

Mr. REAGAN. I hope the gentleman from Kentucky [Mr. WHITE] will not insist on the call for the regular order. A great many gentlemen have bills to introduce and desire the action of the House on small matters which have been interfered with by the consideration of this bill.

The SPEAKER. Is the demand for the regular order withdrawn? Mr. WHITE, of Kentucky. I withdraw the demand for the regular order so as to permit the introduction of bills.

Mr. HOPKINS. I ask that a joint resolution of the Senate relating to the payment of laborers in the Government service on holidays be taken from the Speaker's table for present consideration.

The SPEAKER. The gentleman from Kentucky did not withdraw his demand for the regular order for such a purpose as that; it was only withdrawn to permit the introduction of bills.

Mr. WHITE, of Kentucky. I do not object to the gentleman from Pennsylvania [Mr. HOPKINS] calling up the resolution he has indicated.

HOLIDAYS FOR GOVERNMENT EMPLOYÉS.

Mr. HOPKINS. I ask unanimous consent to have taken from the Speaker's table for present consideration the joint resolution (S. R. 32) providing for the payment of laborers in Government employ for certain holidays. I am satisfied that if the resolution be read no member will object to it. We are now ourselves about to take a two-weeks' holiday. This resolution simply provides that the employés of the navy-yard, Government Printing Office, Bureau of Engraving and Printing, and other per diem employés of the Government shall be entitled to four or five holidays during the year without losing their pay for those days.

The resolution was read, as follows:

Resolved by the Senate and House of Representatives, &c., That the employés of the navy-yard, Government Printing Office, Bureau of Printing and Engraving, and all other per diem employés of the Government on duty at Washington, or elsewhere in the United States, shall be allowed the following holidays, namely: The 1st day of January, the 22d day of February, the 4th day of July, the 25th day of December, and such days as may be designated by the President as days for national thanksgiving, and shall receive the same pay as on other days.

There being no objection, the House proceeded to the consideration of the joint resolution; which was read three times.

Mr. GEORGE D. WISE. I move that the House adjourn.

The question being taken, there were—ayes 79, noes 58.

Mr. GEORGE D. WISE. At the request of my friend from Pennsylvania [Mr. HOPKINS] I withdraw the motion to adjourn.

The question recurring on the passage of the joint resolution, it was passed.

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

The latter motion was agreed to.

OVERFLOWS IN CHIPPEWA RIVER, WISCONSIN.

Mr. PRICE, by unanimous consent, introduced a bill (H. R. 7992) to provide for an inquiry into the causes of extraordinary overflows in the Chippewa River, in the State of Wisconsin, and to prevent a recurrence of the same; which was read a first and second time, referred to the Committee on Rivers and Harbors, and ordered to be printed.

ORDER OF BUSINESS.

Mr. GREENLEAF. On behalf of the Committee on Patents, I ask consent to introduce a resolution for present consideration.

Mr. GEORGE D. WISE. I move that the House adjourn.

The question being taken on the motion to adjourn, there were—ayes 95, noes 38.

Several members called for tellers.

Tellers were not ordered.

Mr. WHITE, of Kentucky. I call for the yeas and nays.

The question being taken on ordering the yeas and nays, there were yeas 9, noes 105—less than one-fifth voting in the affirmative.

Mr. WHITE, of Kentucky. Will it be in order to have tellers on ordering the yeas and nays?

The SPEAKER. It will be if the gentleman can get them. He has the right to call for tellers.

Mr. WHITE, of Kentucky. Before the vote is announced, I desire to make a parliamentary inquiry, in order to decide whether I will call for tellers or not. I understand that the Senate will, in all probability, agree to the resolution for a holiday recess; and I would like to hear from the other end of the Capitol on that subject. [Cries of "Regular order!"] Therefore I call for tellers on ordering the yeas and nays. Tellers were not ordered, only 4 voting therefor.

The SPEAKER (at 4 o'clock and 20 minutes p. m.). Tellers are refused, and the yeas and nays are refused. The motion that the House adjourn is agreed to; and in accordance with its order already made, the House stands adjourned until Wednesday next, at 12 o'clock.

PETITIONS, ETC.

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

By Mr. BROADHEAD: Petition and papers relating to the claim of Chaplain C. M. Blake—to the Committee on Military Affairs.

By Mr. CLEMENTS: A bill to continue the improvement of the navigation of the Coosa River in Georgia and Alabama—to the Committee on Rivers and Harbors.

By Mr. DINGLEY: Petition of James Johnston, for arrears of pension—to the Committee on Invalid Pensions.

By Mr. DUNN: Papers relating to the claim of Eli T. Diamond—to the Committee on War Claims.

By Mr. FORNEY: A bill making appropriation to continue the work at the Muscle Shoals in the Tennessee River, in the State of Alabama—to the Committee on Rivers and Harbors.

Also, a bill making appropriation to continue the work on the Coosa River in the States of Alabama and Georgia—to the same committee.

By Mr. MCCOMAS: Petition of 55 citizens of Allegany County, Maryland, asking the passage of a bankrupt act—to the Committee on the Judiciary.

By Mr. RANDALL: Petition of John Devlin, relative to the exact distance of the sun from the earth, and of the diameter of the sun—to the Committee on Naval Affairs.

By Mr. ROSECRANS: Petition of Machinists and Blacksmiths' Union, No. 2, of Detroit, Mich., protesting against the confirmation of John Fehrenbach—to the Committee on Labor.

Also, petition of Charles Elliott, praying for the passage of a joint resolution relative to the registry of deaths, births, and marriages—to the Committee on the District of Columbia.

By Mr. RYAN: Petition of Western Miami Indians, asking to be reimbursed certain money unlawfully taken from them—to the Committee on Indian Affairs.

By Mr. SEYMOUR: Memorial of the Bridgeport Board of Trade, favoring the passage of the bill known as the Lowell, to establish a uniform system of bankruptcy—to the Committee on the Judiciary.

By Mr. J. M. TAYLOR: Petition of John A. Barnes, for compensation for property taken and used by the United States Army during the late war—to the Committee on War Claims.

Also, petition of J. G. McFarlane, asking compensation for property taken and used by the United States Army during the late war—to the same committee.

By Mr. A. J. WARNER: Papers relating to the claim of John Lappert—to the Committee on Invalid Pensions.

By Mr. YOUNG: Petition of George P. Shelton, for compensation for property taken for the use of the Army—to the Committee on War Claims.

Also, papers relating to the claim of James Tucker—to the same committee.

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

By Mr. CONNOLLY: Of J. Emmett O'Brien and 79 others, of Scranton, Pa.

By Mr. W. W. CULBERTSON: Of citizens of Foster, Bracken County, Kentucky.

By Mr. FUNSTON: Of citizens of Bourbon County, and of Thayer, Neosho County, Kansas.

By Mr. MCCOMAS: Of 90 citizens of Sharpsburg, Washington County, Maryland.

By Mr. WASHBURN: Of 60 citizens and ex-soldiers of Hennepin County, Minnesota.

SENATE.

MONDAY, December 22, 1884.

Prayer by Rev. BYRON SUNDERLAND, D. D., of the city of Washington.

The Journal of the proceedings of Saturday last was read and approved.

HOUSE BILLS REFERRED.

The following bills, received from the House of Representatives on Saturday last, were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (H. R. 374) granting a pension to William Boone;

A bill (H. R. 6703) to increase the pension of Mrs. D. P. Woodbury;

A bill (H. R. 5630) granting a pension to George W. Rugg;

A bill (H. R. 1653) granting a pension to John R. Hurlburt;

A bill (H. R. 5378) granting a pension to Henry Milkey;

A bill (H. R. 7302) granting a pension to Elizabeth Smith;

A bill (H. R. 1219) granting a pension to Charles Hendrix;

A bill (H. R. 6357) granting a pension to Christian Bauman;

A bill (H. R. 4569) granting a pension to David Urbansky;

A bill (H. R. 6197) granting a pension to Peter Falkner;

A bill (H. R. 6663) restoring to the pension-roll the name of Caroline Lewis;

A bill (H. R. 4556) granting a pension to Joseph Williams;

A bill (H. R. 2485) for the relief of Treadwell Seaman, jr.;

A bill (H. R. 6803) granting a pension to John T. Brake;
 A bill (H. R. 5812) granting a pension to Ellen A. Vance;
 A bill (H. R. 5103) granting a pension to Joshua F. Justice;
 A bill (H. R. 4024) granting a pension to Cutler S. Dobbins; and
 A bill (H. R. 3947) granting a pension to Joseph Raible.

REPORTS OF GUN-FOUNDRY BOARD.

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

To the Senate and House of Representatives:

I transmit herewith the supplementary report, dated December 20, 1884, made in pursuance of orders of the Secretary of War and the Secretary of the Navy, by the gun-foundry board, appointed by me in accordance with the act of Congress approved March 3, 1883.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, December 22, 1884.

Mr. HALE. I offer the following resolution, which I ask may be considered at the present time:

Resolved by the Senate, That there be printed at the Government Printing Office the usual number of copies of the supplementary report of the gun-foundry board, dated December 20, 1884, and in connection therewith the same number of the report of the board of February 16, 1884.

By unanimous consent the Senate proceeded to consider the resolution.

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

Mr. HAWLEY. The resolution includes the supplementary report?

Mr. HALE. The resolution includes the supplementary report.

Mr. HAWLEY. The two reports should be printed in one pamphlet.

Mr. HALE. Under the resolution I have offered I suppose they will be printed together. That would be a more convenient way, as the Senator from Connecticut suggests.

The PRESIDENT *pro tempore*. Does the Senator desire to modify the resolution so as not to make a double print?

Mr. MORRILL. The reports should be printed together.

Mr. HALE. The resolution is enough to carry that; it says "in connection therewith."

The resolution was agreed to.

PETITIONS AND MEMORIALS.

Mr. LAPHAM presented resolutions adopted by the New York Leaf-Tobacco Board of Trade, remonstrating against the ratification of the proposed reciprocity treaty between Spain and the United States; which were referred to the Committee on Foreign Relations.

Mr. SHERMAN. I present a memorial very numerous signed by citizens, merchants, firms, owners of steam vessels, and other persons engaged in commerce and mining, mainly engaged in what is called the Lake Superior iron trade, remonstrating very strongly against the ratification of the Spanish reciprocity treaty, setting out in very clear and terse language the grounds of their opposition. In order that the Senate may have the benefit of the facts stated and suggestions made by the memorialists, which I believe are reliable, based upon their business operations, I ask that this memorial be printed in the RECORD.

The memorial was ordered to be printed in the RECORD, and referred to the Committee on Foreign Relations, as follows:

HON. JOHN SHERMAN,
 United States Senate, Washington:

The undersigned, representing iron-ore producing and transporting interests of the Northwest, whose products are mainly distributed from Lake Erie ports throughout the adjacent States, beg leave respectfully to call your attention to the terms of the proposed treaty with Spain in behalf of her West Indian dependencies as affecting American iron-ore production. The duty on iron ore is now 75 cents per ton—insufficient even now for a reasonable protection to the capital and the labor engaged in development of our American mines, and in the extensive transportation of their products to our furnaces.

The iron and steel industries of the United States, for obvious reasons, can never depend upon a foreign ore supply.

The reliance for cheap iron and steel must always be upon our American ore, and that, fortunately, may be obtained in abundant supply and in great variety of chemical constitution in every part of our country, provided the development of our mines be not retarded and discouraged by a policy which refuses to discriminate in favor of home interests.

Under the present rate of duty we are obliged to compete directly with some of the poorest paid labor in the world—in Spain and Africa—Spanish and African ores produced at a labor cost that would be humiliating and oppressive to the last degree to the American laborer, and which we do not ask him to accept. Even now hundreds of thousands of tons annually displace the products of our American mines.

Under the treaty, however, the American iron-ore producer is threatened with a removal of all protection.

Iron ore in Schedule A is on the free-list. In our relations with the Spanish West Indies hitherto the rate of duty on iron ore has not been of importance, because until recently there have been no importations. It is not well known, however, that Cuba has very extensive and valuable deposits of ore, and within the last year or two large investments of capital have been made for their development. The admission of these ores duty free, as provided in the treaty, would be a gross injustice and injury to our home production. Should a temporary or local advantage thereby be gained by two or three iron and steel manufacturing plants favorably situated near the Atlantic coast for the use of these Cuban ores, that could only operate to the injury of many Eastern and all Western, Northwestern, and Southern iron and steel interests. Such discrimination in favor of special interest to the injury of others in the same line of manufacture should, in our judgment, never be recognized in our tariff laws. Nor do we understand that it is even asked for by such special interests. The iron-ore pro-

ducing interests of the country and the great body of iron and steel manufacturers as well as satisfied to stand upon a common level with respect to each other and to accept such conditions as local advantages for cheap production may give to each, but they are unwilling to consent to changes in rates of duty that will operate, as in this case, to a discrimination in favor of special interests at home and abroad. Iron ore is produced in every part of our country. The product last year was not less than 10,000,000 tons. Engaged in this business are vast capitals, and by it hundreds of thousands of laborers are furnished with remunerative employment. In a single section of the country—the Lake Superior region—in the mines, in the railroads necessary for moving their products to the lakes, in the transportation over the lakes and in the ore business of the railroads moving the ores from lower lake ports to furnaces in adjacent States are now employed \$85,000,000 of capital, with all of labor occupation that such an amount of capital involves. In other sections of the country are similar connected and independent industries, whose safety and whose ability to furnish employment to labor is menaced by this proposed removal of the duty from Cuban ores. That removal would close many American mines. We do not ask the American laborer to live on the wages of the Spanish West Indies—ore mining 28 cents a day.

Although beyond the intended scope of this communication, we cannot refrain from referring to some general considerations in opposition to this treaty.

In return for open gates to a very small American export to these islands, with a decaying civilization, and whose laboring population is of the lowest type and with few wants, we are asked—a nation of 55,000,000 large consumers and consequently affording the best market in the world—to admit six-tenths of the entire exports of these islands free of duty; and in admitting free the great bulk of her sugar export and at greatly reduced duty her tobacco, we injure severely our own tobacco interest, and we not only destroy our cane-sugar production, but we render impossible the establishment of a beet-sugar industry in the Northern States—an end greatly to be desired as a diversification of our agriculture.

But iron ore and sugar and tobacco are only illustrative of the practical working of such a treaty. As in the case of these commodities the principle of protection to our home industries is contravened all through the schedules. A protective system admits free, unless duties are required for revenue, the raw materials for a home manufacture which do not compete with another home industry. But with exact justice it lays a duty protective on so-called raw materials of foreign production that do compete. This well-settled principle is in this treaty conspicuously violated.

The President in his annual message clearly states this rule, and, in his message transmitting the treaty to the Senate, quotes it in this language: "The conditions of these treaties should be the free admission of such merchandise as this country does not produce, in return for the admission free or under a favored scheme of duties of our own products." But in this treaty there is an absence, a conspicuous absence, of the very conditions which in the message of the President are stated to be essential. The principal exports of these islands coming in free and at a very low duty would compete, and that most injuriously, with a large number of our home productions. As in the case of tea and coffee, the foreign producer will save the amount of the duty. Sugar, tobacco, and the principal West Indian products will be no cheaper in our markets, but in this case, in addition to our loss of the revenue—very large—from these islands, there is the needless infliction of positive injury upon many of our home industries.

But what are the promised compensations to us for the destruction of some of our valuable industries and the injury of others and the relinquishment for the sole advantage of Spain and her dependencies of \$20,000,000 to \$30,000,000 of revenue.

We are promised a removal of some of the disabilities and restrictions to which our shipping interests are now subject in the trade with those islands and equal advantages in it with the Spanish flag; and yet is not the value of this concession greatly overestimated? Must not such a country remain, as she now is, a small consumer of those commodities which we most need a market for? Our total exports in 1883 to these islands were only \$14,567,918. A high duty is still retained on our cereals, and our manufacturers will have to meet in Cuban markets, as they now do, the sharp competition of manufacturing Europe.

In respect to that competition also there seems to be no adequate discrimination in our favor.

We recognize the necessity of enlarged markets. The increasing volume of our products must be absorbed somewhere, but it would be a fatal policy to seek this abroad at the sacrifice of vital interests at home. Our best and largest market is the home market. The preservation and the enlargement of that is the first dictate of a true American policy. A successful external policy must start from that economic premise.

The proposed treaty, in our judgment, will not stand that test and should be rejected.

We therefore respectfully request, in behalf of most important interests we represent, your earnest efforts to that end.

Mr. HOAR presented a petition of William F. Bartlett Post, No. 99, Grand Army of the Republic, Department of Massachusetts, praying for the publication, in the Official Records of the War of the Rebellion, of photographic illustrations; which was referred to the Committee on Military Affairs.

He also presented the petition of Eugene Dickinson, of Elliott, Iowa, praying for the passage of an act of Congress authorizing the payment to him of certain moieties of fines for information given by him to the Government of parties engaged in illicit trade in spirits; which was referred to the Committee on Finance.

Mr. PENDLETON. I present certain petitions in favor of the ratification of what is commonly known as the Spanish treaty, from Motley & Sterling, of New York; the Pioneer Iron Works, of Brooklyn, N. Y., and the Jersey City Wheel Foundry and Machine Works, of Jersey City, N. J. I move that the petitions be referred to the Committee on Foreign Relations.

The motion was agreed to.

Mr. PENDLETON. I present memorials from cigar-makers of the city of Norwalk, Ohio, and the city of Columbus, Ohio, of the city of Cincinnati, and the city of Akron, Ohio, and of Massillon, Ohio, Germantown, Ohio, Sandusky, Ohio, and of a mass-meeting of cigar-makers of the city of New York, and also of the New York Leaf-Tobacco Board of Trade, all remonstrating against the ratification of the Spanish reciprocity treaty. I move that the memorials be referred to the Committee on Foreign Relations.

The motion was agreed to.

Mr. HARRISON presented a memorial of the Cigar-makers' Union, at Vincennes, Ind., remonstrating against the ratification of the reci-

procuity treaty between Spain and the United States; which was referred to the Committee on Foreign Relations.

Mr. PLUMB presented a petition of the Western Miami Indians, praying to be reimbursed certain money alleged to have been unlawfully taken from them; which was referred to the Committee on Indian Affairs.

Mr. CONGER presented the petition of Knorr & Steffens, B. Landingham & Son, Charles Groesbeck, and Snook & Robinson, of Mount Clemens and Fraser, Macomb County, Michigan, praying for a modification of the sugar clause of the proposed reciprocity treaty with Spain; which was referred to the Committee on Foreign Relations.

BILLS INTRODUCED.

Mr. FRYE introduced a bill (S. 2485) authorizing the Secretary of the Treasury to compensate clerks and employes for extra work performed in the exchange of bonds in the Department; which was read twice by its title, and referred to the Committee on Appropriations.

Mr. PLUMB introduced a bill (S. 2486) granting a pension to William L. Clarke; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 2487) to establish an additional land district in Dakota; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. CAMERON, of Pennsylvania, introduced a bill (S. 2488) to remove the charge of desertion against William H. McBride, late private Company F, Seventeenth Pennsylvania Cavalry; which was read twice by its title, and referred to the Committee on Military Affairs.

WITHDRAWAL OF PAPERS.

On motion of Mr. PLUMB, it was

Ordered, That Henry W. Hoffman, late collector of the port of Baltimore, have leave to withdraw his memorial and other papers, in his claim for relief as such collector, from the files of the Senate.

COMPILATION OF INTERNAL-REVENUE LAWS.

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

Resolved by the Senate (the House of Representatives concurring), That there be printed at the Government Printing Office 1,000 copies of the compilation of the internal-revenue laws of the United States, with a history of the legislation in regard thereto from the organization of the Government to the present time, by D. R. Goodloe; of which 200 copies shall be for the use of the Senate, 700 copies for the use of the House of Representatives, and 100 copies for the use of the Treasury Department.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had passed the joint resolution (S. R. 32) providing for the payment of laborers in Government employ for certain holidays.

RIGHTS IN LAND GRANTS.

The PRESIDENT *pro tempore*. The Chair lays before the Senate the Calendar under Rule VIII, commencing with Order of Business 338, being the bill (S. 1445) to provide for the settlement of the rights of the States and of the corporations and persons interested in any grant of lands in aid of railroads and canals which shall be declared forfeited by act of Congress. The Chair will state that the Senator from Alabama [Mr. MORGAN] not now in his seat previously asked unanimous consent that this bill stand over, retaining its place. If there be no objection it will be again passed over, retaining its place on the Calendar under Rule VIII.

HOUSE PENSION BILLS.

Mr. BECK. I should like to make a suggestion to the Senate and ask unanimous consent to have it carried out. I have been requested in one or two pension cases which have passed the House and have been reported by the Senate committee without amendment to endeavor to urge their passage before the Christmas holidays, and in one or two cases I said I thought it would surely be done. What I propose now is to ask unanimous consent to take up—I do not like to ask to take up one pension case, but the pension cases, the unobjected cases which have passed and have been reported to the Senate without amendment.

Mr. HOAR. May I ask the Senator from Kentucky if he will favor me by withdrawing his request until the first matter on the Calendar is disposed of?

Mr. BECK. Oh, certainly.

Mr. HOAR. It is a matter of which I have some knowledge as it comes from my State, and I am obliged to be absent after to-day. If the Senator will wait until that is disposed of I shall be obliged to him.

Mr. BECK. Certainly, I shall be very glad to do so. The only reason why I made the suggestion in regard to the pension cases was to get them passed before the holidays if I could.

EDUCATIONAL FUND.

The bill (S. 1235) to establish an educational fund and apply a portion of the proceeds of the public lands to public education, and to provide for the more complete endowment and support of colleges for the advancement of scientific and industrial education, was announced as regularly in order.

Mr. HOAR. That I suppose will go over. That is not the bill I meant. It is the next but one.

Mr. MORRILL. I ask unanimous consent that the bill be passed over.

The PRESIDENT *pro tempore*. The Senator from Vermont asks unanimous consent that this bill be passed over, retaining its place on the Calendar under Rule VIII. Is there objection? The Chair hears none.

SOUTHERN MAIL CONTRACTORS.

The joint resolution (S. R. 13) to reappropriate and apply the amount appropriated by the act of Congress approved March 3, 1877, to pay certain Southern mail contractors was announced as next in order.

Mr. HOAR. The Senator who reported that is absent. I suggest that it go over and retain its place on the Calendar.

The PRESIDENT *pro tempore*. The Senator from Massachusetts asks unanimous consent that this joint resolution be passed over, retaining its place on the Calendar under Rule VIII. Is there objection? The Chair hears none, and it is so ordered.

WILBUR F. STEELE.

The bill (S. 1543) for the relief of Wilbur F. Steele was considered as in Committee of the Whole. It provides that all the right, title, and interest of the United States in and to the west half of section 16, in township 129 north, of range 73 west, containing three hundred and twenty acres, in the Bismarck district, Territory of Dakota, shall be granted and confirmed to Wilbur F. Steele, his heirs or assigns, of Steele, Dak., upon the payment to the United States for the land at the rate of \$2.50 per acre.

The bill was reported from the Committee on Public Lands with an amendment, at the end of section 3 to add:

Said selections to be made according to legal subdivisions and contiguous.

So as to make the section read:

That upon the passage of this act the Territory of Dakota, through its proper officer, shall be, and is hereby, authorized to select as indemnity for said land, and in full satisfaction thereof, and for the purpose stated in section 1946 of the Revised Statutes, one half section, or three hundred and twenty acres, of public lands, at any office in said Territory, said selections to be made according to legal subdivisions, and contiguous.

The amendment was agreed to.

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

The PRESIDENT *pro tempore*. There is not any written report.

Mr. CONGER. Perhaps the Senator who reported it will explain it.

Mr. PLUMB. The bill was introduced by the Senator from Michigan, and I suppose it will not be necessary to give him a recital of the facts, but I can explain it in a very few minutes.

Before the lands were surveyed, or at all events at a time when the boundaries were insufficiently marked, Mr. Steele went upon this land supposing it to be section 17 in place of section 16. He has placed upon the land a very large and valuable improvement, amounting to many thousands of dollars. He now asks to be authorized to purchase the land, which he expected to be able to do when he located upon it, and this bill gives the Territory of Dakota the right to select other lands in place of it.

Mr. CONGER. I see that I introduced the bill by request.

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

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

FIRST NATIONAL BANK OF NEWTON.

Mr. VOORHEES. I see there are seven pension bills passed by the House which are on our Calendar reported from our committee without any amendment, and I should like to ask the Senate to consent to take them up and pass them.

Mr. HOAR. The Senator from Kentucky [Mr. BECK] made that request, but generously consented to defer it until after the disposition of the next case on the Calendar, as I am obliged to go away.

Mr. VOORHEES. I thought the Senator from Massachusetts was through with his case.

Mr. HOAR. I thought when I made the request that it was the next case on the Calendar. It is the one now coming up.

Mr. VOORHEES. I defer with pleasure. I thought the Senate had acted on it.

The PRESIDENT *pro tempore*. The next case on the Calendar will be announced.

The bill (S. 1331) making an appropriation for the relief of the First National Bank of Newton, Mass., was considered as in Committee of the Whole.

The bill was reported from the Committee on Claims, with an amendment, in section 2, line 1, to strike out "seventy-five" and insert "forty-nine" before "thousand;" and after the word "thousand" to insert "and thirty-nine and ninety-five hundredths;" so as to make the bill read:

Be it enacted, &c., That the Secretary of the Treasury be, and he hereby is, authorized and directed to pay interest at the rate of 5 per cent. per annum on the judgment rendered in favor of the First National Bank of Newton, Mass., against the United States, in the sum of \$371,025, from March 1, 1867, to the date of payment.

SEC. 2. That the sum of \$249,039.95 is hereby appropriated for the purposes set forth in section 1, out of any money in the Treasury not otherwise appropriated.

The amendment was agreed to.

Mr. COCKRELL. Let the report be read.

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

The Chief Clerk read the following report, submitted by Mr. JACKSON March 17, 1884:

The Committee on Claims, to whom was referred the bill (S. 1331) making appropriations for the relief of the First National Bank of Newton, Mass., have considered the same, and respectfully report:

That on and prior to February 28, 1867, Julius F. Hartwell was cashier of the United States subtreasury in Boston, Mass. While acting as such cashier he embezzled a large amount of the Government's money by lending the same to the firm of Mellon, Ward & Co., who were extensively engaged in stock speculations. As the time for the examination of the funds in the subtreasury approached, March 1, 1867, when Hartwell's accounts would have to be passed, some plan had to be devised by the guilty parties to prevent or delay exposure. The device resorted to and put in operation was to procure funds and assets of innocent third parties to be placed temporarily on deposit in the subtreasury till the examination was had, and then to be immediately withdrawn again, and thus tide Hartwell and his associates in the embezzlement over the crisis.

Edward Carter, the active financial member of said firm of Mellon, Ward & Co., who concocted this scheme with Hartwell, was a director in the First National Bank of Newton, and seems to have possessed not only the confidence of, but unlimited influence over, E. Porter Dyer, the cashier of said bank. By means of this confidence and influence, and in execution of his and Hartwell's fraudulent conspiracy, Carter procured from Dyer the money, bonds, securities, and checks of the First National Bank of Newton, to the amount of \$371,025, which were deposited in the subtreasury on February 28, 1867, Hartwell giving a receipt therefor, as cashier, that the deposit was "to be returned on demand in governments, or bills, or its equivalent." This receipt being in the name of Mellon, Ward & Co., was immediately indorsed by Carter as follows: "Pay only to the order of E. Porter Dyer, jr., cashier," and signed, Mellon, Ward & Co.

This deposit of its funds and assets was made without the knowledge and consent of the president and directors of the First National Bank of Newton. Hartwell's default was discovered on the night of February 28, and on March 1, 1867, when Dyer presented the above receipt and demanded its redemption, payment was refused, and the bank's funds and securities were held and applied by the Government to make good Hartwell's default. The capital stock of the bank was \$150,000. It was doing and for years had done a prosperous and profitable business, but this fraudulent misapplication and appropriation of its assets ruined the institution, and on March 11, 1867, it was placed in the hands of a receiver, and to make good its losses and provide the means to discharge its debts, the stockholders were compelled to pay in a second time the amount of their respective holdings of its capital stock. On February 24, 1873, the First National Bank of Newton filed its petition in the Court of Claims against the United States to recover the amount of its funds and assets so deposited in the subtreasury, and appropriated by the Government. The case was heard in December, 1880, and judgment was rendered in favor of the bank January 24, 1881, for the full amount of principal claimed, namely, \$371,025.

The full details of the conspiracy and transaction by which the Government, through the fraud of its agent, wrongfully got possession of the bank's assets are clearly set forth in 10 Court of Claims reports, page 519; 96 United States Supreme Court reports, 30, and 16 Court of Claims Reports, page 54, to which reference is here made for a more complete statement of the facts than hereinabove stated. In delivering the opinion of the Court of Claims in the bank's suit, Chief Justice Drake characterized the taking of its assets as a "villainous scheme," and the transaction as "simply a case of a bank being robbed, and of its stolen assets being put into the hands of the cashier of the subtreasury for a purpose which by no possible view could in law be held to effect a transfer of the bank's right of property in them either to him or to the United States." That the United States could not derive a benefit from the fraudulent act of their cashier or lawfully withhold the funds thus obtained admitted of no question either in law or morals. After referring to many of the authorities on the question, the Supreme Court (96 United States Reports, page 36) say, in conclusion:

"But surely it ought to require neither argument nor authority to support the proposition, that where the money or property of an innocent person has gone into the coffers of the nation by means of a fraud to which its agent was a party, such money or property can not be held by the United States against the claim of the wronged and injured party. The agent was agent for no such purpose. His doings were vitiated by the underlying dishonesty and could confer no rights upon his principal."

On the 28th of April, 1881, a duly certified copy of the bank's judgment against the United States was presented to the Secretary of the Treasury, as provided by law. Before its payment the now Attorney-General of the United States, in March, 1881, entered an appeal to the Supreme Court. This appeal seems to have been taken for the purpose of enabling him to examine the case. After making such examination and finding the case undistinguishable from that reported in 96 United States Reports above cited, the appeal, which had been in the mean time entered in the Supreme Court, was, on his motion, dismissed in that court October 25, 1881.

Thereafter, on October 29, 1881, the sum of \$260,000 was paid, on account of this judgment, by the Treasurer of the United States, that being the only amount available under the appropriation then existing. The balance of \$111,025 was paid August 30, 1882.

Such is a brief history of the case. The bill under consideration proposes to pay the bank interest on the amount of its funds so taken and appropriated by the United States, from date of conversion to time of payment. The Court of Claims was not authorized to award such interest, its jurisdiction in the matter of "interest" being confined to cases of contract expressly stipulating for the payment of interest. It will hardly be insisted that this restriction upon one of its tribunals settles either the question of the Government's liability or the measure of its duty in a case like the present, where the contract relation is not voluntarily assumed by the party making the claim. The Government may with propriety refuse to recognize any obligation to pay interest to those who voluntarily deal with it, without expressly stipulating for the payment of interest.

But the question of its obligation to make indemnity by the allowance of interest, where the creditor relation is forced upon the individual by the wrongful act of the Government or its agents, stands upon a different footing, and should be determined by the general principles of the public law and the rules of natural justice and equity applicable to the facts and circumstances of the particular case. Ordinarily, the Government can not and should not be made responsible, to the extent of individuals, for the wrongful acts of its officers or agents. But this rule can not be justly invoked to shield or protect the Government from the measure of responsibility applied to private persons, where it has adopted such wrongful acts and derived an advantage and benefit therefrom. Where the Government has profited by the fraud of its agent, why should it deny to the injured party the full redress that courts of equity would afford as between individuals and private corporations? In the jurisprudence of all civilized countries the general doctrine is well settled that any one—except a *bona fide* purchaser for value and without notice—who obtains possession of property which has been procured from the owner by fraudulent means or practices is converted by the courts

into a trustee, and ordered to account as such; or, as stated by Perry on Trusts, section 166, the principle "denotes that the parties defrauded, or beneficially entitled, have the same right and remedies against him as they would be entitled to against an express trustee who had fraudulently committed a breach of trust." Whenever the principal adopts the fraudulent act of his agent, or attempts to reap an advantage therefrom, his liability is properly measured by this rule. Indeed (says Perry on Trusts, 172), the doctrine has been thus broadly stated:

"That when once a fraud has been committed, not only is the person who committed the fraud precluded from deriving any benefit from it, but every innocent person is so likewise, unless he has innocently acquired a subsequent interest; for a third person by seeking to derive any benefit under such a transaction, or to retain any benefit resulting therefrom, becomes *particeps criminis*, however innocent of the fraud in the beginning."

It would not admit of a moment's doubt that in the present case interest would have been awarded the bank as against the agent committing the fraud. It is also clear that as against any private principal occupying the position of the Government the bank could and would have received interest. Why should not the Government, standing as it does under this transaction in the attitude of a trustee if not a *particeps criminis*, be held to the same measure of responsibility and redress? Nothing short of this will meet the justice of the case, or afford the equitable relief to which the bank is justly entitled. A great Government like ours, with unlimited resources and revenues at its command, should above all things deal justly with its citizens. It should not stand upon technicalities in withholding property or funds which may have wrongfully come into its possession. It should never make for itself a profit or secure and retain an advantage through the fraud of its agents or by any breach of trust which has worked a wrong and injury. It should in such cases make such reparation as its courts would enforce as between individuals.

The American counsel at Geneva successfully claimed interest upon the amounts awarded to the United States against Great Britain. The counsel for Great Britain, while objecting to the application of the principle allowing interest, distinguished between cases where, in their view, it should and should not be allowed, in language strikingly applicable here; and attention is called to it as being a concession, on the part of a party objecting to the allowance of interest, which covers the present case, as follows:

"Interest, in the proper sense of that word, can only be allowed where there is a principal debt liquidated and ascertained amount detained and withheld by the debtor from the creditor after the time when it was absolutely due and ought to have been paid, the fault of the delay in payment resting with the debtor; or where the debtor has wrongfully taken possession of and exercised dominion over the property of the creditor. In the former case, from the time when the debt ought to have been paid, the debtor has had the use of the creditor's money, and may justly be presumed to have employed it for his own profit and advantage. He has thus made a gain corresponding with the loss which the creditor has sustained by being deprived, during the same period of time, of the use of his money; and it is evidently just that he should account to the creditor for the interest which the law takes as the measure of this reciprocal gain and loss. In the latter case, the principle is exactly the same. It is ordinarily to be presumed that the person who has wrongfully taken possession of the property of another has enjoyed the fruits of it; and if, instead of this, he has destroyed it or kept it unproductive, it is still just to hold him responsible for interest on its value, because his own acts, after the time when he assumed control over it, are the causes why it has remained unfruitful. In all these cases, it is the actual or virtual possession of the money or property belonging to another which is the foundation of the liability of interest. The person liable is either *lucrativus* by the detention of what is not his own, or is justly accountable as if he were so."

In the case under consideration, the funds of the bank—an amount fixed and liquidated—have been wrongfully withheld for many years, during which the Government has retained and used them, and to that extent has made or saved interest, of which the bank throughout the same period lost such interest. In allowing interest at a low rate the bank will receive only (or less than) what it was unjustly deprived of, while the United States will only yield up what it has received or saved that rightfully belonged to the bank, for it can not be questioned that the use of the principal sum has put the Government in receipt of additional funds to the amount of the value of such use. The claim is thus brought within the general principle so clearly and forcibly stated in the above-quoted extract from the council of Great Britain.

In this statement of the proposition which should govern the present case it is hardly necessary to say that the committee do not wish to be understood as even suggesting that the same rule could or should be applied to that large class of cases known as war claims. They stand entirely upon a different footing. Every man, woman, and child residing, during the war, in the insurrectionary territory became thereby an enemy of the United States. The Government could have asserted against each and all of them the extreme measures conceded by the public law to belligerents. That it did not adopt this policy, but modified the harsher rules of war, by which it waived some of its belligerent rights, could not be made in any case the basis of a claim for interest, nor lay the ground for the payment of interest. Take, for illustration, the captured and abandoned property cases. This property and its proceeds, under the modern rules of war, could have been appropriated to the absolute use of the Government. Instead of pursuing this course, the Government, in a spirit of liberality, adopted the generous policy of making itself a depository of these funds, to be held for the benefit of the real owners. The proposition to allow interest on such claims should not and would not be entertained for a moment.

It can not be properly urged as an objection to this claim for interest that the bank should be held responsible to some extent for the unfaithfulness of the cashier whom it has selected and intrusted with certain well-defined duties in respect of its funds and assets. No want of care is shown in making the selection. There was nothing in his previous conduct to excite suspicion or put the bank upon inquiry or notice so as to charge it with any degree of negligence in retaining him in its employ. The doctrine of contributory negligence is sometimes looked to and considered in the determination of the better equity as between two innocent parties who have been defrauded by a third party who has been trusted by both. If there had been no previous default on the part of Hartwell, and he had on the night of February 28, 1867, embezzled the funds and assets of the bank that day deposited with him by Carter and Dyer, the Government and the bank might then have occupied the position of two innocent parties, whose equities would have to be determined and settled to some extent by the question of negligence in the employment of unfaithful agents.

But that is not the present case. The Government had already lost its money by the previous embezzlement of its cashier of the subtreasury, and then, through the corrupt influence of that same agent and his confederate, the bank's agent is tempted, by a "villainous scheme," into a breach of his trust, by means of which the Government obtains possession of the bank's entire assets, and wrongfully appropriates them in making good its previous losses. It would be shocking to every sense of right and justice for the Government now to urge that the unfaithfulness of the bank's trusted agent was a bar or valid defense to its liability and duty to refund either the principal or interest of the funds so procured and converted to its own use. Your committee have too much regard for the honor and good name of the Government to allow it to occupy a position so questionable. It should be observed, too, that the decision of its own courts declaring that the Government could not rightfully hold the assets so fraudulently obtained, has really disposed of this question of negligence, which applied with equal force to the recovery of the principal as to the interest.

To the objection that the allowance of this claim for interest will establish a

bad precedent, the reply of Mr. Sumner to a similar objection is a complete answer:

"If the claim is just, the precedent of paying it is one which our Government should wish to establish. Honesty and justice are not precedents of which either Government or individuals should be afraid." (Senate Report No. 4, Forty-first Congress, first session, page 10.)

But it is respectfully submitted that there are abundant precedents, both in the judicial and in the legislative branches of the Government, to support the present application for the allowance of interest. The prevalent idea that "the Government never pays interest" has grown up from the practice of the Departments, which do not allow interest except where it is specially provided for in cases of contracts or expressly authorized by law. But this usage and custom of the Executive Departments can not be properly regarded as the settled rule and policy of the Government, for its action upon the subject of interest has not from the earliest times conformed to such usage. On the contrary, it will be found, upon an examination of the precedents where Congress has passed acts for the relief of private citizens, that in almost every case, except those growing out of the late war, Congress has directed the payment of interest where the United States had withheld a sum of money which had been decided by competent authority to be due, or where the amount due was ascertained, fixed, and certain. The highest court of the country has also affirmed this to be not only the practice of the Government but the measure of its duty. Thus, in 15 Wallace, page 77, where the suit was against a United States collector for the recovery of taxes illegally collected, the Supreme Court used the following language upon the subject of interest allowed on the claim, namely:

"The third exception is to the instruction that if the jury found for plaintiff they might add interest. This was not contested upon the argument, and we think it clearly correct. The ground for the refusal to allow interest is the presumption that the Government is always ready and willing to pay its ordinary debts. Where an illegal tax has been collected the citizen who has paid it and has been obliged to bring suit against the collector is entitled to interest in the event of recovery from the time of the alleged exaction."

On June 8, 1872, Congress referred the claim of the heirs of Francis Vigo to the Court of Claims, in the following language:

"The claim of the heirs and legal representatives of Col. Francis Vigo, deceased, late of Terre Haute, Ind., for money and supplies furnished the troops under command of General George Rogers Clarke, in the year 1778, during the Revolutionary war, be, and the same hereby is, referred, along with all the papers and official documents belonging thereto, to the Court of Claims, with full jurisdiction to adjust and settle the same; and in making such adjustment and settlement, the said court shall be governed by the rules and regulations heretofore adopted by the United States in the settlement of like cases, giving proper consideration to official acts, if any have heretofore been had in connection with this claim, and without regard to the statutes of limitation."

The Court of Claims allowed the claim with interest thereon from the time it accrued, and, among other facts, found that—

"No rules and regulations have heretofore been adopted by the United States in the settlement of like cases except such as may be inferred from the policy of Congress when passing private acts for the relief of various persons. When passing such private acts, Congress has allowed interest upon the claim up to the time that the relief was granted."

The Attorney-General appealed from this judgment, awarding interest, but the decision of the court below was affirmed by the Supreme Court at the October term, 1875. (See 91 U. S. Rep., p. 443 et seq.) In delivering the opinion of the Supreme Court, Mr. Justice Miller says:

"It has been the general rule of the officers of Government, in adjusting and allowing unliquidated and disputed claims against the United States, to refuse to give interest. That this rule is sometimes at variance with that which governs the acts of private citizens in a court of justice would not authorize us to depart from it in this case. The rule, however, is not uniform; and especially is it not so in regard to claims allowed by special acts of Congress, or referred by such acts to some Department or officer for settlement."

This was said in reference to unliquidated and unadjusted claims. Where the Government, by and through the fraud of its agents, gets possession and withholds from the rightful owner an ascertained, fixed, and certain amount, the claim for interest certainly stands upon higher equitable grounds than in the cases cited. The finding by the Court of Claims that the policy of the Government, as shown by the general rule pursued by Congress in passing acts for the relief of private claims, was to allow interest, is supported by the precedents.

Your committee, upon this proposition, beg leave to refer to and adopt this portion of House Report 391, Forty-third Congress, first session, which discusses the subject of interest as follows:

"THE OBLIGATION TO PAY INTEREST ON THE AMOUNT AWARDED THE CHOCTAW NATION.

"Your committee have given this question a most careful examination, and are obliged to admit and declare that the United States can not, in equity and justice, nor without national dishonor, refuse to pay interest upon the moneys so long withheld from the Choctaw Nation. Some of the reasons which force us to this conclusion are as follows:

"1. The United States acquired the lands of the Choctaw Nation on account of which the said award was made on the 27th day of September, 1830, and it has held them for the benefit of its citizens ever since.

"2. The United States had in its Treasury, many years prior to the 1st day of January, 1859, the proceeds resulting from the sale of the said lands, and have enjoyed the use of such moneys from that time until now.

"3. The award in favor of the Choctaw Nation was an award under a treaty, and made by a tribunal whose adjudication was final and conclusive. (Comegys vs. Vasse, 1 Peters, 193.)

"4. The obligations of the United States, under its treaties with the Indian nations, have been declared to be equally sacred with those made by treaties with foreign nations. (Worcester vs. The State of Georgia, 6 Peters, 582.) And such treaties, Mr. Justice Miller declares, are to be construed liberally. (The Kansas Indians, 5 Wall., 737-760.)

"5. The engagements and obligations of a treaty are to be interpreted in accordance with the principles of the public law, and not in accordance with any municipal code or executive regulation. No statement of this proposition can equal the clearness or force with which Mr. Webster declares it in his opinion on the Florida claims, attached to the report in the case of Letitia Humphreys (Senate report No. 93, first session Thirty-sixth Congress, page 16). Speaking of the obligation of a treaty, he said:

"A treaty is the supreme law of the land. It can neither be limited nor restrained, nor modified, nor altered. It stands on the ground of national contract, and is declared by the Constitution to be the supreme law of the land, and this gives it a character higher than any act of ordinary legislation. It enjoys an immunity from the operation and effect of all such legislation.

"A second general proposition, equally certain and well established, is that the terms and the language used in a treaty are always to be interpreted according to the law of nations, and not according to any municipal code. This rule is of universal application. When two nations speak to each other they use the language of nations. Their intercourse is regulated, and their mutual agreements and obligations are to be interpreted by that code only which we usually denominate the public law of the world. The public law is not one thing at Rome, another at London, and a third at Washington. It is the same in all civilized States; everywhere speaking with the same voice and the same authority."

"Again, in the same opinion, Mr. Webster used the following language:

"We are construing a treaty, a solemn compact between nations. This compact between nations, this treaty, is to be construed and interpreted throughout its whole length and breadth, in its general provisions, and in all its details, in every phrase, sentence, word, and syllable in it, by the settled rules of the law of nations. No municipal code can touch it, no local municipal law affect it, no practice of an administrative department come near it. Over all its terms, over all its doubts, over all its ambiguities, if it have any, the law of nations 'sits arbiter.'"

"6. By the principles of the public law interest is always allowed as indemnity for the delay of payment of an ascertained and fixed demand. There is no conflict of authority upon this question among the writers on public law.

"This rule is laid down by Rutherford in these terms:

"In estimating the damages which any one has sustained, when such things as he has a perfect right to are unjustly taken from him, or withheld, or intercepted, we are to consider not only the value of the thing itself, but the value likewise of the fruits or profits that might have arisen from it. He who is the owner of the thing is likewise the owner of the fruits or profits. So that it is as properly a damage to be deprived of them as it is to be deprived of the thing itself." (Rutherford's Institutes, Book I, chap. 17, sec. 5.)

"In laying down the rule for the satisfaction of injuries in the case of reprisals, in making which the strictest caution is enjoined not to transcend the clearest rules of justice, Mr. Wheaton, in his work on the law of nations, says:

"If a nation has taken possession of that which belongs to another, if it refuses to pay a debt, to repair an injury or to give adequate satisfaction for it, the latter may seize something of the former and apply it to [his] advantage, till it obtains payment of what is due, together with interest and damages." (Wheaton on International Law, p. 341.)

"A great writer, Domat, thus states the law of reason and justice on this point:

"It is a natural consequence of the general engagement to do wrong to no one that they who cause any damages by failing in the performance of that engagement are obliged to repair the damage which they have done. Of what nature soever the damage may be, and from what cause soever it may proceed, he who is answerable for it ought to repair it by an *amende* proportionable either to his fault or to his offense or other cause on his part, and to the loss which has happened thereby." (Domat, Part I, Book III, Tit. V., 1900, 1903.)

"Interest" is, in reality, in justice, in reason, and in law, too, a part of the debt due. It includes, in Pothier's words, the loss which one has suffered, and the gain which he has failed to make. The Roman law defines it as *quantum mea interfuit; id est, quantum mihi abest, quantumque lucrari potui*. The two elements of it were termed *lucrum cessans* et *damnum emergens*. The payment of both is necessary to a complete indemnity.

"Interest, Domat says, is the reparation or satisfaction which he who owes a sum of money is bound to make to his creditor for the damage which he does him by not paying him the money he owes him.

"It is because of the universal recognition of the justice of paying, for the retention of moneys indisputably due and payable immediately, a rate of interest considered to be a fair equivalent for the loss of its use, that judgments for money everywhere bear interest. The creditor is deprived of this profit, and the debtor has it. What greater wrong could the law permit than that the debtor should be at liberty indefinitely to delay payment, and, during the delay, have the use of the creditor's moneys for nothing? They are none the less the creditor's moneys because the debtor wrongfully withholds them. He holds them, in reality and essentially, in trust; and a trustee is always bound to pay interest upon money so held.

"In closing these citations from the public law, the language of Chancellor Kent seems eminently appropriate. He says: 'In cases where the principal jurists agree, the presumption will be very great in favor of the solidity of their maxims, and no civilized nation that does not arrogantly set all ordinary law and justice at defiance will venture to disregard the uniform sense of established writers on international law.'

"7. The practice of the United States in discharging obligations resulting from treaty stipulations has always been in accord with these well-established principles. It has exacted the payment of interest from other nations in all cases where the obligation to make payment resulted from treaty stipulations, and it has acknowledged that obligation in all cases where a like liability was imposed upon it."

The most important and leading cases which have occurred are those which arose between this country and Great Britain: the first under the treaty of 1794, and the other under the first article of the treaty of Ghent. In the latter case the United States, under the first article of the treaty, claimed compensation for slaves and other property taken away from the country by the British forces at the close of the war in 1815. A difference arose between the two governments which was submitted to the arbitration of the Emperor of Russia, who decided that "the United States of America are entitled to a just indemnification from Great Britain for all private property carried away by the British forces." A joint commission was appointed for the purpose of hearing the claims of individuals under this decision. At an early stage of the proceedings the question arose as to whether interest was a part of that "just indemnification" which the decision of the Emperor of Russia contemplated. The British commissioner denied the obligation to pay interest. The American commissioner, Langdon Cheves, insisted upon its allowance, and in the course of his argument upon this question said:

"Indemnification means a reimbursement of a loss sustained. If the property taken away on the 17th of February, 1815, were returned now uninjured it would not reimburse the loss sustained by the taking away and consequent detention; it would not be an indemnification. The claimant would still be unindemnified for the loss of the use of his property for ten years, which considered as money is nearly equivalent to the original value of the principal thing."

Again he says:

"If interest be an incident usually attendant on the delay of payment of debts, damages are equally an incident attendant on the withholding an article of property."

In consequence of this disagreement the commission was broken up, but the claims were subsequently compromised by the payment of \$1,204,960, instead of \$1,250,000 as claimed by Mr. Cheves; and of the sum paid by Great Britain \$418,000 was expressly for interest.

An earlier case, in which this principle of interest was involved, arose under the treaty of 1794, between the United States and Great Britain, in which there was a stipulation on the part of the British Government in relation to certain losses and damages sustained by American merchants and other citizens, by reason of the illegal or irregular capture of their vessels or other property by British cruisers; and the seventh article provided in substance that "full and complete compensation for the same will be made by the British Government to the said claimants."

A joint commission was instituted under this treaty which sat in London, and by which these claims were adjudicated. Mr. Pinckney and Mr. Gore were commissioners on the part of the United States, and Dr. Nicholl and Dr. Swabey on the part of Great Britain; and it is believed that in all instances this commission allowed interest as a part of the damage. In the case of *The Betsey*, one of the cases which came before the board, Dr. Nicholl stated the rule of compensation as follows:

"To reimburse the claimants the original cost of their property, and all the expenses they have actually incurred, together with the interest on the whole amount, would, I think, be a just and adequate compensation. This, I believe,

is the measure of compensation usually made by all belligerent nations, and accepted by all neutral nations, for losses, costs, and damages occasioned by illegal captures. (Vide Wheaton's Life of Pinckney, page 198; also 265, note, and page 371.)

"By a reference to the American State Papers, Foreign Relations, vol. 2, pages 119, 120, it will be seen by a report of the Secretary of State of the 16th February, 1798, laid before the House of Representatives, that interest was awarded and paid on such of these claims as had been submitted to the award of Sir William Scott and Sir John Nicholl, as it was in all cases by the board of commissioners. In consequence of some difference of opinion between the members of this commission, their proceedings were suspended until 1802, when a convention was concluded between the two governments, and the commission reassembled, and then a question arose as to the allowance of interest on the claims during the suspension. This the American commissioners claimed, and though it was at first resisted by the British commissioners, yet it was finally yielded, and interest was allowed and paid. (See Mr. King's three letters to the Secretary of State, of 25th March, 1803, 23d April, 1803, and 30th April, 1803, American State Papers, Foreign Relations, vol. 2, pages 387 and 388.)

"Another case in which this principle was involved arose under the treaty of the 27th October, 1795, with Spain; by the twenty-first article of which, 'in order to terminate all differences on account of the losses sustained by citizens of the United States in consequence of their vessels and cargoes having been taken by the subjects of his Catholic Majesty during the late war between Spain and France, it is agreed that all such cases shall be referred to the final decision of commissioners, to be appointed in the following manner.' &c. The commissioners were to be chosen, one by the United States, one by Spain, and the two were to choose a third, and the award of the commissioners, or any two of them, was to be final, and the Spanish Government to pay the amount in specie.

"This commission awarded interest as part of the damages. (See American State Papers, vol. 2, Foreign Relations, page 283.) So in the case of claims of American citizens against Brazil, settled by Mr. Tudor, United States minister, interest was claimed and allowed. (See Ex. Doc., first session Twenty-fifth Congress, House Reps., Doc. 32, page 249.)

"Again, in the convention with Mexico of the 11th April, 1839, by which provision was made by Mexico for the payment of claims of American citizens for injuries to persons and property by the Mexican authorities, a mixed commission was provided for, and this commission allowed interest in all cases. (House Ex. Doc. 291, Twenty-seventh Congress, second session.)

"So also under the treaty with Mexico of February 2, 1848, the board of commissioners for the adjustment of claims under that treaty allowed interest in all cases from the origin of the claim until the day when the commission expired.

"So also under the convention with Colombia, concluded February 10, 1864, the commission for the adjudication of claims under that treaty allowed interest in all cases as a part of the indemnity.

"So under the recent convention with Venezuela, the United States exacted interest upon the awards of the commission, from the date of the adjournment of the commission until the payment of the awards.

"The mixed American and Mexican commission, now in session here, allows interest in all cases from the origin of the claim, and the awards are payable with interest.

"Other cases might be shown in which the United States or their authorized diplomatic agents have claimed interest in such cases, or where it has been paid in whole or in part. (See Mr. Russell's letter to the Count de Engstein of October 5, 1818, American State Papers, vol. 4, p. 639, and proceedings under the convention with the Two Sicilies of October, 1832, Elliot's Dip. Code, p. 625.)

"It can hardly be necessary to pursue these precedents further. They sufficiently and clearly show the practice of this Government with foreign nations, or with claimant under treaties.

"Eighth. The practice of the United States in its dealings with the various Indian tribes or nations has been in harmony with these principles.

"In all cases where money belonging to Indian nations has been retained by the United States, it has been so invested as to produce interest, for the benefit of the nation to which it belongs; and such interest is annually paid to the nation who may be entitled to receive it.

"Ninth. The United States in adjusting the claim of the Cherokee Nation for a balance due as purchase-money upon lands ceded by that nation to the United States in 1835, allowed interest upon the balance due them, being \$189,422.76, until the same was paid.

"The question was submitted to the Senate of the United States, as to whether interest should be allowed them. The Senate Committee on Indian Affairs, in their report upon this subject, used the following language:

"By the treaty of August, 1846, it was referred to the Senate to decide, and that decision to be final, whether the Cherokees shall receive interest on the sums found due them from a misapplication of their funds to purposes with which they were not chargeable, and on account of which improper charges the money has been withheld from them. It has been the uniform practice of this Government to pay and demand interest in all transactions with foreign governments, which the Indian tribes have always been said to be, both by the Supreme Court and all other branches of our Government, in all matters of treaty or contract. The Indians, relying upon the prompt payment of their dues, have, in many cases, contracted debts upon the faith of it, upon which they have paid, or are liable to pay, interest. If, therefore, they do not now receive interest on their money so long withheld from them they will in effect have received nothing." (Senate Report No. 176, first session Thirty-first Congress, p. 78.)

"Tenth. That upon an examination of the precedents where Congress has passed acts for the relief of private citizens it will be found that in almost every case Congress has directed the payment of interest where the United States had withheld a sum of money which had been decided by competent authority to be due, or where the amount due was ascertained, fixed, and certain.

"The following precedents illustrate and enforce the correctness of this assertion and sustain this proposition:

"1. An act approved January 14, 1793, provided that lawful interest from the 16th of May, 1776, shall be allowed on the sum of \$200 ordered to be paid to Return J. Meigs and the legal representatives of Christopher Greene, deceased, by a resolve of the United States in Congress assembled on the 28th of September, 1785. (6 Stats. at Large, page 11.)

"2. An act approved May 31, 1794, providing for a settlement with Arthur St. Clair, for expenses while going from New York to Fort Pitt and till his return, and for services in the business of Indian treaties, and 'allowed interest on the balance found to be due him.' (6 Stats. at Large, page 16.)

"3. An act approved February 27, 1795, authorized the officers of the Treasury to issue and deliver to Angus McLean, or his duly authorized attorney, certificates for the amount of \$254.43, bearing interest at 6 per cent., from the 1st of July, 1783, being for his services in the corps of sappers and miners during the late war. (6 Stats. at Large, p. 20.)

"4. An act approved January 23, 1798, directing the Secretary of the Treasury to pay General Kosciuszko an interest at the rate of 6 per cent. per annum on the sum of \$12,280.54, the amount of a certificate due to him from the United States from the 1st of January, 1793, to the 31st of December, 1797. (6 Stats. at Large, p. 32.)

"5. An act approved May 3, 1802, provided that there be paid Fulwar Skipwith the sum of \$4,550, advanced by him for the use of the United States, with interest at the rate of 6 per cent. per annum from the 1st of November, 1795, at which time the advance was made. (6 Stats. at Large, p. 43.)

"6. An act for the relief of John Coles, approved January 14, 1804, authorized the proper accounting officers of the Treasury to liquidate the claim of John

Coles, owner of the ship Grand Turk, heretofore employed in the service of the United States, for the detention of said ship at Gibraltar from the 10th of May to the 4th of July, 1801, inclusive, and that he be allowed demurrage at the rate stipulated in the charter-party, together with the interest thereon. (6 Stat. at L., p. 50.)

"7. An act approved March 3, 1807, provided for a settlement of the accounts of Oliver Pollock, formerly commercial agent for the United States at New Orleans, allowing him certain sums and commissions, with interest until paid. (6 Stat. at L., p. 65.)

"8. An act for the relief of Stephen Sayre, approved March 3, 1807, provided that the accounting officers of the Treasury be authorized to settle the account of Stephen Sayre, as secretary of legation at the court of Berlin, in the year 1777, with interest on the whole sum until paid. (6 Stat. at L., p. 89.)

"9. An act to, approved April 30, 1810, directed the accounting officers of the Treasury to settle the account of Moses Young, as secretary of legation to Holland in 1780, and providing that after the deduction of certain moneys paid him, the balance, with interest thereon, should be paid. (6 Stat. at L., page 89.)

"10. An act approved May 1, 1810, for the relief of P. C. L'Enfant, directed the Secretary of the Treasury to pay to him the sum of \$666, with legal interest thereon from March 1, 1792, as a compensation for his services in laying out the plan of the city of Washington. (6 Stat. at L., page 92.)

"11. An act approved January 10, 1812, provided that there be paid to John Burnham the sum of \$126.72, and the interest on the same since the 30th of May, 1796, which, in addition to the sum allowed him by the act of that date, is to be considered a reimbursement of the money advanced by him for his ransom from captivity in Algiers. (6 Stat. at L., page 101.)

"12. An act approved July 1, 1812, for the relief of Anna Young, required the War Department to settle the account of Col. John Durkee, deceased, and to allow said Anna Young, his sole heiress and representative, said seven years' half pay, and interest thereon. (6 Stat. at L., page 110.)

"13. An act approved February 25, 1813, provided that there be paid to John Dixon the sum of \$329.84, with 6 per cent. per annum interest thereon from the 1st of January, 1785, 'being the amount of a final settlement certificate, No. 596, issued by Andrew Dunscomb, late commissioner of accounts for the State of Virginia, on the 23d of December, 1786, to Lucy Dixon, who transferred the same to John Dixon.' (6 Stat. at L., page 117.)

"14. An act approved February 25, 1813, required the accounting officers of the Treasury to settle the account of John Murray, representative of Dr. Henry Murray, and that he be allowed the amount of three loan-certificates for \$1,000, with interest from the 29th of March, 1782, issued in the name of said Murray, signed Francis Hopkinson, treasurer of loans. (6 Stat. at L., page 117.)

"15. An act approved March 3, 1813, directed the accounting officers of the Treasury to settle the accounts of Samuel Lapsley, deceased, and that they be allowed the amount of two final-settlement certificates, No. 78446, for \$1,000, and No. 78447, for \$1,300, and interest from the 22d day of March, 1783, issued in the name of Samuel Lapsley, by the commissioner of Army accounts for the United States on the 1st day of July, 1784. (6 Stat. at L., p. 119.)

"16. An act approved April 13, 1814, directed the officers of the Treasury to settle the account of Joseph Brevard, and that he be allowed the amount of a final-settlement certificate for \$183.23, dated February 1, 1785, and bearing interest from the 1st of January, 1783, issued to said Brevard by John Pierce, commissioner for settling Army accounts. (6 Stat. at L., p. 134.)

"17. An act approved April 18, 1814, directed the receiver of public moneys at Cincinnati to pay the full amount of moneys, with interest, paid by Dennis Clark, in discharge of the purchase-money for a certain fractional section of land purchased by said Clark. (6 Stat. at L., 141.)

"18. An act for the relief of William Arnold, approved February 2, 1815, allowed interest on the sum of \$600 due him from January 1, 1783. (6 Stat. at L., 146.)

"19. An act approved April 26, 1816, directed the accounting officers of the Treasury to pay to Joseph Wheaton the sum of \$826.42, on account of interest due him from the United States upon \$1,600.84, from April 1, 1807, to December 21, 1815, pursuant to the award of George Youngs and Elias B. Caldwell, in a controversy between the United States and the said Joseph Wheaton. (6 Stat. at L., 166.)

"20. An act approved April 26, 1816, authorized the liquidation and settlement of the claim of the heirs of Alexander Roxburgh, arising on a final-settlement certificate issued on the 18th of August, 1784, for \$480.87, by John Pierce, commissioner for settling Army accounts, bearing interest from the 1st of January, 1782. (6 Stat. at L., 167.)

"21. An act approved April 14, 1818, authorized the accounting officer of the Treasury Department 'to review the settlement of the account of John Thompson,' made under the authority of an act approved the 11th of May, 1812, and 'to allow the said John Thompson interest at 6 per cent. per annum from the 4th of March, 1787, to the 20th of May, 1812, on the sum which was found due to him, and paid under the act aforesaid.' (6 Stat. at L., 208.)

"22. An act approved May 11, 1820, directed the proper officers of the Treasury to pay to Samuel B. Beall the amount of two final-settlement certificates issued to him on the 1st day of February, 1785, for his services as a lieutenant in the Army of the United States during the Revolutionary war, together with interest on the said certificates, at the rate of 6 per cent. per annum, from the time they bore interest, respectively, which said certificates were lost by the said Beall, and remain yet outstanding and unpaid. (6 Laws of U. S., 510; 6 Stat. at L., 249.)

"23. An act approved May 15, 1820, required that there be paid to Thomas Leiper the specie value of four loan-office certificates, issued to him by the commissioner of loans for the State of Pennsylvania, on the 27th of February, 1779, for \$1,000 each; and also the specie value of two loan certificates, issued to him by the said commissioner on the 2d day of March, 1779, for \$1,000 each, with interest at 6 per cent. annually. (6 Stat. at L., 252.)

"24. An act approved May 7, 1822, provided that there be paid to the legal representatives of John Guthry, deceased, the sum of \$123.30, being the amount of a final-settlement certificate, with interest at the rate of 6 per cent. per annum, from the 1st day of January, 1788. (6 Stat. at L., 269.)

"25. An act for the relief of the legal representatives of James McClung, approved March 3, 1823, allowed interest on the amount due at the rate of 6 per cent. per annum from January 1, 1788. (6 Stat. at L., 284.)

"26. An act approved March 3, 1823, for the relief of Daniel Seward, allowed interest to him for money paid to the United States for land to which the title failed, at the rate of 6 per cent. per annum from January 29, 1814. (6 Stat. at L., 286.)

"27. An act approved May 5, 1824, directed the Secretary of the Treasury to pay to Amasa Stetson the sum of \$6,215, 'being for interest on moneys advanced by him for the use of the United States, and on warrants issued in his favor, in the years 1814 and 1815, for his services in the Ordnance and Quartermaster's Department, for superintending the making of Army clothing and for issuing the public supplies.' (6 Stat. at L., 298.)

"28. An act approved March 3, 1824, directed the proper accounting officers of the Treasury to settle and adjust the claim of Stephen Arnold, David and George Jenks, for the manufacture of 3,925 muskets, with interest thereon from the 26th day of October, 1813. (6 Stat. at L., 331.)

"29. An act approved May 20, 1826, directed the proper accounting officers of the Treasury to settle and adjust the claim of John Stemman and others, for the manufacture of 4,100 stand of arms, and to allow interest on the amount due from October 26, 1813. (6 Stat. at L., 345.)

"30. An act approved May 20, 1826, for the relief of Ann D. Taylor, directed the payment to her of the sum of \$354.15, with interest thereon at the rate of 6 per cent. per annum from December 30, 1786, until paid. (6 Stat. at L., 351.)

"31. An act approved March 3, 1827, provided that the proper accounting offi-

cers of the Treasury were authorized to pay to B. J. V. Valkenburg the sum of \$597.24, 'being the amount of fourteen indents of interest, with interest thereon from the 1st of January, 1791, to the 31st of December, 1826.' (6 Stat. at L., 365.)

"In this case the United States paid interest on interest."

"32. An act approved May 19, 1823, provided that there be paid to the legal representatives of Patience Gordon the specie value of a certificate issued in the name of Patience Gordon by the commissioner of loans for the State of Pennsylvania, on the 7th of April, 1778, with interest at the rate of 6 per cent. per annum from the 1st day of January, 1788. (7 Stat. at L., p. 378.)

"33. An act approved May 29, 1830, required the Treasury Department 'to settle the accounts of Benjamin Wells, as deputy commissary of issues at the magazine at Monster Mills, in Pennsylvania, under John Irvin, deputy commissary-general of the Army of the United States, in said State, in the Revolutionary war;' and that 'they credit him with the sum of \$574.04, as payable February 9, 1779, and \$326.67, payable July 20, 1780, in the same manner, and with such interest, as if these sums, with their interest from the times respectively as aforesaid, had been subscribed to the loan of the United States.' (6 Stats. at Large, 447.)

"34. An act approved May 19, 1832, for the relief of Richard G. Morris, provided for the payment to him of two certificates issued to him by Timothy Pickering, quartermaster-general, with interest thereon from the 1st of September, 1781. (6 Stats. at Large, 486.)

"35. An act approved July 4, 1832, for the relief of Aaron Snow, a Revolutionary soldier, provided for the payment to him of two certificates issued by John Pierce, late commissioner of Army accounts, and dated in 1784, with interest thereon. (6 Stats. at Large, 503.)

"36. An act approved July 4, 1832, provided for the payment to W. P. Gibbs of a final-settlement certificate dated January 30, 1784, with interest at 6 per cent. from the 1st of January, 1783, up to the passage of the act. This act went behind the final certificate and provided for the payment of interest anterior to its date. (6 Stats. at Large, 504.)

"37. An act approved July 14, 1832, directed the payment to the heirs of Ebenezer L. Warren of certain sums of money illegally demanded and received from the United States from the said Warren as one of the sureties of Daniel Evans, formerly collector of direct taxes, with interest thereon at the rate of 6 per cent. per annum from September 9, 1820. (6 Stats. at Large, 373.)

"38. An act for the relief of Hartwell Vick, approved July 14, 1832, directed the accounting officers of the Treasury to refund to the said Vick the money paid by him to the United States for a certain tract of land which was found not to be property of the United States, with interest thereon at the rate of 6 per cent. per annum, from the 23d day of May, 1818. (6 Stats. at Large, 523.)

"39. An act approved June 18, 1834, for the relief of Martha Bailey and others, directed the Secretary of the Treasury to pay to the parties therein named the sum of \$4,837.61, being the amount of interest upon the sum of \$200,000, part of a balance due from the United States to Elbert Anderson on the 26th day of October, 1814; also the further sum of \$9,595.36, being the amount of interest accruing from the deferred payment of warrants issued for balances due from the United States to said Anderson from the date of such warrants until the payment thereof; also the further sum of \$2,018.50, admitted to be due from the United States to the said Anderson by a decision of the Second Comptroller, with interest on the sum last mentioned from the period of such decision until paid. (6 Stats. at Large, 562.)

"40. An act approved June 10, 1834, directed the Secretary of the Treasury to pay balance of damages recovered against William C. H. Waddell, United States marshal for the southern district of New York, for the illegal seizure of a certain importation of brandy, on behalf of the United States, with legal interest on the amount of said judgment from the time the same was paid by the said Waddell. (6 Stats. at Large, 594.)

"41. An act approved February 17, 1836, directed the payment of the sum therein named to Marinus W. Gilbert, being the interest on money advanced by him to pay off troops in the service of the United States, and not repaid when demanded. (6 Stats. at Large, 622.)

"42. An act approved February 17, 1836, for the relief of the executor of Charles Wilkins, directed the Secretary of the Treasury to settle the claim of the said executor for interest on a liquidated demand in favor of Jonathan Taylor, James Morrison, and Charles Wilkins, who were lessees of the United States of the salt works in the State of Illinois. (6 Stats. at Large, 626.)

"43. An act approved July 2, 1836, for the relief of the legal representatives of David Caldwell, directed the proper accounting officers of the Treasury to settle the claim of the said David Caldwell for fees and allowances, certified by the circuit court of the United States for the eastern district of Pennsylvania, for official services to the United States, and to pay on that account the sum of \$496.38, with interest thereon at the rate of 6 per cent. from the 25th day of November, 1820, till paid. (6 Stats. at Large, 664.)

"44. An act approved July 2, 1836, provided that there be paid Don Carlos Delossus interest at the rate of 6 per cent. per annum on \$333, being the amount allowed him under the act of July 14, 1832, for his relief, on account of moneys taken from him at the capture of Baton Rouge, La., on the 23d day of September, 1810, being the interest to be allowed from the said 23d day of September, 1810, to the 14th day of July, 1832. (6 Stats. at Large, 672.)

"In this case the interest was directed to be paid four years after the principal had been satisfied and discharged."

"45. An act approved July 7, 1838, provided that the proper officers of the Treasury be directed to settle the accounts of Richard Harrison, formerly consular agent of the United States at Cadiz, in Spain, and to allow him, among other items, the interest on the money advanced, under agreement with the minister of the United States in Spain, for the relief of destitute and distressed seamen and for their passages to the United States from the time the advances, respectively, were made to the time at which the said advances were reimbursed. (6 Stats. at Large, 734.)

"46. An act approved August 11, 1842, directed the Secretary of the Treasury to pay to John Johnson the sum of \$756.82, being the amount received from the said Johnson upon a judgment against him in favor of the United States, together with the interest thereon from the time of such payment. (6 Stats. at Large, 856.)

"47. An act approved August 3, 1846, authorized the Secretary of the Treasury to pay to Abraham Horbach the sum of \$5,000, with lawful interest from the 1st of January, 1836, being the amount of a draft drawn by James Reeside on the Post-Office Department, dated April 18, 1835, payable on the 1st of January, 1836, and accepted by the treasurer of the Post-Office Department, which said draft was indorsed by said Abraham Horbach at the instance of the said Reeside, and the amount drawn from the Bank of Philadelphia, and, at maturity, said draft was protested for non-payment, and said Horbach became liable to pay, and, in consequence of his indorsement, did pay the full amount of said draft. (9 Stats. at Large, 677.)

"48. An act approved February 5, 1859, authorized the Secretary of War to pay to Thomas Laurent, as surviving partner, the sum of \$15,000, with interest at the rate of 6 per cent. yearly, from the 11th of November, 1847, it being the amount paid by the firm on that day to Maj. Gen. Winfield Scott, in the City of Mexico, for the purchase of a house in said city, out of the possession of which they were since ousted by the Mexican authorities. (11 Stats. at Large, 558.)

"49. An act approved March 2, 1847, directed the Secretary of the Treasury to pay the balance due to the Bank of Metropolis for moneys due upon the settlement of the account of the bank with the United States, with interest thereon from the 6th day of March, 1838. (9 Stats. at Large, 689.)

"50. An act approved July 20, 1852, directed the payment to the legal representatives of James C. Watson, late of the State of Georgia, the sum of \$14,600, with

interest at the rate of 6 per cent. per annum, from the 8th day of May, 1838, till paid, being the amount paid by him, under the sanction of the Indian agent, to certain Creek warriors, for slaves captured by said warriors while they were in the service of the United States against the Seminole Indians in Florida. (11 Stats. at Large, 734.)

"51. An act approved July 29, 1854, directed the Secretary of the Treasury to pay to John C. Fremont \$183,825, with interest thereon from the 1st day of June, 1851, at the rate of 10 per cent. per annum, in full for his account for beef delivered to Commissioner Barbour, for the use of the Indians in California, in 1851 and 1852. (10 Stats. at Large, 804.)

"52. An act approved July 8, 1870, directed the Secretary of the Treasury to make proper payments to carry into effect the decree of the district court of the United States for the district of Louisiana, bearing dated the fourth of June, 1867, in the case of the British brig Volant, and her cargo; and also another decree of the same court, bearing date the eleventh of June, in the same year, in the case of the British bark Science, and her cargo; vessels illegally seized by a cruiser of the United States; such payments to be made as follows, namely: To the several persons named in such decrees, or their legal representatives, the several sums awarded to them respectively, with interest to each person from the date of the decree under which he receives payment. (16 Stats. at Large, 650.)

"53. An act approved July 8, 1870, directed the Secretary to make the proper payments to carry into effect the decree of the district court of the United States for the district of Louisiana, bearing date July 13, 1867, in the case of the British brig Dashing Wave, and her cargo, illegally seized by a cruiser of the United States, which decree was made in pursuance of the decision of the Supreme Court, such payments to be made with interest from the date of the decree. (16 Stats. at Large, 651.)

"An examination of these cases will show that, subsequent to the seizure of these several vessels, they were each sold by the United States marshal for the district of Louisiana as prize, and the proceeds of such sales deposited by him in the First National Bank of New Orleans. The bank, while the proceeds of these sales were on deposit there, became insolvent. The seizures were held illegal, and the vessels not subject to capture as prize. But the proceeds of the sales of these vessels and their cargoes could not be restored to the owners in accordance of the decrees of the district court, because the funds had been lost by the insolvency of the bank. In these cases, therefore, Congress provided indemnity for losses resulting from the acts of its agents, and made the indemnity complete by providing for the payment of interest."

"Your committee have directed attention to these numerous precedents for the purpose of exposing the utter want of foundation of the often-repeated assumption that 'the Government never pays interest.' It will readily be admitted that there is no statute law to sustain this position. The idea has grown up from the custom and usage of the accounting officers and Departments refusing to allow interest generally in their accounts with disbursing officers, and in the settlement of unliquidated domestic claims arising out of dealings with the Government. It will hardly be pretended, however, that this custom or usage is so 'reasonable, well known, and certain,' as to give it the force and effect of law, and to override and trample under foot the law of nations and also the well-settled practice of the Government itself in its intercourse with other nations."

"Eleventh. Interest was allowed and paid to the State of Massachusetts because the United States delayed the payment of the principal for twenty-two years after the amount due had been ascertained and determined. The amount appropriated to pay this interest was \$678,362.41, more than the original principal. (16 Stats. at Large, 198.)

"Mr. Sumner, in his report upon the memorial introduced for that purpose, discussing this question of interest, said:

"It is urged that the payment of this interest would establish a bad precedent. If the claim is just, the precedent of paying it is one which our Government should wish to establish. Honesty and justice are not precedents of which either Government or individuals should be afraid.' (Senate Report 4, 41st Cong., 1st sess., page 10.)

"Twelfth. Interest has always been allowed to the several States for advances made to the United States for military purposes."

"The claims of the several States for advances during the Revolutionary war were adjusted and settled under the provision of the acts of Congress of August 5, 1790, and of May 31, 1794. By these acts interest was allowed to the States, whether they had advanced money on hand in their treasuries or obtained by loans."

"In respect to the advances of States during the war of 1812-15, a more restricted rule was adopted, namely: That States should be allowed interest only so far as they had themselves paid it by borrowing, or had lost it by the sale of interest-bearing funds."

"Interest, according to this rule, has been paid to all the States which made advances during the war of 1812-15 with the exception of Massachusetts. Here are the cases:

"Virginia, U. S. Stats. at Large, vol. 4, p. 161.

"Delaware, U. S. Stats. at Large, vol. 4, p. 175.

"New York, U. S. Stats. at Large, vol. 4, p. 192.

"Pennsylvania, U. S. Stats. at Large, vol. 4, p. 241.

"South Carolina, U. S. Stats. at Large, vol. 4, p. 499.

"In the Indian and other wars the same rule has been observed, as in the following cases:

"Alabama, U. S. Stats. at Large, vol. 9, page 344.

"Georgia, U. S. Stats. at Large, vol. 9, page 626.

"Washington Territory, U. S. Stats. at Large, vol. 11, page 429.

"New Hampshire, U. S. Stats. at Large, vol. 10, page 1.

"Thirteenth. The Senate Committee on Indian Affairs, in the report to which reference has heretofore been made, speaking of this award and of the obligation of the United States to pay interest upon the balance remaining due and unpaid thereon, used the following language:

"Your committee are of the opinion that this sum should be paid them with accrued interest from the date of said award, deducting therefrom \$250,000, paid to them in money, as directed by the act of March 2, 1861; and therefore find no sufficient reason for further delay in carrying into effect that provision of the aforesaid act and the act of March 3, 1871, by the delivery of the bonds therein described, with accrued interest from the date of the act of March 8, 1861."

"Your committee have discussed this question with an anxious desire to come to such a conclusion in regard to it as would do no injustice to that Indian nation whose rights are involved here, nor establish such a precedent as would be inconsistent with the practice or duty of the United States in such cases. Therefore your committee have considered it not only by the light of those principles of the public law—always in harmony with the highest demands of the most perfect justice—but also in the light of those numerous precedents which this Government in its action in like cases has furnished for our guidance. Your committee can not believe that the payment of interest on the moneys awarded by the Senate to the Choctaw Nation would either violate any principle of law or establish any precedent which the United States would not wish to follow in any similar case, and your committee can not believe that the United States are prepared to repudiate these principles, or to admit that because their obligation is held by a weak and powerless Indian nation, it is any the less sacred or binding than if held by a nation able to enforce its payment and secure complete indemnity under it. Could the United States escape the payment of interest to Great Britain, if it should refuse or neglect, after the same became

due, to pay the amount awarded in favor of British subjects by the recent joint commission which sat here? Could we delay payment of the amount awarded by that commission for fifteen years, and then escape by merely paying the principal? The Choctaw Nation asks the same measure of justice which we must accord to Great Britain; and your committee can not deny that demand unless they shall ignore and set aside those principles of the public law which it is of the utmost importance to the United States to always maintain inviolate.

Your committee are not unmindful that the amount due the Choctaw Nation under the award of the Senate is large. They are not unmindful, either, that the discredit of refusing payment is increased in proportion to the amount withheld and the time during which such refusal has been continued."

Few, if any, of the foregoing cases presented as strong and meritorious grounds for the allowance of interest as the claim now under consideration. Following these precedents, and for the reasons above set forth, the committee deem the present a proper case for the payment of interest on the sum converted (\$371,025) from date of conversion to date of payment. This interest they fix at the rate of 4 per cent. per annum, that being about the average rate paid by the Government between 1867 and 1881, and which it may be fairly assumed was saved or made by it for the use of the funds during the period of detention. On this basis the interest allowed will amount to the sum of \$249,039.95.

The committee accordingly recommend that the bill be amended as follows: in line 1 of section 2 strike out the words "seventy-five" and insert in lieu thereof "forty-nine," and in line second of said second section, after the word "thousand," insert the words "and thirty-nine and ninety-five hundredths;" and as thus amended that the bill be passed by the Senate.

Mr. COCKRELL. I should like to ask if this case was not once before the Committee on the Judiciary and reported adversely by that Committee?

Mr. HOAR. Never.

Mr. JACKSON. It was not, Mr. President. It never had been before Congress until it was referred to the Committee on Claims. There was a case, that of the First National Bank of Boston, which was referred to the Judiciary Committee last year or the year before, on the question of waiving the statute of limitations. That was the question involved, and the Committee on the Judiciary reported against it.

Mr. COCKRELL. I desire to say that I dissent from the views expressed in the report. I do not believe that interest ought to be paid in this case, and I regard it as an exceedingly dangerous precedent. I simply desire to say that I am opposed to the bill, and would vote against it on a yea-and-nay vote. I am paired, however, with the distinguished Senator from Massachusetts [Mr. DAWES] who is now absent upon this particular question, and can not vote.

Mr. CONGER. I see by an examination of the bill that this judgment became a valid judgment by the action of the Supreme Court of the United States October 25, 1881, and the judgment then was for \$371,025. It will be presumed that whatever was due these parties at the time that judgment was finally rendered and confirmed by the dismissal of the appeal to the United States Supreme Court is contained in that amount. October 25, 1881, there came a judgment of \$371,025. Four days after that \$260,000 was paid out of the Treasury, and ten months after that \$111,025, the balance of the judgment, was paid. Now, the committee recommend an appropriation of \$249,039.95. Even allowing, which I do not admit for a moment, that interest should be paid in such a case as this, the committee recommend for the interest from the time the judgment became perfected, ten months, \$249,039.95.

I have computed the interest which should be on the balance of the payment, not having computed it on the whole for four days, throwing that out because the \$260,000 was paid when the claim was presented to the Treasury; and the interest, even if it could be allowed on the unpaid amount between the time it was due and the time it was paid, \$111,025, would be \$41,063.62, instead of the amount proposed here, over \$249,000. By any rule of computation the interest could be only \$41,063. Now, how can the \$249,000 be possibly worked in here by any estimate of the liability of the Government? Here is a document containing probably an examination of the whole payments of the Treasury from the beginning of the Government until now, and giving every case in which interest has been allowed by the Government or by foreign governments. Peculiar cases!

This is a case where the party has not purged itself from complicity with the original fraud by the mere assertion of the committee that the cashier and principal owner of the bank did this and not the bank itself proper. There is nothing in the report to satisfy me but what not only the principal owner of the bank, who had great influence over the cashier, but the cashier himself and other members of the bank, assented to the temporary deposit of the bank securities with this defaulting officer for the purpose of defrauding and deceiving the United States. There is nothing in the testimony here to show that there was not complicity with more than the two persons mentioned. The presumption would be that no cashier and no officer of a bank dare, without consultation with the directors or managers, take the securities of a bank from the possession of the bank and go and give them to any other person whatever for any purpose whatever.

It was an open, patent fraud against the United States, committed by two officers of this bank, and there is nothing to show but that it was sanctioned by the others.

I think it was very well for the bank, after having shown these things, to trust to the equity, almost the mercy, of the Government to be repaid the value of the securities which it had so used. The Government paid back the full amount of the nominal face value of the securities which were thus transferred to this officer of the Government in fraud of the Government's rights as well as of the bank.

By any proper construction, if interest is demandable and payable

against the Government of the United States, instead of \$249,000 there would be but \$41,063 due. I think this should have a more full discussion than we can have under the five-minute rule, and it seems to me that there is nothing peculiar in this case that should make the Government depart from the usual ordinary method of paying claims where the party seeking relief was in default and where some defaulting officer of the Government was in fault, paying back in full the face value of the securities taken. Whether they were worth that amount or not I do not know.

Mr. JACKSON. I will state to the Senator from Michigan and the Senate that every fact connected with this transaction has undergone judicial investigation in the highest courts of the land, and those courts have found that the bank did not connive at the fraud which was perpetrated upon it. They settled that as a question of fact ascertained and determined in those decisions, and the case is simply the case of a bank being robbed and of its stolen assets being placed in the hands of a defaulting officer of the Government for the use of the Government with the knowledge of the Government agent and appropriated by the Government agent to make good his own default, a large proportion of those assets being interest-bearing securities. It would be monstrous for the Government of the United States to withhold the payment of interest on this fund when it has thereby canceled obligations of its own that bore interest, and done that through the fraud of its own agent.

The interest allowed, I will say to the Senator from Michigan, is interest from the date of conversion to the date of payment. The Court of Claims was not authorized to allow interest, its jurisdiction upon the subject of interest being limited to cases where there was an express contract for the payment of interest; but the obligation of the Government goes beyond the mere question of the jurisdiction of the Court of Claims, and the committee, after thorough investigation of this claim and of the numerous precedents before them in the legislation of Congress, thought that no stronger case could be presented for the allowance of interest.

Mr. HARRISON. Will the Senator from Tennessee allow me to ask him a question?

Mr. JACKSON. Yes, sir.

Mr. HARRISON. What proportion of the securities of this bank which were obtained by the subtreasurer at Boston were interest-bearing securities?

Mr. JACKSON. Forty-seven thousand dollars of them were interest-bearing securities, and at a higher rate than we allow.

Mr. HARRISON. Then only \$47,000 out of \$371,000 of the total debt was in interest-bearing securities.

Mr. JACKSON. Yes, sir.

Mr. HARRISON. The balance was either cash or non-interest-bearing securities?

Mr. JACKSON. The balance was funds of the bank, checks on which it had to pay interest immediately after the breaking of the bank by this transaction. The Government got the benefit of the funds on which it stopped interest, the use of this money in paying its obligations, and subjected the bank at the same time to the loss of interest which it had to make good by its stockholders.

Mr. HARRISON. Then I understand the position of the Senator from Tennessee and of the committee is that the Government of the United States ought in all cases where it is indebted and unjustly postpones payment for any reason to pay interest. It seems to me it leads to that, because if the Government has collected an improper tax, as it once did I recollect in a case in which I was interested and retains that tax for ten years, the policy that the committee propose in this bill would make it an obligation on the Government in every such case when it made restitution of money which had been improperly exacted or obtained—and I think it should extend to the case of any debt where the payment of it was not promptly made for any reason—in all such cases the Government ought to adopt the policy of paying interest. Does it not involve that?

Mr. JACKSON. It does not, for the committee confined themselves to the special facts of this case. They did not undertake to lay down any general rule for the guidance of the Senate.

Mr. HOAR. Mr. President, the Senate will pardon me for making a little further answer to the Senator from Michigan. The foundation of this claim is not the fraudulent conduct of the bank's officer on the one side or of the agent of the United States on the other. When that fraud was discovered, after all the facts were known, the bank made a demand on the United States for its securities and funds, and the United States refused to return them. It is with that conversion made purposely by the authorities of the United States that this claim begins. It was a conversion to its own use. Now, the Supreme Court of the United States say over and over again that it is the policy of the United States to pay interest in such cases. It is not the policy of the United States to pay interest on taxes; it is not the policy of the United States to pay interest on mere debts, because it is presumed to be always ready to pay its debts, as all governments are; but it is the policy of the United States to repay with interest a citizen whose property it has seized and converted to its own use.

In June, 1872, it will be found by Senators on the sixth page of this report, Congress referred the claim of Francis Vigo to the Court of Claims

with directions to be governed in the matter by the rules and regulations heretofore adopted by the United States in the settlement of like cases, and the Supreme Court of the United States say, affirming in that particular the judgment of the Court of Claims:

No rules and regulations have heretofore been adopted by the United States in the settlement of like cases except such as may be inferred from the policy of Congress when passing private acts for the relief of various persons. When passing such private acts Congress has allowed interest upon the claim up to the time that the relief was granted.

So we have here the express adjudication of the highest tribunal of the country that in such cases as this it is the policy of the Government to allow interest. The Senate will observe that the amount proposed in the bill has been cut down, and that for this period, when the current rate of interest in the country was 10 per cent., when the Government was paying first 8, then 7, then 5, then 4½, and only within a year or two 3½ and 3, we have allowed 4½ per cent. interest for the whole time.

The PRESIDING OFFICER (Mr. CAMERON, of Wisconsin, in the chair). The bill is before the Senate as in Committee of the Whole and open to amendment.

Mr. CONGER. Mr. President, of course under the rule I can speak but once. When I closed my remarks before I objected to the consideration of the bill under this rule. I think it demands more examination than I have been able to give to it now.

The PRESIDING OFFICER. The Senator from Michigan objects to the further consideration of this bill.

Mr. HOAR. I move that the Senate take it up for consideration. The report has been read. The Senate never can examine it more fully nor my friend from Michigan than he can now. I ask him to allow it to go on.

The PRESIDING OFFICER. The Senator from Massachusetts moves that the Senate proceed to the consideration of this bill, notwithstanding the objection of the Senator from Michigan. The question is on that motion.

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

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

The PRESIDING OFFICER. The Chair did not understand the Senator from Michigan.

Mr. CONGER. I ask for the yeas and nays on this motion.

Mr. HOAR. If the Senator from Michigan desires further time, as this is a matter of great importance, both in the amount involved and the principle involved, and it should be thoroughly understood by the Senate; there is no disposition to press it now. Perhaps the Senator will be content to let the bill go over until after the holidays, retaining its place on the Calendar.

Mr. CONGER. To be then taken up by the vote of the Senate allowing full debate.

Mr. HOAR. The Senator will then have an opportunity to make his objection. My request is that the bill shall remain on the Calendar under Rule VIII, that is the five-minute rule, as now, until after the 1st of January, and in the course of that time the Senator from Michigan can examine the bill. He will have his right of objection then as now.

The PRESIDING OFFICER. The Senator from Massachusetts asks that this bill may retain its place on the Calendar and go over. Is there objection? The Chair hears none, and that order will be made.

HOUSE PENSION BILLS.

Mr. BECK. I moved some time ago to proceed to the consideration of five or six pension bills that had passed the House of Representatives and been reported favorably by the Senate Committee on Pensions without amendment. I hope now there will be no objection.

Mr. FRYE. Why not put it, "all House bills that have been reported favorably?"

Mr. BECK. There are only six or seven of the pension bills, beginning at Order of Business 942. I have gone over the Calendar carefully.

The PRESIDING OFFICER. The Senator from Kentucky asks unanimous consent that all House pension bills which have been reported favorably and are now on the Calendar may be taken up for consideration in their order subject to objection.

Mr. WILSON. Does that include the Senate bills as well as House bills?

Mr. BECK. Only the House bills, so that a few of them may become laws before the holidays.

Mr. WILSON. I suggest that the Senator include Senate bills favorably reported and unobjected to.

Mr. BECK. I thought we could pass the few bills that have come from the House and have them become laws before the holidays.

Mr. WILSON. I am not prepared to say that there are any Senate bills of that character on the Calendar, but there may be two or three, and in that case I suggest that favorable reports on Senate bills unobjected to may be considered.

Mr. BECK. After the few House bills are passed we can go over them, I think.

The PRESIDING OFFICER. The Chair is informed by the Secretary that there are no Senate pension bills on the Calendar.

Mr. WILSON. If there are no such Senate bills on the Calendar, of course I do not press my suggestion.

The PRESIDENT *pro tempore*. Will the Senator from Kentucky state precisely what he asks unanimous consent to?

Mr. BECK. To proceed to the consideration of unobjected pension cases that have passed the House of Representatives and been reported favorably by the Senate Committee on Pensions.

The PRESIDENT *pro tempore*. The Senator from Kentucky asks unanimous consent that the Senate now proceed to the consideration of House pension bills reported favorably, it being stated that there are no Senate pension bills. Is there objection?

Mr. WILSON. I will not object after the statement made by the Secretary.

The PRESIDENT *pro tempore*. Is there objection to the request of the Senator from Kentucky.

Mr. CONGER. There is no objection where there are favorable reports.

The PRESIDENT *pro tempore*. The request of the Senator from Kentucky is for the consideration of House pension bills favorably reported, it being suggested that there are no favorable reports of Senate pension bills on the Calendar. The Chair hears no objection. The first bill in order will be read.

Mr. BECK. Order of Business 942 is the first I can find.

The PRESIDENT *pro tempore*. The Chair finds on the Calendar Order of Business 406, being the bill (S. 772) granting a pension to Erastus W. Babson, which was passed and a motion to reconsider entered.

Mr. COCKRELL. Let it be passed over.

The PRESIDENT *pro tempore*. The Chair understands that in that case the beneficiary has died and therefore no action can be taken at present.

JACOB HOERTH.

The PRESIDENT *pro tempore*. Order of Business 942, being House bill 3210, will be reported.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 3210) for the relief of Jacob Hoerth. It provides for placing on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Jacob Hoerth, late of Company C, Twenty-eighth Regiment of Kentucky Volunteers.

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

ALBERT BRANT.

The bill (H. R. 3382) granting a pension to Albert Brant was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 4, after "pension-roll," to strike out "at \$8 per month" and insert "subject to the provisions and limitations of the pension laws;" so as to make the bill read:

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 Albert Brant, late a private in Company A, Fourth Regiment Ohio Volunteer Cavalry.

Mr. SHERMAN. I hope, as the Senator from Pennsylvania [Mr. MITCHELL] who reported the bill is not here, the Senate will not insist on the amendment, because it sends the bill back to the House, and the case is a very urgent and needy one. The pension is but \$8 a month, and the amendment would require this applicant to appear before the examining officer at some distance and pass an examination so as to fix the rate of pension. The pension fixed by the House bill is only \$8 a month, and I trust this delay will not be required. It is a case I happen to know something about, and if the Senator from Pennsylvania were here he would not insist on the amendment; but he is not here.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment reported by the Committee on Pensions.

The amendment was rejected.

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

MARGARET DAILY.

The bill (H. R. 5735) granting a pension to Margaret Daily was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Margaret Daily, widow of Thomas H. Daily, late captain of Company D, Twenty-second Regiment Indiana Volunteers.

Mr. COCKRELL. Let the report be read in that case.

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

The Secretary read the following report, submitted by Mr. WILSON December 19, 1884:

The Committee on Pensions, to which was referred the bill (H. R. 5735) granting a pension to Margaret Daily, has examined the same, and reports that an examination of the papers, records, and proofs submitted to the committee in support of the bill justifies a concurrence in the report of the Committee on Invalid Pensions of the House of Representatives, made to that body, and which is here quoted, as follows, namely:

"That Margaret Daily is the widow of Thomas H. Daily, who enlisted as a private in Company D, Twenty-second Regiment Indiana Volunteer Infantry, on the 6th day of July, 1861, and served through all the intermediate grades to that of captain of said company, which position he held at the time of his hon-

orable discharge from the military service of the United States, September 14, 1864.

"On the 3d day of September, 1881, the claimant filed her application for a pension, on the ground that the said Thomas H. Daily, while in the military service of the United States and in the line of his duty, contracted hemorrhoids, superinducing fistula in ano, resulting in his death, which occurred on the 3d day of May, 1881. This claim was rejected June 29, 1882, on the ground that the disease of which the soldier died was not contracted in the military service of the United States.

"The records of the Adjutant-General's Office show that Thomas H. Daily was mustered into the military service of the United States as second Lieutenant Company D, Twenty-second Regiment Indiana Volunteers, June 30, 1862; July and August he is reported present, and so borne to October 31, 1862; November 25, 1862, mustered as first lieutenant; February 28, 1863, as captain; December 31, 1862, detailed on General Jeff. C. Davis's staff, and so borne to April 30, 1863; May and June, 1863, present for duty; July and August, 1863, not on file; September and October, 1863, on detached service on General Davis's staff since July 2, 1863, and so borne to August 31, 1864.

"General Jeff. C. Davis, commanding First Division, Twentieth Army Corps, in accepting the resignation of Captain Daily, August 1, 1864, says:

"This officer has won his promotion from the ranks, and has often distinguished himself in battle. He has served on my staff at different times with credit to himself. He seems now to have thoroughly made up his mind to resign from the service, and urges his resignation. His health has not been very good since the battle of Stone River."

"Anthony R. Ravencraft, captain Company I, Twenty-second Regiment Indiana Volunteers, says:

"That Capt. Thomas H. Daily, by exposure and fatigue at the battle of Chickamauga, brought on piles; visited him at General J. C. Davis's headquarters soon after the battle, and found him very much prostrated from the effects thereof. Captain Daily was then on General Davis's staff; met him frequently afterward; he had not recovered, and frequently complained of fistula."

"Alex. M. Rutherford, private Company D, Twenty-second Regiment Indiana Volunteers, corroborates the statement of Captain Ravencraft, and adds:

"That said affection continued until said soldier was mustered out; subsequently resulting in fistula, from which he suffered until his death, May 3, 1881."

"Dr. Samuel M. Work, of Hot Springs, Ark., says:

"Capt. Thomas H. Daily came under his professional treatment in December, 1864; had a severe case of hemorrhoids, both internal and external, which continued until January, 1877; thinks fistula developed about 1867; that he never recovered from fistula in ano."

"Dr. Will. F. Works, of Jeffersonville, Ind., treated Captain Daily for said affections from April, 1877, to 1879."

"Dr. James E. Oldham, of Charlestown, Ind., was Captain Daily's family physician from January, 1879, to the time of his death, May 3, 1881. He says:

"That in January, 1879, soldier applied to him to treat him for hemorrhoids and fistula in ano, but his general health was so bad that he did not deem it advisable to recommend any but palliatives and tonics for his general condition; that about November 25, 1879, there were well-defined evidences of cerebro-spinal softening, which continued until and was the immediate cause of his death; that it is his (affiant's) opinion that hemorrhoids and fistula in ano, by their depreciating effects upon the vital force, acted as prime causes in the production of the cerebro-spinal troubles of which he died."

"Your committee find from the evidence as given above that the disease contracted by this soldier in the distinguished military service rendered resulted in his death, and therefore recommend the passage of the bill."

Your committee, approving this statement of the case, reports the bill to the Senate, and recommends its passage.

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

HENRY ALDEN.

The bill (H. R. 4094) granting a pension to Henry Alden was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll the name of Henry Alden, late a private in Company E, Eighteenth Massachusetts Volunteers.

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

USEBUS SWEET.

The bill (H. R. 2440) granting a pension to Usebus Sweet was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Usebus Sweet, late of Company G, One hundred and fifty-seventh Regiment New York Volunteers.

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

CHARLES F. PARIS.

The bill (H. R. 3177) granting a pension to Charles F. Paris was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Charles F. Paris, late a private in Company F, One hundred and twenty-third Indiana Volunteers.

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

FREDERICK CORFE.

The bill (H. R. 452) granting a pension to Frederick Corfe was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Frederick Corfe, late an acting staff surgeon in the United States Army.

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

PORT OF OMAHA.

Mr. MANDERSON. I crave the indulgence of the Senate and ask the immediate consideration of Order of Business 939 on the Calendar under the eighth rule.

The PRESIDENT *pro tempore*. The Senator from Nebraska moves that the Senate now proceed to the consideration of Order of Business 939, the title of which will be read.

The Secretary read the title of the bill (S. 2269) to extend the provisions of the act of June 10, 1880, entitled "An act to amend the

statutes in relation to immediate transportation of dutiable goods, and for other purposes," to the port of Omaha.

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

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

COMMISSION ON ALCOHOLIC LIQUOR TRAFFIC.

Mr. BLAIR. I ask the indulgence of the Senate to move to take up Order of Business 489, being the bill (S. 654) to provide for a commission on the subject of the alcoholic liquor traffic. This is merely the ordinary bill which we have passed four separate times in the Senate, introduced always by the Senator from Vermont [Mr. MORRILL], and reported favorably by the Committee on Education and Labor.

The PRESIDENT *pro tempore*. Debate is not in order. The Senator from New Hampshire moves that the Senate now proceed to the consideration of Senate bill 654.

Mr. CAMERON, of Wisconsin. The bill is brief. Let it be read for information.

The PRESIDENT *pro tempore*. It will be read for information.

Mr. BLAIR. Before the bill is read I wish to state that it has passed the Senate four times—

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

Mr. BLAIR. I ask permission to state—

The PRESIDENT *pro tempore*. The Senator from New Hampshire asks unanimous consent to be allowed to make some remarks on this bill. The Chair hears no objection.

Mr. BLAIR. I will make my remarks after the reading of the bill.

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

The bill was read, as follows:

Be it enacted, &c., That there shall be appointed by the President, by and with the advice and consent of the Senate, a commission of seven persons, not more than four of whom shall belong to the same political party nor be advocates of prohibition, who shall be selected solely with reference to personal fitness and capacity for an honest, impartial, and thorough investigation, and who shall hold office until their duties shall be accomplished, but not to exceed two years. It shall be their duty to investigate the alcoholic liquor traffic, its relations to revenue and taxation, and its general economic, criminal, moral, and scientific aspects in connection with pauperism, crime, social vice, the public health, and general welfare of the people; and also to inquire as to the practical results of license and prohibitory legislation for the prevention of intemperance in the several States of the Union.

SEC. 2. That the said commissioners shall serve without salary; that the necessary expenses incidental to said investigation, not exceeding \$10,000, shall be paid out of any money in the Treasury not otherwise appropriated, upon vouchers to be approved by the Secretary of the Treasury; and for this purpose the sum of \$10,000 is hereby appropriated out of any moneys in the Treasury not otherwise appropriated. It shall be the further duty of said commissioners to report the result of their investigation, with such suggestions and recommendations as they may see fit to make, and the expenses attending the same, to the President, within eighteen months after the passage of this act, to be transmitted by him to Congress.

The PRESIDENT *pro tempore*. The Senator from New Hampshire is entitled to the floor.

Mr. BLAIR. I will not make any remarks, but submit the question.

The PRESIDENT *pro tempore*. The question is on agreeing to the motion of the Senator from New Hampshire, that this bill be now considered.

The question being put, a division was called for.

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

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. PENDLETON (when his name was called). I am paired with the Senator from Pennsylvania [Mr. MITCHELL].

Mr. PUGH (when Mr. VANCE's name was called). I am requested to announce the pair of the Senator from North Carolina [Mr. VANCE] with the Senator from Virginia [Mr. RIDDLEBERGER].

The roll-call was concluded.

Mr. MCPHERSON (after having voted in the negative). I voted inadvertently. I am paired with my colleague [Mr. SEWELL]. I do not know how he would vote on this subject, and therefore I withdraw my vote.

Mr. FAIR. I am paired with my colleague [Mr. JONES, of Nevada]. I shall not vote.

Mr. BLAIR. My colleague [Mr. PIKE] is paired with the Senator from Tennessee [Mr. JACKSON].

Mr. COKE. I am paired with the Senator from Minnesota [Mr. McMILLAN]. I do not know how he would vote, and therefore will not vote. I would vote "nay" if at liberty.

Mr. CONGER. My colleague [Mr. PALMER] is paired with the Senator from Kentucky [Mr. WILLIAMS]. If present, my colleague would vote "yea."

The PRESIDENT *pro tempore*. The present occupant of the chair is paired with the Senator from Arkansas [Mr. GARLAND] on all questions about which he supposes they would differ. The Chair does not know what the views of the Senator from Arkansas are on this question.

Mr. WALKER. I think my colleague [Mr. GARLAND], if present, would vote "nay."

The PRESIDENT *pro tempore*. The present occupant of the chair would on that account withhold his vote, being in favor of the bill, but

he asks to be called again and votes "nay," in order that the business of the Senate may not be interrupted.

Mr. MILLER, of New York (after having voted in the affirmative). I have voted on this question, but I am paired generally with the Senator from Maryland [Mr. GROOME] who is not present.

Mr. SHERMAN. Vote "nay" the same as he would vote.
Mr. MILLER, of New York. Let my vote stand under the circumstances.

The result was announced—yeas 23, nays 16; as follows:

YEAS—23.			
Allison, Blair, Cameron of Pa., Conger, Cullom, Frye,	Hale, Harrison, Hawley, Hoar, Lapham, Logan,	Manderson, Miller of Cal., Miller of N. Y., Morrill, Platt, Plumb,	Sawyer, Sheffield, Sherman, Van Wyck, Wilson.
NAYS—16.			
Bayard, Butler, Call, Cameron of Wis.,	Cockrell, Edmunds, Gibson, Hampton,	Harris, Jonas, Morgan, Pugh,	Slater, Vest, Voorhees, Walker.
ABSENT—37.			
Aldrich, Beck, Bowen, Brown, Camden, Coke, Colquitt, Dawes, Dolph, Fair,	Farley, Garland, George, Gorman, Groome, Hill, Ingalls, Jackson, Jones of Florida, Jones of Nevada,	Kenna, Lamar, McMillan, McPherson, Mahone, Maxey, Mitchell, Palmer, Pendleton, Pike,	Ransom, Riddleberger, Sabin, Saulsbury, Sewell, Vance, Williams.

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

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

Mr. BLAIR. It has been read.

The PRESIDENT *pro tempore*. It was only read for information, and as it is a bill of some importance it had better be read.

Mr. BLAIR. Then I suppose it is not read for information now?

The bill was read.

Mr. BLAIR. Let the report of the committee be read; it is quite full.

The Secretary read the following report, submitted by Mr. BLAIR April 15, 1884.

The Committee on Education and Labor, to whom was referred the bill (S. 654) to provide for a commission on the subject of the alcoholic liquor traffic, have considered the same, and recommend its passage.

This bill has been presented in many Congresses and repeatedly passed in the Senate, but has thus far failed to become a law. Its passage has been strongly urged hitherto, and is still demanded by a great multitude of the wisest and most patriotic citizens of the country. Its leading purpose is to secure a thorough and authoritative investigation, that the truth may become known and authentically, accurately, and reliably stated in regard to the existence, the nature, and the extent of the evils of the traffic in alcoholic liquors. In the great controversy now pending, and which seems to grow more and more serious and to press more and more for solution between the advocates of diverse policies and measures in regard to this traffic, it is a matter of the first importance for all parties to ascertain the facts.

It is with this view, and for no other purpose, that your committee, entertaining, as they do, diverse opinions personally upon the questions involved in the general subject of so-called temperance legislation, unite in recommending the passage of this bill for the creation of a commission for thorough and impartial inquiry into the facts.

We annex the reporter's notes of the statements of advocates of the bill made before the committee.

The bill was reported to the Senate without amendment.

Mr. BUTLER. I should like to have the bill read again; I did not catch what the bill was. Let the title at least be read.

The PRESIDENT *pro tempore*. The title of the bill will be again read.

The title was read.

The PRESIDENT *pro tempore*. The question is, Shall the bill be engrossed for a third reading?

Mr. BUTLER. Let us have the yeas and nays on that.

The yeas and nays were ordered.

Mr. CAMERON, of Wisconsin. I would suggest to the Senator from South Carolina that he ask for the yeas and nays on the question of the passage of the bill.

Mr. BUTLER. I thought that was exactly what I was doing.

Mr. CAMERON, of Wisconsin. The question now is on the third reading.

Mr. VEST. This will do just as well.

Mr. BUTLER. It is practically the same thing.

Mr. VEST. I wish to say a word before the vote is taken. I have not the slightest disposition to oppose any examination in regard to existing facts or the evils that arise from the excessive use of alcoholic beverages; but I object to this mode of arriving at legislation. In my judgment it is a matter for the States and not for the National Government. I know the answer will be that this is simply preliminary and does not involve the question of the powers of the States or the rights of the States; but it is a step in that direction. There is no proof, no evidence that the States are not entirely competent under the Constitution to attend to this matter. And as the legislation, in my judgment,

must come from the States I think the information should be had by them on their own motion.

I do not choose to be put in the attitude of advocating intemperance, and I do not choose to be placed in the category of opposing temperance, but I do not believe in the Federal Government either by investigation or otherwise invading what I suppose to be the constitutional province of the States.

The PRESIDENT *pro tempore*. The question is, Shall the bill be engrossed for a third reading.

Mr. HOAR. I suggest that by unanimous consent—I understand that was the desire of the Senator from South Carolina—the yeas and nays be taken on the passage of the bill and the order just made be regarded as reconsidered.

The PRESIDENT *pro tempore*. The Senator from Massachusetts asks unanimous consent that the order for the yeas and nays on the engrossment of this bill be reconsidered and that they stand as being ordered on the passage of the bill.

Mr. BUTLER. I have not the slightest objection to that.

The PRESIDENT *pro tempore*. The Chair hears no objection. The question is on the engrossment and third reading of the bill.

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

The PRESIDENT *pro tempore*. The bill having been read three times, the question is, Shall it pass? on which question the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. COKE (when his name was called). I am paired with the Senator from Minnesota [Mr. McMILLAN]. If he were here, I should vote "nay;" but not knowing how he would vote, I decline to answer.

The PRESIDENT *pro tempore* (when Mr. EDMUNDS's name was called). On this question the Senator from Vermont is paired with the Senator from Arkansas [Mr. GARLAND]. If the latter Senator were present, the Senator from Vermont would vote "yea."

Mr. HOAR. I should like to inquire if there be any Senator paired with my colleague [Mr. DAWES] on this question? I believe there is none. And if not, I should like to have the pair of the Senator from Vermont with the Senator from Arkansas transferred to my colleague.

Mr. HARRIS. Some gentleman announced this morning a pair of the Senator's colleague.

Mr. HOAR. That was on one particular bill.

Mr. COCKRELL. I was paired with the Senator from Massachusetts [Mr. DAWES] on one bill only. I found that it did not extend to anything else. I vote "nay" on this.

The PRESIDENT *pro tempore*. If there be no objection the Senator from Vermont will transfer his pair with the Senator from Arkansas [Mr. GARLAND] to the Senator from Massachusetts [Mr. DAWES].

Mr. MCPHERSON (when his name was called). I am paired with my colleague [Mr. SEWELL]. If he were here, I should vote "nay." I do not know how he would vote.

Mr. CONGER (when Mr. PALMER's name was called). My colleague is paired with the Senator from Kentucky [Mr. WILLIAMS]. If he were present, my colleague would vote "yea."

Mr. PENDLETON (when his name was called). I am paired with the Senator from Pennsylvania [Mr. MITCHELL].

Mr. PLUMB (when his name was called). I am paired on this subject with the Senator from Georgia [Mr. COLQUITT]. If he were present, I should vote "yea."

The roll-call was concluded.

Mr. BLAIR. I desire to announce the pair between my colleague [Mr. PIKE] and the Senator from Tennessee [Mr. JACKSON]. If he were present, my colleague would vote "yea."

The result was announced—yeas 25, nays 16; as follows:

YEAS—25.			
Allison, Blair, Cameron of Pa., Cameron of Wis., Conger, Cullom, Dolph,	Edmunds, Frye, George, Hale, Harrison, Hawley, Hoar,	Lapham, Manderson, Miller of Cal., Miller of N. Y., Morrill, Platt, Sawyer,	Sheffield, Sherman, Van Wyck, Wilson.
NAYS—16.			
Bayard, Beck, Butler, Cockrell,	Gibson, Hampton, Harris, Jonas,	Jones of Florida, Maxey, Morgan, Pugh,	Slater, Vest, Voorhees, Walker.
ABSENT—35.			
Aldrich, Bowen, Brown, Call, Camden, Coke, Colquitt, Dawes, Dolph, Fair,	Farley, Garland, Gorman, Groome, Hill, Ingalls, Jackson, Jones of Nevada, Kenna,	Lamar, Logan, McMillan, McPherson, Mahone, Mitchell, Palmer, Pendleton, Pike,	Plumb, Ransom, Riddleberger, Sabin, Saulsbury, Sewell, Vance, Williams.

So the bill was passed.

NAVAL APPROPRIATIONS.

Mr. HALE. I ask unanimous consent to report back at this time with amendments the bill (H. R. 7791) making temporary provision for

the naval service, that it may be laid on the table and printed, and I give notice that I will call it up to-morrow morning.

The PRESIDENT *pro tempore*. The Senator from Maine asks unanimous consent to present at this time a report from the Committee on Appropriations. Is there objection? The Chair hears none. The Senator from Maine reports with amendments the bill (H. R. 7791) making temporary provision for the naval service.

Mr. HALE. I will simply say that the committee now report as a substitute for the House bill sent over to us for thirty-one days the regular appropriation bill for the remainder of the fiscal year from January 1 to June 30, 1885, precisely as the House of Representatives sent that bill to us at the last session. The cruisers are stricken out, the ironclads are stricken out, the legislation that was put on by the Senate is stricken off, and the substitute stands, so far as amounts go, precisely on the basis that the House made up the appropriation bill originally for the present year. In that the Senate maintains its attitude of considering this year's appropriations, and not voting upon the rule of last year.

Mr. MORRILL. Do you provide for one month or six months?

Mr. HALE. For six months, making the bill complete for the year. I will call it up, and, if necessary, make further explanations to-morrow.

LEAVES OF ABSENCE.

Mr. HOAR and Mr. MAXEY were, on their own motion, granted leave of absence until January 2, 1885.

Mr. LAPHAM was, on his own motion, granted leave of absence until January 5, 1885.

EXECUTIVE SESSION.

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

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened, and (at 2 o'clock and 3 minutes p. m.) the Senate adjourned.

SENATE.

TUESDAY, December 23, 1884.

Prayer by Rev. BYRON SUNDERLAND, D. D., of the city of Washington.

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

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore*. The Chair presents a memorial of the American Association for the Advancement of Sciences, together with a resolution on the subject of extending the operations of the Coast and Geodetic Survey through all the States of the United States. The memorial and paper will be referred to the Committee on Appropriations.

Mr. JONAS presented resolutions adopted at a meeting of a joint committee of the commercial exchanges of New Orleans, La., composed of the Cotton Exchange, Sugar Exchange, Produce Exchange, and Mexican, Central American, and South American Exchange, signed by their respective chairmen, protesting against the ratification of the proposed treaty with Spain, for the reason that it would be ruinous in its effect upon the commercial and agricultural interests of Louisiana and the Southwest; which were referred to the Committee on Foreign Relations.

REPORT OF A COMMITTEE.

Mr. MORGAN, from the Committee on Public Lands, to whom was referred the bill (S. 2031) to declare a forfeiture of lands granted to the New Orleans, Baton Rouge and Vicksburg Railroad Company, and for other purposes, reported it with an amendment.

BILL INTRODUCED.

Mr. PLUMB introduced a bill (S. 2489) for the relief of Mrs. Moivere Tousey; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

CONGRESSIONAL RECORD REPORTS.

Mr. VEST submitted the following concurrent resolution; which was read:

Resolved by the Senate (the House of Representatives concurring), That the reports in the CONGRESSIONAL RECORD shall be an accurate transcript of the proceedings and the debates of the two Houses of Congress, and that no speech shall be published therein which was not spoken in the Senate or in the House of Representatives; and such speeches shall be printed as they were actually delivered, except verbal corrections made by the author of the speech, and by no other person; and that when speeches are reserved by their authors for correction they shall be returned to the reporter of the House in which they were delivered within one week, and if not so returned they shall then be printed in the CONGRESSIONAL RECORD from the original notes of the reporter.

The PRESIDENT *pro tempore*. Does the Senator desire the present consideration of the resolution or its reference?

Mr. VEST. I wish to say a few words about it before it is referred to the appropriate committee.

The PRESIDENT *pro tempore*. If there be no objection the Senate will now consider the resolution subject to objection.

Mr. VEST. Mr. President, of all the abuses which have grown up in public affairs, none is more glaring than that connected with the printed reports of Congressional debates.

In a country where public opinion controls the conduct of the Government, and those who make the laws are responsible directly to their constituents, it is manifestly of the greatest importance that correct and full reports of the proceedings and debates of Congress should be had, not only for the information of those who have elected the existing Congress, but for transmitting to those who come after a reliable history of the causes and motives for legislation found upon the statute-books. It is absolutely required, in justice to the representative and his constituency, and in obedience to the demand for a truthful history of political events, that the CONGRESSIONAL RECORD should become, what it purports to be, an account of what is said and done in Congress, and not the garbled and fraudulent thing it really is, filled with orations which were never delivered and turgid eloquence never heard.

The CONGRESSIONAL RECORD should truthfully represent the thoughts and action of those who are transacting the public business of 55,000,000 earnest, intelligent, hopeful people, who are working out not only for this continent and age, but for all ages, the problem of free government. Making the laws, influencing the opinions, and shaping the destiny of such a people should be considered the highest duty ever committed to human hands, and the record of the manner in which this duty is discharged should contain the truth.

Good faith between the people and their servants, public morality and decency demand that the abuses now existing should be remedied. What can be more ruinous to the cause of truth than the daily printing of debates which have no existence? What can be more demoralizing and disheartening to the young and honest reader of the RECORD than the discovery that the Representative whom he has been taught to admire as an exemplar of all public virtues is a public cheat and fraud? That he is holding himself out to those at a distance from the capital as a parliamentary orator, and franking by the thousand "Remarks of the Hon. Bardwell Slote, delivered in the House of Representatives on June 25, 1884?"; when in fact the Hon. Bardwell Slote had made no such remarks, but was probably at the identical time when he was supposed to be electrifying the floor and galleries, greeted with rounds of applause, and the recipient of numberless bouquets, munching his frugal lunch in the House restaurant or snoring placidly in a cloak-room.

The people of the United States are the best natured and most forgiving upon the face of the earth, for in no other country would such outrages be tolerated as have for years been perpetrated upon the CONGRESSIONAL RECORD by aspiring orators and statesmen. Some of them are so ludicrous as to appeal successfully to the national sense of humor, and the American public have generally come to regard the proceedings of Congress as a sort of variety performance, where nothing is supposed to be real except the pay.

Mr. President, I am not the first to attack this abuse. On February 11, 1876, our late colleague, Governor Anthony, offered in the Senate the resolution which I now submit.

In the course of an admirable speech supporting the resolution Governor Anthony alluded to an instance within his own term of service where a member of the House obtained leave to print some remarks on the annexation of Cuba, and when the speech appeared in the Globe it proved to be a most violent personal assault upon Mr. Sumner, then a member of the Senate. As Governor Anthony proceeds to say, the most ludicrous and disgraceful illustration of the practice obtaining under the rule permitting the publication in the Globe of speeches never delivered is found in Part 4, Appendix to the Globe for the Thirty-seventh Congress. The same speech was delivered by two gentlemen, one on the 24th of April in "Committee of the Whole on the state of the Union," and the other on May 26 in the House, on the "bill to confiscate the property and free the slaves of rebels." Malicious persons have intimated that this wonderful identity of thought and diction came from the fact that an enterprising member of the "literary lobby" sold the same speech to two ambitious statesmen without either knowing of the purchase by his colleague; but those of us who have watched the operation of great intellects and the singular unanimity with which they arrive at the same conclusions, especially after a party caucus, will discard the slanderous imputation.

Whatever may have been the cause of the identity to which I have alluded, the RECORD shows that each gentleman asked and obtained leave to print, their incubation having the same result.

Another disgraceful abuse of the printing rule is found in the RECORD of April 13, 1880, where a member of poetic tendencies obtained leave to print his remarks on a "bill providing for certain paintings on the walls of the Capitol," and then inserted in the RECORD blank verse to the amount of sixty pages quarto, with this appropriate caption, "To the Immortals."

On December 14, 1882, we find in the RECORD, while the House was in Committee of the Whole on the "bill making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1884," a very few remarks by a distinguished member of the House, supplemented by the entire Constitution of the United States; and this publication in face of the fact that the Constitution can be