bill, Bvt. Brig. Gen. G. M. L. Johnson, was mustered into the military service of the United States on or about the 5th day of October, 1861, as first lieutenant of Company D, Second Regiment of Indiana Volunteer Cavalry, was subsequently promoted to the captaincy of said company, lieutenant-colonel of the Eleventh Regiment Indiana Cavalry, and colonel of the Thirteenth Regiment Indiana Cavalry, in all of which positions he was conspicuous for intelligence, zeal, and bravery.

"The committee further find that on the 21st of August, 1862, while serving as captain of his company, the said G. M. L. Johnson had his horse shot in action with the enemy; that his horse fell upon him, whereby Captain Johnson received internal injury of the lower part of the trunk, resulting immediately in inflammation and disease of the bowels and kidneys, and hernia in the left groin, necessitating the constant use of a truss.

"The committee find further that despite these injuries, which most men would have regarded as constituting a valid title to discharge from the service and pension for permanent disability, Captain Johnson continued in active service, being promoted to the grades before mentioned, and was finally made brigadier-general by brevet, upon the recommendations of Generals Slocum and Thomas, the last named stating in his recommendation:

"I have known him personally for a long time and in the several grades of a commissioned officer, from a line to a field officer, which latter position by his zealous discharge of duty he honorably earned, and I can speak of him as a most excellent, intelligent, and brave officer. His experience has been an eventful one, and he has served almost entirely in the field and at the front; a strict and just disciplinarian, a brave and gallant officer, he deserved and enjoyed the respect and confidence of his men; careful and skillful in the handling of his troops, he could always be depended upon, while his bearing and gallantry in action was irreproachable.

"As a recognition of past services and as an honor justly due a meritorious officer, I urgently request his promotion as brigadier-general by brevet."

"Upon this 'urgent' recommendation the brevet rank was conferred."

"The committee find further that, after the close of the war, when, from the effects of the injury received in 1862 at the battle of Gallatin, Tenn., aggravated

and intensified by continued active service, Brevet Brigadier-General Johnson found himself positively and permanently incapacitated for the exertion necessary to provide for himself and family, he applied for a pension, setting forth his claim in an affidavit which the committee desire to incorporate with and make part of this report:

"STATE OF ALABAMA, County of Madison, ss:

"On this 28th day of January, A. D. 1870, personally appeared before me, Lewis M. Douglass, a duly authorized officer of a court of record within and for the county and State aforesaid, Gilbert M. L. Johnson, who, being duly sworn according to law, declares that he is the identical Gilbert M. L. Johnson who was mustered in the service of the United States, under the same name, at Indianapolis, Ind., on or about the 5th day of October, 1861, with the rank of first lieutenant Company D, Second Regiment Indiana Volunteer Cavalry, in the war of 1861; that he was promoted to the rank of captain in said company and regiment on or about the 31st day of March, 1862; and afterwards, to wit, on or about the 8th day of March, 1864, lieutenant-colonel of the Eleventh Regiment Indiana Volunteer Cavalry; and afterward, to wit, on or about the 20th day of April, 1864, to the rank of colonel of the Thirteenth Regiment Indiana Volunteer Cavalry; and afterward, to wit, on the 9th day of April, 1866, was promoted to the rank of brigadier-general by brevet, 'to rank as such from the 13th day of March, 1865, for gallant and meritorious services during the war.'

"He was mustered out of the service of the United States at Vicksburg, Miss., on the 18th day of November, 1865; that his personal description is as follows: Age, thirty-two years; height, 6 feet 14 inches; complexion, fair, hair light, eyes blue; that while in the service aforesaid, and in the line of his duty, he received the following injuries at the battle of Gallatin, Tenn., on the 21st day of August, 1862, to wit: By the fall of his horse, which was shot, he received internal injury of the lower part of the trunk, resulting immediately in inflammation and disease of the bowels and kidneys, and hernia in the left groin, which has compelled him to wear a truss almost ever since. He was admitted to the United States hospital in Nashville, where he was treated for this disability. He never entirely recovered from the injuries so received, but recovered sufficiently to engage—not without frequent pain and difficulty—in active service. Since the close of the war he has suffered constantly, more or less, from said injuries, and is still compelled to wear a truss.

"In the month of November, 1868, he was completely disabled and prostrated by paralysis of right side, attended with almost total loss of speech, sight of right eye, and hand, and is so lame as to be almost entirely helpless. Said attack is said by his attending physicians to have been produced by his injuries received as aforesaid.

"Declarant further swears that until recently he has had sufficient means of support, but is now wholly without means of any kind whereon to support himself and family, consisting of a wife and one child, and is forced to rely upon friends for the common needs of life. He was a resident of Cincinnati, Ohio, since the close of the war, engaged in business as a tobacco commission merchant. He is now residing in Huntsville, Ala.

"GILBERT. M. L. JOHNSON.

"Also personally appeared De Witt C. Rugg and A. L. Wilkinson, both residing in Huntsville, State of Alabama, persons whom I certify to be respectable and entitled to credit, and who, being by me duly sworn, say: They were present and saw Gilbert M. L. Johnson, the claimant to the foregoing declaration; that they have every reason to believe from the appearance of said claimant and their acquaintance with him that he is the identical person he represents himself to be, and they have no interest whatever in this claim.

"DE WITT C. RUGG.

"A. L. WILKINSON.

"Subscribed and sworn to before me this 29th day of January, 1870, and I certify that the contents of the foregoing declaration were fully made known and explained to the applicant before swearing, and that I have no interest, direct or indirect, in the prosecution of this claim.

"[SEAL.]

LEWIS M. DOUGLASS,  
"Judge of Probate.

"The committee find further that General M. L. Johnson died from the effect of the injury received in August, 1862, on the 9th day of January, 1871, and his widow was allowed a pension of \$20 per month, and subsequently applied for an increase of the pension because of her own personal affliction and necessity, as set forth in the medical certificate of her physician, which the committee beg to incorporate with and make part of this report:

"HUNTSVILLE, ALA., June 8, 1888.

"I hereby certify that I have known Mrs. Sue B. Johnson and her daughter, Belle B. Johnson, both from their infancy; that both are in poor health, the former having weak lungs of years' standing, with great impairment of sight and hearing. One eye is almost totally blind, and the vision of the other is very imperfect from myopia, which has existed from early childhood. Her hearing is also very defective, necessitating a near approach to her with loud talking in order for her to understand. Some nine years since she sustained a severe fall, which disabled her for five or six months, and more recently, about a year or more ago, she was thrown from a horse and was again severely injured for some time. The daughter, Belle B., is a very frail, delicate young lady, and has organic disease of the heart, which is strongly exhibited upon the slightest exertion. This trouble has existed from early infancy, and for a number of years past I have looked for her to die under one of her severe palpitations. Both are in feeble, delicate health.

"A. R. ERSMAN, M. D.

"This application for increase of pension was disallowed by the Commissioner of Pensions upon the ground that she was receiving the full pension allowed by the law to her husband as captain, the grade he filled at the time he was injured.

"In view of the fact that General Johnson continued in active service after incurring the injury in 1862, and that his efforts in the service of the Government undoubtedly aggravated his affliction, increased his disability, and hastened his death, the committee are fully satisfied that the pension now paid his widow for the disability incurred by her late husband in the grade of captain is less than the rate of pension to which she is equitably entitled, and that the strict construction of the law which, very properly, governs the administration of the Pension Bureau, forbids the allowance of her claim for an increase of pension, it is eminently proper that Congress should intervene to secure her the increased pension to which she is equitably entitled.

"The committee therefore report the bill back with the recommendation that it do pass."

After full consideration of all the facts bearing upon the application of the widow of this gallant soldier for an increase of pension, the committee is convinced that the claim is meritorious, and that it is one of the numerous instances in which the action of the National Legislature may properly interpose to insure to the claimant the benefits and advantages of the bounty of the Government, of which she is deprived by the rigid application of the pension laws by the Commissioner of Pensions.

The committee therefore report the bill back with the recommendation that it do pass.

Mr. WHEELER (before the reading of the report was concluded). This report is very long. This bill as passed by the Senate granted

this lady a pension of \$50 a month. It has been reported by the committee of this House with an amendment reducing the amount to \$30 a month. She is the widow of a general. I ask that the further reading of the report be dispensed with.

A MEMBER. Do you propose to make the pension \$50 a month?

Mr. WHEELER. No; I ask that the bill be passed with the amendment recommended by the committee.

The CHAIRMAN. If there be no objection, the further reading of the report will be dispensed with.

There was no objection.

The amendment recommended by the committee, to strike out "\$50 per month" and insert "\$30 per month," was read, and agreed to.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

DANIEL M. MAULDING.

Mr. TOWNSHEND. I ask the consideration of the bill (H. R. 717) granting an increase of pension to Daniel M. Maulding.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Daniel M. Maulding, late captain of Company H, Sixth Illinois Cavalry, at an increased rate per month.

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

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 717) granting an increase of pension to Daniel M. Maulding, late captain of Company H, Sixth Illinois Cavalry, submit the following report:

It appears that about October 15, 1864, Captain Maulding, while in pursuit of the enemy, near Waynesburgh, Tenn., was thrown from his horse, his foot catching in the stirrup and dragging him some distance, from which hurt resulted hernia or rupture of the right side.

The claimant is now drawing \$20 per month, but as his disability is "total," from the testimony of all the examining boards, and his hernia is not reducible, as shown by the testimony from not only the medical boards but from several other reputable physicians, the committee believe the increase should be granted. While the evidence is not all clear that the hernia is complicated, Dr. M. C. Dale, a reputable physician and surgeon of Hamilton County, Illinois, swears that the hernia is complicated, and he is corroborated in this by Dr. V. S. Benson, of McLeansborough, Ill. These physicians both testify that Captain Maulding's disability is equal to the loss of a hand or foot.

Your committee therefore recommend the passage of the bill.

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

EDWIN W. WARNER.

Mr. TURNER, of Kansas. I call up the bill (S. 3561) granting a pension to Edwin W. Warner.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Edwin W. Warner, late of Company A, Thirteenth Regiment Michigan Volunteer Infantry, and to pay him at the rate of \$30 per month.

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

The Committee on Invalid Pensions, to whom was referred the bill (S. 3561) granting a pension to Edwin W. Warner, submit the following report:

The report of the Senate Committee on Pensions sets forth fully and clearly the facts in this case, and is therefore adopted, and the passage of the bill recommended.

[Senate Report No. 2276, Fifty-fifth Congress, first session.]

Edwin W. Warner was a private in Company A, Thirteenth Regiment Michigan Infantry. He enlisted December 6, 1861; was discharged for disability September 20, 1862; made application for pension August 6, 1867. The Commissioner of Pensions' letter of transmission says:

" Said claim was rejected July 6, 1888, upon the ground that there is no competent evidence to show that disease of spine was contracted in the service and line of duty; that there is no record or competent evidence to show that disease of eyes was contracted in the service, and that insanity developed since discharge, and is believed to be a result of spinal disease."

There is competent and amply sufficient proof in the first and most important place to show that he was sound when he entered the service.

The report of the Adjutant-General says:

"Edwin W. Warner, late of Company A, Thirteenth Michigan Volunteers, was enlisted in the Veteran Reserve Corps June 18, 1863, at Milwaukee, Wis., for three years. Disability when enlisted 'spinal irritation contracted while in the service.'"

This is record and competent testimony, positively contradicting the Pension Office assertion that "there is no competent testimony to show that disease of spine was contracted in the service and line of duty." Therefore if the record is true—and it is so accepted by the committee—and the insanity is the result of the spinal disease, as the Commissioner in his letter declares, then the committee is justified in the unqualified conclusion that spinal disease was incurred in the service and line of duty, and that his present hopeless condition of insanity is a result of spinal disease, and that both are due to his soldier life.

Barnard Vosburg was the captain of this soldier's company. He is a respectable resident of Kalamazoo, Mich., and testifies that Warner was a sound, healthy man at time of enlistment and muster-in.

Henry E. Giddings, first sergeant of the company, swears:

"That on or about the 1st of March to the 20th of April, 1862, they were pushing through Kentucky and Tennessee; that at and after the battle of Shiloh they were without tents or blankets for about two weeks, during which time it rained nearly or quite every day and night, and the said Edwin W. Warner contracted the disease mentioned in his discharge."

Hyland Raymond and other old and respectable residents of Racine, Wis., testify to their knowledge of him before and since the war, to his prior good health, and to the progress of his disabilities during more than twenty years.

Dr. Teegarten, one of the oldest and most respected citizens of Racine, testifies to his acquaintance with the soldier since 1860; to his prior soundness; to his complete breaking down since his discharge; to his having spinal disease, impaired vision, catarrh, and spinal affection. He says:

"Dr. Walcott, United States surgeon at Milwaukee, told me he had treated him for spinal disease soon after his discharge."

In a subsequent statement called for by the Pension Office Dr. Teegarten says Dr. Page, now deceased, treated him for his eyes, Dr. Walcott for spinal disease, and Dr. Garlick treated him for general debility for six years before he

was sent to the insane asylum, and adds that since he left the service he has been permanently unfit and unable to support himself.

Dr. Garlock testifies to having treated him; knew of his suffering from spinal irritation, dyspepsia, and sleeplessness. His mental condition was the most serious.

This case has been under consideration in the Pension Office since August, 1867—over twenty years. A large amount of testimony has been filed, all of which is from reputable citizens of Racine, Wis., and all of which is conclusive as to the merits of the claim. Eight special examinations have been made, none of which have been productive of benefit or injury to the claim. One of the special examiners in his report says:

"Public sentiment in Racine is entirely favorable to the claim, and no one raises a voice against it in any way. For my part I have not the slightest doubt that it is meritorious. There has been some effort to injure the claim by charges of immoral practices on the part of the soldier, but they are mere hearsay scandal without foundation."

The difficulty in the way of arriving at a favorable decision by the Pension Office seems to be the short interval between the soldier's discharge and his enlistment in the Veteran Reserve Corps. In the opinion of the committee the resulting and progressive disabilities are clearly proven from the time of discharge to the development of mental irresponsibility. The record evidence of the War Department identifies "spinal irritation contracted in the service." The Pension Office declares that "insanity developed since discharge, and is believed to be a result of spinal disease." The war record is correct, the Pension Office is correct, and the case is proved.

There can be no question as to the merits of this case, accepting the abundant testimony of numerous reputable witnesses and the authority of the War Department and the Commissioner of Pensions.

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

LEONARD SCHAEFER.

MR. VANCE. I ask the consideration of the bill (H. R. 12006) granting a pension to Leonard Schaefer.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Interior be, and he is hereby authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Leonard Schaefer, late a private in Company C, Twenty-fifth Regiment Connecticut Infantry Volunteers, at the rate of \$10 per month, for rheumatism and gunshot wound of abdomen, in lieu of the pension he is now receiving, to commence from the passage of this act.

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

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 12006) granting a pension to Leonard Schaefer, have had the same under consideration, and beg leave to submit the following report:

Leonard Schaefer is now a pensioner at the rate of \$4 per month for gunshot wound of abdomen. He also claims pension for rheumatism, alleged to have been contracted while under treatment for the wound at University Hospital, New Orleans, La., from April 17 to July 25, 1863. He was discharged from the service August 26, 1863. This claim has been rejected by the Pension Bureau on the ground that there is no record or any other evidence of rheumatism in the service. While this is true, yet there is an abundance of testimony showing that the soldier at the time of his discharge and ever since has been a sufferer from rheumatism, and medical examination by the Springfield (Mass.) board shows its present existence. From the evidence in the case it appears that the disability from rheumatism was particularly severe immediately after discharge, claimant being then confined for some time to his bed by reason of said disease.

After a careful examination of all the evidence in the case, your committee are of opinion that pensioner should be rated for rheumatism as well as for the wound of abdomen, and therefore report favorably on the accompanying bill and ask that it do pass, amended, however, by striking out all after the word "volunteer" in line 7, and insert therein instead the words "and pay him a pension for rheumatism, in addition to the pension now received for wound of abdomen;" also amend the title of the bill by inserting, after the word "granting," the words "an increase of;" so as to read: "granting an increase of pension to Leonard Schaefer."

The amendments recommended by the committee in the concluding paragraph of the report were read and agreed to; and the bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

FLORENCE COURTNEY COCHNOWER.

MR. OWEN (when Mr. VANDEVER's name was called). The gentleman from California [Mr. VANDEVER] is ill to-night and unable to be here. He asked me to request that the House indulge him by permitting me to call up a bill for him in his absence.

MR. DOCKERY. I hope that will be done. Members all know that the gentleman from California is not in robust health and is unable to attend evening sessions.

Several MEMBERS. That is right.

There being no objection, the Committee of the Whole proceeded to the consideration of the bill (S. 1459) granting a pension to Florence Courtney Cochnewer.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Interior be, and he is hereby authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Florence Courtney Cochnewer, at the rate of \$12 per month, for services in the field and as a nurse during the war of the rebellion.

MR. FINLEY. Mr. Chairman, how does this bill come up?

THE CHAIRMAN. It has been called up by unanimous consent for the gentleman from California [Mr. VANDEVER].

MR. FINLEY. I did not understand the Chair as putting the request for unanimous consent, although I was listening. This is precisely a similar request to one which I objected to awhile ago.

MR. OWEN. I trust the gentleman from Kentucky will not object.

THE CHAIRMAN. The question of unanimous consent was submitted, and the Chair heard no objection.

MR. FINLEY. The Chair will pardon me; but I did not hear the Chair put the question.

THE CHAIRMAN. The Chair is not responsible for the gentleman's defect of hearing.

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

The committee have examined the papers on file in this case, and concur in the Senate report recommending the passage of the bill, as follows:

"This bill is to pension Mrs. Florence Courtney Cochnewer for services as nurse during the war of the rebellion, in the field and in hospitals. It is evident from the numerous testimonial filed with the committee that this is a very meritorious case. In support of it we have the testimony of General Rosecrans; W. O. Osgood, late provost-marshall at Nashville, Tenn.; ex-Governor Palmer, of Illinois; Harrison Millard, division inspector under General Rosecrans, and many others. There is this particular reference to her good work:

"At the battle of Franklin, ere the carnage had reached its height, she was everywhere an angel of mercy among our wounded soldiers, binding up their wounds and nursing them. She subsequently endeared herself to hundreds at the hospitals at Nashville, and comes to the sanitary fair introduced by letters of the highest commendation from General Thomas and officials connected with the Sanitary Commission."

"Her services in conveying important information, at the risk of her life and liberty, were commended by General Thomas in the strongest terms. There is a mass of testimony in her favor which the committee do not deem it necessary to embody in this report.

"The bill is reported favorably, with an amendment striking out the word 'twenty-five' and inserting the word 'twelve,' at the end of the sixth line, with a recommendation that it do pass."

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

MARY A. SELBACH.

MR. WEAVER. I call up the bill (H. R. 11466) granting a pension to Mary A. Selbach.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Interior be, and he hereby is authorized and directed to place the name of Mary A. Selbach on the pension-roll, subject to the provisions and limitations of the pension laws.

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

Mary A. Selbach is the widow of Gustavus Selbach, who enlisted September 8, 1864, in Company M, Ninth Regiment Ohio Volunteer Cavalry, and was discharged June 13, 1865. He died January 16, 1886. The widow filed her claim for pension May 31, 1887. He was disabled in the service and was drawing pension from the Government at the time of his death. He was pensioned for disease of ears. The widow's claim was rejected solely on the ground that the disease which caused soldier's death was not attributable to his service and had no connection with the disease from which he died. The surgeons who attended him during his last illness, and who appeared to be scientific men and medical experts, testify as follows:

"We are practicing physicians, and have been acquainted with said soldier for about seven years; intimately acquainted with him as a friend and as his family physician during this time. The immediate cause of his death was pneumonia, although he had been suffering from suppuration in his middle ear (otitis) and disease of the kidneys to an extent which greatly undermined his health, and that he succumbed to an attack of pneumonia, which in a person of ordinary good health would not have been considered serious. There is no doubt in our mind that the diseases from which said G. Selbach suffered before the occurrence of the pneumonia were the true causes of his death, and that they incapacitated him to a great extent from properly attending to his business." (Signed, A. Schloemelch, M. D.; W. Meacher, M. D.)

This is the only medical evidence on file in the Pension Office bearing on the cause of death, in which these doctors say that the soldier died from a slight attack of pneumonia, which in an ordinary healthy person would not have been serious. This clearly shows, in the opinion of your committee, that, had it not been for the debilitated and broken-down condition that the soldier was in, caused by the disease which he contracted in the Army, the slight attack of pneumonia would not have been sufficient to cause his death. These doctors also say that there is no doubt in their minds that the disease from which said soldier suffered before the occurrence of pneumonia was the true cause of his death; clearly showing that at that time these medical men, as medical experts, gave it as their opinion that the death of the soldier was caused by the disease that he contracted in the Army and from which he was suffering, when a slight attack of pneumonia, as they say, was the immediate cause of death, but that the debilitated condition in which his system was found previous to this attack, as they say, no doubt in their minds caused his death.

If what these doctors say is true—and there is no evidence on file to contradict them—it clearly establishes the fact in the minds of your committee that this widow is entitled to a pension, as it leaves no doubt in the minds of your committee, as it did not in the minds of these doctors, that the disease from which the soldier suffered before the occurrence of pneumonia was the true cause of his death; and if this is true there can be no doubt but that the claim is a meritorious one, and the committee therefore recommend the passage of the bill.

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

MARY GRAY.

MR. TRACEY called up for consideration the bill (H. R. 6535) granting a pension to Mary Gray.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Interior be, and he is hereby authorized and directed to place the name of Mary Gray, mother of Charles R. Gray, deceased, late a private in Company I, Fifty-first Regiment New York Veteran Volunteers, on the pension-roll, subject to the provisions and limitations of the pension laws.

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

The claimant, Mary Gray, is the mother of John R. Gray, late private in Company I, Fifty-first New York Cavalry, who died while a prisoner of war. The claim was rejected by the Pension Office on the ground that it was not proven that claimant was dependent upon the soldier for support at the time the soldier died. This conclusion was arrived at, notwithstanding the fact that testimony of very strong character had been filed in the claimant's favor. There is positive evidence now that at present Mrs. Gray is very poor, and she is eighty-two years old.

Your committee believe, without questioning the decision of the Pension Office, her present condition warrants their making a favorable report, and they recommend that the bill pass.

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

## MARY A. LONG.

Mr. WHITE, of Indiana, called up for consideration the bill (H. R. 11993) granting a pension to Mary A. Long.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Interior be, and he is hereby authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Mary A. Long, widow of William W. Long, late of Company D, Fifth Regiment of Kentucky Volunteer Cavalry.

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

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 11993) granting a pension to Mary A. Long, have had the same under consideration, and make the following report:

It appears that in September, 1861, William W. Long was enrolled as second lieutenant of Company D, Fifth Regiment of Kentucky Volunteer Cavalry, and while serving in that capacity at Columbia, Ky., he contracted measles, on or about the 1st of December, 1861, which settled on his lungs and caused his death on the 28th day of March, 1875. This resulting lung trouble from the measles rendered him unfit for military duty, and prevented his muster into the United States service.

His widow, Mary A. Long, made application for pension on account of the death of her husband from the cause referred to, but the claim was rejected, on the ground that the soldier was never mustered into the United States service.

Edwin Vincent, who is a resident of Hiseville, Ky., and who was first lieutenant of said soldier's company, makes the following sworn statement in the case:

"STATE OF KENTUCKY, County of Clinton, ss:

"In the pension claim of Mary A. Long, widow of William W. Long, late second lieutenant of Company D, Fifth Regiment of Kentucky Volunteer Cavalry personally appeared before me, a clerk of the county and State aforesaid, Edwin Vincent, late a first lieutenant of Company D, Fifth Regiment of Kentucky Volunteer Cavalry, whose post-office address is Hiseville, Ky., age fifty-eight years, deposes and says that he was well and personally acquainted with William W. Long: has known him for forty years, and know that prior to his entering the service he was a stout, able-bodied man, and was free from any disease, and especially lung disease.

"Affiant further states that while at Columbia, Ky., on or about December, 1861, said Long contracted measles, which settled on his lungs, and grew worse until the day of his death, which occurred on March 28, 1875.

"Affiant states that he lived a neighbor to said Long, and went frequently to see him during his last sickness, and knows that he died of lung disease, the result of measles.

"EDWIN VINCENT,

"First Lieutenant Company D, Fifth Kentucky Volunteer Cavalry.

"Sworn to, etc., by

"J. J. SIMPSON,

"Clerk Cumberland County Court."

George W. Wright and William Farr, who were members of said Long's company and regiment, furnished sworn statements in the case, and are, in substance, the same as the foregoing affidavit of Lieutenant Vincent.

In view of these facts, your committee feel that this is a meritorious claim, and report back the bill with a favorable recommendation.

Amend by striking out "private" after the word "late" in the sixth line, and insert in lieu thereof the words "second lieutenant."

The amendment of the committee was agreed to; and the bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

MARY H. NICHOLSON.

Mr. WHITE, of New York. I call up Senate bill 1831, granting a pension to Mary Heap Nicholson, and desire to have an order, which I send up to the Clerk to be read, recommended to the House for adoption. That is, I ask the order now made as to the House bill be extended to the Senate bill.

Mr. CHEADLE. I call attention to the fact that the gentleman from New York is getting somewhat mixed on this question.

Mr. WHITE, of New York. I am not getting mixed, as the gentleman will see. I will prove to the House, I think, that I am on the right track. I ask the order made as to House bill 6317 in regard to this same pension shall apply to the Senate bill which I have called up. My motion is that the same order shall be extended to the Senate bill; that is, that the bill may be reported to the House with the recommendation that the same order shall be entered in reference to it which was entered in reference to the House bill.

The CHAIRMAN. The Clerk will read the order.

The Clerk read as follows:

A bill for the relief of Mary H. Nicholson. Previous question ordered; postponed to May 28.

May 26, 1888.—Postponed to June 20.

June 20, 1888.—Ordered postponed to July 12, at 8 o'clock p. m.; thirty minutes' debate.

The CHAIRMAN. The order which has just been read does not relate to the bill called up by the gentleman from New York.

Mr. WHITE, of New York. If the Chair will indulge me for a moment, I ask that the bill (S. 1831) granting a pension to Mrs. Mary Heap Nicholson be reported to the House, with the recommendation that the same order be entered as to it; that is, that the order which was postponed to May 28, and on May 26 postponed to June 20, and on June 20, 1888, postponed to July 12, at 8 o'clock p. m., with thirty minutes for debate, shall be extended to the Senate bill, or, in other words, that the Senate bill shall be substituted for the House bill, and that that order shall apply to the Senate bill as it now applies to the House bill.

Mr. McMILLIN. This committee can not dictate to the House what course it will take.

Mr. WHITE, of New York. But it can make a recommendation to the House as to the course it will take.

Mr. McMILLIN. It can do so, of course, as to this bill, but not as to any other. We can not make such an order concerning a bill not before the committee.

Mr. WHITE, of New York. It has been done, and an order of the same kind has been made as to a similar bill, as I have shown.

The CHAIRMAN. But when that order was made it was made in reference to a bill under consideration by the committee.

Mr. DOCKERY. An order could be made in the nature of a recommendation to the House.

Mr. WHITE, of New York. That is just what I am asking. The order in reference to the bill (H. R. 6317) for the relief of Mary H. Nicholson, whereby the previous question was ordered and thirty minutes' debate allowed, I move shall be extended to this Senate bill 1831.

Mr. McMILLIN. This committee can make a recommendation in reference to the bill now before it, but it can not enter any order in reference to a bill which is now in the House. The point I wish to make is that we can not recommend what shall be done with regard to a bill not on the Calendar.

Mr. DOCKERY. Let me call the attention of the gentleman from New York to the fact that these bills have been already considered in the committee, as I am informed by the Clerk, and an order made with reference to both of them. Hence any action we take now in committee would be of no avail with regard to them. They are in the House and on the Calendar of unfinished business.

Mr. WHITE, of New York. I was not aware that any order had been made with reference to this bill S. 1831.

Mr. DOCKERY. The gentleman will find it on the Calendar of unfinished business.

Mr. WHITE, of New York. Very well, then; I would prefer to have it in that position, as I understand when the previous question has been ordered on it it is privileged.

Mr. DOCKERY. That is correct.

BENJAMIN E. SNYDER.

Mr. WHITING, of Michigan, called up the bill (H. R. 10780) for the relief of Benjamin E. Snyder.

The bill is as follows:

*Be it enacted, etc.*, That the Secretary of the Interior be, and he is hereby authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Benjamin E. Snyder, late of Company L, Fifth Regiment New York Heavy Artillery.

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

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 10780) for the relief of Benjamin E. Snyder, have examined the same, and submit the following report:

Benjamin E. Snyder was a private in Company L, Fifth Regiment New York Heavy Artillery; was enrolled on the 25th day of August, 1864, and the regimental return for October, 1864, reports him a recruit from depot, joined October 12, 1864, absent on detached duty March and April, 1865, and mustered out with company June 26, 1865.

Soon after his arrival at Harper's Ferry, Maryland Heights, in the month of October, 1864, where the company of which he was a member was under military drill, he was one of eight men in attendance on a heavy siege-piece, it being his first drill with cannon. He had at that time no instructions as to his manner of standing at the discharge of a gun, and on the first discharge was standing squarely upon his feet in an upright condition, whereas he should have been instructed by the officer in charge to relax the muscles of his legs, stoop, or partially kneel. The result of the first discharge and the position he had assumed was that he was deafened by the concussion and thrown violently to the ground.

He concealed his deafness as far as possible from his comrades, for fear, as he claims, that he would be laughed at for his ignorance.

The regiment to which he belonged was recruited about 100 miles from his home, and he joined his company unacquainted, and at the time of this accident knew but partially, if at all, the members of the squad who were under drill with him. Consequently he does not remember their names and can not secure their evidence, though he has searched diligently for members of his company who might remember the circumstances of this first drill.

His hearing is shown to have been good before and at the time of entering the service, but immediately on his return from his short term of duty, it is shown, by good and reliable witnesses, that he was quite deaf, and he has remained so ever since.

Claimant swears that he was compelled to give up his former occupation on account of his deafness. This statement is substantiated by another witness.

Claim was rejected by the Pension Bureau because claimant could not furnish evidence that said disability originated in service. His hearing is shown to have been good before and very bad immediately after his service, and he reasonably accounts for his loss of hearing in service and line of duty. It is also well known that the branch of service this soldier was in—the artillery—is the frequent cause of deafness of a more or less aggravated character. When, too, a party enters the military service physically sound, and immediately after discharge therefrom he is shown to be diseased, the natural and legal inference, in the absence of evidence to the contrary, is that his disease was contracted in the service and line of duty.

We therefore believe that the bill to pension this soldier should be passed, and so recommend.

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

CHARLES SCHULER.

Mr. WHITE, of New York. Mr. Chairman, I now ask consideration of the bill (H. R. 11923) granting a pension to Charles Schuler.

The bill is as follows:

*Be it enacted, etc.*, That the Secretary of the Interior be, and he is hereby directed to place on the pension-roll, at \$18 per month, the name of Charles Schuler, late a member of Company K, Fourth Minnesota Infantry, he being mentally and physically incapacitated, subject to the provisions of the pension laws, and pay the same to his lawfully constituted guardian.

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

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 11923) granting a pension to Charles Schuler, submit the following report:

The beneficiary under the bill was a member of Company K, Fourth Minnesota Infantry, and served during the larger part of the war. The evidence submitted to your committee shows that the claimant is now suffering from paralysis agitans to such a degree as to be mentally and physically incapacitated from the performance of any labor. He has never made any application for a pension, and his mental condition has been such for many years that he could not do so.

It is shown that he was a sound, healthy man when he went into the service; that he served long and faithfully; that he participated in the battles before Vicksburg, and soon after had a long and severe sickness; that he left the Army broken down physically, with symptoms of the disease which is now afflicting him. He is now utterly destitute and is supported by those upon whom he has no legal claim. These facts are fully established by the evidence of Hon. J. L. MACDONALD, M. C.; F. E. Du Toits, F. Grimes, and Dr. John A. McDonald.

Your committee recommend the passage of the bill.

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

HANNAH M'KEE.

Mr. WICKHAM called up for consideration the bill (H. R. 6886) granting a pension to Hannah McKee.

The bill is as follows:

*Be it enacted, etc.*, That the Secretary of the Interior be, and he is hereby authorized and directed to place on the pension-roll the name of Hannah McKee, mother of John H. McKee, late of Company F, Twelfth Regiment Indiana Volunteers; Joseph A. McKee, late of Company I, Fifteenth Regiment Ohio Volunteer Infantry; George B. McKee, late of Battery A, Fourth United States Artillery; and Opius H. McKee, late of Company D, Fourth Ohio Volunteer Infantry.

The report (by Mr. THOMPSON, of Ohio) was read, as follows:

Your committee do not believe that they can any better bring to the knowledge of the House the merits of this case than to give the statement made by the claimant in her petition, as follows:

"I had four sons enlisted in the war, as follows: Joseph A. McKee, Company I, Fifteenth Regiment Ohio Volunteer Infantry; John H. McKee, Company F, Twelfth Regiment Indiana Volunteers; Ossian H. McKee, Company D, Fourth Regiment Ohio Volunteer Infantry; and George B. McKee, Battery A, Fourth United States Artillery. I claim the war to have been the breaking up of my family of boys. Those four sons whom I had reared almost to manhood and whom alone I could look to for support in my old days were taken from me. John H. McKee fell a victim to heart disease while in his country's service, and lies buried near Bowling Green, Ky. Joseph A. McKee went West, and I do not know to-day whether he is dead or alive,

"Ossian H. McKee was made a cripple for life by a bullet received in his left elbow at Chancellorsville, and which could never be extracted. George B. McKee was shot through the foot, being also rendered a cripple for life, having participated in seventeen regular engagements, as recorded on the back of his discharge, which included Antietam, Fredericksburg, and Gettysburg. These sons, whether married or single, were the only persons I could ever expect to look to for my support, and the fact of their having married has debarred me heretofore from obtaining any relief under existing pension laws, although they have long since filled untimely graves from wounds and diseases contracted while engaged in the cause of freedom. The boys all having left home I can safely attribute as partly the cause of my husband's death, who died in 1862.

"I can say, further, that although I have always been very poor I never was the one to receive aid, nor did I ever make application to the township trustees, who had a fund for the relief of such cases as mine at the time of the war, and it is now only in an extreme case of necessity that I appeal for aid from the hands of this (so-called) magnanimous Government for important services rendered in the darkest hour of our country's history. The war being a great sacrifice to me, I feel it all the more as I become older and more infirm.

"I also suffered a loss from fire by having a good house burned while the war was in progress, on which there was no insurance, which I do not believe ever would have happened had my boys been at home at the time.

"After the war not one of my sons ever returned to live with me. I am now (March 21, 1888) in my seventy-sixth year and in very poor health and circumstance, and it may be that I will be a burden only for a short time, if allowed relief from the hands of your honorable committee. The foregoing is only a plain and unvarnished statement of my case as it stands, and for which I shall answer to God.

HANNAH M'KEE."

It can not be doubted that the war destroyed the support which the applicant would otherwise have had in her old age. She has no means of support and no daughter, and has scant assistance from a remaining son, who, although kind and willing, is himself poor and burdened with a family of his own. This patriotic woman laid all her jewels upon the altar of her country's salvation. Can that country do less, in the day of its restoration and prosperity, than to afford the pittance named during the few years that remain to her?

The committee recommend the following amendment: Strike out "Opius," in line 9, and insert "Ossian;" also add to the end of the bill the words "at the rate of \$30 per month."

The amendments recommended by the committee were agreed to.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

STERNE H. FOWLER.

Mr. WILKINSON called up for consideration the bill (S. 2924) to increase the pension of Sterne H. Fowler.

The bill is as follows:

*Be it enacted, etc.*, That the Secretary of the Interior be, and he is hereby authorized and directed to increase the pension of Sterne H. Fowler to \$16 per month, subject to the provisions and limitations of the pension laws, in lieu of the pension now paid him.

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

The Committee on Pensions, to whom was referred the bill (S. 2924) granting an increase of pension to Sterne H. Fowler, have considered the same, and report it back to the House recommending its passage.

Your committee have had before them the papers on file in the pension claim, and have also considered the testimony filed immediately before them, and the statement of facts in the report of the Senate Committee on Pensions are correctly stated as follows:

"[Senate Report No. 1821, Fifteenth Congress, first session.]

"The claimant served in the war with Mexico during its whole duration as

lieutenant in regular Army. He had before that time served as a private for three years. He resigned his commission in the regular Army in 1857 on account of chronic rheumatism, from which he has ever since suffered. His disease is of the most prostrating and virulent character. His disease was contracted in the service and he was treated therefor unsuccessfully while in the same.

"He is now seventy-six years old, broken down, unfitted for labor of any kind, according to the testimony submitted to us, both lay and medical. He was present and commanded a company at the battles of Palo Alto and Resaca de la Palma, on the 8th and 9th of May, 1846; also at Monterey. He was also actively engaged at the siege and capture of Vera Cruz, and was brevetted as captain and major successively for gallant and meritorious conduct in the battles of Churubusco and Molino del Rey.

"In 1862, residing at the time in Minnesota, he served as lieutenant-colonel of volunteers and as acting assistant adjutant-general upon the staff of General Sibley in the war against the Sioux Indians until the close of hostilities. He now resides in Richmond County, Dakota. His wife is sixty-eight years old and a helpless invalid. Both are very poor, without means of support, except the pension of \$8 per month now drawn by him under the Mexican pension law.

"We think this pension, under the peculiar circumstances of the case, ought to be increased. We therefore recommend the passage of the bill, with the following amendments: In the fifth line of the bill fill the blank before the word 'dollars' with the word 'sixteen,' and insert the words 'in lieu of the pension now paid him' after the word 'laws' in the sixth line of the bill."

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

CATHARINE MUTZ.

Mr. ADAMS. I call up for consideration the bill (H. R. 7123) for the relief of Catharine Mutz.

The bill is as follows:

*Be it enacted, etc.*, That the Secretary be, and he is hereby authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Catharine Mutz, widow of Max Mutz, late of Company H, Sixth Regiment New York Heavy Artillery.

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

The committee have considered this case, and find from the evidence the following facts:

Catharine Mutz is the widow of Max Mutz, late a private in Company H, Sixth Regiment New York Heavy Artillery; an applicant for widow's pension, No. 256224.

Max Mutz enlisted in Company H, Sixth New York Heavy Artillery, August 1, 1863, for three years, and was honorably discharged August 24, 1865.

The soldier contracted lung, kidney, and bladder disease while in the service; he entered the soldiers' home in Chicago November 19, 1865, and suffered with lung, kidney, and bladder disease from year to year until March 23, 1875, when he died from bladder and kidney disease.

The widow's claim for pension was rejected by the Pension Office February 28, 1884, on the ground of there being no record in the War Department of soldier's fatal disease, and claimant being unable to furnish testimony of the in-currence of same in the service.

The widow has been unable to find an officer or comrade who served with her husband who could testify as to the origin of soldier's disabilities in the service, but she has furnished the testimony of two fellow-workmen of soldier, who have testified that they saw soldier when he first came home from the Army in July, 1865, at which time he had a bad cough and kidney trouble; that he entered the soldiers' home at Chicago, where he remained for six weeks; that subsequently and at different times he worked in a lumber-yard with them, but could not work more than every other day, and sometimes not for days at a time, on account of his cough and kidney trouble; that this condition of things lasted until his death, in 1875.

Dr. R. C. Hamill, the president of the soldiers' home in Chicago, has testified that Max Mutz was admitted to the home November, 1865, and that the books show that on November 19, 1865, he had an attack of pneumonia, and again in December, 1865, the books show soldier was treated for disability.

There is no doubt but that soldier's disabilities, which caused his death, were contracted in the service. The widow is an old German woman, suffering with rheumatism, and unable at the present time to earn a living by washing and scrubbing, as in former years.

The death of the soldier we think is reasonably traceable to his army service; and therefore the committee recommend that the bill do pass.

Mr. ADAMS. There seems to be a clerical error in this bill, by the omission of the words "of the Interior" after the word "Secretary," in the third line. I move therefore that the bill be amended so as to read, "That the Secretary of the Interior," etc.

The amendment was adopted.

The bill as amended was laid aside to be reported to the House with the recommendation that it do pass.

ESTER GAVEN.

Mr. YODER called up for consideration the bill (H. R. 12303) granting a pension to Ester Gaven.

The bill is as follows:

*Be it enacted, etc.*, That the Secretary of the Interior is hereby authorized and directed to place upon the pension-roll the name of Ester Gaven, mother of Bernard Gaven, late private in Company D, Seventy-first Regiment Ohio Volunteer Infantry, subject to the provisions and limitations of the pension laws.

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

Esther Gaven is the mother of Bernard Gaven, a private of Company D, Seventy-first Regiment Ohio Volunteer Infantry, now deceased. This dependent mother applied for a pension on account of her son's death, having been the result of disease contracted by him while in the service and in line of duty. By the papers on file in the Pension Department and by the records in the Surgeon-General's Office the fact that the soldier was sound and free from any disability when he entered the service and that he contracted the disease which she alleges was the cause of his death has been clearly established.

The only question involved in this case, and the reason for its rejection in the Pension Department, is the fact that there is no direct evidence on file to prove the immediate cause of his death. There is nothing to prove the contrary, he having been sick a long time, suffering from chronic diarrhea and disease of the stomach, the disability alleged for pension; and they being poor, had, it appears, no regular family physician who could testify to the cause of his death. The fact that Mrs. Gaven is a dependent mother, and that he contributed to her support, is clearly established. She is quite old and feeble, destitute and broken-down in health, and has become a charge on the community in which she lives. If she does not obtain this relief, which, in the opinion of your committee, the Government owes to her, she will soon be an inmate of an almshouse.

The record also shows that her son was a brave and good soldier, and that he contracted the disease alleged in line of duty there is no doubt. In fact, if this missing link of evidence of the attending physician during his last sickness or some other competent evidence could be procured as to the immediate cause of his death, the case would have been allowed or could yet be allowed in the Pension Office. But your committee is informed, and from personal knowledge of this case we are satisfied, that under the circumstances it would be impossible for her to furnish the missing link in the testimony. The priest of her church and prominent citizens of the community in which she lives have interested themselves a great deal in this distressing and, as we believe, meritorious case, but have been unable to furnish the necessary evidence to plainly prove the immediate cause of his death.

This old and destitute mother has excited the sympathy of the entire community in which she lives. She bears a good reputation as a pious, Christian woman, and is left entirely without friends or relatives who are legally bound to support her, and your committee is of the opinion that it would be a matter of great injustice to refuse her this small pittance and allowance, which in our opinion is due her, for the reason she can not furnish the necessary evidence which would clearly entitle her to receive a pension in the Pension Department. It has been said that by furnishing the necessary evidence she could prosecute her claim in the Pension Department, which is true, and after an unceasing effort by those who are now supporting her and who have taken a great interest in her behalf, it is clearly demonstrated to your committee that she can never furnish the necessary affidavits. Your committee is of the opinion that this is one of the cases wherein special legislation is peculiarly demanded, and that it is a case of merit, and unanimously recommend the passage of the bill.

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

#### ORDER OF BUSINESS.

Mr. HOLMAN. It is now getting quite late, and perhaps we had better rise in order to be able to pass the bills which have been considered in committee.

Mr. ANDERSON, of Iowa. Let us go on a little further. I have a bill here I want to call up.

Mr. CHIPMAN. I move that the committee do now rise. It will take the time from now until the hour of adjournment to pass the bills which have been considered.

The motion was agreed to.

The committee accordingly rose; and the Speaker *pro tempore* having resumed the chair, Mr. DOCKERY reported that the Committee of the Whole House on the Private Calendar had had under consideration the special order and had directed him to report back to the House sundry bills with various recommendations.

#### HOUSE BILLS PASSED WITHOUT AMENDMENT.

House bills of the following titles without amendment were severally ordered to be engrossed and read a third time; and being engrossed, they were accordingly read the third time, and passed:

- A bill (H. R. 11300) granting a pension to George H. Burgess;
- A bill (H. R. 12506) granting an increase of pension to Patrick Geraghty;
- A bill (H. R. 6598) granting a pension to Maria Brasted;
- A bill (H. R. 10639) granting a pension to John Y. Hooper;
- A bill (H. R. 424) granting a pension to Elizabeth Myers;
- A bill (H. R. 8801) granting a pension to William Logan;
- A bill (H. R. 11924) granting a pension to Annie Balser;
- A bill (H. R. 10301) for the relief of Emily Cross;
- A bill (H. R. 10882) granting a pension to Nancy Hamilton;
- A bill (H. R. 10791) granting a pension to Marinda Wakefield Reed;
- A bill (H. R. 717) granting an increase of pension to Daniel M. Maulding;
- A bill (H. R. 11466) granting a pension to Mary A. Selbach;
- A bill (H. R. 6535) granting a pension to Mary Gray;
- A bill (H. R. 10780) for the relief of Benjamin E. Snyder;
- A bill (H. R. 11923) granting a pension to Charles Schuler; and
- A bill (H. R. 12303) granting a pension to Ester Gaven.

#### HOUSE BILLS PASSED WITH AMENDMENTS.

Amendments reported to House bills of the following titles were severally agreed to, and the bills as amended were ordered to be engrossed and read a third time; and being engrossed, they were accordingly read the third time, and passed:

A bill (H. R. 9408) granting an increase of pension to Stephen L. Kearney;

- A bill (H. R. 11430) to increase the pension of Harlan E. King;
- A bill (H. R. 11741) granting a pension to Alexander M. Boatright;
- A bill (H. R. 10474) granting a pension to Doreus Alford;
- A bill (H. R. 11586) for the relief of Stephen Williams;
- A bill (H. R. 11993) granting a pension to Mary A. Long;
- A bill (H. R. 6886) granting a pension to Hannah McKee;
- A bill (H. R. 7123) for the relief of Catharine Mutz; and
- A bill (H. R. 12006) granting a pension to Leonard Schaefer. (The title was amended to correspond.)

#### SENATE BILLS PASSED WITHOUT AMENDMENT.

Senate bills of the following titles, favorably reported from the Committee of the Whole, were severally ordered to a third reading; and they were accordingly read the third time, and passed:

- A bill (S. 3335) granting a pension to Thompson D. Hatfield;
- A bill (S. 2530) granting a pension to Robert Kelly;
- A bill (S. 3819) granting a pension to Esther Gould;
- A bill (S. 3435) granting a pension to J. D. Hayworth;
- A bill (S. 3561) granting a pension to Edwin W. Warner;

A bill (S. 1459) granting an increase of pension to Florence Courtney Cochhower; and

A bill (S. 2924) to increase the pension of Sterne H. Fowler.

#### SENATE BILLS PASSED WITH AMENDMENTS.

Amendments reported to Senate bills of the following titles were severally agreed to; and the bills as amended were ordered to a third reading, and accordingly read the third time, and passed:

A bill (S. 3428) granting a pension to Mary C. Thompson; and

A bill (S. 3864) to increase the pension of Mrs. Sue B. Johnson.

#### ABBY J. SLOCUM.

The next bill reported from the Committee of the Whole was the bill (S. 169) granting an increase of pension to Abby J. Slocum, with the recommendation that the previous question be ordered on the third reading and passage of the bill, and that it be postponed until Friday next.

Mr. SPOONER. Mr. Speaker, the gentleman from Indiana [Mr. CHEADLE] does not object to making that \$30 a month by amendment, and I move that the bill be amended by striking out "fifty" and inserting "thirty."

The SPEAKER *pro tempore*. If there be no objection the amendment will be agreed to.

There was no objection, and the amendment was agreed to.

The bill as amended was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. DOCKERY moved to reconsider the several votes by which the various bills had been passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MARY E. WALKER, M. D.

The SPEAKER *pro tempore*. The gentleman from New York [Mr. SAWYER] heretofore made an adverse report on the Senate bill 1041, granting a pension to Mary E. Walker, M. D., and it was laid on the table. He asks unanimous consent that it be placed on the Calendar. If there is no objection it will be done.

#### GEORGE COLWELL.

Mr. HOLMAN obtained unanimous consent to call up for consideration the bill (H. R. 12047) granting an increase of pension to George Colwell.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Interior is authorized and he is hereby directed to increase the pension of George Colwell, late a private of Company I, Eighty-third Regiment Indiana Volunteers, and grant him a pension at the rate of \$50 per month, in lieu of the pension now received by him.

The SPEAKER *pro tempore*. Is there objection to the consideration of the bill?

Mr. KILGORE. I think the report ought to be read.

Mr. DUNHAM. I ask unanimous consent to dispense with the reading of the report.

Mr. KILGORE (to Mr. HOLMAN). Does the report recommend an amendment reducing the amount from fifty to twenty-five dollars per month?

Mr. HOLMAN. It does. The report was made by Mr. GALLINGER, and it is a meritorious case.

The report (by Mr. GALLINGER) is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 12047) granting an increase of pension to George Colwell, have had the same under consideration and beg leave to submit the following report:

George Colwell served as private in Company I, Eighty-third Regiment Indiana Volunteers, from August 10, 1862, to June 1, 1865. While on foraging duty in January, 1864, near Larkinsville, Ala., he was bitten in left leg by a dog, on account of which injury he now receives a pension at the rate of \$2 per month. It appears that in September, 1865, he suffered from a strain or probably dislocation of the knee of the previously injured leg, which, in connection with the original injury, has resulted in a disability rated by the examining surgeon at third grade. The Pension Office does not consider the present serious disability as in any way connected with the service, and therefore rates for the bite only.

The evidence shows that the bite was quite serious. Claimant was under treatment therefor nearly three months, and ever thereafter the leg was weak. In September, 1865, the wound again opened up, confining him to his bed for several months. The wound from the dog-bite is described by the surgeons as about 4 inches above left ankle, in calf of leg, soft parts purple for 3 or 4 inches around the scar. Abscesses formed from time to time after the bite, as is clearly shown from the numerous cicatrices from ankle to knee. Whether the injury in 1865 was or was not a direct or indirect result of the original injury can not be clearly demonstrated, but, in view of the fact that the leg was greatly weakened from the army injury, its measurement being considerably less than its fellow member, as shown by the examination, it may be safely assumed that the former was at least indirectly connected with the latter.

Again, it may be held from a medical standpoint that the slight injury in 1865 would not have resulted in the serious disability now existing but for the partially diseased condition of the leg due to the military service. The last examination shows almost complete ankylosis of knee-joint and patella, there being not over 2 degrees of motion, due to synovitis of knee-joint; leg fixed at 50 degrees angle to thigh, and, when standing, heel does not touch floor by 6 inches. Walks on toes, with aid of a cane.

Your committee are of opinion that the relief asked for should be granted, and therefore report favorably on the accompanying bill and ask that it do pass, amended, however, by striking out the word "fifty," in line 6, and inserting therein instead the word "twenty-five."

The amendment was agreed to, and the bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. HOLMAN 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.

LOUISA PROVOST.

Mr. GALLINGER obtained unanimous consent to call up for consideration the bill (S. 1884) granting a pension to Louisa Provost.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Louisa Provost, widow of Peter Provost, late a soldier in Company B, Seventeenth Vermont.

Mr. GALLINGER. I ask unanimous consent to dispense with the reading of the report. This is a meritorious case.

There was no objection.

The report (by Mr. GALLINGER) is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (S. 1884) granting a pension to Louisa Provost, having considered the same, report as follows:

This is a Senate bill, the report in the case being as follows:

"The soldier rendered brave and efficient service for some two years, during which time, at the battle of Spotsylvania, he was severely wounded in the left ankle by a shell and taken prisoner. He remained a prisoner for about three months and was then exchanged. This wound never healed, and for it he was pensioned until his death, which occurred in 1882.

"The only question in the case is whether the wound was the cause of death. It appears from the statement of his attending physician, Dr. Fisk, of Roxbury, Vt., a regular practitioner in good standing, that thirty-six hours before his death he found the soldier in a cramped and doubled-up condition, suffering great pain from the wounded foot, which was greatly swollen and inflamed. It appears that the wound was ragged and dark-colored, with symptoms of mortification. All these symptoms continued to grow worse until his death. The inflammation in the bowels became specially aggravated, and the cause of his death is spoken of as inflammation of the bowels. We can see no reason to question the opinion of his attending physician that the wound was the direct cause of the inflammation and death."

Not being fully satisfied with the Senate report, your committee carefully examined the papers on file in the Pension Office in this case.

The certificate of the attending physician, evidently written by an ignorant man, is something of a curiosity, and it is difficult from that paper to intelligently determine the real facts in the case. It does appear, however, that the wound was a very ugly one; that on the day of soldier's death it was terribly inflamed and painful, and the presumption is that it was the cause of death.

As the bill is for a widow in needy circumstances, your committee give her the benefit of whatever doubt there may be in the case, and report the bill back favorably and recommend its passage.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. GALLINGER 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.

And then (at 10 o'clock p. m.) the House adjourned.

#### PRIVATE BILLS INTRODUCED AND REFERRED.

Under the rule private bills of the following titles were introduced and referred as indicated below:

By Mr. BUCHANAN: A bill (H. R. 12525) granting a pension to William S. Truax—to the Committee on Invalid Pensions.

By Mr. CHIPMAN: A bill (H. R. 12526) granting a pension to the widow of William A. Owen—to the Committee on Invalid Pensions.

By Mr. T. J. HENDERSON: A bill (H. R. 12527) to increase the pension of John Corlett—to the Committee on Invalid Pensions.

By Mr. LEE: A bill (H. R. 12528) for the relief of Mary B. T. Randolph, A. M. Randolph, Beverly Randolph, B. M. Randolph, and E. C. Turner, of Fauquier County, Virginia, and W. F. Randolph, of Washington County, Mississippi—to the Committee on War Claims.

By Mr. HENRY SMITH: A bill (H. R. 12529) granting a pension to Jesse Webb—to the Committee on Pensions.

By Mr. STRUBLE: A bill (H. R. 12530) granting a pension to Francis A. Parrott—to the Committee on Invalid Pensions.

#### PETITIONS, ETC.

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

By Mr. BUCHANAN: Petition of Local Assembly No. 3594, Knights of Labor, of Trenton, N. J., against the passage of the free-ship bill—to the Committee on Merchant Marine and Fisheries.

Also, petition of Michigan Maimed Soldiers' League, in favor of House bills Nos. 4339 and 4356—to the Committee on Invalid Pensions.

By Mr. COX: Memorial of Henry Hinch and others, citizens of New York City, as to immigration—to the Committee on the Judiciary.

By Mr. GROSVENOR: Memorial of the General Assembly of Ohio, in relation to the establishment of fish-hatching houses—to the Committee on Agriculture.

By Mr. JONES: Papers in the case of Freeland Harton—to the Committee on Pensions.

By Mr. KELLEY: Petition of citizens of Gentry County, Missouri, asking that duties on sugar be abolished—to the Committee on Ways and Means.

By Mr. LEE (by request): Petition of Susan Brown, of Culpeper

County, and of Fleet Cox, of Stafford County, Virginia, for reference of their claims to the Court of Claims—to the Committee on War Claims.

Also, petition for reference of claim of Eliza S. Hensbrough and others, heirs of George Smith, of Culpeper County, Virginia, to the Court of Claims—to the Committee on War Claims.

Also, paper in the war claim of John Grasty, of Orange County, Virginia—to the Committee on War Claims.

By Mr. NEWTON: Petition of Ann-Victoria Noland, of Madison Parish, Louisiana, for reference of her claim to the Court of Claims—to the Committee on War Claims.

By Mr. CHARLES O'NEILL: Memorial of the executive committee of the Universal Peace Union, urging Congress to use efforts to have Great Britain settle its difficulties with Venezuela by arbitration—to the Committee on Foreign Affairs.

By Mr. SHERMAN: Petition of farmers of Buford, N. Y., for the passage of pure lard bill—to the Committee on Agriculture.

Also, petition of farmers of Croghan, N. Y., for protection to agriculture—to the Committee on Ways and Means.

By Mr. TOOLE: Petition of J. W. Jones and others, presenting grievances of homestead settlers on the abandoned Fort Ellis military reservation in Montana—to the Committee on Military Affairs.

By Mr. YOST: Petition of citizens of Clarksville, Va., for repeal of the tax on tobacco—to the Committee on Ways and Means.

The following petitions for a national Sunday-rest law were received and severally referred to the Committee on Labor:

By Mr. BLISS: Of 1,245 citizens of New York.

By Mr. FELIX CAMPBELL: Of 1,201 citizens of New York.

By Mr. GALLINGER: Of 51 citizens of the District of Columbia.

By Mr. LONG: Of Lodge No. 64, Independent Order of Good Templars, of West Brookfield, Mass.

By Mr. WARNER (by request): Of citizens of Windsor, Mo.

The following petitions, praying for a constitutional amendment prohibiting the manufacture, importation, exportation, transportation, and sale of all alcoholic liquors as a beverage, were received and severally referred to the Select Committee on the Alcoholic Liquor Traffic:

By Mr. BIGGS: Of T. W. Lincoln and 111 others, of Amador County, California.

By Mr. BUCHANAN: Of 64 citizens of Mercer County, New Jersey.

By Mr. BURNETT (by request): Of 50 citizens of Medway, Mass.

By Mr. CASWELL: Of 51 citizens of Sugar Creek, Wis.

By Mr. COOPER: Of 52 citizens of Powell, Ohio; of 51 citizens of Delaware, Ohio.

By Mr. CROUSE: Of 24 citizens of Cuyahoga Falls, Ohio.

By Mr. FRENCH (by request): Of 36 citizens of East Haven, Conn.

By Mr. HIRES: Of 32 citizens of Swedesborough, N. J.

By Mr. KEAN: Of 21 citizens of Rahway, N. J.

By Mr. NELSON: Of 54 citizens of Red Lake Falls, and of 26 citizens of Hancock, Minn.

By Mr. PEEL: Of 33 citizens of Melbourne, and of 17 citizens of Lunenburgh, Ark.

By Mr. RICE: Of 144 citizens of Minneapolis, Minn.

By Mr. J. E. RUSSELL: Of 20 citizens of Orange, Mass.

By Mr. VANCE: Of 107 citizens of Newington, Conn.

By Mr. WILLIAM WHITING: Of 85 citizens of Athol, and of 72 citizens of Huntington, Mass.

#### SENATE.

SATURDAY, February 9, 1889.

Prayer by the Chaplain, Rev. J. G. BUTLER, D. D.

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

#### CREDENTIALS.

The PRESIDENT *pro tempore* laid before the Senate the credentials of MATT W. RANSOM, chosen by the Legislature of North Carolina a Senator from that State for the term beginning March 4, 1889; which were read, and ordered to be filed.

#### PUBLIC BUILDING AT OSHKOSH, WIS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Acting Secretary of the Treasury, forwarding a letter of the Acting Supervising Architect of the Treasury Department stating that a further appropriation of \$1,600 will be required in order to substitute oak finish for white-pine finish in the court-house, post-office, etc., at Oshkosh, Wis.; which, with the accompanying paper, was referred to the Committee on Appropriations, and ordered to be printed.

#### PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a concurrent resolution of the Legislature of Kansas, favoring a bounty upon domestic sugar; which was ordered to lie on the table.

Mr. FARWELL presented a petition of 148 citizens of the State of