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TO THE

REPORTS OF COMMITTEES

OF THE

HOUSE OF REPRESENTATIVES

FOR THE

FIRST SESSION OF THE FORTY-NINTH CONGRESS,

1885-'86.

IN TWELVE VOLUMES.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1543.

ESTATE OF EDWIN T. PILKINTON, DECEASED.

APRIL 6, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. TRIGG, from the Commtitee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 2517.]

The Committee on Claims, to whom was referred the bill (H.R. 2517) for the relief of the estate of Edwin T. Pilkinton, deceased, submit the following report:

The Committee on Ways and Means of the Forty-seventh Congress had this case under consideration, and unanimously reported as follows, viz:

[Forty-seventh Congress, first session, Report No. 645.]

The Committee on Ways and Means, to whom was referred the petition of E. T. Pilkinton, of Virginia, respectfully report:

Said Pilkinton was a manufacturer of tobacco in Manchester, Va., and had affixed the proper stamps to a large quantity of tobacco still in his factory, and not yet put on the market. His factory was burned on the night of May 3, 1869, and tobacco was consumed on which he had put stamps to the amount or $2,684.96, which stamps had been purchased on that day. The tobacco and stamps were a total loss.

He applied to the Commissioner of Internal Revenue, in 1874, for relief, but it was refused, because then barred under the act of Congress.

Petitioner has made his application to a former Congress, but no action was taken.

The proof of loss is complete and clear, and, though much time has elapsed, the committee see no reason to refuse to refund the amount of taxes paid on property burned before it was put upon the market. The tax was collected on property which perished before it could be used.

The committee report a bill for relief of petitioner.

Your committee fully concur in this report, and recommend that bill H. R. 2517, for the relief of said Pilkinton, which they have had under consideration, do pass.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1544.

WILLIAM E. BOND.

APRIL 6, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. TRIGG, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 1741.]

The Committee on Claims, to whom was referred the bill (H. R. 1741) for the relief of William E. Bond, have had the same under consideration, and beg leave to report:

The claimant, William E. Bond, was collector of internal revenue for the first district of North Carolina, from November, 1866, to June, 1869. During that time one McMahon, a licensed distiller in said district, became insolvent. There was a bill against him in favor of the Government for $1,014.59, which was not assessed on the list, it being for fines, penalties, and extra charges on his distillery. If it had been assessed on the list, it would have been a prior lien to the executions in the hands of the sheriff of the county, which absorbed all of McMahon's property. There was no blame to be attached to the claimant for this. In order to secure something for the Government, claimant accepted from McMahon, who was then and has thence hitherto remained insolvent, certain checks or drafts, on sundry parties, for the full amount of $1,014.59. This amount was charged against claimant in the settlement of his accounts, and he paid the full amount thereof into the Treasury. These checks or drafts were all paid by the parties upon whom they were made, except one for $398.50, which was protested, and which has never been paid, and has therefore been a total loss to claimant, who has paid that amount into the Treasury. It seems but for the action of claimant the whole amount of $1,014.59 would have been lost to the Government.

Your committee, whilst strongly adhering to the doctrine that public officers should be held to the strictest accountability, and not afforded relief where there has been a plain neglect of duty, are clearly of opinion that relief should be granted in this case, and they therefore report said bill favorably, and recommend its passage.

They submit the accompanying letter from the Commissioner of Internal Revenue as part of this report.

TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,
Washington, February 14, 1884.

SIR: I have the honor to acknowledge the receipt of the letter of William E. Bond, late collector internal revenue, first district North Carolina, referred by you to this office, relative to his claim to have refunded to him the sum of $398.50, being the amount of a draft received by him as collector in payment for taxes, and accounted

for to the Government in cash, which was subsequently returned to him unpaid. In your reference you ask me to examine the claim, and advise you whether I would recommend the passage of the bill to pay Mr. Bond the amount claimed.

In reply, I would state that this claim was considered by the House of Representatives of the Forty-third Congress and adversely reported on (see House bill No. 283 and Report of Committee on Claims No. 374, of April 3, 1874), and it is presumed all the papers relating to the matter are with the files of that committee.

While it is a fact that the receipt of Mr. Bond in payment of taxes of checks or drafts or any other funds than current money was without authority at law, and entirely at his own risk, yet in this case it is claimed that he accepted these drafts as the only means of collection practicable, and in the hope of securing payment of taxes that would otherwise have been lost to the Government, and that as part of the drafts were paid his action did result in benefit to the Government.

In view of these statements, the correctness of which I have no reason to doubt, I am of the opinion that his claim is entitled to a favorable consideration.

The letter of Mr. Bond is herewith returned.

Respectfully,

WALTER EVANS,
Commissioner.

Hon. THOS. G. SKINNER,
House of Representatives.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1545.

JAMES M. GRIGSBY.

APRIL 6, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. LANHAM, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 6312.]

The Committee on Claims, to whom was referred House bill 6312, for the relief of James M. Grigsby, find that the said Grigsby was postmaster at Montague, Tex.; that on the 26th of October, 1883, said postmaster transmitted $25, money-order funds, to the postmaster at Sherman, Tex., in registered package No. 46. The deputy postmaster testifies under oath that he placed the money in the registered package, properly sealed and directed to the postmaster at Sherman, Tex., and placed the same in the mail pouch, locked it, and delivered to the mail-carrier on the route. These facts are testified to by another witness, who swears the same was done in his presence.

The postmasters at Saint Joe and Marysville, the next two offices on the route, swear that the package No. 46 passed through their offices in good condition. The postmaster at Gainesville swears that the package was not received at that office, and further certifies that the United States mail was robbed on the evening of the 26th of October, 1883, between Marysville and Gainesville. The postmaster at Sherman certifies that the registered package No. 46 and funds were not received at his office.

The postmaster at Montague swears that at the time of his next weekly statement after the robbery he notified the Superintendent of the Money-Order Bureau of the Post-Office Department of the loss, and asked a credit for the same. He gave the Department no further notice.

The funds in this case were properly transmitted, and that the United States mail was robbed is abundantly sustained by the evidence, and the claim would have been allowed under the act of March 17, 1882, if the postmaster had notified the Postmaster-General within three months after the loss; but, instead, the postmaster notified the Superintendent of Money-Order Offices at the Department at his next weekly statement, which was in time, but directed it to the wrong authority.

Although the sum is small, in view of all the facts, we believe the claimant should be relieved.

Therefore the committee recommend the passage of the bill.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1546.

SARAH L. LARIMER.

APRIL 6, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. LANHAM, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 6051.]

The Committee on Claims, to whom was referred the bill (H. R. 6051) to compensate Mrs. Sarah L. Larimer for important services rendered the military authorities in the year 1864, at Deer Creek Station, in Wyoming Territory, and for loss of property taken by the Sioux Indians, report as follows:

It appears from the evidence that in July of the year 1864 Lieutenant Larimer and his wife, the claimant, Mrs. Sarah L. Larimer, and their child, Frank E. Larimer, left their home in Kansas to cross the plains for the restoration of said Lieutenant Larimer's health, he having been a commissioned officer in the Union Army and honorably discharged because of his health having given out through hard service in the war; that they took with them horses, and wagons, and goods, and some money; and that when they were in Wyoming Territory, and in company with several other traveling persons, they were surprised by a band of Sioux Indians, who murdered three of the party, wounded two, and captured claimant, Mrs. Sarah L. Larimer, and her child, and one other lady and child.

Claimant, Mrs. Sarah L. Larimer, and her child, Frank E. Larimer, were carried far into the mountainous hills, a distance of 75 miles or more. That she finally escaped from her savage captors in the darkness of night, carrying her child in her arms, and with great hardship and much suffering, being unaided and alone, they traveled on foot over the wild and dangerous hills, arriving at the emigrant road in almost a nude condition, their clothing having been torn from their persons. At this emigrant road, and at a place called Deer Creek Station, claimant met Captain Shuman and Captain Marshall, of the Eleventh Ohio Cavalry, then moving against the Indians, and communicated to these officers much valuable information as to the designs of the Indians.

These two commanding officers, Captains Shuman and Marshall, swear that if it had not been for the information given by Mrs. Sarah L. Larimer the command with which they were about to start out at that hour would have been massacred and destroyed, but by acting under her information, dismounting and arming the teamsters, and gathering in all the available and additional forces within immediate reach, and by following the directions given by Mrs. Sarah L. Larimer they were able to avoid the great destruction to the command and to citizens that otherwise would have happened.

It further appears that claimant, as well as citizens, testify to the fact of claimant's captivity and to her loss of property by the Sioux Indians at said time and place.

It seems that by acts of Congress, in the year 1870 and in the year 1872, the lady, Miss Fannie Kelly, who was captured at the same time and place and by the very same Indians who captured Mrs. Sarah L. Larimer, has been allowed payment for valuable information and loss of property.

The affidavits of Captain Shuman and of Captain Marshall, two of the witnesses offered in support of this claim, are herewith attached and made a part hereof.

The committee recommend that the bill be amended by striking out "fifteen" and inserting "five," in line 5, and with that amendment that it do pass.

STATE OF ILLINOIS, *County of Clay, ss:*

In the claim of Mrs. Sarah L. Larimer, for Indian depredations, and pay for information furnished United States troops, personally came before me, Levi G. Marshall, of Clay City, county of Clay, State of Illinois, who being first duly sworn, declares in relation to the aforesaid claim, as follows:

On or about the 13th day of July, 1864, property belonging to the said claimant was taken and destroyed by Indians of the Sioux tribe at or near Box Elder Creek, in Wyoming Territory, under the following circumstances: I was captain of Company, Eleventh Regiment Ohio Cavalry Volunteers, and with my command was stationed at Fort Laramie, Wyoming, at the time (later being mustered out as major). That on or about the 13th day of July, 1864, I was ordered to move against the Sioux Indians with 200 mounted men; Captain Shuman, being the other captain, was ordered with me; that when 115 miles out and at Deer Creek Station, we were met by Mrs. Sarah L. Larimer, who had been carried off by a band of Sioux Indian warriors, but had escaped in the darkness of night from their camp with her child in her arms, and climbed the hills for a distance of 75 or more miles on foot and alone. As commanding officer I procured of Mrs. Sarah L. Larimer very valuable information about the movements of the enemy, as well as of their number and arms and how mounted, so that being forewarned, I was able to avoid the ambushes and surprise that otherwise would have happened, to the death and destruction of my command. A few of my men, acting contrary to orders, fell into one of the ambushes where their leader, Lieutenant Brown, lost his life. Mrs. Larimer was now destitute, bare of head and foot. All her property, which I understood had amounted to about (can not tell how much) having been taken or destroyed by the Indians when she and her child were carried off by said Indians. Her husband had been a commissioned officer of a Kansas regiment, but was discharged and in poor health and now had the addition of a severe arrow wound near the groin. I know that all of her property was destroyed by the Indians; I do not now remember as to the value of said property.

I have no interest in said claim and am not concerned in its prosecution.

LEVI G. MARSHALL,
Late Major Eleventh Ohio Volunteer Cavalry.

Sworn to and subscribed before me this day, by the above-named affiant; and I certify that I read said affidavit to said affiant, and acquainted him with its contents before he executed the same. I further certify that I am in no wise interested in said claim, nor am I concerned in its prosecution.

Witness my hand and official seal this 12th day of March, 1886.

[SEAL.] E. McGILTON,
Notary Public.

STATE OF MISSOURI,
County of Pettis, ss:

In the matter of the claim of Mrs. Sarah L. Larimer for Indian depredation, and for information furnished to the United States troops after her escape from the Sioux Indians, by whom she had been captured and her property destroyed, personally came before me, B. H. Ingram, clerk of the circuit court of Pettis County, Missouri, Jacob S. Shuman, of Sedalia, in said Pettis County, Missouri, who, being first duly sworn, on his oath states that on the 13th day of July, 1864, this affiant, Jacob S. Shuman, was captain of and in command of Company — of the Eleventh Ohio Cavalry, and, with my command, was stationed at Fort Laramie, Wyoming, and that on or about that date, having information that the Sioux Indians had made a raid on the emigrant road, captured and destroyed a train of emigrants, and had carried into captivity the said Mrs. Sarah L. Larimer and her little child, I immediately moved against the Indians up Platte River in a northwesterly direction about 115 miles to a place called

Deer Creek Station. I there learned that the capture of Mrs. Larimer and her child, and the destruction of her property, and the murdering of several persons who were with the train, had taken place on Box Elder Creek, and as I was about to move against the Indians with the force I had, which consisted of my own company and a force under Captain Marshall, the said Sarah L. Larimer came into camp carrying her little child in her arms, she having escaped from the Indians, after having been carried by them about 75 miles, and returned on foot to the emigrant road, where she met my command.

When she came into our camp her condition was most deplorable; her clothes had been nearly all torn off her body; her arms and limbs were lacerated from making her way through the thorns, bushes, and cactus, on her way after her escape, and she and her little child were nearly famished. As soon as she could be resuscitated by nourishment, which was only a very short time, she gave me a detailed account of the position of the Indians, their plans and movements, and designs against my command, and also their numbers and the position they occupied, and the ambuscades they had prepared. So that by taking proper precaution my command was enabled in a short time to move forward and thwart their designs, not only against the pursuing troops, but against other exposed points and trains that were on the emigrant road.

And I do most positively and solemnly swear that if it had not been for the information received from the said Mrs. Larimer that the command with which I was about to start out at that hour would have been massacred and destroyed; but by acting under her information, dismounting and arming the teamsters, and gathering in all the available and additional forces within immediate reach, and by following the directions given by the said Mrs. Larimer to avoid an ambuscade, I was enabled to obtain the advantage of the Indians and drive them north, not only saving part of my command from being massacred, and saving the lives and property of others who would certainly have been captured and murdered if it had not been for the valuable information given to me by the said Mrs. Larimer.

I found the information that she gave as to the position and movements of the Indians exactly as she had given it.

And further from my own scout's personal observation, and from the further fact that when Lieutenant Brown disobeyed orders a few men fell into an ambuscade, described by Mrs. Larimer, and was killed by the Indians. I also learned at that time that the property taken from Mrs. Larimer consisted of a fine collection of pictures, photograph apparatuses, and stock for that kind of business, and wagons and mules, all of which, as near as I can now recollect and estimate, was of the value of over $10,000. I further learned at the time and afterwards, also, that Mrs. Larimer was a photographer and artist herself, and that the property was hers; and I learned the fact that her husband was with her and was wounded and left for dead by the Indians, but afterwards partially recovered; and that he had been a commissioned officer honorably discharged from the Eighth Kansas Volunteers, which I learned from Mr. Larimer himself, whom I saw, and I saw arrow wounds upon his person. And this affiant further says that the above and main facts that I have stated herein as to the information received from the said Mrs. Sarah L. Larimer as to the position, location, and designs of the Indians came under my direct and personal observation; and that I have not the slightest interest in any claim she may have; but that if she has a claim for property lost and for the information furnished me, I can and do say that it is just and deserving.

Owing to the fact that I am suffering from a severe nervous ailment, I am unable to write this affidavit myself and am compelled to dictate it to a stenographer and have it printed on a type-writer for me.

And this affiant further states that I have read this affidavit over carefully, and had the same read over to me, and that it, the same, is true in substance and in fact. So help me God.

his
JACOB S. + SHUMAN,
mark.

Affiant.

Attest:
J. G. LINDSAY,
JOHNSON ORR.

Subscribed and sworn to before me this the 15th day of March, 1886, and I further certify that I have been personally acquainted with the above-named affiant for about fifteen years last past and know from such acquaintance that he is the identical person he represents himself to be, and I further certify that for several years he has been afflicted with some nervous disease or trouble, thereby incapacitating him of writing his name. I also certify that I am in no way interested in this claim.

[SEAL.]

B. H. INGRAM,
Clerk of the Circuit Court of Pettis County, Missouri.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1547.

MARY E. JOHNSON.

APRIL 6, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUCHANAN, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 7397.]

A bill was introduced at this session granting a pension to Mary E. Johnson, and also providing for the payment to her of the pension accrued at the time of the death of her husband, who was at the date of his death on the pension-roll.

The bill was reported favorably by Mr. Pidcock, from the Committee on Invalid Pensions, at the present session. The following is his report:

[House Report No. 1065, Forty-ninth Congress, first session.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4132) for the relief of Mary E. Johnson, submit the following report:

The claimant, whose maiden name was Mary E. Wilson, married Daniel M. Rose (a soldier home on a furlough from some hospital at Philadelphia, Pa.), at Trenton, N. J., September 17, 1863. both parties being under age at the time of the contraction of the marriage, and the parents of Rose opposed to the union. Rose returned to the hospital the following day, and the claimant has seen him but once since, when, while home on a furlough some time in 1864, he called at the house of her father, accompanied by a strange woman, whom he introduced as his wife, and on claimant's informing both that she was the lawful wife and had a marriage certificate, the woman became angry and said the claimant had no right to claim Rose as her husband, as he belonged to her. Rose did not deny the woman's assertions, and soon took her away. This interview took place on the doorstep of claimant's father's house, neither Rose nor the woman entering the house. The claimant has never seen Rose since, and never heard from him until she received a letter written by him bearing date August 17, 1885.

In letters received by friends of claimant from their soldier relatives and friends in the service, it was frequently stated that Rose died in hospital in the service, and it soon became common rumor and talk that he was dead. The claimant never hearing from him, and not being able to gain any information to contradict these statements, believed Rose dead and herself a widow, and about this time losing her babe, the offspring of this marriage, was broken down with grief, and mourned the death of both husband and child.

She remained with her own family, believing herself a widow, until October 29, 1867, when she married John W. Johnson, who also had been a soldier, serving in Company G, Tenth Regiment New Jersey Volunteers. Johnson, while in the service at Petersburg, Va, in the fall of 1864, contracted nervous and typhoid fever which resulted in the utter loss of control of the nervous system, caused by severe exposure and hardships incident to army life. He returned home a total wreck, and May 24, 1879, filed a declaration for pension, and his claim was still pending, though proven, at the time of his death, April 26, 1885.

The claimant, as the widow of Johnson, filed her declaration for pension May 19, 1885, alleging that Johnson's death, April 26, 1885, resulted from disease contracted in the service. She admitted the former marriage to Rose, but claimed that he had died in the service a number of years prior to her marriage to Johnson. The records

of the War Department, together with investigations, developed the fact that Rose had not died in hospital, but had been discharged from service and was living with another wife, and child of about nine years of age, at New Brunswick, N. J., within 15 miles of the claimant, and was a pensioner.

Charles T. Pearce, in the interest of the claimant, visited Rose, who spoke very lightly of his former marriage to the claimant, and asserted that he did not consider the marriage binding, for the reason that at the time of the marriage both Mary (claimant) and himself were but children and under age, she being about seventeen years old and he about twenty; that he had not seen her since returning to the service after the marriage, though he may have called on her in 1864, when home on a furlough, with a strange woman, who claimed to be his wife, but that he was not married to her.

Rose further stated that he married his present wife August 9, 1869, and that they lived together and had one child, a boy, about nine years old; that his present wife knew nothing of his former marriage, and he did not wish her to know anything about it. When told the claimant, his former wife, was living about 15 miles distant from him at South Amboy, N. J., he seemed surprised, and said he did not think she had committed a wrong act in marrying John W. Johnson, as she had a perfect right and the best of reasons for believing herself a widow. He seemed but little concerned as to the fate of his first wife and child; the latter he never having seen, had no desire to know what had become of it. A few days after this interview the claimant received a letter from Rose, a copy of which is given below:

NEW BRUNSWICK, *August* 17, 1885.

To Mrs. MARY E. JOHNSON:

Pardon me for writing to you, but I have just learned that you have lost your husband. Permit me to offer my sympathies. Mary, it has been a good many long years since last we saw each other. Alas! what changes time has made; it is so with me, and I suppose it is with you; twenty years, then we both were children; now we are both growing old; soon death will call us; but, Mary, things have been done which can never be undone. Mary, last week a man by the name of Pearce called at my house in regard to your getting a pension; he told me of your loss; it was the first I had heard of you since the last we met, twenty years ago. I always thought you had moved to New York, and it was a surprise to me to hear that you was in South Amboy.

Now, Mary, I would very much like to see you and have a good long talk with you, for the sake of old times. Will you grant me one meeting? On the 26th of this month there is to be a temperance picnic at Boyton Beach, a little ways from Perth Amboy; if nothing happens I will come down on the boat; will you be on the dock when the boat lands at South Amboy? If you will, I will get off. The boat gets there, at Amboy, about 7½ or 8 o'clock in the morning; or could you come up to New Brunswick, if I sent you some money, or any other place I can see you?

Mary, I do not think you would know me now; twenty years make great changes. I have been sick for four years; for over two years I did not do anything, and for weeks I thought I would never live through the night; but by the will of God I am now getting better, though not well yet. Mary, many times while lying on my sick bed have I thought of you and wondered if you were alive, yet never thinking that you were so near me, and when Mr. Pearce informed me of your whereabouts I was very much pleased to hear of you, but sorry to hear of your loss. Please answer this as soon as you can, and let me know if I can see you.

I remain, yours ever,

DAN.

Address: Daniel M. Rose, No. 102 Neilson street, New Brunswick, N. J.

There is no evidence indicating that a meeting ever took place.

In an affidavit bearing date August 12, 1885, Rose says:

"I enlisted in Company I, Eighth Regiment New Jersey Volunteers, September 13, 1861, and re-enlisted April 28, 1864, and was finally discharged June 19, 1865. I am drawing a pension of $24 per month for a wound received at Chancellorsville, Va., May 3, 1863, in the left arm, and my pension certificate is No. 61742. I am a married man and have one child. Was married the second time August 7, 1869.

"When I was in the Army, and after I was wounded and in the hospital (McClellan) at Nicetown, Philadelphia, Pa., I went to Trenton, N. J., and while there married a woman named Mary E. Wilson, but never lived with her afterwards. As soon as I was married, or within a day or two afterwards, I returned to McClellan Hospital and remained there until the following spring, when I was transferred to Veteran Reserve Corps, and remained around Washington, D. C., until discharged; and on my arrival home at Trenton, N. J., my parents were so opposed to my marriage to said Mary E. Wilson that I never saw her afterwards. I learned, however, that she had left Tren-

ton, N. J., and had gone to Easton, Pa., to her parents' home, and I went there once, but could not find her, and, in fact, after making some few inquiries I gave it up entirely, and, in fact, believing the marriage was illegal, as Mary was but seventeen years old and I but little older (not twenty-one years old), and not being well versed in law, and knowing the continued opposition to said marriage by my parents, I gave the whole thing up. One child was born by this marriage, but it died before the war was over, and I never saw it.

"It was reported that I died while in the McClelland Hospital, and on my arrival home a number of my friends met me and informed me of my reported death, and seemed surprised to see me alive. I think Mary E. Rose, my wife, had good reason to believe that she was a widow at the time of her marriage to John W. Johnson, in the fact, the best of reasons, as I had but little correspondence with her, and may have sent her a very little money once or twice; then ceased writing to her; then the common report of my death; then my never seeing her, nor she me, and in all probability never hearing even indirectly from me. I am sure her reasons for believing herself to be a widow were excellent, and I do not feel that she had any claim on me or I on her after I left her and failed to hunt her up afterwards. I remarried, believing as I did my first marriage was illegal; and never hearing from her, I came to the conclusion that I had a perfect right to marry, and did so after being home some four years. I only know that she is living as you told me. I think I heard a few years ago that she had remarried again, but took no pains to verify it, as I did not think it concerned me.

"My present wife does not know of my first marriage, nor do I wish her to know of it, as she has been a very devoted wife; and during the last four years I have been sick nearly all the time, and my wife has been a faithful and loving nurse, and looking well after me and our one child, a boy about 9 years old.

"I did not know John W. Thompson, but may have heard of him. When home on a furlough there may have been a strange woman with me, but I was not married to her; she may have said so, but I do not remember that I did. I do not remember that I saw the said Mary E. Rose, now known as Mary E. Johnson, at that time. I do not remember of ever having seen her since I married her in 1863. After I married her I returned to the hospital and fail to remember ever having seen her since."

It is proven that John W. Johnson, the second husband, contracted typhoid fever in the service, which resulted in disease of nervous system; that from the time of his return from the service until death he was a constant sufferer from his disability, and during the latter years of his life was totally incapacitated for work, being weak and emaciated, with sunken eyes and feeble voice, and his skin a pale yellow. There was a total loss of sensation of the arms and legs and a loss of co-ordination in walking and total inability to walk or stand with his eyes closed. He gradually became worse until death followed. During his lifetime he was under the treatment of physicians continuously without any beneficial results.

Dr. S. H. Lewis, of South Amboy, N. J., in an affidavit filed June 9, 1885, testifies—

"That he and his brother, W. C. Lewis, have been treating John W. Johnson for about three years at various times, and about eighteen months ago found diminution of nerve power, especially the genito-urinary organs, and upon examination found him very much diseased in the lumbar region, and the spinal column was also very much involved and loss of co-ordination being present in the lower extremities. The disease progressed rapidly until the brain and spinal cord were greatly affected, his vision impaired, and in a few days before his death his memory failed him to a great extent. His sufferings were excruciating pains, particularly of the abdomen and limbs, and toward the last œdema of the limbs and abdomen being very conspicuous. Treatment was first cauterizing the spinal cord thoroughly, followed by use of galvanic battery; then giving iodide of potassium and ergot; then seeing no improvement, and believing there was no possible cure, we then put him upon treatment with tonics—iron, quinine, and strychnia—and used many other remedies, but with no success, and death followed on the evening of the 26th day of April, 1885, the direct cause of death being locomotor ataxia.

"We examined him thoroughly and failed to find any signs or symptoms of any venereal disease whatever, not even gonorrhea, and do not believe that he ever had any disease of this nature. The wife and children are in perfect health."

Dr. W. C. Lewis corroborates the above.

Dr. T. B. Hood, of the Pension Office, in an opinion filed in the case, says:

"The loss of control of nervous system, or locomotor ataxia, cannot be accepted as a result of inflammation of lungs, or of gastritis, but said locomotor ataxia may be, and in view of evidence probably was, a result of typhoid or typhus fever of service. In view of evidence and the pathological probabilities based on such evidence, syphilis should certainly be eliminated from this case."

Both claims for pension were considered, and November 17, 1885, a certificate was issued in the John W. Johnson case, a copy of which is appended.

[No. 311889. Original. United States of America, Department of the Interior, Pension Bureau.]

It is hereby certified that, in conformity with the laws of the United States, John W. Johnson, deceased, who was a private, Company G, Tenth Regiment New Jersey Volunteers, is entitled to a pension at the rate of $6 per month, to commence on the 30th day of May, 1865, and $18 per month from February 8, 1882, and $24 per month from March 3, 1883, and to end April 26, 1885, date of death. This pension being for disease of nervous system, result of typhoid fever.

Given at the Department of the Interior this 17th day of November, 1885, and of the Independence of the United States of America the one hundred and tenth.

[SEAL.] H. L. MULDROW,
Acting Secretary of the Interior.

Countersigned: JOHN C. BLACK,
Commissioner of Pensions.

The claim of the widow was rejected by the Pension Office because claimant was not the legal widow of the soldier, but was the legal wife of another man when she married him, and no separation in accordance with the law. The widow was also debarred from receiving the accrued pension due the soldier, and the same now remains yet intact in the hands of the Government.

By her second marriage the widow became the mother of four children, the oldest born June 21, 1872, and the youngest May 12, 1882. She bears an excellent reputation in the immediate neighborhood in which she lives, and both she and her second husband, who appears to have been a strictly sober, honest, and Christian man, have always been considered most respectable citizens. From the vast quantity of evidence on the subject, it clearly appears that Rose married the claimant while an innocent child for his own selfish purposes (there being no evidence to show it was compulsory), and then basely deserted her, intending at the time never to return to her, and he can be indirectly charged as originating the story of his death in the service and superintending its circulation through other soldiers in the service in writing to their friends, so as to make more complete the desertion. He returns from the service, makes a few inquiries, and gives up the search because he knew his parents opposed his marriage, and finally married again.

The claimant, it would seem, had a perfect right to believe herself a widow, never hearing from Rose, and rumors as to his death in hospital being confirmed by letters from persons in the service and supposed to be near him. He married her in 1863, and immediately deserted her; but, true to him, she remained with her parents as his widow until 1867, when she contracted the second marriage.

Rose knew her whereabouts, and also that his scheme as regards the story of his death had worked well, and that she believed herself a widow. He intended that she should remain forever in ignorance as to his being alive, and by his continued stay from her confirm the rumor of his death. He was at that time, and is now, undoubtedly, a man of base intentions.

The claimant was the victim, and the error she committed by the second marriage was undoubtedly done innocently; and therefore your committee are of the opinion that she should be recognized as the widow of Johnson, and under that name and as his widow receive, not only the accrued pension due her second husband at his death on said pension certificate No. 311889, but also be placed on the pension-roll, with her four children, and draw a widow's pension.

Your committee recommend that the bill do pass.

When the bill came up for action in the House on what is known as "pension night," the portion of the bill referring to the accrued pension was struck out on the point of order that it did not come within the special order setting that evening apart for the consideration of bills "granting pensions," and the remainder of the bill passed unanimously.

Thereupon the present bill granting to the claimant this accrued pension money was introduced. For the reasons set forth in the above report, your committee recommend the passage of the bill. The second marriage was in good faith. Had the first husband been dead as supposed, this money would have been paid without question under existing law. The bill simply gives the benefit of existing law to a much-wronged woman.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1548.

LOUISA H. HASELL.

APRIL 6, 1886.—Committed to the Committee of the Whole House and ordered to be rinted.

Mr. DOUGHERTY, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 2223.]

The Committee on Claims, to whom was referred the bill (H. R. 2223) for the relief of Mrs. Louisa H. Hasell, have had the same under consideration, and report:

The bill proposes to pay Mrs. Hasell $350 in full compensation for the use, by the United States Army, of her house and other buildings in Summerville, S. C., in the years 1865–'66, and for all damages to said property incident to said occupancy.

From the papers accompanying it appears that the property consisted of a dwelling of six rooms, a wooden building for servants, and stable. These buildings were in good order and habitable when they were taken possession of by Colonel Beecher, United States Volunteers, and used as a small-pox hospital, from the 6th day of July, 1865, to May 6, 1866. Petitioner was paid $50, or at the rate of $5 per month, for this use, there being no contract at the time possession was taken. The kitchen and stable were almost, if not quite, destroyed, and the property otherwise very much injured. Those dying of small-pox were buried in and upon the lot, and since the surrender petitioner has been unable to rent or use the premises. The testimony is abundant that, for the use of the premises and the damages sustained, petitioner would be entitled to as much and probably more than she claims.

These facts are shown by several affidavits of parties cognizant of the circumstances, and all of the correspondence of the Army officers to whom the claim was referred, and they are fully corroborated in the report of a board of Army officers especially detailed to examine this claim, said report concluding as follows:

First. That the property was occupied by the Government as a small-pox hospital from July 6, 1865, to May 6, 1866, a period of ten months, and that $50 in currency was paid, at the rate of $5 per month, as rent for the same.

Second. That the amount of damages sustained is all and probably more than set forth in the accompanying affidavits (which was $350, as now claimed).

Therefore the board do recommend that the sum claimed ($350) be awarded and paid to the said Louisa H. Hasell.

This report was returned by the acting assistant adjutant-general (Louis V. Caziarc) to the chief quartermaster, approved, and payment was suspended until Congress should remove restrictions on the payment of claims which arose in States lately in rebellion.

It also appears that the rent of this property was the only income of the petitioner, who has herself and two daughters to support.

And it may be added that the matter was at one time referred to Surgeon W. H. Eldridge, U. S. A., who reported that the house, after its use as a hospital, was not habitable, and ought to be burned to prevent small-pox contagion; and also that the chief quartermaster of the department found the recommendation of the board to be reasonable and approved the same.

We have in these facts a strong case of actual and uncompensated injury. A stronger one could hardly be made. When we consider the unquestioned and undeniable hardship of the case, that it was occupied for a while and injured somewhat after the proclamation declaring the insurrection at an end in South Carolina, as also the strong indorsement of the justice of the claim by the Army officers, and, after looking at the facts, we conclude to report the bill back, and recommend its passage.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1549.

GRAND TRUNK RAILWAY OF CANADA.

APRIL 6, 1886.—Laid on the table and ordered to be printed.

Mr. DOUGHERTY, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 1011.]

The committee has had under consideration the bill (H. R. 1011) for the relief of the Grand Trunk Railway of Canada, and recommend that said bill do not pass.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1550.

JOHN B. ROBERTS.

APRIL 6, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOUGHERTY, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 251.]

The Committee on Claims, to whom was referred the bill (H. R. 251) for the relief of John B. Roberts, postmaster at Sandersville, Ga., have had the same under consideration, and report:

We find that John B. Roberts, as postmaster at Sandersville, Ga., during the week ending February 14, 1885, $28.10; that said postal notes so paid were inclosed by him, as required by law, in an official envelope and addressed to superintendent money-order office, Post-Office Department, Washington, D. C.; that this package was destroyed by fire on the occasion of the wreck of train No. 51, which occurred on the night of February 19, 1885, between Alexandria, Va., and Washington, D. C., resulting in the total destruction of the postal car and its contents. Under existing law there is no authority for crediting the postmaster with the loss which he has sustained.

We therefore recommend the passage of said bill.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1551.

H. K. BELDING.

APRIL 6, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOUGHERTY, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 1258.]

The committee to whom was referred the bill (H. R. 1258) for the relief of H. K. Belding, have had the same under consideration, and respectfully report:

This claim was reported upon favorably by the Committee on Claims of the House of Representatives at the first session of the Forty-fifth, Forty-sixth, Forty-seventh, and Forty-eighth Congresses, and passed the House of Representatives at the Forty-sixth Congress, and was reported upon favorably by the Senate Committee on Claims and passed the Senate at the first session of the Forty eighth Congress. The report is as follows:

They find that said H. K. Belding was contractor on mail-route No. 13585, from Brownsville, Minn., to Carimona, in the same State; that the contract was for four years from July 1, 1858. The contract price for carrying the mail on this route was $1,800 per annum. Mr. Belding performed the service under the contract until May, 1859, and was paid the contract price therefor. In 1859 there was a failure of sufficient appropriation for this route, and an order was issued by the Post-Office Department reducing the service on the same one-third.

There was some correspondence between the contractor and the Post-Office Department about continuing the full service, and the contractor was informed there was no objection, except there was no money to pay until Congress convened and made an appropriation.

Mr. Belding did perform full service from May 1, 1859, to October, 1860, and has received but two-thirds of the contract price therefor, and claims that having rendered the service in good faith he should receive the full compensation named in his contract.

This full service was performed for seventeen months after the order of reduction, and at the contract rate Mr. Belding should have received $150 per month. He did receive but $100 per month, and he asks to be paid $50 per month additional, or $850 for the service so performed.

The service having been performed with the knowledge of the Department and for the manifest benefit of the community, the committee think it just and equitable that Mr. Belding should be paid for the service actually performed the contract price for the same.

They therefore recommend the payment to Mr. Belding of the sum of $850 for the seventeen months of service as above stated.

Mr. Belding makes an additional claim, and the committee find the following facts:

Prior to the 1st of October, 1860, the route from Brownsville to Carimona was extended, and the contract with Belding annulled. Mr. Belding complained to the Department that he had left a good business and made large investments to perform his contract, and would suffer very great injury if compelled to give it up. He was informed that he would be reinstated and his contract renewed. The service at this time was lessened five miles at one end of the route and increased twelve miles at the other, and the compensation was increased $110 per year.

Negotiations continued between Mr. Belding and the Post-Office Department from October 1, 1860, to February 14, 1861, four months and fourteen days, when the contract was renewed with Mr. Belding. During this four months and fourteen days Mr. Belding performed the service and has received no pay therefor. This route over which Mr. Belding performed the service had been included in a much larger one and let to other parties. They never performed any service upon it, but collected the pay under their contract for the service performed by Mr. Belding.

It clearly appearing that the original contract with Mr. Belding was annulled for no fault or omission on his part; that he continued to perform the service in good faith under the assurance that he would be reinstated; that his doing so was well known to the Post-Office Department, and that he was subsequently reinstated, we are of the opinion that the payment to other parties for this service, under the circumstances, should not relieve the Government from paying Mr. Belding therefor. We therefor report back the bill without amendment, said bill including payment of the two sums allowed by the committee, and recommend that the bill pass.

Your committee concur in the above report and recommendations, and recommend that the bill do pass.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1552.

BALLARD PAVEMENT COMPANY.

APRIL 6, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GALLINGER, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 7642.]

The Committee on Claims, to whom was referred the bill (H. R. 591) for the relief of the Ballard Pavement Company, having considered the same, respectfully report as follows:

The facts in this case appear to be that on the 10th day of December, 1872, the Ballard Pavement Company, composed of W. W. Ballard, T. E. Brown, and E. L. Marsh, made a proposition to the Board of Public Works of the District of Columbia, in these terms:

> The Ballard Pavement Company hereby makes proposals for the following work, with accompanying conditions:
>
> We will put down preserved wood pavement, as follows: The Ballard block, the Perry block, or the wedge-shaped block, such as laid by Filbert & Taylor in this city, as the contractors may elect, either to stand five inches high, for $3.50 per square yard; and we hereby ask for 75,000 square yards, contractors to have during the year 1873 within which to complete this work, the Board not to stop the work without a gross violation of the contract on the part of the contractors. The streets to be designated by the Board at such times as the company shall be ready to commence work. Said work to be paid for as the same progresses.
>
> We also hereby apply for a separate and a further contract for so much of the grading, hauling, and filling as is not embraced in the contract for paving, and for setting the curbing on the streets to be paved by us, at Board prices, subject to the conditions of the paving contract.

It further appears that on the same day, namely, December 10, 1872, a letter was addressed to the Ballard Pavement Company, dated "Board of Public Works, District of Columbia," in which the proposition of said company was copied and these words added:

> Is this day accepted. By order of the Board.
>
> CHAS. S. JOHNSON,
> *Assistant Secretary.*

Upon the strength of this letter the Ballard Pavement Company proceeded to prepare the requisite material to pave 75,000 square yards, that being the quantity named in their proposition to the Board of Public Works. The process of preparing the material included burnettizing or creosoting the blocks after they were reduced to the proper size. After more or less delay the company were instructed to pave certain portions of streets, and it appears in evidence that when they applied for their pay the Board required them to enter into another contract before their work would be measured. This seems to have been repeated every time a payment was made. These subsequent contracts (or specifications, as the company calls them) named the same rate of compensation as in the first contract, namely, $3.50 per square yard, but

no mention was made of the amount of paving to be done. It was further specified that the contract should include 2 feet of grading, and that the company would guarantee the pavement to continue in good condition for the period of three years. The company were required to give bonds, and they claim that these additional contracts or specifications were made under the original contract, and upon the distinct understanding that they were to have 75,000 square yards of paving to do, the chairman of the Board of Public Works, Mr. Shepherd, personally giving them that assurance. No evidence appears that the pavement laid did not in every particular meet the requirements of the contract.

After numerous vexatious delays it appears that the company secured instructions to pave 37,128 square yards, after which, notwithstanding they had the material ready and men and horses in waiting to do the remaining 37,872 square yards, they failed to secure any further authority to proceed with the work. For the amount actually done the company did not receive a single dollar of money, but were paid in certificates, which they disposed of for about 50 cents on the dollar.

About this time the Board of Public Works ceased to exist, and by acts of Congress of June 20, 1874, and June 16, 1880, a District of Columbia loan was authorized of $15,000,000 to pay outstanding claims for work performed in the District. The Board of Public Works was succeeded by the Board of Audit. The Ballard Pavement Company applied to the Board of Audit for relief, claiming the difference between the face value of the certificates issued to them and the amount they realized from the same, and also the amount they had actually expended on the material prepared and in readiness to complete the contract. The Board of Audit declined to consider their claim, when they in turn went to the Court of Claims.

The court also found against the company, on the ground principally that as the law required "the parties" to a contract to sign the same, the original contract ought to have been signed by the individual members of the Board of Public Works, instead of by the secretary. There were other technical points urged against the company, but this was the chief ground upon which the court dismissed the case, it being held that the Ballard Pavement Company never had a valid contract with the Board of Public Works.

In this emergency the Ballard Pavement Company comes to Congress and asks to be paid $1.50 per square yard for the material they had in readiness to complete their contract, with interest on the same from the 1st day of January, 1874, they having abandoned their claim for the balance due on the certificates in which they were paid for work actually completed.

Your committee have given this case a most thorough and searching investigation. They believe that the Ballard Pavement Company acted in good faith in supposing that they had a valid contract to put down 75,000 square yards of paving; that they prepared the material for the same, the cost of which was substantially $1.50 per square yard; that they sustained heavy losses, which resulted in their financial ruin, and that they are justly entitled to some measure of relief from Congress. We therefore report a substitute bill, which disallows the payment of interest, and provides that the claim shall be paid out of the $15,000,000 3.65 District of Columbia loan, above alluded to.

Your committee recommend that the substitute reported for House bill 591 do pass, and that the original bill lie upon the table.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1553.

JOHN M. McCLINTOCK.

APRIL 6, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SHAW, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 1044.]

The Committee on Claims, to whom was referred the bill (H. R. 1044) for the relief of John M. McClintock, having had the same under consideration, beg leave to report:

That the facts connected with the claim of Mr. McClintock are fully set out in the report made to the House, first session Forty-eighth Congress, which report your committee adopt and hereto append, and recommend the passage of the accompanying bill.

The Committee on Ways and Means, to whom was referred the bill (H. R. 2259) for the relief of John M. McClintock, having had the same under consideration, beg leave to report:

John M. McClintock, of the city of Baltimore, Md., was engaged in the business of city and local expressage of baggage and merchandise in said city during the years 1864, 1865, 1866, 1867, 1868, 1869, and 1870, and for and during these years he has been assessed and has paid to the collector of internal revenue of the United States for the third district in the State of Maryland the sum of $3,600. The said collector of internal revenue assessed and collected the above-described amount under the alleged authority of section 104 of the act of June 30, 1864, which provides as follows: "That any person, firm, company, or corporation carrying on or doing an express business shall be subject to and pay a duty of three per centum on the gross amount of all the receipts of such express business."

Owing to the want of uniformity in the construction of this section of the statute among the different collectors of internal revenue—since it appeared that in a "large number of cities the officers of the revenue did not construe this law as applicable to persons engaged in local expressage merely, and that the carrying of passengers and baggage on no continuous or fixed route was not 'an express business within the intent of the statute'"—the Commissioner of Internal Revenue, Hon. J. W. Douglass, on the 6th of April, 1870, instructed S. B. Dutcher, supervisor, New York, that "it is only those who do their business on regular routes that should be regarded as engaged in an express business and liable under section 104. * * * If taxes under section 104 have been assessed contrary to the above rule, * * * you will see that collection is suspended and claims for abatement prepared."

Under the above ruling of the Commissioner of Internal Revenue, the claimant in this case, in the form and manner prescribed by the rules of the Commissioner, filed his application for the refunding of the said amount of internal tax, but his claim was rejected by the said Commissioner of Internal Revenue without formal opinion containing the reasons for such rejection being given by that officer.

Subsequently, it appearing that the Commissioner of Internal Revenue, Hon. D. D. Pratt, was reopening the claims of Dodd's Express Company of the city of New York, and Parmelee's Local Express of Chicago, for the reason that these claimants had obtained a judgment of the circuit court of the United States construing the law (sec. 104) in their favor, application was made to the Commissioner, Hon. D. D. Pratt, by

the claimant to have his claim reopened and the former ruling set aside, and the amount of tax, as alleged to have been erroneously or illegally collected, refunded to him; but the Commissioner of Internal Revenue decided that, inasmuch as his predecessors in office had rejected this claim, he had no authority to act in the premises as requested by claimant. The official record of the Internal Revenue Office shows that the sum of $3,600 was paid by the claimant as alleged and set forth in his said application.

In view of the facts stated, and for the reason that several similar prayers for relief have been favorably considered by Congress, your committee recommend that the bill be passed.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1554.

MARGARET F. RYAN.

APRIL 6, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. KLEINER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 1249.]

The Committee on War Claims, to whom was referred House bill 1249, find the facts in this case fully set forth in the accompanying report made by the Committee on Military Affairs in the Forty-sixth Congress, which report they adopt as their own.

That Margaret F. Ryan is the widow of George F. Cole; that there were no remaining children of the marriage; that said Cole was a private in Company F, Fifty-first Regiment New York Volunteers; that in an engagement which took place at Poplar Grove Church, Va., about the 30th of September, 1864, he was made a prisoner of war, and so held until about the close of the war, when he made his escape and reported to the provost marshal at Raleigh, N. C., and was sent to hospital; that he applied for his discharge, pay, and bounty, but was informed that he was borne on the rolls of the War Department as missing in action, and he was directed to substantiate the fact of his imprisonment by the testimony of his comrades in confinement. As these were strangers, this was difficult to do, and before he could do this he died from the effects of disease contracted in prison; that as he had not his discharge, his widow could not draw the money that was justly due him.

Your committee find that the evidence sustains the claim that Cole was taken and held as prisoner of war; and that his pay and bounty and other allowances were justly due the petitioner, his widow. The War Department ought to be able under the law to adjust such cases as this, but as the case is referred to Congress, your committee recommend that the bill do pass.

GENERAL HEADQUARTERS, STATE OF NEW YORK,
ADJUTANT-GENERAL'S OFFICE,
Albany, January 5, 1874.

SIR: In reply to your communication of the 3d instant, I have to furnish you the following information from the records of this office: George F. Cole, private Company F, Fifty-first New York Volunteers, who enlisted August 15, 1864, for one year as a substitute, is reported on the muster-out roll of his company "missing in action; captured at Poplar Grove Church, Va., September 30, 1864."

Application for a discharge should be made to the Adjutant-General, United States Army.

Very respectfully,

JNO. F. RATHBONE,
Adjutant-General.

E. NORTH, Esq.,
Watertown, N. Y.

WAR DEPARTMENT,
Washington City, January 4, 1881.

SIR: In response to your request therefor, contained in your letter dated the 15th ultimo, I have the honor to transmit herewith the military record of George F. Cole, late private Company F, Fifty-first Regiment of New York Volunteers.

Very respectfully, your obedient servant,

ALEX. RAMSEY,
Secretary of War.

Hon. W. A. J. SPARKS,
Chairman Committee on Military Affairs,
House of Representatives.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, D. C., December 27, 1880.

SIR: I have the honor to acknowledge the receipt of your letter of the 15th day of December, 1880, requesting a "statement of service" of George F. Cole.

The following information has been obtained from the files of this office, and is respectfully furnished in reply to your inquiry:

It appears from the enlistment papers on file in this office that George F. Cole was enlisted and sworn into service as a private substitute on the 15th day of August, 1864, at Watertown, N. Y., in Company F, Fifty-first Regiment of New York Volunteers, to serve one year. On the muster-roll of Company F, of that regiment, for the months of September and October, 1864, he is reported absent; missing September 30, 1864; joined since last muster; subsequent rolls to June 30, 1865, absent; missing in action September 30, 1864; muster-out roll of compamy, dated July 25, 1865, reports him a private missing in action; captured at Poplar Grove Church, Va., September 30, 1864.

Investigation fails to elicit further information.

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

J. P. MARTIN,
Assistant Adjutant-General.

TO COMMITTEE ON MILITARY AFFAIRS,
House of Representatives.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1555.

CAPT. JOHN BURKHART.

APRIL 6, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GEDDES, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 7643.]

The Committee on War Claims, to whom was referred the bill (H. R. 446) for the relief of Capt. John Burkhart, having considered the same and accompanying papers, submit the following report:

John Burkhart, the claimant, enlisted as a private, Company F, One hundred and forty-sixth Regiment, Indiana Volunteers, March 1, 1865, at Greensburg, Ind., to serve one year.

On regimental returns for March, April, and May he is reported as captain Company F of said regiment, present; he was mustered out with his company as private, August 31, 1865, at Baltimore, Md. The military history of said claimant obtained from the War Department further shows that Barton W. Cole was mustered in as captain of said Company F, to date June 23, 1865, to fill original vacancy.

The claimant organized Company F at Camp Carrington, Indianapolis, Ind., and was commissioned as captain by the governor of said State on the 1st day of March, 1865, and had charge of the company from that time until the 22d day of June, 1865, during which time he was recognized and obeyed as such, and performed all the duties as captain of said company. Merrett C. Welch, the colonel of said regiment, in his testimony says:

> During the time said Burkhart was in command of said company he was one of the most efficient company commanders in the regiment, a good disciplinarian, and the best drill officer in my regiment. He was always pleasant, yet prompt to duty, and after he ceased to command said company his bearing and conduct as a private soldier was unexceptionally good.

Your committee find from the exhibits and testimony in the case that claimant performed all the duties of a captain of said Company F from the date of his commission by the governor of Indiana, March 15, 1865, to the 22d of June, 1865, and failed to be mustered in on a purely technical ground. On February 24, 1865, the governor of Indiana, requested of the War Department the removal of the disability occasioned by the resignation caused by John Burkhart as of the Sixty-eighth Indiana Volunteers with a view of his accepting a new commission in the One hundred and forty-sixth Indiana Volunteers. Anticipating a favorable reply the governor on March 1, 1865, issued a commission to said Burkhart as captain of Company F, One hundred and forty sixth Indiana Volun-

teers, but said disability was not removed, and claimant was not therefore mustered in as captain, and his commission as such was on that account canceled by the governor of Indiana, and the said Barton W. Cole commissioned in his stead.

Your committee therefore recommend that claimant be allowed the pay and emoluments of a captain of said company from said 1st day of March, 1865, to said 22d day of June, 1865, deducting therefrom the sums of money that have been paid to him for military service during that period either as a private or otherwise, and for that purpose report the accompanying bill as a substitute for bill H. R. 446, and recommend the passage of the same.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1556.

MARTHA J. A. RUMBAUGH.

APRIL 6, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GEDDES, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 6336.]

The Committee on War Claims, to whom was referred the bill (H. R. 6336) for the relief of Martha J. A. Rumbaugh, administratrix of George H. Rumbaugh, beg leave to report:

That the Committee on Military Affairs of the Forty-eighth Congress, not being clearly and fully advised of all the facts in the case, referred it to the Court of Claims for a finding under the provisions of an act entitled "An act to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government," approved March 3, 1883.

Said claim has been returned by said Court of Claims with the following findings of fact, filed January 25, 1886, which findings have been referred to the Committee on War Claims of the present Congress, to wit:

I.

The claimant, Martha J. A. Rumbaugh, is the administratrix of George H. Rumbaugh, deceased.

II.

Said George H. Rumbaugh was captain of Company K, Twenty-fifth Regiment Missouri Infantry Volunteers, and at the battle of Shiloh, April 26, 1862, was serving as acting assistant surgeon of said regiment (being a physician) by order of the commanding officer of the regiment.

III.

His duties as surgeon required his attendance at various places several miles distant. To discharge these duties promptly and properly, it was necessary that he should be mounted. To this end he used a horse and equipments belonging to himself; by whose order or by what authority does not appear.

IV.

While thus serving at said battle in the line of his duty, his horse and equipments, consisting of saddle, bridle, and martingale, were captured by the enemy, without fault or negligence on his part. They were never recovered.

V.

The horse was worth $225 and the equipments $60.

Your committee therefore recommend the payment of the amount found by said court, and recommend that the accompanying bill do pass.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1557.

JAMES D. WOOD.

APRIL 6, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GEDDES, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 6337.]

The Committee on War Claims, to whom was referred the bill (H. R. 1265) for the relief of James D. Wood, beg leave to report:

That the Committee on Military Affairs of the Forty-eighth Congress, not being clearly and fully advised of all the facts in the case, referred it to the Court of Claims for a finding of the facts, under the provisions of an act entitled "An act to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government," approved March 3, 1883.

Said claim has been returned by said Court of Claims with the following findings of fact, filed December 14, 1885, which findings have been referred to the Committee on War Claims of the present Congress, to wit:

The claimant, James D. Wood, while captain and assistant adjutant-general of the Fourth Brigade, First Division, First Corps, Army of the Potomac, lost a horse and equipments purchased by himself, which he had lawfully in the service of the United States, under the following circumstances: During the battle of Chancellorsville, Va., May 3, 1863, the claimant, after crossing the Rappahannock River at or near that place, received a verbal order from the general commanding the corps ordering the extra horses of all officers back across the river. In compliance therewith claimant sent his extra horse back to the other side of the river in charge of his colored servant. The servant was forcibly dispossessed of the horse by a bearer of dispatches from the general in command, and the claimant has never been able to recover the same. The loss was without any fault or negligence on the part of either the claimant or his servant. The horse was worth $115, and the equipments, $18.50; total, $133.50.

Your committee therefore recommend the payment of the amount found by said court, and recommend that the accompanying bill do pass.

○

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1558.

DELIVERY OF CERTAIN BOXES IN THE TREASURY.

APRIL 6, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PERRY, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 2239.]

The Committee on War Claims, to whom was submitted the bill (H. R. 2239) authorizing the Secretary of the Treasury to deliver to the rightful owners the contents of certain boxes deposited in the Treasury Department by the Secretary of War, submit the following report:

Your committee having carefully considered the same, beg leave to submit a favorable report thereon, and therefore recommend the passage of the bill.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1559.

AGNES AND MARIA DE LEON.

APRIL 6, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PERRY, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 3758.]

The Committee on War Claims, to whom was referred bill H. R. 3758, for the relief of Agnes and Maria De Leon, heirs-at-law of Rebecca L. De Leon, having considered the same and accompanying papers, make the following report:

This is a claim for injury to the buildings of the said Rebecca L. De Leon, in Albuquerque, N. Mex., and for the destruction of stores therein contained.

A board was organized by Special Order 159 to assess the damages done to the buildings of claimant and others. The board met and reported as follows:

The board then proceeded to examine the conditions of and assess the damage upon a house and premises, the property of Mrs. R. L. De Leon, for whom C. B. Clark is agent, which house and premises were rented by the Quartermaster's Department of the United States Army, and were occupied as storehouses and quarters for Assistant Surgeon Baily up to the 2d of March, 1862.

The board after careful examination find the nature and money value of the damages sustained by said house and premises to be as follows, viz:

For damages to window and doors	$100
Roofs to two rooms destroyed	110
Plastering and incidental expenses	50
Total damages	260

The board is further of opinion that said damages to said house were consequent upon their abandonment by the United States troops on the 2d of March, 1862, and their subsequent occupation by the enemy, two rooms of said building having been destroyed by fire by order of the assistant surgeon in charge of the hospital.

In a letter of Joseph C. Baily, assistant surgeon, U. S. A., are stated the circumstances under which the property was destroyed, to wit:

In reply to your communication, just received, I would state that in the spring of 1862 I was in charge of the medical supplies at Albuquerque, N. Mex. On the approach of the enemy such stores as could not be taken were set on fire by myself and the building containing them burned.

The proof clearly shows the fact of the destruction of the building and stores.

Your committee therefore recommend the payment of the amount found due by the board, and recommend the passage of the accompanying bill, as amended: In line 7 strike out the words "two thousand," and insert in place thereof the words "two hundred and sixty."

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1560.

REIMBURSING INTEREST ON WAR LOANS.

APRIL 6, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. PERRY, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 152.]

The Committee on War Claims, to whom was referred the bill (H. R. 152) to reimburse the several States for interest paid on war loans, and for other purposes, having carefully considered the same and accompanying papers, submit the following report:

By the act of July 27, 1861, and the joint resolution of March 8, 1862, the Secretary of the Treasury was directed to pay to the governor of any State or his duly authorized agents "the costs, charges, and expenses properly incurred by such States for enrolling, subsisting, clothing, supplying, arming, equipping, paying, and transporting its troops employed in aiding to suppress the present insurrection against the United States, to be settled upon proper vouchers to be filed and passed upon by the proper accounting officers of the Treasury."

By the joint resolution of March 8, 1862, payments were directed to be made for expenditures made subsequent to, as well as before, the passage of the act.

Under this act disbursements have been made to the States amounting to the sum of $43,296,938.22, and there yet remain unsettled or disallowed claims amounting to several millions of dollars.

Many, if not all, of the States were obliged to borrow money to pay the expenses incurred, but in adjusting and allowing their claims the accounting officers of the Treasury have rejected all claims for interest paid out by the States, holding that the law did not authorize such payment. An examination of the evidence leads us to the conclusion that the decision of the Department was correct. Your committee therefore recommend that the bill do not pass.

VIEWS OF THE MINORITY.

A similar bill was introduced in the Forty-eighth Congress, and referred to the Committee on War Claims, which, through Mr. Rowell, presented the following report, to wit:

By the act of July 27, 1861, and the joint resolution of March 8, 1862, the Secretary of the Treasury was directed to pay to the governor of any State, or his duly authorized agents, "the costs, charges, and expenses properly incurred by such States for enrolling, subsisting, clothing, supplying, arming, equipping, paying, and transporting its troops employed in aiding to suppress the present insurrection against the United States, to be settled upon proper vouchers to be filled and passed upon by the proper accounting officers of the Treasury."

By the joint resolution of March 8, 1862, payments were directed to be made for expenditures made subsequent to as well as before the passage of the act. Under this act disbursements have been made to the States amounting to the sum of $43,296,938.22; and there yet remain unsettled or disallowed claims amounting to several millions of dollars.

Many, if not all, of the States were obliged to borrow money to pay the expenses incurred, but in adjusting and allowing their claims the accounting officers of the Treasury have rejected all claims for interest paid out by the States, holding that the law did not authorize such payment.

The bill under consideration provides for reimbursing the States for interest paid or lost on account of expenses incurred and repaid under the act of July 27, 1861. By its provisions, interest is only to be paid on such sums as have been refunded or may hereafter be refunded under the authority of the act of Congress and explanatory resolution; no interest is to be paid, unless it was actually paid out or lost by the States, and then only up to the time of repayment by the Government, and limited to 6 per cent.

Claims for interest have been filed amounting to $3,188,887.25, but these claims are based upon a higher rate of interest than that provided in the bill; other States have not filed interest claims, owing to the ruling of the Department, but if the bill becomes law they will have proper claims.

Your committee are of opinion that these interest claims, at a rate such as the General Government was obliged to pay, are a just and proper charge against the Government. Immediately after the passage of the acts, Mr. Chase, then Secretary of the Treasury, in a communication to the auditor of the State of Ohio, gave assurances that *interest* would be paid. Laws were passed after the war of 1812 to reimburse the several States for moneys expended in that war, with similar provisos to the law under which the payments herein considered have been made.

Subsequently Congress passed laws to pay interest, as is provided in this bill. A similar bill was passed by Congress to reimburse States for expenses incurred on account of the Indian wars, with like necessity of subsequent legislation to authorize the payment of interest.

It seems to be the history of all the legislation of Congress for the reimbursement of States for war expenditures that the initial statutes have always failed to provide for the payment of interest, but in every instance, previous to 1861, subsequent acts provided for the payment of interest.

It may therefore be regarded as the settled policy of Congress to repay to the several States, not only the principal sums expended by them in aid of the General Government in times of war, but also to repay interest actually paid out, not exceeding the rate paid by the General Government during the same period.

Your committee therefore recommend that the bill do pass.

The minority cannot but think that, in view of the numerous precedents set out in the foregoing report of Mr. Rowell, and in view of the well-established policy of the Government, and in view of the assurances of the governmental authorities when the States assumed these obligations, and in view of what the minority believes to be but equal justice to all the States, the bill should pass.

This was as much a necessary expenditure as though the money had been paid for arms or ammunition. Had the States, generally the new Western States, which had not plethoric treasuries, refused to borrow

the money with which to organize and equip their quotas of troops, the Federal Government must necessarily have done so; and since these new and financially poor States came patriotically to the rescue of the depleted national Treasury in the hour of the nation's peril, and pledged their own credit for its salvation, no good reason exists why they should not be reimbursed their *whole* expenditure, the same as has been done for the more fortunate and wealthy States. Equal justice to all should be our motto.

But not only has the Government made similar reimbursements after all wars previous to the last civil war, but this Congress has evinced a determination to perpetuate the same policy. The bill H. R. 3877 was on the 18th day of January, 1886, introduced in this House, and referred to the Committee on Claims. This is an act for the relief of the State of Florida, and among other things authorizes the repayment of interest paid by Florida on interest-bearing securities issued by said State for the purpose of raising money with which to equip troops for different Indian wars. On the 3d of February last said committee reported said bill back with the recommendation that it do pass, and the same is now on the Calendar of this House. The report is No. 303, and is as follows:

The Committee on Claims, to whom was referred the bill (H. R. 3877) to authorize the Secretary of the Treasury to settle the claim of the State of Florida on account of expenditures made in suppressing Indian hostilities, beg leave to submit the following report:

In accordance with the requirements of the joint resolution of Congress approved March 3, 1881, the Secretary of War has investigated, audited, and made a report to Congress, May 22, 1882, of the amount due the State of Florida for expenditures made in suppressing Indian hostilities in that State between the 1st day of December, 1855, and the 1st day of January, 1860 (Ex. Doc. 203, Forty-seventh Congress, first session).

The expenditures grew out of the Seminole war of 1855, 1856, and 1857, the State authorities being compelled, in the presence of an anticipated and subsequently actual outbreak of the Indians, to call forth the militia of the State, the force of the United States troops then on duty being inadequate to the protection of the people. The report of the Secretary of War (Ex. Doc. 203) fully sets forth in detail the items of expenditure allowed and disallowed, the total amount found due the State being the sum of $224,648.09.

It is established that the funds at the command of the executive of the State of Florida in the years referred to were insufficient to equip, supply, and pay the troops in the field, and relying upon the approval given by the President of the United States, through the Secretary of War, on the 21st day of May, 1857, of the services of these volunteers, the State legislature, in order to provide their equipment and maintenance, authorized the issue of 7 per cent. bonds.

A portion of the bonds, amounting to $132,000, was sold by the governor to the Indian trust fund of the United States, and the proceeds of such sale were disbursed by the treasurer of the State for the "expenses of Indian hostilities," as appears from his report to the legislature for the year ending October 31, 1857 (Ex. Doc. 203, Forty-seventh Congress, first session). Another portion was hypothecated to the banks of South Carolina and Georgia as security for a loan of $222,015, and $192,331 of this loan was disbursed directly by a disbursing agent of the State in payment of "expenses of Indian hostilities," including pay of volunteers (Ex. Doc. 203, Forty-seventh Congress, first session).

This case is one where the Government, through the President of the United States by the Secretary of War, promised to pay these troops when mustered into the United States service, and they would have been long since paid by the Government if so mustered, but the mustering officer arrived in the State after they had been mustered out, and the State was compelled to borrow money with which to pay them (see letter of Secretary of War hereto appended).

Congress has universally paid interest to the States where they have paid interest. We cite the cases where interest has been allowed and paid for moneys advanced during the war of 1812-'15, as follows: Virginia, act March 3, 1825 (4 Stat. at L., p. 132); Maryland, act May 13, 1826 (4 Stat. at L., p. 161); Delaware, act May 20, 1826 (4 Stat. at L., p. 175); New York, act May 22, 1826 (4 Stat. at L., p. 192); Pennsyl-

vania, act March 3, 1827 (4 Stat. at L., p. 241); South Carolina, act March 22, 1832 (4 Stat. at L., p. 499); Maine, act of March 31, 1851 (9 Stat. at L., p. 626); Massachusetts and Maine, act of July 8, 1870 (16 Stat. at L., p. 198).

For advances for Indian and other wars the same rule has been observed in the following cases: Alabama, act January 26 (4 Stat. at L., p. 344); Georgia, act March 31, 1851 (9 Stat. at L., p. 626); Georgia, act March 3, 1879 (20 Stat. at L., p. 385); Washington Territory, act March 3, 1859 (11 Stat. at L., p. 429); New Hampshire, act January 27, 1852 (10 Stat. at L., p. 1); California, act of August 5, 1854 (10 Stat. at L., p. 582); California, act August 18, 1856 (11 Stat. at L., p. 91); California, act June 23, 1860 (12 Stat. at L., p. 104); California, act July 25, 1868 (15 Stat. at L., p. 175); California, act March 3, 1881 (21 Stat. at L., p. 510); and in aid of the Mexican war (see statute of June 2, 1848).

Attorney-General Wirt, in his opinion on an analogous case, says:

"The expenditure thus incurred forms a debt against the United States which they are bound to reimburse. If the expenditures made for such purpose are supplied from the treasury of the State, the United States reimburse the principal without interest; but if, being unable itself, from the condition of its own finances, to meet the emergency, such State has been obliged to borrow money for the purpose, and thus to incur a debt on which she herself has had to pay interest, such debt is essentially a debt due by the United States, and both the principal and interest are to be paid by the United States (see Opinions of Attorneys-General, vol. 1, p. 174)."

Thus it will be seen that the precedent for the payment of interest, under the rule adopted for the settlement of claims of war of 1812–'15, and Indian wars above cited, is well established.

The committee are of the opinion that the urgent necessity for the services of these troops, and the action of the President and the Secretary of War, are well established, and create an equitable obligation on the part of the General Government, and as it is clearly shown by Ex. Doc. 203, Forty-seventh Congress, that the State of Florida not only borrowed money from the Indian trust fund, but also from the banks of the States of Georgia and South Carolina, for their payment, upon which the State has since paid interest, your committee have concluded to recommend the passage of the bill, with the following amendments:

In line 18 of section 1, after the word "it," insert the words "upon said claim or claims."

In line 8 of section 2 strike out the words "and to pay such sum so ascertained due the said State," and insert the words, "and shall adjust and settle the claim of the State therefor, and shall pay such sum as may be ascertained to be due the State thereon."

WAR DEPARTMENT,
Washington, D. C., May 21, 1857.

SIR: I have the honor to acknowledge the receipt of your letter of the 8th instant, asking an approval of the services of certain volunteers called out by you, and in reply to inform you that the explanations as to the necessity of their services is satisfactory, and orders have been issued to the officer commanding in Florida to muster them in and out of the service of the United States.

Very respectfully, your obedient servant,

JOHN B. FLOYD,
Secretary of War.

His Excellency JAMES E. BROOME,
Governor of Florida.

But again, on March 3, 1886, a bill (S. 1729) of substantially the same import as the last-mentioned House bill was introduced into the Senate and referred to the Committee on Military Affairs, which committee has since made the following report, to wit:

The Committee on Military Affairs, to whom was referred the bill (S. 1293) "to authorize the Secretary of the Treasury to settle and pay the claim of the State of Florida on account of expenditures made in suppressing Indian hostilities, and for other purposes," have considered the same, and they beg leave to report:

That in the Forty-eighth Congress they had under consideration the same subject, and they reported by bill to the Senate. A report accompanied the bill, and this report, now annexed, is adopted. They recommend the indefinite postponement of bill 1293, and the substitution of a bill hereby reported, that being the bill reported favorably by the committee in the Forty-eighth Congress.

[Senate Report No. 109, Forty-eighth Congress, first session.]

The Committee on Military Affairs, to whom was referred the bill (S. 230) to authorize the Secretary of the Treasury to settle the claim of the State of Florida on account of expenditures made in suppressing Indian hostilities, beg leave to submit the following report:

In accordance with the requirements of the joint resolution of Congress approved March 3, 1881, the Secretary of War has investigated, audited, and made a report to Congress, May 22, 1882, of the amount due the State of Florida for expenditures made in suppressing Indian hostilities in that State between the 1st day of December, 1855, and the 1st day of January, 1860. (Ex. Doc. 203, Forty-seventh Congress, first session.)

The expenditures grew out of the Seminole war of 1855, 1856, and 1857, the State authorities being compelled, in the presence of an anticipated and subsequently actual outbreak of the Indians, to call forth the militia of the State, the force of United States troops then on duty being inadequate to the protection of the people. The report of the Secretary of war (Ex. Doc. 203) fully sets forth in detail the items of expendiure allowed and disallowed, the total amount found due the State being the sum of $224,648.09.

It is established that the funds at the command of the executive of the State of Florida in the years referred to were insufficient to equip, supply, and pay the troops in the field, and, relying upon the approval given by the President of the United States and the Secretary of War, on the 21st day of May, 1857, of the services of these volunteers, the State legislature, in order to provide their equipment and maintenance, authorized the issue of 7 per cent. bonds.

A portion of the bonds, amounting to $132,000, was sold by the governor to the Indian trust fund of the United States, and the proceeds of such sale were disbursed by the treasurer of the State for the "expenses of Indian hostilities," as appears from his report to the legislature for the year ending October 31, 1857. Another portion was hypothecated to the banks of South Carolina and Georgia as security for a loan of $22,015, and $192,331 of this loan was disbursed directly by a disbursing agent of the State in payment of "expenses of Indian hostilities," including pay of volunteers.

The portion of the bonds sold to the United States for the "Indian trust fund" is still held by that fund and accrued interest since 1857.

The State of Florida paid out through a disbursing agent, as shown by War Department report		$193,330 16
And through warrants from State treasurer		78,056 11
Total		271,386 27
Interest on this sum from January 1, 1857, to April 1, 1883		498,672 27
Total cost to the State to date		770,058 54

We quote from a statement made by the United States Treasurer of the State indebtedness to the "Indian trust fund," June 12, 1882, as follows:

Loan on 7 per cent. bonds of the State of Florida	$132,000	
Coupons due and unpaid January 1, 1857	138,040	
Interest to July 1, 1882, from January 1, 1857	50,820	
Interest from July 1, 1882, to April 1, 1883	6,930	
		327,790 00
Due the State		442,268 54

There appears, therefore, lawfully due the State of Florida, according to the State treasurer's account, the sum of $770,058.54, being the principal and interest of the sums which she borrowed and expended on behalf of the United States.

If from this sum be deducted the amount loaned the State by the Indian trust fund, principal and interest, $327,790, there still remains due the State the sum of $442,268.54.

In auditing the accounts of the State, however, the Secretary of War has disallowed many items under the rules and regulations governing payments to the regular forces, and yet, with all his disallowances, after an exhaustive examination, he finds due $224,648.09. Now, if we add the interest on this sum from January 1, 1857, to April 1, 1883, to wit, $412,790.86, we have $637,438.95. Now, if we deduct the amount due the Indian trust fund, to wit, $327,790, there is still due the State the sum of $309,648.95.

This case is one where the Government, through the President of the United States and Secretary of War, promised to pay these troops when mustered into the United States service, and they would have been long since paid by the Government, if so mustered, but the mustering officer arrived in the State after they had been mustered out, and the State was compelled to borrow money with which to pay them.

Congress has universally paid interest to the States where they have paid interest.

We cite the cases where interest has been allowed and paid for moneys advanced during the war of 1812–'15, as follows: Virginia, act March 3, 1825 (4 Stat. at L., p. 132); Maryland, act May 13, 1826 (4 Stat. at L., p. 161); Delaware, act May 20, 1826 (4 Stat. at L., p. 175); New York, act May 22, 1826 (4 Stat. at L., p. 192); Pennsylvania, act March 3, 1827 (4 Stat. at L., p. 241); South Carolina, act March 22, 1832 (4 Stat. at L., p. 499); Massachusetts, July 8, 1870 (16 Stat. at L., p. 198).

For advances for Indian and other wars the same rule has been observed in the following cases: Alabama, act January 26, 1849 (4 Stat. at L., p. 344); Georgia, act March 31, 1851 (9 Stat. at L., p. 626); Georgia, act March 3, 1879 (20 Stat. at L., p. 385); Washington Territory, act March 3, 1859 (11 Stat. at L., p. 429); New Hampshire, act January 27, 1852 (10 Stat. at L., p. 1).

Thus it will be seen that the precedent for the payment of interest under the rule adopted for the settlement of claims of war of 1812–'15 is well established.

The committee are of the opinion that the urgent necessity for the services of these troops and the action of the President and the Secretary of War create an equitable obligation on the part of the General Government; and as the State of Florida not only borrowed money from the Indian trust fund, but also from the banks of the States of Georgia and South Carolina, for their payment, upon which the State has since paid interest, your committee have concluded to recommend the sum of $92,648.09 as a full payment to the State of all Indian war claims, this being the difference after deducting the sum borrowed by the State from the Indian trust fund ($132,000) from the amount found due the State by the Secretary of War ($224,648.09), and to further recommend the delivery to the State of all bonds and coupons held by the trustee of the Indian trust fund.

The committee have amended the bill in accordance with the views expressed in this report, and they recommend the passage of the bill as thus amended. Accompanying the report is a communication from the Secretary of War, explaining the origin and the present condition of the claim of the State of Florida against the Government of the United States.

This bill is now on the Senate Calendar.

It does not now seem just, or in accordance with the requirements of national honor, that after so treating all the States making expenditures in all our previous wars, such as are hereinbefore set out, that now we should refuse such reimbursement to the loyal States who came to the rescue of the Government at a time when it was more in need of aid and support than at any other period of its history.

J. LYMAN,

For Minority of Committee on War Claims.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1561.

RELIEF OF THE ESTATE OF J. J. PULLIAM.

APRIL 6, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. LYMAN, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill S. 605.]

The Committee on War Claims, to whom was referred the bill (S. 605) for the relief of the estate of J. J. Pulliam, deceased, having had the same under consideration, report as follows:

This claim was originally for quartermaster's stores amounting to $7,323.35, alleged to have been furnished the United States Army during the civil war, by J. J. Pulliam, deceased, who was a resident during the war of La Grange, Tenn. The claim was first presented to the Quartermaster's Department in 1876, and after a thorough and exhaustive investigation, the Quartermaster-General allowed and reported to the proper accounting officers of the Treasury the sum of $1,223, which was duly reported to the Forty-seventh Congress, and the necessary appropriation made for the payment of the same in what is known as the 4th of July bill of that year. Claimant applied to the Forty-eighth Congress for further relief, and also to this. The application to the present Congress has thus far resulted in the passage of the bill now under consideration by the Senate.

The further facts necessary to a full understanding of this claim are stated in Senate Report No. 347, of the Forty-Seventh Congress, as follows:

On the 4th of July, 1864, Congress passed an act to restrict the jurisdiction of the Court of Claims, and to provide for the payment of certain demands for quartermaster's stores and subsistence supplies furnished to the Army of the United States (13 Statutes at Large, page 381).

Section 2 of this act provides "that all claims of loyal citizens in States not in rebellion for quartermaster's stores actually furnished to the Army of the United States, and receipted for by the proper officer receiving the same, or which may have been taken by such officers without giving such receipt, may be submitted to the Quartermaster-General of the United States, accompanied with such proofs as each claimant can present of the facts in his case, and it shall be the duty of the Quartermaster-General to cause such claim to be examined, and if convinced that it is just, and of the loyalty of the claimant, and that the stores have been actually received or taken for the use of and used by said Army, then to report each case to the Third Auditor of the Treasury with a recommendation for settlement."

Section 3 of the same act provides "that all claims of loyal citizens in States not in rebellion for subsistence actually furnished to said Army, and receipted for by the proper officer receiving the same, or which may have been taken by such officers without giving such receipt, may be submitted to the Commissary-General of Subsistence, accompanied with such proofs as each claimant may have to offer, and it shall be the duty of the Commissary-General of Subsistence to cause each claim to be examined, and if convinced that it is just, and of the loyalty of the claimant, and that the stores have been actually received or taken for the use of and used by said Army,

then to report each case for payment to the Third Auditor of the Treasury with a recommendation for settlement."

The provisions of these two sections were subsequently extended by act of Congress to embrace the State of Tennessee and the counties of Berkeley and Jefferson in the State of West Virginia. Until 1874 these claims thus audited were paid directly out of the appropriation for the Army; but by section 2 of an act entitled "An act making appropriations for the support of the Army for the fiscal year ending June 30, 1875, and for other purposes," approved June 16, 1874, Congress provided that the Secretary of the Treasury should thereafter make report of each claim allowed by the accounting officers of the Treasury at the commencement of each session of Congress to the Speaker of the House of Representatives, who should lay the same before Congress for consideration.

In compliance with section 2 of the said act approved June 16, 1874, the Secretary of the Treasury, on the 10th day of January last, transmitted to the Speaker of the House of Representatives lists of 1,359 claims arising under the act of July 4, 1864, and the various acts amendatory thereof, which claims were examined and allowed by the proper accounting officers of the Treasury since December 4, 1880. These claims amount in the aggregate to $291,148.04. They arose in the States of Illinois, Indiana, Kansas, Kentucky, Maryland, Missouri, New Mexico, New York, Ohio, Pennsylvania, Tennessee, West Virginia, and in the District of Columbia. The letter of the Secretary of the Treasury was referred by the House of Representatives to the Committee on War Claims. The bill was prepared by that committee, reported to the House, and recommitted to the committee. After the bill was so recommitted it was carefully compared by the clerks of said committee, aided by a clerk of the Treasury Department, under the direction and supervision of said committee, with the papers and records of the cases allowed, and all errors apparent on the face of the same noted and subsequently corrected. The Committee on War Claims of the House did not add to or take from any claim which had been allowed by the accounting officers of the Treasury. In the report made by Mr. Houk, the chairman of said committee, he states that "the committee assume the equity and justice of the allowances made, as well as the judicial impartiality and correctness of the action of the officers by whom such allowances were made."

Your committee have compared the House bill with the claims allowed by the proper accounting officers of the Treasury. They find the names and amounts correctly stated in the bill. The claims seem to have been examined with great care, and particularly in the Treasury Department, and your committee are satisfied that the awards made by the accounting officers of the Treasury are fully sustained by the evidence in each case, and that the award is made to the proper party in each case.

John J. Pulliam, of Fayette County, Tennessee, is allowed in this bill the sum of $1,223. We are satisfied that Mr. Pulliam ought to have been awarded a larger sum by the accounting officers of the Treasury, but your committee do not feel justified in delaying the passage of this bill by amending it, even for the purpose of doing justice to Mr. Pulliam.

If Mr. Pulliam hereafter makes a claim for the balance equitably due him, and such claim is referred to your committee, as we now understand the matter, we will favor the payment to him of some additional amount.

Your committee do not agree with the concluding statements of the above-quoted Senate report, to the effect that Mr. Pulliam ought to have been allowed a larger sum by the accounting officers of the Treasury. This committee believe that the evidence shows that the claimant had a fair and patient hearing before the officials of the Quartermaster-General's Office upon the ground, and by personal examination of the witnesses, and do not think that manifest injustice has been done him, or that the action of the accounting officers of the Treasury should be overruled.

Your committee recommend that the bill do lie on the table.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1562.

HENRY RUBY.

APRIL 6, 1886.—Laid on the table and ordered to be printed.

Mr. RICHARDSON, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 5448]

The Committee on War Claims, to whom was referred the bill (H. R. 5448) for the relief of Henry Ruby, submit the following report:

The committee have carefully examined all the proof in the case, and are of opinion that there is an utter failure to show any delivery of the stores and supplies upon which the claim is based to the Government, or to any party authorized to receive them for or on behalf of the Government.

Your committee therefore direct that the bill of the House 5448 be reported to the House with the recommendation that it do lie on the table.

19TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1563.

MOBILE AND GIRARD RAILROAD.

APRIL 6, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 4924.]

The Committee on War Claims, to whom was referred the bill (H. R. 4924) for the relief of the Mobile and Girard Railroad Company, have considered the same, and respectfully report:

This is the claim of the Mobile and Girard Railroad Company, a body corporate, organized and incorporated under the laws of Georgia, for services rendered to the United States for the transportation of 2,128 paroled Confederate soldiers, in the months of May, June, and July, 1865, from Union Springs, Ala., to Columbus, Ga., a distance of 54 miles, at the Government's then tariff rates of 2 cents per mile, amounting to $2,298.24.

On the 4th of May, 1865, Lieut. Gen. Richard Taylor, Confederate States army, entered into a "memorandum of the conditions of the surrender of the forces, munitions of war, &c., in the Department of Alabama, Mississippi, and East Louisiana," to Maj. Gen. R. S. Canby, United States Army, Article VIII of which is as follows:

> Transportation and subsistence to be furnished at public cost for the officers and men after surrender to the nearest practicable point to their former homes.

On the 5th day of May, 1865, General Canby issued "General Field Orders No. 36," to carry this cartel into effect, which contains the following:

> Transportation and subsistence will be furnished at public cost for the paroled officers and men to the nearest practicable point to their homes.

Lieutenant-Colonel Stockton, of the Seventy second Illinois Infantry Regiment, was in command of the United States troops at Union Springs, Ala., in May, June, and July, 1865, and on application made to him for transportation of Confederate paroled soldiers to their homes, addressed a letter, dated June 1, 1865, to Lieutenant-Colonel Hough, acting assistant adjutant-general of the Sixteenth Army Corps, asking for instructions.

On this letter Colonel Hough made the following indorsement, and returned it to Lieutenant-Colonel Stockton:

> HEADQUARTERS SIXTEENTH ARMY CORPS,
> *Montgomery, Ala., June 3, 1865.*
>
> Respectfully returned. For all persons traveling over the road under your direction you will give transportation, *and for paroled soldiers going to their homes*, but transportation will only be furnished to persons in the military, naval, or civil service of the United States.
>
> J. HOUGH,
> *Assistant Adjutant-General.*

When this letter was received Colonel Stockton swears—

He handed it to the officer of the company (railroad company) with the statement that as the language was rather vague he did not feel warranted in giving vouchers or orders covering transportation of any outside of those in the Government service but that they had better keep an account of such service rendered, and if the Government was responsible, he had no doubt but that it would eventually be paid for. Subsequently affiant remembers that several conductors of the road appeared before him and made affidavits covering accounts for the transportation of paroled soldiers.

These accounts showing the number of paroled soldiers transported, sworn to by the conductors before Colonel Stockton, are presented as the basis of this claim. The accounting officers rejected the claim on the ground that no orders were issued by the proper officers for such transportation, and, therefore for want of privity of contract between the United States and the company.

The Comptroller adds:

That the company may have an equitable claim against the Government, I am disposed to admit, but Congress alone can afford the necessary relief.

The Quartermaster-General states:

The Quartermaster's Department has, by direction of the Secretary of War, paid the bills of railroad companies for the transportation of rebel paroled prisoners to their homes at the close of the war, but there is no record in this office of any such payment to the Mobile and Girard Railroad. It is believed that transportation of this character was furnished by this railroad, but that no written requests were made for such service by United States officers.

The liability of the Government to the company for this service cannot be doubted. The cartel, the order of General Canby, and the payment of all other accounts for this character of service, so far as the committee are informed, are sufficient ground on which to grant the relief prayed for.

The evidence as to the number of persons transported and their character as paroled soldiers, entitled under the terms of the cartel to transportation and subsistence at public cost, is the best, under the circumstances, which could be presented. The company took the precaution to require their conductors to keep an accurate detailed daily account of the number transported, and these accounts were sworn to before the officer whose duty it was to issue the required orders, but who appears to have objected to issuing orders, as he was directed, for the transportation of "paroled soldiers going to their homes," because they were not persons in the "military, naval, or civil service of the United States." The hastily written indorsement of Colonel Hough could not have intended such an absurdity.

The liability of the Government for the services rendered is admitted, and the facts alleged by the claimant being clearly established, your committee recommend the passage of the bill, with amendment.

○

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1564.

JOHN H. JONES AND THOMAS D. HARRIS.

APRIL 6, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 7644.]

The Committee on War Claims, to whom was referred the bill (H. R. 4216) for the relief of John H. Jones and Thomas D. Harris, having considered the same, submit the following report:

The said John H. Jones and Thomas D. Harris, doing business under the firm name of Jones & Harris, were the owners of and were operating a certain rolling-mill property, fixtures, and interests at Loudon, Tenn., and were engaged in the manufacture of iron at the breaking-out of the war, April, 1861. That said John H. Jones and Thomas D. Harris were loyal citizens to the United States Government, and that in obedience to the proclamation of President Lincoln issued in 1861, forbidding any aid to be given to the Confederate Government, they ceased operating said mill and were forced to leave said locality.

In March, 1863, all of said property mentioned in the affidavit of John H. Jones was taken by the Confederate army under the command of General Kirby Smith, and said rolling-mill, together with the fixtures, ores, and iron, were removed to Knoxville from Loudon, and at that place the mill was re-erected and put in shape for operation.

In August, 1863, General Burnside, in command of the Federal forces, entered Knoxville and took possession, and among other property which fell into the control of the Federal force was this property of the claimants. For nearly two years the Federal forces, under a detail from Burnside's army, occupied and operated said rolling-mill and used and enjoyed the product of the same for the benefit of the United States Government. The proof is not clear as to the amount, but it seems certain, however, that a considerable amount of supplies were received and used for the benefit of the United States Government.

Under all the circumstances the committee deem it proper to recommend the passage of a bill referring the claim to the Court of Claims for final adjudication.

Therefore your committee report the accompanying bill as a substitute for House bill 4216, and recommend that it do pass.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1565.

RIVER AND HARBOR APPROPRIATION BILL.

APRIL 7, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. WILLIS, from the Committee on Rivers and Harbors, submitted the following

REPORT:

[To accompany bill H. R. 7480.]

The Committee on Rivers and Harbors beg leave to report back to the House the accompanying bill (H. R. 7480) "making appropriations for the construction, repair, and preservation of certain works on rivers and harbors, and for other purposes," with sundry amendments, and to recommend the passage of the same.

The last river and harbor act, which was passed 5th July, 1884, as it left the House appropriated $12,619,100, upon estimates by the engineers that $35,301,885 could be "profitably expended in the fiscal year," or 33⅓ per cent. of the estimates. The bill reported herewith appropriates $15,120,700, upon the engineers' estimates of $42,332,100.

PRINCIPAL ITEMS OF THE BILL.

The following is an itemized statement of the appropriations recommended in this bill:

165 rivers	$9,922,700
124 harbors	4,380,500
5 channels and inlets	262,500
2 ice-harbors	35,000
5 breakwaters	215,500
4 special surveys	139,500
1 dry-dock	65,000
Examinations, surveys, and contingencies	100,000
	15,120,700

Of this total amount the sum of $1,018,000 covers items not carried upon the Book of Estimates. Deducting this last sum from the total, as given above, leaves $14,102,700 as the amount appropriated upon the regular estimates, which is less than 33⅓ per cent. thereof.

NUMBER OF ITEMS REJECTED—NEW ITEMS.

The estimates called for appropriations for 201 rivers (including 8 channels and inlets). Of these the committee rejected 40. They also called for appropriations for 138 harbors (including 5 breakwaters and 2 ice-harbors). Of these the committee rejected 15. Thus, out of a

total of 339 items for which appropriations were asked by the engineers, 55 have been refused by the committee. The principal new item is an appropriation of $250,000 for the construction of a new lock on the Saint Mary's River, which is the outlet for the great lake system. The immense increase of commerce on the lakes and the increased draught of vessels passing through this river fully justify the proposed work.

THE MISSISSIPPI RIVER AND ESTIMATES.

The largest appropriation in the bill is for the Mississippi River. The committee have appropriated to that river, from its mouth to its source, $3,725,000. This amount includes $50,000 for the reservoirs at its headwaters. An itemization of this aggregate sum is as follows:

Reservoirs at headwaters	$50,000
Snag-boat on Upper Mississippi	30,000
From Saint Paul to Des Moines Rapids	510,000
At Des Moines Rapids, to complete modified project	35,000
From Des Moines Rapids to mouth of Illinois River	200,000
From mouth of Illinois River to mouth of Ohio River	500,000
From Cairo to the Head Passes, including Red River at and below the head of the Atchafalaya	2,250,000
Survey of Mississippi River between Head Passes and headwaters	75,000
To remove obstructions, &c	75,000
Total	3,725,000

The estimates for above items were as follows:

Reservoirs at headwaters	150,000
Snag-boat on Upper Mississippi	30,000
From Saint Paul to Des Moines Rapids	1,500,000
At Des Moines Rapids, to complete modified project	101,700
From Des Moines Rapids to mouth of Illinois River	500,000
From mouth of Illinois River to mouth of Ohio River	1,000,000
From Cairo to the Head Passes, including Red River at and below the head of the Atchafalaya	5,000,000
Survey of Mississippi River, between Head Passes and headwaters	100,000
To remove obstructions, &c	161,000
Total	8,542,700

In addition to the Mississippi, other great rivers in the country receive the following amounts:

Missouri River	$610,000
Ohio River	500,000
Columbia River	460,000
Saint Mary's River and Hay Lake Channel	400,000
Tennessee River	357,500
Kentucky River	250,000
Delaware River	240,000
James River	150,000
Great Kanawha River	150,000
Cape Fear River	125,000
Monongahela River	121,500
Cumberland River	112,500
Illinois River	100,000
Red River	95,000
Arkansas River	75,000
Fox River	75,000
	3,831,500

RECOMMENDATIONS FOR SMALLER RIVERS.

There are in the present bill recommendations for other rivers, as follows:

20 at $5,000 each	$100,000
18 at $10,000 each	180,000
7 at $15,000 each	105,000
30 between $20,000 and $50,000	887,500
2 at $50,000	100,000
	1,372,500

APPROPRIATIONS FOR HARBORS AS RECOMMENDED IN THE BILL.

For harbors, &c., the recommendations of the bill are as follows:

2 ice-harbors, at	$35,000
5 breakwaters, at	215,500
124 harbors, at	4,380,500
	4,631,000

The following are the leading appropriations for harbors:

New York Harbor (Hell Gate, &c.)	$435,000
Galveston Harbor	400,000
Sabine Pass, Tex	265,000
Charleston Harbor	250,000
Mobile Harbor	120,000
Baltimore Harbor	100,000
Norfolk Harbor	150,000
Cumberland Sound	150,000
Toledo Harbor	150,000
Savannah Harbor	125,000
Cleveland Harbor	125,000
Chicago Harbor	100,000
Aransas Pass	135,000
Sand Beach Harbor	100,000
Humboldt Harbor	100,000
Total for 15 harbors	2,705,000

The following harbors are recommended for appropriations ranging from $50,000 to $100,000:

Oswego	$95,000
Milwaukee	80,000
Oakland	80,000
Yaquina Bay	80,000
Wilmington	75,000
Boston	75,000
Newburyport	50,000
Erie	50,000
Pass Cavallo	50,000
Brazos Santiago	50,000
Duluth	50,000
Total amount for 11 harbors	735,000

In addition to the above there are 15 harbors, for which recommendations have been made, ranging between $20,000 and $50,000, amounting in the aggregate to $420,000.

SUMMARY OF HARBOR APPROPRIATIONS.

Fifteen harbors, at $100,000 and upwards	$2,705,000
Eleven harbors, from $50,000 to $100,000	735,000
Fifteen harbors, at and above $20,000	420,000

TWO RIVER AND HARBOR BILLS IN ONE.

Your committee think it proper to call attention to the fact that the present bill carries appropriations for two years. The last appropriation for rivers and harbors was by the act of July 5, 1884, which was for the fiscal year ending June 30, 1885. In the last session of the Forty-eighth Congress the Committee on Rivers and Harbors reported a bill recommending the appropriation of $12,323,700. This bill was discussed for several weeks, when another bill, appropriating $5,000,000, was substituted for it and passed the House, but failed in the Senate from want of time to consider it. The deliberate judgment of the representatives of the people was thus placed upon record, that at least $5,000,000 was actually needed "for the construction, repair, and preservation of certain works on rivers and harbors for the fiscal year ending June 30, 1886."

The failure to secure this or any amount for such purposes excited great complaint, and when this committee commenced their work at the beginning of the present session they were confronted with numerous demands for immediate appropriations. The committee did not think it proper to yield to these demands, but they embrace in the present bill the total amount to be expended for the next fiscal year. The failure of the last House to make any appropriation has thrown on your committee the duty of combining two river and harbor bills in one.

Dividing the present amount recommended between the two fiscal years will give $7,500,000 as the amount of the present bill properly chargeable to this Congress.

No appropriation has been made for the improvement of the Potomac River and flats for the reason that the title to the reclaimed land is in dispute; and, until some satisfactory information on that subject has been furnished, it was not thought prudent to expend money in that direction.

GENERAL LEGISLATION.

The general legislation of the bill is confined to three or four provisions, touching the control, administration, use and navigation of rivers and harbors. A report is required as to locks and dams now improved under authority, upon which tolls are charged, and as to the advisability of purchasing said improvements by the Government; and in one instance that of the Monongahela River, the Government is authorized, if necessary, to acquire by condemnation the works of the Monongahela Navigation Company, to the end that the navigation of the river may be made free.

ANNUAL REPORT OF THE CHIEF OF ENGINEERS AND THE MISSISSIPPI RIVER COMMISSION.

The report of the Mississippi River Commission, together with the annual report and maps of the Chief of Engineers, are required to be made on or before the 1st of December in each year. In the annual report of the Chief of Engineers he is directed to report—

All the instances in which piers, breakwaters, or other structures or works, built or made by the United States in aid of commerce or navigation, are used, occupied, or injured by a corporation or an individual, and the extent and mode of such use, occupation, or injury, and the facts touching the same. He shall also report whether any bridges, causeways, or structures, now erected or in process of erection, do or will interfere with the free and safe navigation of the rivers and other public works herein appropriated for, and if they do or will so interfere, to report the best mode of altering or constructing such bridges or causeways as to prevent any such obstructions.

CONTRACT SYSTEM PERMISSIBLE.

Another provision makes it the—

Duty of the Secretary of War to apply the money herein appropriated for improvements, other than surveys and estimates, in carrying on the various works, by contract or otherwise, as may be most economical and advantageous to the Government. Where said works are done by contract, such contract shall be made after sufficient public advertisements for proposals, in such manner and form as the Secretary of War shall prescribe; and such contracts shall be made with the lowest responsible bidders, accompanied by such securities as the Secretary of War shall require, conditioned for the faithful prosecution and completion of the work according to such contract, and for the prompt payment of all liabilities incurred in the prosecution thereof for labor and material.

OBSTRUCTING BRIDGES AND CAUSEWAYS.

Your committee have also recommended legislation touching the removal of bridges, causeways, and other structures which interfere with the free and convenient navigation of rivers and harbors, and providing that hereafter the drawings and description of such proposed works shall first be submitted to the Secretary of War for his approval.

SURVEYS AND EXAMINATIONS.

Your committee have directed the Secretary of War, at his discretion, to cause examinations or surveys, or both, and estimates of costs of improvement proper, to be made of 56 rivers and 28 harbors. The wise provision of the act, placing these examinations and surveys under the supervision of the Secretary of War, and prescribing the conditions precedent therefor, have been adopted and made fuller and more specific in the present bill.

Before any money is ordered the local engineer is required to make a preliminary examination, and report to the Chief of Engineers—

Whether, in his opinion, said river or harbor is worthy of improvement, and shall state in such report fully and particularly the facts and reasons on which he bases such opinion, including the present and prospective demands of commerce; and it shall be the duty of the Chief of Engineers to direct the making of such survey, if in his opinion the river or harbor proposed to be surveyed be worthy of improvement by the General Government, and he shall report to the Secretary of War the facts, and what public necessity or convenience may be subserved thereby, together with the full reports of the local engineer.

Such reports will place Congress in possession of all the facts, and prevent either partiality or prejudice.

Your committee finally recommend that such reports of preliminary examinations and surveys shall be made to this House and shall be printed. At present these reports are sent to the Senate, and the committee primarily charged with their consideration are thus frequently deprived of important and necessary information.

Your committee confidently believe that Congress will adopt these several legislative recommendations, as they are all approved by the Engineer Department and have for their sole object the honest, faithful, and economical administration of the public moneys, and the proper regulation, maintenance, and construction of those great public works whose importance to commerce and navigation has been recognized from the foundation of our Government.

CONCLUSION.

Your committee, in bringing this report to a conclusion, cannot refrain from briefly referring to the unusual and embarrassing circum-

stances under which the bill now reported was framed, and the efforts which they have made to discharge acceptably the arduous and responsible duties devolved upon them. The fact, already alluded to, that two river and harbor bills are embraced in the present bill, will suggest the increased responsibility, difficulty, and embarrassment in apportioning this small amount among a large number of works of improvement equally meritorious and important.

In discharging this duty your committee have availed themselves of all the information within their reach. Not only have the committee twice carefully considered all the facts contained in the special and general reports of the War Department, but every member and delegate was invited to appear, and over nine tenths of them did appear and present additional facts touching the improvements within their respective districts. Numerous delegations, representing different works, were also heard.

Conscious that in the investigation of so many hundred public works, new and old, that they may have in some instances done injustice, but trusting that in the main the conclusions arrived at will be found to be correct, the committee submit this bill as the result of their labors, with the hope that it will meet with the approval of Congress and of the country.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1566.

RELIEF OF SUFFERERS FROM OVERFLOW IN ALABAMA.

APRIL 7, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. FORNEY, from the Committee on Appropriations, submitted the following

REPORT:

[To accompany bill H. R. 7645.]

The Committee on Appropriations, to whom was referred the joint resolution (H. Res. 155) appropriating $300,000 for the relief of the sufferers by the overflow of the rivers in Alabama, having considered the same, recommend the passage of the accompanying bill, which appropriates $150,000, as a substitute therefor.

The following telegrams were submitted to the Committee on Appropriations during their consideration of the question of relief to the sufferers by the overflow of the rivers in Alabama:

MONTGOMERY, ALA., *April* 5, 1886.

HON. H. A. HERBERT, *House of Representatives:*

City and county authorities unable to cope with the distress from overflow; principally colored people. Can't you help us with the Government?

C. L. MATTHEWS. W. L. CHAMBERS.
JOSHUA MORRIS. W. W. ALLEN.
F. C. RANDOLPH. JOS. GOETTER.
H. C. MOSES. E. B. JOSEPH.
K. M. P. LEGRAND.

MONTGOMERY, ALA., *April* 5, 1886.

Hons. J. L. PUGH, JNO. T. MORGAN, H. A. HERBERT, A. C. DAVIDSON, and J. M. MARTIN:

Our information is that suffering from flood is so great impossible for local authorities to relieve.

H. R. SHORTERS.
W. C. TANSTALL.
H. C. TOMPKINS.

SELMA, ALA., *April* 5, 1886.

The Senators and Representatives of Alabama, Washington, D. C.:

This flood has been more destructive than any we have ever heard of in Alabama. Thousands of people along the river are without food, clothing, or shelter, mostly colored people. We are supplying all we can. This is a case of extreme necessity. Cannot the Government aid these helpless people?

E. W. PETTUS,
H. S. D. MALLARY,
F. BOYKIN, JR.,
Committee of Citizens' Meeting.

MONTGOMERY, ALA., *April* 5, 1886.

Hon. H. A. HERBERT,
Washington, D. C.:

The distress amongst the colored people in the overflowed district is terrible to contemplate, and while the county and municipal authorities and the citizens generally are responding nobly, they cannot relieve the necessities of the unfortunate. Please, therefore, urge an immediate appropriation by Congress.

W. R. WESTCOTT,
W. D. BROWN,
A. H. HUBBARD,
Members Board Revenue, Montgomery County.

[Copy of Telegram to Governor of Alabama.]

WASHINGTON, D. C., *April* 5, 1886.

Gov. E. A. O'NEAL, *Montgomery, Ala.:*

Does the situation in Alabama require relief for the people injured by the flood which the State cannot furnish?

What is needed—rations or money; at what points and what quantities?

Will the State undertake to distribute if Congress grants relief?

I telegraph by direction of the delegation.

WM. H. FORNEY.

MONTGOMERY, ALA., *April* 6, 1886.

Hon. WILLIAM H. FORNEY,
House of Representatives:

There is distress and destitution in all the river counties of the State. The State cannot give relief without a special session of the legislature, which cannot be had in time to meet the emergency. If Congress makes an appropriation let it be in money, and if thought best I will undertake its distribution, as at present advised. My opinion is that $150,000 will be sufficient.

A. E. O'NEIL,
Governor.

During the year 1884 similar aid was granted to the sufferers by the overflow of the Ohio and Mississippi Rivers, and $500,000 was appropriated therefor. See Statutes at Large, volume 23, pages 267, 268, 269, and 273.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1567.

BRIDGE ACROSS THE MISSOURI RIVER AT PIERRE, DAK.

APRIL 9, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. CRISP, from the Committee on Commerce, submitted the following

REPORT:

[To accompany bill H. R. 7646.]

The Committee on Commerce, to whom was referred the bill (H. R. 6683) to authorize the construction and maintenance of a bridge by the Dakota Central Railway Company across the Missouri River at Pierre, Dak., have had the same under consideration, and report as follows:

Your committee report a substitute for said bill, which substitute contains all the reservations and restrictions usual in such cases; and your committee recommend the passage of said substitute.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1568.

LIGHT-HOUSE ON SEUL CHOIX POINT, MICHIGAN.

APRIL 9, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. TARSNEY, from the Committee on Commerce, submitted the following

REPORT:

[To accompany bill H. R. 7647.]

The Committee on Commerce, to whom was referred House bill No. 3492, making an appropriation for establishing a light-house at Seul Choix Point, Michigan, have had the same under consideration, and report a substitute and recommend the passage of the same.

The necessity for the establishment of this light-house is clearly made apparent by the report of the Light-House Board for the year 1885, which reads as follows:

Seul Choix Point, northern shore of Lake Michigan, Michigan.

During the prevalence of northwest winds, this coast is followed by many vessels from Chicago and Milwaukee, and Seul Choix offers a good harbor of refuge in these winds, with good anchorage in from 3½ to 4 fathoms of water. There is no light on this northern shore between Poverty Island and Saint Helena, a distance of about 100 miles. On February 15, 1882, the Board made a favorable reply to a request received through the proper channels from the Committee on Commerce of the Senate for its views as to the necessity for establishing a light at or near Point Patterson, on the northern shore of Lake Michigan. On May 4, 1882, the Senate passed a bill appropriating $15,000 therefor, but the bill did not pass the House. A motion to add this item to the sundry civil appropriation bill of that year was ruled out on a point of order. Point Patterson and Seul Choix are within a few miles of each other. The Board is now of opinion that of the two Seul Choix is the better place for a light, and that there is an urgent necessity for its establishment. It is estimated that its erection will cost $15,000.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1569.

SEYMOUR F. ARNOLD.

APRIL 9, 1886.—Laid on the table and ordered to be printed.

Mr. HOUK, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 2170.]

The Committee on Military Affairs, to whom was referred House bill 2170, have considered the same, and report it back to the House adversely, with the recommendation that it lie on the table, for the reason that the relief sought thereby has heretofore been granted by the War Department.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1570.

DR. W. LEIGH BURTON.

APRIL 9, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PLUMB, from the Committee on Patents, submitted the following

REPORT:

[To accompany bill H. R. 2524.]

The Committee on Patents, to whom was referred the bill (H. R. 2524) for the relief of Dr. W. Leigh Burton, having considered the same, make the following report:

On the 12th and 23d days of March, 1869, patent was granted by the Commissioner of Patents to Dr. W. Leigh Burton, of Richmond, Va., for improvement in electro-heating, which invention appears to be a valuable one for the purposes for which it is designed.

Your committee further find that the patentee, Dr. Burton, was prevented by his financial disability, growing out of the condition of his section of the country after the close of the war, from taking the necessary steps to introduce his invention and secure to himself any benefits therefrom.

It further appears that circumstances have now so changed that means can be obtained to introduce said invention for general use, on condition that the extension of seven years asked for can be secured.

In view of all the circumstances of this case your committee are of the opinion that the interests of the public will be advanced and the proper benefit to the inventor be secured by granting the extension asked for.

It is therefore ordered that the bill be reported to the House, with the recommendation that it be passed.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1571.

ANDREW W. BILLINGS.

APRIL 9, 1886.—Laid on the table and ordered to be printed.

Mr. MATSON, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 572.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 572) for the relief of Andrew W. Billings, submit the following report:

That claimant is now receiving the highest pension provided by law for the disability from which he suffers (rheumatism). The committee therefore report adversely.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1572.

GUSTAV SCHUFFERT.

APRIL 9, 1886.—Laid on the table and ordered to be printed.

Mr. MATSON, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 3850.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3850) granting a pension to Gustav Schuffert, submit the following report:

Gustav Schuffert enlisted in Battery K, First Michigan Light Artillery, at the commencement of the war, and served with that command until the Atlanta campaign, when he was transferred to the Thirteenth New York Independent Battery, and remained with the latter until the fall of Atlanta, when he was again transferred to his former command and served faithfully to the close of the war.

He participated in many of the important battles of the war, including Resaca, Kennesaw Mountain, Fort Mountain, Pea Ridge, Peach Tree Creek, and Atlanta. On July 4, 1867, claimant, with others, were engaged in firing a cannon in celebration of the day, when he met with a severe accident, the loss of his right arm, by the premature discharge of the cannon. Since that time he has been struggling along trying to support his family, consisting of wife and eight children, by manual labor. To-day he is broken in health and unable longer to contribute to their support. He is endorsed as a man of excellent character and a good citizen, and as one deserving the generous assistance of the Government.

This man is an object of sympathy and pity, but this committee cannot afford to pension men for disabilities not incurred in the service, in special-act cases, and therefore report adversely.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1573.

LARKIN G. MEAD.

APRIL 9, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. LOVERING, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5283.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5283) granting a pension to Larkin G. Mead, have had the same under consideration, and respectfully report:

Larkin G. Mead was appointed by Governor Randall, of Wisconsin, as assistant surgeon of the Eighteenth Wisconsin in December, 1861; was severely ruptured at the battle of Pittsburg Landing, and at Corinth was prostrated with rheumatism and fistula. Dr. William Stevens, of Boston, certifies that "he has a large inguinal hernia on the right side, which is apparently irreducible. I also find evidence in the stiffened and enlarged joints of his toes and fingers that he has suffered from chronic articular rheumatism." G. L. Park, who was adjutant of the Eighteenth Wisconsin, states that the contract under which Mead acted as surgeon of that regiment was not in formal compliance with law, but that General Grant, upon a personal interview with Park, approved it. This legal informality prevents Dr. Mead from obtaining the benefit of the general law. George M. Miller testifies as follows:

That he was well acquainted with said Mead before the civil war of 1861, and that said Mead was of good and sound health; that since the return home of said Mead from service in the civil war he has known Mead well, and that since his return he has not only been wholly unfit for manual labor and self-support, but has been frequently confined to the house; that he is at all times, and has been since his return from service in the war, a sufferer with rupture, fistula, and rheumatism, and that he is supported by the charity of his friends.

Adjutant Park's affidavit is as follows:

STATE OF WISCONSIN,
County of Wood, ss:

Gilbert L. Park, being first duly sworn, upon oath says:

I reside at Stevens Point, Portage County, State of Wisconsin, and am over fifty years of age, and am the identical Gilbert L. Park who was adjutant of the Eighteenth Regiment Wisconsin Volunteer Infantry in the war of 1861; that I knew personally Larkin G. Mead, formerly of Madison, Wis., and who was by the governor of Wisconsin appointed an assistant surgeon for said regiment; that soon after the battle of Shiloh I was taken sick and sent to hospital at Saint Louis, Mo., and remained there until I rejoined the regiment at Corinth in the last of July or first of August, 1862. That at my return to camp near Corinth I found said Mead sick, utterly helpless, incapable of walking or attending to any business whatever, and in the camp of said regiment at Corinth. Also, that he had been engaged in attending as a physician and surgeon to the sick and wounded of the Eighteenth Regiment Wisconsin Volunteer In-

fantry under a written contract, but which contract, from some informality in its execution or omission of some approval, was [not] legally made or absolutely binding. There was then due Mr. Mead on the contract several hundred dollars. I took this contract and went to General Grant's headquarters and obtained from General U. S. Grant an order indorsed on the contract and signed by him, ordering the money due on the contract to be paid to Mead. This order, I think, was directed to Major Reynolds, a United States paymaster. With this contract and order I received a sum of money, which I paid over to Dr. L. G. Mead the same day. I do not now recollect what that sum amounted to, nor whether it was in full satisfaction of Dr. Mead's services or not. Nor do I now remember what amount was due him. This money was paid alone by virtue of General Grant's order, and the application for the order and the making of it by General Grant was solely because of Dr. Mead's health, as a necessity to save his life by sending him North. I had, and still have, a faint impression that the amount paid was $345 and some cents, but do not recollect it as a fact; nor can I from memory tell what sum was paid. Dr. Mead's services under the contract were commended by nearly if not every commissioned [officer] in the Eighteenth Wisconsin Volunteer Infantry, in writing, signed by the officers and attached to the contract, as services skillfully, satisfactorily, and faithfully rendered. This was done at Corinth, Miss., on or about the 1st of August, 1862.

G. L. PARK.

STATE OF WISCONSIN,
County of Wood:

Before me, the undersigned, clerk of the circuit court for the county of Wood, on the 9th day of May, 1882, came G. L. Park, to me well known to be the identical person named, and who signed the above affidavit and made oath before me that the same is true. In witness whereof I have hereunto set my hand and affixed the seal of said court this 9th day of May, 1882.

[SEAL.]

R. P. BRONSON,
Clerk of the Circuit Court in and for Wood County, Wisconsin.

In view of his well-attested services on the battle-field, his injuries resulting therefrom, and his present crippled condition, your committee are of opinion that he deserves the pension he asks. They therefore report back the bill, and recommend its passage with the following amendment: Strike out, in the sixth line of the bill, the following words: "at the rate of —— dollars a month," and substitute therefor the following: "subject to the provisions and limitations of the pension laws."

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1574.

ARETUS F. LOOMIS.

APRIL 9, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CONGER, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7018.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7018) granting a pension to Aretus F. Loomis, beg leave to report:

That Aretus F. Loomis enlisted in Company K, One hundred and twenty-fifth Regiment New York Volunteers, on the 9th day of August, 1862, and was discharged June 5, 1865.

He filed his application for pension September 30, 1882, alleging disabilities contracted while a prisoner of war in Andersonville and other Confederate prisons. The fact of present disability, of its incurrence during his prison life, and of its continuance since, is clearly and conclusively established, but his claim was rejected "on the ground that claimant was not in line of duty when captured, hence the disabilities resulting from his imprisonment did not originate in line of duty." This decision seems to have been based wholly upon the records furnished by the Adjutant-General's Office.

Claimant claims to have been captured at Spottsylvania May 13, 1864. The company morning reports for May and June, 1864, show him "absent without leave since May 9, 1864." July and August same report; but September and October report him "absent sick since May 9; supposed to be captured." March and April, 1865, "present, exchanged prisoner of war."

Prisoner of war records show him captured at Spottsylvania May 13, 1864. His regiment is reported to have been in action May 8, 9, 12, and 13, 1864. Loomis claims that the records are wrong; that he was never absent without leave, and that he was with his company from the 9th of May to the 13th, when he, with about thirty-five others, was captured on the skirmish line. This is also proven by a comrade who was captured with him.

This case appears to have been very thoroughly and carefully examined at the Pension Office, twice finding its way to the table of the Commissioner himself, at one of which times he indorses them: "The very point clothed in doubt is *captured while in line of duty.* * * * I am satisfied with the other points in the case," and at the other, "Why should not the case be admitted, captured in line of duty, disability as alleged at and since discharge? I think it a meritorious case." To solve this doubt four special examinations were made by four different examiners, and every one after a careful examination of the case certifies to its merit and recommends its admission.

All the evidence taken by the special examiners tends to establis the truth of claimant's statement. The only testimony that could po sibly be construed otherwise is a statement of claimant's mother th her son told her that he with others of his comrades were capture while foraging. All the other proof is that they were captured whi skirmishing, and this is probably what the soldier told his mother.

The Pension Office evidently took this statement of the mother as co roborating the "absent without leave" record, and so rejected the clai

The special examinatons show that the claimant is a man of the hig est character, and his statements are implicitly relied upon by all h neighbors.

It is not an uncommon thing to find discrepancies and errors in th Army records, especially in company reports made during active ca paign, and your committee cannot understand how this case could ha been rejected upon this record, which seems clearly to have been an erro

We believe the claimant was captured in line of duty, that his rig to a pension is conclusively established, and therefore recommend th passage of the bill, after inserting in line 4, after the name "Loomis the words "late a private in Company K, One hundred and twenty fif New York Volunteers."

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1575.

MARY A. SHANNON.

APRIL 9, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ELLSBERRY, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1766.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1766) granting a pension to Mary A. Shannon, widow of Criner C. Shannon, late a private in Company G, One hundred and eighteenth Ohio Volunteers, report:

The claim of this widow was rejected in the Pension Office on the ground that her husband died of a disease which originated after discharge.

The committee concede that the erysipelas which caused the soldier's death did not originate in the service, but we think it is clearly shown that the erysipelas did result from diseased eyes contracted while in the service and for which he was receiving a pension at the time of his death.

In support of this view of the case we quote the evidence of Dr. Watson, who testifies that he attended the soldier in his last illness for about one week prior to his death; that the immediate and remote cause of soldier's death was inflammation of the eyes, during the progress of which erysipelas set in, and resulted in his death; that the disease of eyes was the immediate cause of the inflammation. In a subsequent affidavit Dr. Watson states that the inflammation in the eyes took an acute form, probably from exposure, and was so great as to cause much redness of the eyes, and while in this condition erysipelas set in and spread all over the face and reached the throat, causing his death in about six days after erysipelas commenced.

The only material question involved in this case is, Did erysipelas result from inflamed eyes? Your committee think it did, and recommend the passage of the bill.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1576.

ELIZABETH A. NEIBLING.

APRIL 9, 1886.—Laid on the table and ordered to be printed.

Mr. ELLSBERRY, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1764.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1764) granting arrears of pension to Elizabeth A. Neibling, report:

That the claimant is now receiving a pension of $30 per month under special act approved March 13, 1876, from which date her pension was made to commence under the provisions of the general pension laws. This bill provides for arrears from the date of husband's death, in 1869, to the date of the commencement of pension under special act. As it is not in conformity with the practice of Congress to grant arrears, your committee recommend that the bill do not pass.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1577.

FREDERICK SEIBOLD.

APRIL 9,1886.—Laid on the table and ordered to be printed.

Mr. ELLSBERRY, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1769.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1769) granting a pension to Frederick Seibold, report:

That the evidence fails to show that the disabilities for which pension is claimed are the results of claimant's military service, and the committee therefore report adversely.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1578.

HENRY KELLER.

APRIL 9, 1886.—Laid on the table and ordered to be printed.

Mr. ELLSBERRY, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1761.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1761) granting a pension to Henry Keller, report:

That claimant, when he sustained his alleged disabilities, was on veteran furlough; and your committee fail to find that said alleged disabilities are a legitimate result of his military service.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1579.

MATILDA SPANGLER.

APRIL 9, 1886.—Laid on the table and ordered to be printed.

Mr. ELLSBERRY, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1759.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1759) granting a pension to Matilda Spangler, report:

That this claimant received a pension of $8 per month from November, 1862, to October, 1872, under the act of July 14, 1862, when she forfeited her pension by remarrying. Upon what grounds she bases her claim for pension by special act your committee is unable to comprehend, and report adversely.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1580.

ELIZA STARTSMAN.

APRIL 9, 1886.—Laid on the table and ordered to be printed.

Mr. ELLSBERRY, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1760.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1760) granting a pension to Eliza Startsman, report:

That the testimony shows conclusively that the son of claimant, for whose death pension is claimed, was not a soldier at the time of his death, nor is it claimed or shown that the disease from which he died resulted from disabilities contracted in the service. Your committee can see no just claim against the Government, and report adversely.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1581.

MARY C. SNODGRASS.

APRIL 9, 1886.—Laid on the table and ordered to be printed.

Mr. ELLSBERRY, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1771.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1771) granting a pension to Mary C. Snodgrass, report:

That upon examining the papers in the case we find that claimant has never applied to the Pension Office for relief; and also that her husband was killed in 1882, for which his service as a soldier during the war was in no manner responsible. Your committee report adversely.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1582.

MARTIN JACOBY.

APRIL 9, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SWOPE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4699.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4699) granting a pension to Martin Jacoby, respectfully report:

Martin Jacoby is the dependent father of David Jacoby, late of Company C, Seventeenth Regiment Pennsylvania Cavalry, and of Martin Jacoby, jr., of the Seventy-ninth Regiment Pennsylvania Volunteers, both of whom were lost in the service of their country.

The basis of the claim is that David Jacoby contributed to his parents' support, and, in corroboration of the same, Martin Winger and James Ream, December 21, 1870, testify that soldier worked for them during 1859, 1860, and 1862, and they paid his earnings to his mother for support of herself and family.

David Jacoby enlisted September 17, 1862, and died of typhoid fever at Chestnut Hill General Hospital, Philadelphia, Pa., July 7, 1863.

Soldier's mother, Elizabeth Jacoby, filed application for pension in the Pension Office, for the loss of this son, but the Bureau rejected her claim on the ground that she was not dependent upon the soldier for support.

The mother died January 30, 1879. The father, for whose benefit this bill was introduced, filed his application for pension September 3, 1866, and the claim was rejected by the Pension Office on the ground that the soldier's mother was living when said claim was made and filed.

There is no question or doubt as to the fact of soldier having been treated for and having died in the Government hospital of typhoid fever. The records are very clear as to that. As the soldier's mother is now dead the grounds upon which the father's claim was rejected are virtually set aside, and the claim rests upon the fact of dependence or non-dependence of parents, and the following evidence touching those points is presented.

Dr. A. O. Bare testifies:

Claimant disabled by heart disease and unable to perform any labor in 1863; and since.

James Ream and C. M. Quaid testify:

The claimant has been in ill-health since before the soldier enlisted, and his earnings since the year 1863, and before that time, have been so small that they are of no account.

The assessment records of Lancaster County, Pennsylvania, show assessments against the claimant for each year from 1863 to 1876, inclusive, as follows:

1863, $550; 1864, same; 1865–'66, $400; 1867, $400; 1868–'69, $245; 1870, $462; 1871, to and including 1873, $425; 1874, to and including 1876, $1,000. No subsequent assessment.

John G. and Eliza Root testify:

Claimant is poor, and no means of support; that the house and lot he owned in Vogansville, Pa., has been sold for the payment of his debts; he is sickly and unable to make a living.

E. S. Zook, October 3, 1881, testifies:

I purchased from claimant on March 18, 1876, his house and lot in Vogansville, Pa., and paid him for the same $1,187.50.

C. O. Hoffman testifies:

On September 4, 1878, Isaac Vogan, of Vogansville, Pa., made an assignment to me for benefit of creditors. At that time Martin Jacoby, claimant, occupied premises belonging to said Vogan, the rent of which was $194 per annum. In addition to the rent, affiant found that claimant was indebted to said Vogan on a judgment bond for $2,100, and the claimant made to affiant, as assignee of Vogan, the following payments, to wit: During 1879, $1,234.66; in 1880, by cash and credit, $979.67; in all, $2,204.43.

The public records, Lancaster County, show that Martin Jacoby, claimant, made an assignment on April 16, 1880, of his property in favor of his creditors, and that no balance was left.

This is one of the instances in which the holding the deed to a property is frequently accepted as a proof that the party holding the deed may be considered to be worth as much as the property would bring if sold. Unfortunately for this claimant, he all along owed more money than the property was worth, and its possession cost him more in the way of taxes and so forth than the income brought him. In addition, it is hitherto acted as a barrier to claimant receiving a pension as a dependent father. An examination of this case has satisfied your committee that this claimant had been in receipt of an income from the services of his son whilst living; that he has had a hard struggle to get along ever since his son's death. It is altogether probable that had his son lived he would not only have contributed to the support of his parents, but that also having been raised to habits of industry and economy, he might have saved for his parents the little property which was sacrificed to their necessities. Your committee, for these and other reasons, believing this to be a meritorious case, report the bill favorably and recommend that it do pass.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1583.

DAVID L. McDERMOTT.

APRIL 9, 1886.--Committed to the Committee of the Whole House and ordered to be printed.

Mr. SWOPE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5435.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5435) granting a pension to David L. McDermott, respectfully report:

David L. McDermott was enrolled on the 23d day of February, 1862, in Company K, of the One hundred and seventh Regiment of Pennsylvania Volunteers, and was discharged on the 7th day of June, 1862.

He claims a pension on the following basis: While a member of the organization aforesaid, in the service, and in the line of his duty, at Washington, D. C., on or about the 4th day of March, 1862, he was in the act of harnessing a mule and was kicked on the left leg above the ankle, causing a fracture of the said limb. That since he received the said injury several bones have come out of the leg, and it is now open and become a chronic sore, depriving him of the use of it, and having to use two crutches.

The Pension Office has notified claimant that his claim cannot be further considered until certain evidence is furnished. As claimant cannot possibly at this late day comply with the requirements of the Department, the claim stands almost a rejected one, hence his appeal to Congress.

The board of examining surgeons of Harrisburg, Pa., in report dated September 21, 1881, state:

In our opinion the said applicant is total two grade incapacitated for obtaining his subsistence by manual labor from fracture of left leg caused by kick of mule. It is our opinion that the said disability did originate in the service in the line of duty, and the disability is permanent. At present the leg is one mass of disease, due to carious bone. The whole tibia seems to be involved, as the fistulous openings extend from kee to ankle joint.

The Assistant Surgeon-General, United States Army, states "there are no records of the regiment named within on file in this office," in reply to the usual letter of inquiry from the Commissioner of Pensions.

As to the soldier having incurred the sore leg in the Army service, Adam Bloom, comrade, testifies:

That he has been personally acquainted with claimant for about thirty-five years. That he enlisted with him in Company K, One hundred and seventh Regiment Pennsylvania Volunteers. That he, in company with claimant, was detailed to post duty at Washington, D. C., in the capacity of driver or teamster. That on the morning of March 4, 1862, deponent and claimant, in the line of duty, were driving Government teams through the said city of Washington, D. C., and somewhere along Twenty-

second street claimant was in the act of hitching up or harnessing a mule, to l substituted for one that was disabled in his team, and the mule becoming refracto and unmanageable kicked and knocked claimant down, and tramped him in a frigh ful manner. Deponent, assisted by others, carried claimant back to his tent, a upon examination found his left leg badly bruised from the ankle to the knee. Tv weeks after he saw claimant again in the hospital, in bed, unable to stir or walk. June, 1862, deponent took soldier from hospital and hauled him home; he was st seriously disabled and totally unable to walk. He has frequently been with claima since discharge, and knows that he (claimant) was always unable to do any hard phy ical labor by reason of his sore leg.

David Miller testifies to substantially the same as above quoted.

Thompson Anderson also testifies similarly.

From the evidence as above detailed it appears that this soldier r ceived an injury to his leg while in line of duty, that this injury was great severity at the time of its incurrence, and has continued ever sin in an increasing degree. The board of examining surgeons state th the leg is in a very bad condition from caries of the bone, portions which are discharged from time to time, and eventually its amputatic may become necessary. The case was delayed in the Pension Bure for lack of evidence as to the incurrence of the injury as claimed. Tl claim was grossly neglected by reason of want of diligence on the pa of the person having it in charge, otherwise it is clear that the soldi would have long since been in receipt of the pension to which it is t opinion of your committee he is justly entitled. The lacking eviden has been furnished this committee, duly certified to, as quoted abov

They, therefore, deeming this to be a meritorious case, recommen the passage of the bill.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1584.

MRS. WILLIE ARMSTRONG.

APRIL 9, 1886.—Laid on the table and ordered to be printed.

Mr. SWOPE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 3635.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3635) granting a pension to Mrs. Willie Armstrong, widow of John C. Armstrong, deceased, late of Company A, Twenty-fifth Regiment Ohio Volunteers, respectfully report:

John C. Armstrong enlisted under the name of Drewe C. Iveson (and is known by the latter name at the Department), June 5, 1861, and was discharged October 1, 1862. The widow of soldier applied to the Pension Bureau for a pension, but the claim was rejected, on the ground that the origin of the fatal disease is not accepted as due to hernia, for which soldier received a pension up to the time of his death. The Department granted the soldier a pension from October 17, 1862, at $4 per month, for scrotal hernia. Your committee deem it unnecessary to quote the evidence adduced in reference to soldier's application, which was granted, as the question to be decided is whether the fatal disease was a consequence or the result of injury received in the service in line of duty. The medical referee, Dr. T. B. Hood, January 16, 1884, says:

> Death in this case was probably due to congestion of the brain. Certainly not a result of the hernia for which soldier was pensioned.

The physician who attended soldier in his last illness, Dr. Ellis Phillips, in affidavit dated April 5, 1883, testifies:

> I never treated soldier until a short time before his death in his last and fatal illness. About June 3, 1881, he was in a stupor, from which he soon revived to apparently fair health. In two days afterwards he sank suddenly into a profound stupor, from which he never rallied. He never became conscious until death. I regarded his disease as apoplexy. He died on June 7, 1881. I kept no record of his case, and cannot give exact dates of prescriptions or treatment. He took very little medicine, if any. The only wound or scar or blemish of any kind I was able to discover on examination of his body was a scrotal hernia.

Your committee fail to trace any connection between apoplexy, the disease from which claimant's husband died, and hernia from which he was a sufferer, and for which he was pensioned. There are many cases presented to this committee in which the general deprivation of health, consequent upon injury or disease contracted in the Army, may be regarded as predisposing to fatal disease. But in this instance there seems to be no connection whatever between the hernia and apoplexy. Your committee therefore sustain the decision of the Pension Department, and recommend that the bill lie on the table.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1585.

JOSIE H. BABB.

APRIL 9, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HAYNES, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7330.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7330) granting a pension to Josie H. Babb, submit the following report:

John W. Babb, a musician in Company I, Fifteenth New Hampshire Regiment, was pensioned for malarial poisoning and effects. He claimed also for disease of lungs, but was unable to prove the incurrence of this disability to the satisfaction of the Department, and disease of lungs not being admitted as due to malaria, claim for increase on account of this disability was rejected. The testimony of Lieutenant Wallingford and Assistant Surgeon Jauvrin shows that Babb's sickness was of a most severe and protracted nature, culminating in a remittent typhus fever. Physically sound on entering the service, he was discharged badly wrecked in health, and secured a pension for a portion of his disabilities, as stated above. The disability for which he unsuccessfully claimed was the immediate cause of his death, which occurred October 26, 1879.

The same reasons which had operated against his claim on account of lung disease caused the rejection of his widow's claim.

Babb's own statement, while endeavoring to establish claim for lung trouble, was as follows:

I cannot get medical testimony, on account of my not having employed a regular physician, having employed several different ones. I contracted a bronchial trouble while in the United States military service, in the year 1863, at Port Hudson, La. It began with a tickling in the throat and increased continually, and finally settled in my lungs. Since 1868 my lungs have been a little sore, especially the right one, but nothing that I considered bad until July 1, 1876, when I had a severe hemorrhage, and in the spring of 1867 I had another hemorrhage (I cannot remember the exact date). On April 19, 1879, I had another hemorrhage. Since the year 1863 I have been able to work but a part of the time. Since July 1, 1876, I have been unable to work at all. I never have had an attack of pneumonia in my life. None of my family were or are consumptive.

The evidence in this case leads to these conclusions: That Babb entered the service a sound man physically, contracted a disability of a most serious character, which continued with him until his death, and which rendered him incapable of performing any but the lightest labor, and that only a part of the time; that about 1868 a disease of the lungs had developed to such an extent as to attract serious attention, said trouble increasing until hemorrhages occurred, and he died as a result of them.

Without questioning the correctness of the decision of the Pension Office, we are convinced from the testimony on file that but for the proven wreck of his health in the United States service, he might to-day be living as the support of her who comes to Congress with this petition for relief. She is a poor woman, dependent upon her own labor for support.

We accordingly report the bill back to the House, and recommend that it do pass.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1586.

PATRICK McKEAN.

APRIL 9, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HAYNES, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7329.]

The Committee on Invalid Pensions, to whom was referred House bill 7329, beg leave to submit the following report:

Patrick McKean enlisted as a private in Company K, Eighth New Hampshire Regiment, November 15, 1861, and was discharged January 17, 1865. In his claim for pension he alleges that about August 30, 1862, near Camp Parapet, Louisiana, he became night-blind, and that in the spring of 1864 he contracted rheumatism.

His claim for rheumatism was rejected on ground that claimant cannot furnish necessary testimony, and for night-blindness on ground that he has not been disabled in a pensionable degree.

Frank McManiman and Martin Bohen testify to his soundness and freedom from either of these disabilities prior to enlistment. The latter worked in the same room with him and saw him every day. Cornelius Moriarty worked with him for two years before enlistment, and testifies to his soundness, and that after his return from the Army he knew him to be troubled as he alleges.

There is great abundance of most competent evidence to show these disabilities in the service.

Capt. Thomas Connolly testifies that night-blindness first appeared at Camp Parapet in 1863, and McKean could not be detailed at that time for guard duty on account of said disease.

Lieut. John J. Nolan testifies that McKean contracted rheumatism at Franklin, La., in 1864, and was left behind in New Orleans in spring on account of said rheumatism and night-blindness, and was sent to Saint Louis hospital; that claimant was a faithful soldier, and a man whose statements are worthy of belief.

Assistant Surgeon Clark that, some time in year 1862, claimant was afflicted with night-blindness; that in April, 1863, while on march in rear of Port Hudson this disability was so troublesome that he (Clark) ordered a man to march on each side of McKean to guide him, as he satisfied himself by observation that his difficulty was real and not feigned; that McKean's disability continued during his (Clark's) connection with the regiment, to August, 1864.

Sergeants Lawrence Foley and Michael Kenney, Privates Michael Finnegan, Thomas Brennan, and William McIntyre furnish evidence in regard to claimant suffering from these disabilities, some stating circumstances and incidents occurring in connection with claimant's night-blindness.

Dr. John Ferguson treated him for rheumatism in spring of 1872; prescribed frequently, and advised McKean to go to Soldiers' Home. Dr. Buck, who treated him at other times, is dead.

There are also about a dozen affidavits, which we deem it unnecessary to quote in detail, all tending to show that from the time of his discharge he has been more or less disabled by both troubles. Some of these knew him as free from them prior to his enlistment, and noticed their effects upon his return from the Army.

Edwin R. Jones, an overseer in the Manchester mills, says claimant worked for him in 1867 and 1868, and was at times unable to work on account of trouble with eyes, which claimant said he contracted in the service. He was a good man and a good workman.

It appears that at times McKean has been disabled four or five weeks at a time on account of night-blindness and rheumatism.

The sick report of regiment shows that claimant was treated in 1864 for intermittent fever, a fact which we consider in connection with the report of the Manchester board, hereafter given.

A special examination was ordered by the Department with a special view to determine "whether as a matter of fact this man now has or has had night-blindness," and examination in regard to rheumatism was only incidental. This special examiner expressed opinion that claimant's "eyes are near sighted and weak, but not night-blind;" but, in order to fully determine the question, recommends a further examination, which, however, does not appear to have been had.

F. S. Peters, reviewer, special-examination division, says upon this report:

> There is unquestionably some lesion of sight, but whether it has impaired sight in a pensionable degree will probably have to be decided by medical reference.

Dr. Canelle, a specialist, made examination of eyes, under direction of the Department, March 29, 1884, and reported as follows:

> Opthalmoscope examination shows a small optic disk, with a large ring of choroidal atrophy surrounding it, in each eye. The blood-vessels appear smaller than normal. Otherwise the choroid and retina look normal. Field of vision normal in extent. Color-blind for green; other colors perceived. Diagnosis: Sclerochoroiditis posterior both eyes; both disks look small, but should not call them atrophied; they don't look pale, but vessels seem smaller than normal. His vision is not so good at night for distance, without glasses, as in the day-time, if his statement can be believed; but with convex glasses he saw quite as good at night as in the day-time. I cannot say that he is not night-blind. There are no physical signs by which it can be detected. The applicant has the appearance of being much older than 44 years of age. I cannot say whether his Army service had anything to do with the trouble in his eyes or not.

The Manchester board report as follows, date June 16, 1880:

> Conjunctiva slightly injected; eyes apparently weak; winks frequently, is myopic; reads Snellen's No. X at 2½ feet. He says he is unable to do any work after twilight. We are not satisfied that he suffers from hemeralopia; but if sufficient evidence to establish that fact is in possession of Department, would rate his disability at one-fourth total, or $2 per month. No evidence of rheumatism. Says he has chills and fever frequently. Do not recommend pension for rheumatism. He says he has at times severe pain in joints, disabling him from labor. We believe this may be neuralgia, due to malarial poisoning, and would rate disability from this cause at one-half total or $4 per month.

From the history of the case disclosed in the evidence, which is very direct and voluminous, we arrive at the conclusion that McKean did contract a disease of the eyes in the service, and also a further disability, whether it be rheumatism or neuralgia, and that he should be allowed pension for the disabilities for which the Manchester board rated him.

We recommend the passage of the bill.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1587.

JAMES ANDERSON.

APRIL 9, 1886.—Laid on the table and ordered to be printed.

Mr. HAYNES, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7088.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7088) granting a pension to James Anderson, submit the following report:

Michael Dunn, *alias* James Anderson, enlisted October 6, 1863, as a private in Company B, Fourth New Hampshire Regiment; was transferred to the United States Navy April 27, 1864, and discharged therefrom October 3, 1864.

In his claim for pension he alleges that about October 1, 1864, on the James River, while serving on the Mackinaw, while fixing the awning, he fell from the poop to the gun-deck, severely injuring his spine and lower extremities, causing paralysis of back and lower extremities and varicose veins of legs. He is unable to furnish any evidence of the incurrence of this disability.

To establish his soundness prior to naval service he files affidavits of three comrades in the Fourth New Hampshire, stating in general terms that so far as they knew he was a sound and able-bodied man while in that service. The numerous letters of the claimant on file addressed to the President, the Secretary of War, and the Commissioner of Pensions, place great stress upon the testimony of the surgeon who examined him, as showing his soundness at enlistment. The certificate of this surgeon (Dr. Robert B. Carswell) is as follows:

I hereby certify that a man (claiming to be James Anderson, late private in Company B, Fourth Regiment, New Hampshire Volunteers, and that I examined him in October, 1863, as a substitute for Daniel C. James, of Manchester, N. H., and passed him to be enlisted in the service of the United States) presented himself to me to-day for the purpose of getting a certificate to show that he was an able-bodied man at the time of his enlistment. In answer to his request I have to say that if his statement is true (which I have no special reason to doubt, and I did examine and accept him at the time stated), he must have been an able-bodied man, else I should not have accepted him.

But whatever weight we might be disposed to give such testimony in favor of claimant, we could not ignore the record in the United States naval hospital at Norfolk, from which he was discharged, viz:

The hospital ticket, signed J. Stevens, acting assistant surgeon, United States Navy, is indorsed as follows: "James Anderson, L.; native of Wales; aged twenty; has been

on the sick-list two or three weeks; says he had a fall some years since from the topsail-yard of a ship in the merchant service; has complained of pain in the back, side, and lower limbs; has been cupped and blistered, &c., and taken mercury, iodide of potassium, &c., together with tonics, &c., but he does not seem to improve. He has just been transferred from the Army. Disease did not originate in line of duty."

His own statement, on file, shows that previous to his enlistment he was in the merchant service, and made several long voyages.

We report adversely on the bill, and ask to be discharged from its further consideration.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1588.

FERDINAND KOEHLER.

APRIL 9, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6770.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6770) granting a pension to Ferdinand Koehler, submit the following report:

It appears from the files in this case that claimant enlisted in Company C, Second Missouri Cavalry, November 22, 1861, and was discharged March 16, 1863, upon surgeon's certificate of disability. In March, 1879, he applied for a pension, alleging internal bleeding hemorrhoids. This application was rejected on ground of no record and no medical treatment in service. He claims that he was treated in regimental hospital, and no records of that regiment are on file. The certificate upon which he was discharged says he was unfit for duty six months before discharged.

Dr. Edward Mayer and several neighbors testify that claimant was an unusually sound man when he enlisted. The former also testifies that claimant was very sick while the regiment was stationed at Saint Louis.

Sergeant Pousch, of the same company, testifies to his sickness in service, and that at the time of his discharge he was suffering from his back and spells of bleeding at his bowels, and that he testifies to this from personal knowledge. Christian Ott, a comrade, corroborates this.

Dr. Mayer testifies that he became his family physician when he returned from the Army, and that from time of his discharge to the present claimant has been a diseased and disabled man.

B. Warsenger, Wilson Mills, and Andrew Frasier testify as to continuance. Dr. L. Dyer testifies as to treatment for hemorrhoids in 1865. The examining board of surgeons report him totally disabled with hemorrhoids and asthma. His inability to procure medical evidence in service at or immediately after discharge seems to have been the cause of rejection. He served sixteen months, entering the service an unusually strong man, and came out completely broken down. The existence of the disease in the service soon after discharge and ever since seems to be established.

Your committee recommend the passage of the bill.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1589.

HENRY B. HAVENS.

APRIL 9, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6780.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6780) granting a pension to Henry B. Havens, submit the following report:

We find that claimant enlisted December 1, 1861, in Company 1, Twenty-third Missouri Volunteers, and was discharged June 7, 1862, upon surgeon's certificate of disability, showing disease of lungs. In July, 1864, he filed application for a pension, which was rejected, on the ground that the disease existed prior to enlistment. A large amount of evidence has been submitted in this case. Two special examiners have thoroughly investigated it.

Several witnesses testify that claimant was apparently a well, strong man at enlistment. His father, a physician, swears that he was free from lung disease when he entered the service. Several witnesses testify that they did not regard him as a strong man, but considered that he was disposed to disease of lungs.

Lieut. George W. Easley, commanding the company, certifies June, 1862:

> That claimant was not very healthy when he enlisted, but was able to do good duty, but the exposure to which he was subjected has hurried on consumption, which has rendered him unfit for duty for two months.

The surgeon also certifies that the disease existed in an incipient stage prior to enlistment. All the witnesses unite in speaking of the high character of the soldier.

From a careful examination of the evidence your committee conclude that claimant was a man of weak constitution, though in the enjoyment of fair health at the time he entered the service; that under the exposure and hardship incident to camp life he broke down and became a confirmed invalid. If he had been a robust man, with an iron constitution, he probably would have endured the hardships without physical injury. If he had remained at home it is equally probable that he might have enjoyed for years a fair measure of health. He is now unable to labor, and can live but a few months.

Your committee recommend the passage of the bill.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1590.

SAMUEL W. BOWLING.

APRIL 9, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6797.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6797) granting a pension to Samuel W. Bowling, submit the following report:

We find that a similar bill granting a pension to claimant passed the House during the Forty-eighth Congress.

Your committee, after an examination of the papers, adopt the report of the Committee on Invalid Pensions of the Forty-eighth Congress, which is as follows:

Samuel W. Bowling was a private in Company D, Eleventh Kansas Cavalry, and served with credit during the war up to August 31, 1864, when he was discharged on account of disability growing out of a lame and ulcerated leg. The claimant before enlistment received a gunshot wound above knee. The claimant shows that he had an ulcerated leg below the knee, and has now, and that same from injury received in the service in line of duty. The ulceration and enlargement of veins is at least 10 inches below the wound. It may be that the gunshot wound predisposed to some tenderness, but it is clearly shown that it is not the cause of the disability. The claimant, on the contrary, shows that he was sound at date of enlistment.

DEPARTMENT OF THE INTERIOR, PENSION OFFICE,
Washington, D. C., May 19, 1884.

DEAR SIR: Touching the claim of S. W. Bowling, Company D, Eleventh Kansas Volunteers, of which you requested me to officially certify, I have the honor to state that the evidence is that he incurred a gunshot wound of the left leg prior to enlistment, in consequence of which the calf of that leg is now considerably enlarged, and the leg the subject of ulceration, due to venous congestion. These conditions disable the claimant quite seriously, certainly entitling him now to a "total" rating.

Very truly, &c.,

T. B. HOOD, M. D.,
Medical Referee.

Hon. C. H. MORGAN,
House of Representatives.

The above letter is made part of this report.

Wherefore your committee report the bill back, with the recommendation that it do pass.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1591.

WILLIAM M. SWARTZ.

APRIL 9, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6725.]

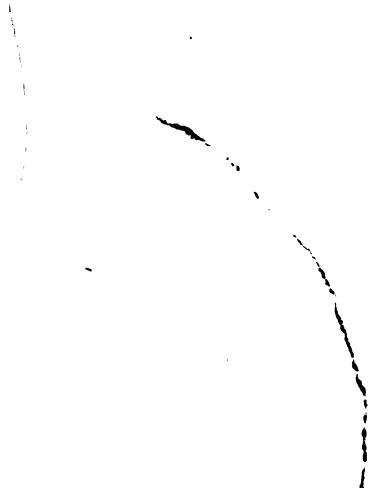
The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6725) granting a pension to William M. Swartz, submit the following report:

We find that claimant enlisted in Company F, Forty-sixth Regiment Ohio Volunteers, October 1, 1861, and was discharged July 22, 1865. In June, 1876, he applied for a pension, alleging that he received a rupture while in battle at Kenesaw Mountain, June 22, 1864. The Department refuses to allow the claim without more evidence of incurrence and continuance, and the claimant declares himself utterly unable to obtain any further evidence.

Dr. J. W. Lewis testifies that he examined claimant at time of enlistment, and pronounced him a sound man physically and mentally. William T. Stewart and James W. Smith testify that they were present at the battle of Kenesaw Mountain, and that while engaged in charging the enemy they had to jump across a small stream; that immediately after said Swartz complained of an injury to his left side; after the battle was over, the surgeon examined him and said he was ruptured in the left side; that they continued in the service with said Swartz until close of war in June, 1865, and that he frequently complained of pain from the rupture. Affiant Smith says he lived near claimant for a year after their discharge, and that he was frequently partially disabled from labor on that account. The standing of these witnesses is reported good. Henry Swartz corroborates the above as to incurrence of injury.

Dr. E. G. Suyrley testifies to treatment in 1877 for strangulated hernia. Jerry Neibling, a gentleman of unquestioned veracity, testifies that he knew claimant before and after service; that he was a sound man when he went into service, and when he came out he complained of hernia and a weak back; that in 1875 he had a severe attack and they were obliged to call a physician to reduce it. The medical examining board at Saint Joseph, Mo., report oblique inguinal hernia of left side. It would seem as though there could be no doubt that claimant was injured as claimed and that the disability has continued ever since.

Your committee therefore recommend the passage of the bill.



49TH CONGRESS, 1st Session. | HOUSE OF REPRESENTATIVES. | REPORT No. 1592.

GEORGE W. COX.

APRIL 9, 1886.—Laid on the table and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6651.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6651) granting a pension to George W. Cox, submit the following report:

The files in this case show that claimant enlisted August 14, 1862, remained in camp until September 3, when he was examined by the surgeon for muster, and rejected on account of disease of the hip. He claims that the disability was contracted during the twenty days prior to muster, and asks a pension. The evidence submitted does not establish the claim, and your committee therefore report adversely, and ask that the bill lie on the table.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1593.

FELIX R. BUSTER.

APRIL 9, 1886.—Laid on the table and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6765.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6765) granting an increase of pension to Felix R. Buster, submit the following report:

Claimant is receiving a pension of $8 per month for single inguinal hernia. The medical examining board at Macon, Mo., who made the last examination, report: "His present rating is quite sufficient." No evidence is submitted to prove that his disability is any greater than the thousands of his comrades who were injured in the same manner.

Your committee therefore report adversely, and ask that the bill lie on the table.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1594.

WILLIAM G. BUCK.

APRIL 9, 1886.—Laid on the table and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6785.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6785) restoring William G. Buck to the pension roll, submit the following report:

The claimant, who was a private in Company K, Seventeenth Iowa Volunteers, was granted a pension at $2 per month, to date from June, 1865, for chronic diarrhea. He was dropped from the roll to date March 22, 1882, upon the report of the examining board of surgeons that the disability had ceased. If this is true, there is no reason for the passage of this bill, and it would confer no benefit on claimant. If it is not true, he ought to establish the fact before the Pension Department, which would promptly restore him, giving him a rate according to his present disability.

Your committee therefore report adversely, and ask that the bill lie on the table.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1595.

ISAIAH A. LOVE.

APRIL 9, 1886.—Laid on the table and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6717.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6717) granting an increase of pension to Isaiah A. Love, submit the following report:

Claimant is now receiving a pension of $16 per month for scrotal hernia. The Pension Department has full power to increase this pension upon proper evidence that the disability has increased. Your committee are unable to discover any reason why this case should be made an exception to the general law.

Your committee therefore report adversely, and ask that the bill lie on the table.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1596.

ABIGAIL CARNAHAN.

APRIL 9, 1886.—Laid on the table and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6767.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6767) for the relief of Mrs. Abigail Carnahan, submit the following report:

This bill asks that claimant be paid the sum of $1,152 as arrears of pensions, on the ground that an application was filed in 1872. The Pension Office reports that "a thorough search fails to show any claim prior to April 14, 1884; also that declaration states that she had made no prior application." No evidence has been submitted to prove filing of prior declaration.

Your committee therefore report adversely, and ask that the bill lie on the table.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1597.

WENDELIN KRUMM.

APRIL 9, 1886.—Laid on the table and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6796.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6796) to place the name of Wendelin Krumm on the pension-roll, submit the following report:

Claimant, who was a private in Company H, Second Kansas Cavalry, asks for a pension for gunshot wound received about May 1, 1863. The medical board of examiners at Kansas City, Mo., report, March 7, 1883:

It was only a scratch, to begin with, and nothing remains of injury to the limb.

Your committee report adversely, and ask that the bill lie on the table.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1598.

DAVID C. PUGH.

APRIL 9, 1886.—Laid on the table and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4099.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4099) granting a pension to David C. Pugh, submit the following report:

Your committee find, upon an examination of the papers, that claimant, who was late lieutenant of Company G, Twelfth Ohio Volunteers, filed an application for pension December 9, 1882; that on the 29th of April, 1885, he was examined by the medical board at Chillicothe, Mo., who reported no symptoms of disease and gave no rating. September 16, 1885, he was again examined by the board, at Princeton, Mo., and they reported no disability.

Your committee therefore report adversely, and ask that the bill lie on the table.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1599.

WILLIAM J. LEES.

APRIL 9, 1886.—Laid on the table and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6768.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6768) granting a pension to William J. Lees, submit the following report:

Claimant, who was acting ensign in the United States Navy, asks for a pension for gunshot wound of spine and leg, and splinter wound of back. The medical board of examiners report October 22, 1885, that they find no disability whatever, and give him no rating. Your committee report adversely, and ask that the bill lie on the table.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1600.

ALBERT LONG.

APRIL 9, 1886.—Laid on the table and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6119.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6119) to increase the pension of Albert Long, submit the following report:

An examination of the papers in this case shows that claimant, a private in Company C, Eleventh Missouri Cavalry, was pensioned for disease of liver and dropsy, commencing in 1864, at the rate of $4 per month. He has three times applied for an increase, and each time the application has been rejected. It seems to be purely a question for the medical officers of the Pension Department to decide, there being nothing in the case to take it out of the line of the general law.

Your committee therefore report adversely, and ask that the bill lie on the table.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1601.

WESLEY H. SHERWOOD.

APRIL 9, 1886.—Laid on the table and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4916.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4916) granting a pension to Wesley H. Sherwood, submit the following report:

Claimant filed an application for pension February 13, 1880, alleging double hernia, caused by a kick of a horse, September, 1865, while in Fifth United States Cavalry. December 14, 1865, he was discharged from the service for another disability, and the words "not entitled to a pension" are added.

This soldier is doubtless a great sufferer, and is in needy circumstances, but with the record unchanged he is not entitled to a pension.

Your committee therefore report adversely, and ask that the bill lie on the table.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1602.

ELI W. CAMPBELL.

APRIL 9, 1886.—Laid on the table and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6723.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. Company A, Thirty-third Wisconsin Volunteers, but offers no proof of 6723) *for the relief of Eli W. Campbell, submit the following report:*

Claimant asks a pension for paralysis, contracted while a private in incurrence. In his own affidavit, filed March, 1886, he says:

> Said paralysis came on gradually, noticed it perceptibly first in 1876. * * * That he has no knowledge of any officers or comrades who have any information in regard to to the origin or existence of said paralysis in the service, as it did not make its appearance until the year 1876, as before stated.

Upon his own statement there would appear to be no merit in the case, and your committee therefore report adversely, and ask that the bill lie on the table.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1603.

FREDERICK HEINE.

APRIL 9, 1886.—Laid on the table and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 6806.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6806) granting an increase of pension to Frederick Heine, submit the following report:

Claimant is now receiving a pension of $50 per month for total helplessness, the result of rheumatism. This is the rate fixed by law in cases requiring the constant aid and attention of another person. Every pensioner on the roll who is suffering as claimant is receives the same pension that he does.

Your committee see no reason why an exception should be made in this case, and therefore report adversely, and ask that the bill lie on the table.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1604.

WILLIAM P. APPLEGATE.

APRIL 9, 1886.—Laid on the table and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7072.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7072) granting a pension to William P. Applegate, submit the following report:

Claimant, who was a member of Company D, First Missouri State Militia, claims a pension on account of injuries received in the service. The medical board of examiners at Lexington, Mo., report January 2, 1884:

> We find no objective symptoms or signs of injury to right breast. There seems to have been no injury to the ribs; respiratory murmur and resonance normal; no disability.

It would be useless to put him on the pension-roll, subject to the conditions and limitations of the pension laws, if no disability now exists.

This committee have uniformly refused to grant pensions for disabilities which have ceased to exist. They therefore report adversely, and ask that the bill lie on the table.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1605.

MARIA KILE.

APRIL 9, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PINDAR, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4145.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4145) granting a pension to Maria Kile, submit the following report:

Nathaniel Kile enlisted as a private in Company K, Fifty-sixth Regiment New York Volunteers, on the 23d day of October, 1861, and died while in the service September 25, 1862, leaving no widow or child surviving.

His mother, Maria Kile, filed her claim for a pension, and it was rejected April 17, 1883, on the ground that she was not dependent upon the soldier for her support at the time of his death.

The evidence on file in the Pension Bureau gives rise to a serious doubt as to the correctness of this rejection. It appears that at the time of the soldier's death (1862) Simeon Kile, the father, was in the occupation of some rugged land in the wilds of Sullivan County, New York. It was stony, unproductive, and poor enough. He did not own it. He leased it. The Hon. H. R. Low, at present a senator of the State of New York, testifies that he was the owner of the land in question and leased it to Kile; that Kile could not and did not pay the rent, small as it was.

On this so-called farm he had a half dozen cows, a few sheep, and a team of horses. But even these were mortgaged to one Cyrus Gray, who testifies that the chattel mortgage was given in 1862, and after four annual renewals he was, in 1866, obliged to foreclose and sell out the property.

The evidence plainly shows that the son, before he went to the war, was in the habit of working for his parents on the farm, and when employed elsewhere he contributed to their support by bringing his earnings home. It also appears that he sent money to his parents whilst he was in the Army. The mother is now seventy-four years old, feeble, childish, and in very destitute circumstances.

Your committee is of opinion that she should be placed upon the pension-roll, and therefore recommend that the bill do pass.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1606.

MISS REBECCA MILLER.

APRIL 9, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ELDREDGE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 813.]

The Committee on Pensions, to whom was referred the bill (S. 813) granting a pension to Miss Rebecca Miller, make the following report:

The father of the lady for whose benefit this bill is introduced was the Colonel Miller who, at the battle of Lundy's Lane, in Canada, in the war of 1812, when asked if he could capture a certain battery of the enemy that was doing great damage to our forces, replied, "I'll try, sir," and instantly charged the battery with his regiment, a most desperate undertaking, and in an almost incredibly short space of time took and silenced the battery, and the battle of Lundy's Lane was won.

His laconic as well as patriotic reply has ever since been the battle-cry of our soldiers, and has inspired many a heroic deed by officers and men.

Colonel Miller became a general, and performed faithful and gallant service until the conclusion of peace with Great Britain.

He died leaving two maiden daughters, with no property but a homestead, a small farm, which afforded them but meager support. Congress passed an act granting to these two sisters a pension of $15 per month each, some years since.

In September, 1885, the younger sister died, leaving Rebecca Miller, the one mentioned in this bill, now 72 years old and terribly crippled by rheumatism, entirely unable by age and disease to perform any kind of work, and without any means of support except the small pension heretofore granted her and the little (and which is very slight, often not paying expenses of cultivation) which she receives from the little farm which she occupies.

It is true that when her father performed the gallant acts as a soldier which made him famous throughout the whole civilized world, she was but an infant, and had nothing to do with her father's grand soldierly conduct or the benefits he gave his country, but your committee deem it no more than just, at least magnanimous in a great country as this has now become, to give this only surviving child—now old, decrepit, and needy—of a soldier who performed such gallant service to his country, a sum sufficient to render her life comfortable during the short time she will be likely to live.

Attached hereto are two petitions, signed by men of high standing.

The committee are also in possession of several affidavits of leading citizens, including medical evidence of her enfeebled condition.

The committee do therefore recommend its passage.

[Senate Report No. 151, Forty-ninth Congress, first session.]

Miss Miller is the only surviving daughter of General James Miller, whose respo when called upon, to charge the battery, "I'll try, sir," has become the watchwor the forlorn hope, and in great emergencies encouraged the American soldier to s of the most illustrious deeds of arms known in our history. Many years ago Cong pensioned the daughters of General Miller, but all are now dead but Rebecca, wh now in want and extreme old age. We append her petition, which is sustained many affidavits of leading citizens, including medical evidence of her enfeebled c dition, and recommend the passage of the bill.

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

We, the undersigned, respectfully represent to your honorable bodies that s years since a pension of $15 each per month was voted by Congress to Rebecca Mi and Augusta Miller, of Temple, N. H., daughters of General James Miller, a dis guished soldier of the United States in the war of 1812; and that in aid and furthera of the granting by Congress of these pensions a memorial was presented to th signed by several prominent citizens of New Hampshire, Maine, and Massachusett copy of which memorial and of the signatures to the same is hereto attached.

While in receipt, both together, of the sum of $30 per month from the Governm these ladies, occupying the old farm inherited by them from their distinguished fat and practicing the most rigid economy, sharing the expenses of the household betw them, and the younger and stronger sister also bearing a part of the burden of daily duties and of the care of her invalid sister, who is feeble and decrepit, w thereby enabled to live just beyond the limit of actual want. Miss Augusta Mil the younger sister, died in September, 1885, and Miss Rebecca Miller, the elder feebler, survives at the advanced age of seventy-two years, an invalid, badly formed by chronic rheumatism, almost helpless, and requiring constant attenda and service, and deprived in her feeble old age of the faithful care and watchful n istrations of her devoted sister and life-long companion. She is compelled to em a man to care for the farm and perform necessary out-door service, which largely sumes the income from the old farm, and it is well-nigh impossible for her in her s of health to subsist, not to say live comfortably, on her income of $15 a month. sides, she is likely to become more helpless and dependent as she grows older.

Miss Miller has no near relatives with means to render her assistance, and we deeply impressed with the duty and obligation that is laid upon the nation to se it that this invalid daughter of one of the noblest and bravest of our country's fenders in time of peril be not left to suffer or become an object of charity in her h less old age.

All that was so forcibly urged in the memorial above referred to in favor of gr ing these ladies their original pensions applies now with greatly added force to surviving one, aged, lonely, helpless, deformed; stricken with bereavement and dened with disease and infirmity, and suddenly deprived of one-half the small hitherto received from the Government for the sustenance of her household.

We believe the American people would gladly, out of regard to the memory of honored father, place this lady during her few remaining days beyond the reac chance of actual want, and above the harassing anxiety and fear of possible co penury and suffering; and we earnestly urge upon Congress, for the reasons a stated, and by all the considerations contained in and suggested by the above-r tioned memorial, that the pension now paid to Miss Miller be increased to su sum as will suitably and amply provide for the necessities and comfort of Ge Miller's surviving daughter during the short time she has to live.

MOODY CUNIER.	JOSEPH CILLRY.
JAMES A. WESTON.	J. F. BRIGGS.
LEWIS W. CLARK.	A. F. STEVENS, Nashu
DAN'L CLENTO.	GEO. D. ROBINSON.
S. N. BELL.	B. WADLEIGH.
DAVID CROSS.	B. P. CHENEY.
JOHN H. GEORGE.	JOHN H. MORISON.
JOHN M. HILL.	LEVERET SALTONSTAL
A. B. THOMPSON.	DANIEL HALL.
J. E. SARGENT.	J. B. MOTT.
P. C. CHENEY.	MARSHALL P. WILDER
J. S. H. FINK.	WM. GASTON.
A. A. HANSCOM.	CHAS. LEVI WOODBUR
CHARLES H. BELL.	LEOPOLD MORSE.
JOHN J. BELL.	THOS. MACK.
GILMORE MARSTON.	WILLIAM CLAFLIN.
B. F. PRESCOTT.	N. P. BANKS.

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

the undersigned, do most cheerfully recommend that a pension be granted by ngress of the United States to Rebecca Miller and Augusta Miller, daughters eral James Miller, of such a sum to each of them as in your wisdom you may

The country owes a debt of gratitude to General James Miller for his long, is, and heroic services rendered on our frontier in the war of 1812, and as yet unneration has ever been made pecuniarily, for, although he lost his health in vice of his country, he never received anything but the ordinary pay of officers rank. He died leaving but little property. It was a saying of his that "No ved much money from his salary in his times." These daughters have occue farm left by him in Temple, N. H., which, in their earlier days, when they uth and strength, afforded them a comfortable support, but now that age is eping on, and one of them already is almost disabled by rheumatism, and the as been stripped of its valuable timber for immediate support, and deteriorated, inadequate culture, the buildings all in a decaying and dilapidated condition, farm to be carried on by hired labor—these altogether take away almost their support.

e ladies are worthy descendants of their noble father, of whom every man and in New Hampshire are justly proud. They have delayed to the last moment e any request for a pension, but necessity has no law. They feel that their upon the liberality of the country are well founded. Their father's services war of 1812 were faithful, arduous, and unremitting. He was always at his nd he was never sufficiently remunerated for the great danger and hardship urred.

lo most sincerely recommend to Congress the careful consideration of the reof these ladies. It is in fact but paying off a debt long since contracted, but heless binding on a nation always ready to reward all valuable services rend proud of her sons when they enact in her service such deeds of gallantry roism as were exhibited by General Miller.

B. F. PRESCOTT.	J. E. SARGENT.
E. A. STRAW.	A. B. THOMPSON.
DAN'L CLARK.	JOSEPH F. WIGGIN.
JAMES A. WESTON.	ICHABOD GOODWIN.
IRA CROSS.	W. H. Y. HACKETT.
P. C. CHENEY.	ALEXANDER H. RICE.
S. N. BELL.	HENRY K. OLIVER, *Mayor of Salem.*
FREDERICK SMYTHE.	LEVI STOCKBRIDE.
LEVI W. BARTON.	JOSHUA L. CHAMBERLAINE, *Maine.*
WALTER HARRIMAN.	AARON F. STEVENS.

d.—Governor Lucius Robinson, of New York, also signed the same memorial.

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49th CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1607.

ALLEN P. JACOBS.

APRIL 9, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BRADY, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5622.]

The Committee on Pensions, to whom was referred the bill (H. R. 5622) granting a pension to Allen P. Jacobs, having had the same under consideration, submit the following report:

That Allen P. Jacobs, of Owen County, Kentucky, before he was sixteen years of age was sent by his father to attend his sick brother, Elijah —. Jacobs, who was a soldier in Captain Williams's company, Colonel Whistler's regiment, in the war of 1812; that upon his arrival at Dayton, Ohio, where the United States troops were then located, he, the said Allen P. Jacobs, finding that his brother had recovered from his sickness, joined Col. R. M. Johnson's regiment in its pursuit of the Indians and British, and that on the 5th day of October, 1813, this command was engaged with the enemy at the battle of the River Thames; that young Allen P. Jacobs was conspicuous for his bravery in said battle, in which he was severely wounded by a bullet shot through the thigh, about midway between the hip joint and the knee. It does not appear from the records of the War Department that he was regularly mustered into the service of the United States, and therefore the Pension Office have not acted upon his application for pension; but that as a boy he volunteered, served gallantly in the field with the United States Army, and was severely wounded, as above stated, is clearly shown by the testimony filed with the papers in the case and examined by the committee.

This veteran is now nearly 89 years of age, he is almost helpless, and still a great sufferer from the wound he received in his country's service seventy-three years ago, and now in his old age he is compelled to live on the charity and kindness of friends.

Your committee recommend that the bill be amended, and as amended that it do pass.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1608.

MARY MURPHY.

APRIL 9, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BRADY, from the Committee on Pensions, submitted the following

REPORT.

[To accompany bill H. R. 4730.]

The Committee on Pensions, to whom was referred the bill (H. R. 4730) granting a pension to Mary Murphy, having had the same under consideration, respectfully submit the following report:

That Mary Murphy is the widow of Thomas Murphy, late a private of the United States Marine Corps, and her application for pension was rejected by the Pension Office on the ground that the immediate cause of her said husband's death was typhoid fever and gastritis, as shown by the death certificate of the health officer of Washington, D. C.

It appears from the evidence that the said Thomas Murphy, while in the service of the United States as a marine in the year 1866, contracted pneumonia from which he never recovered.

Abbie Paul and Anna Parker, who knew him well, swear:

That from the time Murphy came home he coughed badly; that the cough never left him; that the difficulty in his chest seemed to grow worse; he became weaker until he finally died.

Arthur Flynn, a brother marine, swears:

Murphy was disabled in service; that on account of illness he was sent to hospital, and never recovered his health, and during all the time had a bad cough, and raised a large quantity of phlegm.

Dr. G. S. Magruder, of Washington, D. C., swears:

That he attended Thomas Murphy for pneumonia about March, 1873, and attended him through the attack.

Dr. J. E. Bracket, of Washington, D. C., swears:

That he attended Murphy; that his condition was bad, having contracted pneumonia in the service, from which he never fully recovered, and that he died from the effects of said disease.

Dr. Bracket, at the time of Murphy's death, gave a certificate for burial to the effect that he died of typhoid fever, and upon this and the certificate of the health officer, the Pension Office rejected the widow's application for pension.

In a letter dated March 4, 1886, to Hon. W. H. Perry, Representative in the present Congress from the State of South Carolina, Dr. Bracket frankly acknowledges his error in issuing said death certificate, and is

clear and positive in stating that Murphy died of consumption contracted in the United States service. The records of the Washington naval hospital show that he was there treated for "pneumonia; duty exposure."

From the testimony herein given, the committee is of the opinion that Thomas Murphy died of disease contracted while in the service of the United States as a marine; and therefore they report back the bill, with amendments, and as amended recommend that the same do pass.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1609.

MRS. MARY McINTOSH.

APRIL 9, 1886.—Laid on the table and ordered to be printed.

Mr. BRADY, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1445.]

The Committee on Pensions, to whom was referred the bill H. R. 1445, *submit the following report:*

Mrs. Mary McIntosh, it appears, is now receiving the pension allowed by law as the widow of Lieut. Donald McIntosh, Seventh Cavalry, United States Army.

No sufficient reason being shown why exceptional increase should be made in this case, your committee make adverse report, and recommend that the bill lie on the table.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1610.

ESTATE OF THE LATE JOHN HOW.

APRIL 9, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. W. WARNER, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 7648.]

The Committee on Claims, to whom was referred the bill H. R. 1353, *having carefully considered the same, submit the following report:*

John How was appointed agent for the Indians of the Western Shoshone Agency, Nevada, in July 1878. Mr. How was an old and respected citizen of Saint Louis, Mo., and for thirty years had been one of the leading merchants of that city. He was a man of unimpeachable integrity, as the testimonials of such citizens as General W. T. Sherman, Hon. F. M. Cockrell, Hon. G. G. Vest, and others abundantly testify. In fact, it seems that through a long and active business life none ever questioned the integrity of John How.

On the acceptance of his office he entered into a bond in the penal sum of $10,000 for the faithful performance of its duties, his sureties being James O. Broadhead, Samuel T. Glover (since deceased), and Gerard B. Allen. He at once entered upon the performance of his duties as such agent. He served his term of four years, which expired in July, 1882, though for a short time in the latter part of his term the agency was in charge of an inspector of the Indian Office.

Certain questions having been raised by the inspector in regard to his accounts, he tendered explanations of them, which were considered by the Indian Commissioner to be full and satisfactory except as to a very small number, which were suspended mainly on account of technical informality, as shown by the following letter of the Commissioner of Indian Affairs.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, April 7, 1884.

GENTLEMEN: Herewith inclosed you have a copy of a schedule of certain suspensions made in the examination in this office of the accounts of John How as Indian agent, which the explanations, certificates, affidavits, &c., submitted by him are deemed sufficient to remove; the Treasury Department having been so advised, and below is a list of suspensions still remaining against said accounts during the time referred to.

CASH ACCOUNTS.

Fourth quarter, 1878.

[Abstract A.]

Voucher 2. Pay of police, $162; receipted by marks; the marks not witnessed.
Voucher 5. Freight paid, $366.25; no authority referred to for the disbursement.

Voucher 6. Fare paid C. P. R. Road, $20; this is a subsidized road.
Voucher 8. Paid to settle dispute between an Indian and white man; no authority referred to.

First quarter, 1879.

Voucher 3. Meals to Indians, $48; no authority referred to.
Voucher 5. For various items of expenditure, $67; no authority referred to.

Third quarter, 1879.

Voucher 1. Paid Pah Ute Bill, Indian, $75, for which his receipt by mark is not witnessed.
Voucher 3. Disallowance for error in calculation, 62 cents.

Supplemental:

Voucher 3. Authority wanted for expenditure of $788.19 for various purposes, principally freight, which cannot be properly identified.

Fourth quarter, 1879.

Voucher 1. Disallowance for error in calculation, 80 cents.
Voucher 4. Authority wanted for How's exceeding the amount of beef he was authorized to buy, 2,805 pounds, and for paying for drayage, $4.75, and boarding employés, $132.

First quarter, 1880.

Voucher 1. Robert, McCullough, employé, $225. Not receipted for by self; name incorrectly spelled.
Voucher 4. Expenses of Rodeo, $153. The various employés have not receipted.
The reason why this office has not recommended the approval by the Department of the several amounts suspended for want of authority is that the vouchers submitted by Agent How are either informal or sufficient data is not given on which to determine the necessity and propriety of the expenditure.

PROPERTY ACCOUNTS.

Fourth quarter, 1878.

Abstract A. One thousand pounds beef to be accounted for.
Abstract C. Not certified to by employés.
Abstract D. The issues per this abstract are neither properly receipted for, witnessed, or certified to.

Medical property:

Eight ounces chalk, 32 ounces chloroform, and 1 thermometer, not accounted for.

First quarter, 1879.

Abstract C. Not certified by employés.
Abstract D. Remarks to same abstract with fourth quarter, 1878 (just above), apply here also.

Medical property:

Four ounces magnesia, 8 ounces ammonia, 8 ounces potassa, and one cork-screw, to be accounted for.

Second quarter, 1879.

Abstract C. Not certified to by employés.

Third quarter, 1879.

Abstract C. Not certified to by employés.
Abstract F. The following articles dropped per this abstract, improperly, remain charged to Agent How: 7 axes, 2 hoes, 2 hatchets, 2 hammers, 3 mattocks, 7 rakes, 5 shovels, 6 spades, 2 wrenches.

Fourth quarter, 1879.

One stove, one saw-set, and five cords wood, on Abstract A, not carried to property return, and 360 pounds beef on hand last quarter not brought forward.

Abstract C. Not certified to by employés.

First quarter, 1880.

Abstract D. Only a part of the goods dropped as issued per this abstract are receipted for, the others remain charged to the agent.

Medical property:

Certain supplies bought from J. McKesson, July 29, 1879, not accounted for.

All of the foregoing suspensions have been fully explained in statements sent Agent How at the time his accounts were first examined, to which statements you are referred.

In this connection you are informed that the action of this office being merely administrative, you must look to the Treasury Department for statement of the actual status of Agent How's accounts.

Respectfully,

H. PRICE,
Commissioner.

Messrs. JEFFRIES & KING,
1420 *New York Avenue, City.*

It appears that the disallowances or suspensions in the cash account are about $2,000. The property not properly accounted for was of little value.

That the expenditures were made, and that for the benefit of the Indians, your committee are fully satisfied.

The accounting officers of the Treasury disallowed other expenditures largely for similar informalities.

Suit has been commenced on the official bond. Shortly after the institution of said suit Mr. How died. Previous to his death he had collected a large amount of evidence. (Senate Ex. Doc. 78, first session Forty-ninth Congress.) The sureties relied upon Mr. How in obtaining evidence on the trial of the case. He alone could explain the expenditures suspended, &c.

This rendered an application to Congress for relief necessary, and the committee are convinced from the evidence that Mr. How never defrauded the Government out of a dollar, and that all disallowances arise from want of compliance with technical forms on the part of Mr. How.

In this connection the committee quote from the report of the Commissioner of Indian Affairs for 1882 (p. v):

> One great cause of embarrassment and discouragement to Indian agents is the trouble and annoyance they find in keeping their accounts so as to comply technically with all the regulations and rulings in reference to the final settlement of their accounts. As the matter now stands, an agent may execute to the letter an order given him by the Secretary of the Interior for the payment of money, and yet that item in his account may be suspended against him, and he and his sureties be compelled by law to pay the money again.
>
> The result is, if he refuses to obey the orders of his superior he loses his position, and if he obeys he loses his money.

Also from the report of the Commissioner of Indian Affairs for 1883 (p. IX):

> Sometimes such men are found who are willing to undertake this work for the good that they hope to accomplish, but they soon find themselves surrounded with difficulties and hampered and embarrassed by regulations and rulings that are not to be found in any other business or any other department of the Government; and in place of the support and sympathy which they expected from the Government, they are

harassed and annoyed by technical rulings in conducting the affairs of the agency to such an extent that they become disheartened, despondent, and disgusted, and abandon the work upon which they entered with high hopes of doing good. One agent, who was appointed upon the earnest solicitation of a United States Senator from his State, wrote me a few weeks since, after being in the service about one year, using this language:

"If I had known at the time of my appointment of the heavy responsibility, trouble, sleepless nights, and agony of mind I have had to undergo, $5,000 salary would not have tempted me to accept the office. I would now resign if I could in justice to myself and bondsmen."

Another of our agents, a live, wide-awake, energetic man, in tendering his resignation for the second time a few weeks since, uses the following language:

"I respectfully beg leave to renew the tender of my resignation. It is needless for me to add any reasons to the ones already given, but I will say this: I am thoroughly convinced, after digesting all that was said to me by the chief of the Indian division of the Second Comptroller's Office, that no care, no honesty, will prevent a man in this position from being robbed by legal process, and further, that the Indian Bureau is powerless to protect its officers. I am satisfied that no agent can perform the higher duties for which he was placed here without sooner or later being compelled to spend his own money to defend himself from some unjust charge. I have the assurance of this same chief of division in the Second Comptroller's Office that in case an agent, acting on his own judgment did, by an expenditure of five dollars, save the Government a million, he would compel him to refund that five dollars if he could. I cannot afford, after doing my whole duty, to spend a thousand dollars to prove it, and I don't propose to spend my money on claim agents either."

The Indian service loses very many of its best agents because of the unnecessary and vexatious manner of keeping and settling their accounts. No mercantile or manufacturing business could be carried on one year on the same system. I am compelled to say that it is wrong in principle and in practice, and is in effect discounting good men and offering a premium on bad or incompetent ones.

In addition to this, many of the Indian agents have to live in houses which are in wretched condition, much less comfortable than stables for horses and mules in civilized communities. At least $100,000 should be appropriated this year for construction and repair of buildings at agencies.

Mr. How is dead. His estate is insolvent. Whatever amount is recovered, if any, must be paid by the sureties on Mr. How's official bond. The principal being dead, they have no means of showing how the irregularities in the accounts of Mr. How occurred.

The committee, from a careful examination of the facts in this case, are of the opinion that the Government sustained no loss by any act of dishonesty on the part of Mr. How.

The committee report back the accompanying substitute for bill H. R. 1353, and recommend its passage, and that the original bill do lie upon the table.

Statements of General W. T. Sherman, William H. Bliss, and others are herewith submitted in the appendix to this report.

APPENDIX.

SAINT LOUIS, *January* 12, 1882.

SIR: I understand that certain charges have been preferred against Mr. John How, Indian agent. Although I have not seen the charges and have not had an opportunity to investigate them, yet an acquaintance of many years with Mr. How fully justifies me in believing that though he may have committed irregularities, he would not commit dishonorable acts. I believe that none can be found in this city, where he spent most of his life, who will say that his integrity has ever been questioned. I cannot help feeling that when Mr. How's side of the matter is presented and the facts fully disclosed, it will be found that he has not intentionally committed any wrong.

As his sureties have requested that he may be retained for the six months of his unexpired term, in order under his own suspension to clear up this matter, I hope

that such request will be granted. His sureties are men of undoubted standing here, and their indorsement of him is entitled to great weight.

Hoping that my request in this behalf may not be deemed officious,

I have the honor to be, your obedient servant,

CHESTER H. KRUM.

The INDIAN COMMISSIONER,
Washington, D. C.

[District attorney of the United States for the eastern district of Missouri.]

SAINT LOUIS, *January* 12, 1882.

SIR: I am informed by the friends of John How that he has been suspended from his office as Indian agent at Elko, Nev., upon charges affecting his official integrity. I have no knowledge of the exact nature of the charges; but I venture to say that from my long personal acquaintance with Mr. How and from his high standing in this community, where he was for many years one of its most honored and respected citizens, I am confident he has not knowingly wronged the Government or any of its wards placed under his charge.

With this belief I take the liberty of asking that if consistent with your sense of justice and propriety he may be allowed a full opportunity to meet and defend himself against the charges mentioned, which opportunity, I am informed, was denied him by the officer who investigated his affairs and relieved him from duty.

Very respectfully, your obedient servant,

WM. H. BLISS.

Hon. HIRAM PRICE,
Commissioner of Indian Affairs, Washington, D. C.

SAINT LOUIS, MO., *January* 12, 1882.

Hon. A. G. COCHRAN:

DEAR SIR: I have just seen our mutual friend, Mr. John How, who has for some years past held the place of Indian agent at Elko, Nev.

Some evil-minded persons, who, in my opinion, seek mostly the gratification of their bad feelings, have made complaints against Mr. How, touching the administration of his office. The testimony of these persons, taken by Inspector Smith, has been submitted to me and I have read it with some care. I suppose you can see it at the proper office in Washington. I think you will find it quite vague and non-specific in respect to charges, but full of insinuation, leaving the reader to guess what is the particular matter complained of. I have known Mr. How intimately more than thirty years. During all that time he has sustained the reputation of a strictly honest and honorable man. I have found in the mass of testimony submitted to me nothing to shake my perfect confidence in Mr. How's integrity, and if the testimony of the witnesses was clearer and more specific, and that of respectable men, I should hesitate to believe that John How would commit a dishonest act on the testimony of any man or men. In fact I believe Mr. How incapable of it. There is not. in all the evidence taken before Inspector Smith, as shown to me, a particle tending to show a corrupt motive or an inten * * * act of wrong against the Government that * * * to show irregularities and neglect of * * * may be true I do not know that such is * * * for I do not know what forms are prescribed, but I am satisfied that a perfectly faithful administration of office is entirely consistent with some neglect of forms which it is impossible to follow under all circumstances, especially in a country like Nevada. Now, having said this much, I wish to add that I wish to see the complaints against Mr. How thoroughly investigated; and this of course, after what I have said of him, is his earnest wish. If opportunity is allowed him, I believe—I think I may say I know—he can and will explain everything to the satisfaction of the Government.

As one of his securities I wish him to vindicate his conduct from every reproach, and I am perfectly willing, notwithstanding what has been said against him, to see him serve out his term, for I am sure he will do nothing wrong, and I am confident he can and will conduct the residue of his term better for the Government and better for his securities than any other person can.

I understand Mr. How has obtained permission to come to Washington and see Secretary Kirkwood.

I am rejoiced to know it, for I believe a personal explanation by Mr. How in respect to everything will do more to remove suspicion against him, if any exists, than a hundred depositions.

I am, sir, very respectfully,

S. T. GLOVER.

I have an abiding confidence in Mr. How's integrity, and fully concur in all that Mr. Glover has here said.

GERARD B. ALLEN.

I have not read the depositions referred to, but I have entire confidence in Mr. How's integrity, and fully concur in all that Mr. Glover has said.

JAMES O. BROADHEAD.

Hon. S. J. KIRKWOOD,
Secretary of the Interior:

I knew Mr. How well at Saint Louis in war times, and he was then one of the richest, most loyal, and most responsible men there. I have met him often since, and I never heard a word to his discredit. The above indorsers, Glover, Broadhead, and Gerard B. Allen, are personal friends of mine, and are men of the highest integrity. I beg you will treat Mr. How with special favor, as I believe him most worthy.

W. T. SHERMAN.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1611.

GOTTLIEB GROEZINGER.

APRIL 9, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. W. WARNER, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 3863.]

The Committee on Claims, to which was referred House bill 3863, *having considered the same, submits the following report:*

That Gottlieb Groezinger, of Yountville, was the proprieter of distillery No. 193, located in said town, in the county of Napa, California, and was engaged in the business of fruit distiller in 1876.

That on the night of September 22, 1876, his distillery was accidentally destroyed by fire; the brandy manufactured by him, being about 1,164 proof gallons, was stored in his said distillery and was then and there consumed by the flames.

That there was no insurance upon the distillery or the brandy, but that each was a total loss.

That the fire was accidental, without fault or negligence on the part of the claimant.

That on 19th of February, 1877, he was assessed by the Government an internal-revenue tax of $1,047.60 upon the brandy that had been destroyed by fire, as aforesaid, in September, 1876; which sum the claimant paid the United States collector.

Mr. Groezinger in 1877 made application to the Treasury Department for the refunding of said sum of $1,047.60, but the application was rejected upon the grounds set forth in the letter of the Commissioner of Internal Revenue of October 31, 1877, hereto attached and marked Exhibit A.

Your committee is of the opinion that the amount paid by the claimant as internal-revenue tax after the destruction of the brandy upon which the tax was assessed should be repaid, and therefore recommends the passage of the accompanying bill.

EXHIBIT A.

TREASURY DEPARTMENT,
OFFICE OF INTERNAL REVENUE,
Washington, October 31, 1877.

SIR: In the matter of the claim of G. Groezinger for the refunding of $1,047.60, tax paid on grape brandy alleged to have been destroyed by fire, I have to say that the question as to the authority of the Secretary to remit this tax was carefully consid-

ered by him at the time of the examination of the claim for its abatement. The conclusion was reached that there was no authority of law for the abatement of the tax. The case does not appear to fall within the provisions of section 3220 or 3221, Revised Statutes, and the claim is rejected.

Respectfully,

GREEN B. RAUM,
Commissioner.

A. L. FROST, Esq.,
Collector Fourth District, Sacramento, California.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1612.

HYLAND C. KIRK AND OTHERS.

APRIL 9, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. W. WARNER, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 7649.]

The Committee on Claims, to whom was referred House bill 3145, *having fully considered the same, submit the following report:*

This bill and the claim involved therein refer to a "perforated, tax-paid spirit stamp," adopted by the United States Government, under the act of July 20, 1868, and used in the collection of internal revenue during the years 1868, 1869, 1870, 1871, and 1872. (See Exhibit A, specimen of the stamp.)

According to the deposition of W. S. Andrews, a former internal-revenue collector (see Fletcher *v.* United States, p. 5), Fletcher's design was carried to Washington by him and deposited in the Internal Revenue Department about the 1st of November, 1867. The same device with the written specifications thereto appended was "returned to inventor by Internal Revenue Department August 17, 1868. Witness, W. M. Smith." (*Id.*, p. 33.)

It appears from the records of the Patent Office that the title to this invention was originally claimed by four inventors. (See Exhibit B.) In the interference which was declared, the primary examiner decided in favor of Spencer M. Clark, at that time chief of the Bureau of Printing and Engraving.

The three examiners-in-chief, on appeal, reversed this decision, and decided in favor of Addison C. Fletcher.

Clark appealing, the Commissioner of Patents reversed the decision of the examiners-in-chief and decided in favor of Clark.

On appeal to the supreme court of the District of Columbia, Judge George P. Fisher reversed the decision of the Commissioner of Patents and awarded priority of invention to Fletcher. (See Exhibit C, opinion of the court.)

From this decision there was no appeal. But Clark's original claims and specifications were modified and a patent was granted to him for substantially the same device and issued to Adolphus S. Solomons as assignee. (See Exhibits D and E, Fletcher's and Clark's patents.)

Fletcher made demand for compensation and brought suit against the Government therefor in 1872. The Court of Claims found in 1876, when the case was dismissed, that there had been two "inventors of the same mechanical contrivance in the form of a stamp," and disclaimed juris-

diction in patent cases; the defense chiefly resting on the use of Clark's patent and not Fletcher's.

Solomons, Clark's assignee, brought suit in the Court of Claims, September 17, 1875, for compensation for the use of this stamp, which is still pending. The court's decision in favor of the petitioners' patent, Hyland C. Kirk and others, assignees of Addison C. Fletcher, is now being used in the case by the Government as one of the defenses against Solomons. (See requests for findings of facts by the Attorney-General, Exhibit F.)

The petitioners' claim, being barred by the statute of limitations, they ask to be restored to court, on the ground that they are the rightful owners of this stamp patent, and entitled to compensation.

Your committee have received a copy of a report dated February 18, 1885, from the Internal Revenue Department, addressed to the Secretary of the Treasury, which recommends the reference of this claim to the Court of Claims. (See Exhibit G.)

In view, however, of the fact that this claim seems to involve a considerable sum of money, and that the passage of an act placing the matter in court to be tried upon its legal and equitable merits might seem to restrict the court to the finding of a judgment and to impose upon the Government the payment of a large sum of money in liquidation thereof, this bill provides simply that the claim be referred to the Court of Claims for a judicial investigation and finding of the facts, subject to the future action of Congress. The committee return the accompanying bill as a substitute for bill H. R. 3145, and recommend its passage, and that the original bill (H. R. 3145) do lie upon the table.

EXHIBIT A.

Exhibit A is a specimen of a perforated tax-paid spirit stamp.

EXHIBIT B.

DEPARTMENT OF THE INTERIOR, UNITED STATES PATENT OFFICE,
Washington, February 9, 1886.

To the COMMITTEE ON CLAIMS,
House of Representatives:

GENTLEMEN: In the matter of the interference between Abraham, Fletcher, Clark, and Gosnell—

Abraham filed application in this office May 28, 1868.
Fletcher filed application in this office August 10, 1868.
Clark filed application in this office September 1, 1868.
Gosnell filed application in this office September 3, 1868.

On the 18th of September, 1868, an interference was declared between these parties.

Abraham being the senior applicant took no testimony, but rested on his record date. Fletcher took testimony, which he filed November 14, 1868. Clark took testimony, which he filed November 10, 1868. Gosnell took some testimony, which seems to have been irregularly taken, and the same was filed November 3, 1868.

The question of priority was submitted to the primary examiner (there was then no examiner of interferences), who on the 23d of November, 1868, awarded priority to Clark.

Abraham and Gosnell seem to have acquiesced in this award, as neither of them appealed. Fletcher, however, appealed to the examiners-in-chief, who, upon hearing, reversed the decision of the examiner, and awarded priority to Fletcher on the 1st of February, 1869.

From this award of the board Clark appealed to the Commissioner, who, on the 18th of May, 1869, reversed the finding of the examiners-in-chief and awarded priority to Clark.

From this award of the Commissioner, Fletcher appealed to the supreme court of the District of Columbia, which court, on the 10th of July, 1869, reversed the Commissioner, and awarded priority to Fletcher.

Copies of these several decisions are herewith inclosed. Of course the testimony which was taken is quite voluminous. Should the committee desire a copy of the testimony, or any portion thereof, I will gladly furnish it, or I will lend the files that reference may be made to the original testimony, if it is really desirable; or, perhaps what would be better, the party seeking the legislation can have access to the files and can prepare copies of such portions of the testimony as he thinks best to submit to your committee.

I also herewith inclose an abstract of title relating to the patent of Mr. Fletcher.

Very respectfully, your obedient servant,

M. V. MONTGOMERY,
Commissioner.

EXHIBIT C.

Judgment of court in the matter of the interference between the application of Spencer M. Clark and the application of Addison C. Fletcher for a patent for self-canceling revenue stamps. Appeal from the decision of the Commissioner of Patents awarding priority of invention to Clark.

The invention is a very simple one, though, doubtless, it is useful as well as novel. Fletcher, being remote from the Treasury Department and Internal Revenue Bureau, is attracted by a notice from that Department and Bureau inviting the inventive genius of the country to propose a proper self-canceling stamp about the close of the month of December, 1867. In the previous month of August he has made his discovery, which consists of a perforated stamp covered with a fragile tissue paper. The Bureau had been in want of just such a stamp. Clark was at the time of the publication of the notice and had then long been the superintendent of the printing establishment of the Treasury Department, and in almost daily intercourse with the Internal Revenue Bureau, and must have known the need of the stamp in controversy. Although he professes to have got upon the track of inventing this stamp several years before Fletcher had perfected his invention, yet he does not communicate any of his ideas to the Internal Revenue Bureau, and does not even file his caveat until February 10, 1868, some six months after the invention had been perfected by Fletcher. He seems to have incubated his embryonic invention for three or four years, but fails to produce it in a tangible shape until November, 1867. The stamp he speaks of having produced in 1865–'6 is not the same as that now in controversy, viz, one with a thin tissue covering over the perforation, so that the stamp cannot be removed from the surface to which it has once been fastened without destroying the tissue covering and thus canceling the stamp. He does not produce this stamp until several months after Fletcher had produced it; nor does he nor any other of his witnesses describe any such stamp as having been produced by Clark, as described by him, before Fletcher's invention had been perfected. The real invention is so simple that the commonest intellect could have described it just as it is now described in the application, when once the idea was conceived. The conception, had it existed in Clark's mind in 1865 or 1866 or in 1867, before Fletcher had perfected it, could have been easily described by him to Buckland, or to the officers of the Bureau, and just as readily comprehended by him or them, and there would have been no need of witnesses speaking, in their testimony, about a stamp having two pieces of paper attached together, one perforated and the other covering the perforation, or of a piece of bank-note paper covered, as to its perforation, by a piece of common writing-paper, or of a stamp which should be canceled by a separation of the two pieces of paper composing it; which two pieces of paper, by the by, when separated, might be readily joined and used a second or third time.

If Clark's earlier experiment had produced the stamp in controversy, his witnesses could have sworn squarely that he had shown or described this identical stamp. After a careful consideration of the evidence I am led to the conclusion that Fletcher is the prior inventor.

The decision of the Commissioner is reversed.

[SEAL.]

GEO. P. FISHER,
Justice of the Supreme Court D. C.

July 10, 1869.

A true copy. Teste:

R. J. MEIGS, *Clerk.*

EXHIBIT D.

[United States Patent Office. Addison C. Fletcher, of New York, N. Y. Improvement in adhesive postal and revenue stamps. Specification forming part of Letters Patent No. 101604, dated April 5, 1870; antedated October 5, 1869.]

To all whom it may concern:

Be it known that I, Addison C. Fletcher, of the city, county, and State of New York, have invented a new and useful improvement in adhesive stamps, applicable for postal, internal-revenue, and other purposes, of which the following is a full, clear, and exact description, reference being had to the accompanying drawing forming part of this specification, in which—

Figure 1 represents a face view of a series of adhesive stamps made in accordance with my improvement; and Fig. 2, a section of the same, taken as indicated by the line *x x* in Fig. 1.

Similar letters of reference indicate corresponding parts.

My improvement in postage, internal-revenue, and other adhesive stamps involves or includes a new method of canceling them, whereby, in any attempt to remove them from the documents or surfaces to which they have been applied, they are so effectually mutilated and destroyed as to make it an impossibility to use them a second time without a detection of the fraud. My invention consists in constructing the stamps with a hole or holes through the body of them, and covering or backing the same with thin tissue or other bibulous paper, made to firmly adhere to the stamp, and the rear surface of the stamp, with its bibulous-paper covering to the hole, coated or backed with mucilage or other adhesive substance, while the front surface or face of the stamp, together with the bibulous paper seen through the opening therein, has any suitable figure or vignette printed thereon. Thus constructed the stamp cannot be removed from the surface to which it has been stuck without the destruction or tearing of the tissue or bibulous portion of it.

The following further description, referring to the accompanying drawing, will suffice to explain how this my invention is or may be carried out.

Thus, I take a sheet of stamps, A, and punch through the body portions of each stamp one or more perforations, *a*, after which the backs of the stamps are covered by a sheet of tissue or any thin bibulous paper, B, firmly cemented thereto by mucilage or otherwise, so as to cover the holes *a* in the stamps, and subsequently mucilage or other suitable adhesive substance applied to the exterior surface of the tissue-paper and back of the stamps, to secure the adhesion of the stamps by moistening them on their back or otherwise moistening the surfaces to which said stamps are designed to be applied.

The stamps A have any suitable vignette or figure engraved or printed on them, and also has the tissue or bibulous paper B, covering the perforations *a* in them. The printing on the two surfaces or portions A and B of the stamps may either be done separately and before applying the bibulous paper to the backs of the stamps, or may be done after the bibulous paper has been secured thereto, the perforation *a* in the stamp admitting of such a general and simultaneous impression of the two surfaces or portions A and B.

When a stamp as thus constructed has been applied to a sheet of paper or other article or surface, it not simply becomes adherent thereon throughout or over its entire surface, but more especially or tenaciously so on that part of its surface or back covering the perforations *a* in the stamp, by reason of its thinner construction at that part as produced by the tissue or bibulous-paper covering to the perforations *a*, so that and by reason of the delicate and peculiar character or property of said paper, an attempt to remove said stamp without defacing it by first moistening it will be useless, for the bibulous-paper covering the opening *a* will be so washed or torn as that in the endeavor to remove the stamp, it will have its design more or less destroyed or defaced, and thus prevent a second use of the stamp.

What is here claimed, and desired to be secured by letters patent, is—

An adhesive stamp made up of a thick portion or body, A, having a perforation or perforations, *a*, through the face of it, and thinner portion, B, composed of tissue or any suitable bibulous paper, and applied as a covering to said perforation or perforations, both portions being securely connected or incorporated to make up the complete stamp, and the latter being suitably engraved or printed on its face, and having adhesive material applied to its back, substantially as specified.

ADDISON C. FLETCHER

Witnesses:
A. LE CLERC,
A. KINNIER.

EXHIBIT E.

United States Patent Office. Spencer M. Clark, of Washington, D. C., assignor to Adolphus S. Solomons, of same place. Self-canceling postal and revenue stamp. Specification forming part of Letters Patent No. 98,031, dated December 21, 1869; antedated June 21, 1869.]

To all whom it may concern:

Be it known that I, Spencer M. Clark, of Washington City, in the District of Columbia, have invented a new and useful self-canceling postal and revenue stamp, of which the following is a specification.

The nature of my invention consists in the production of a postal or revenue stamp, composed of two layers, one of which is perforated, the two being united and printed on the perforated side and gummed on the imperforate, so that when the stamp thus made is affixed to paper or other material the two layers shall separate, or the imperforate layer break in the part thereof uncovered by the perforate layer in any attempt at removing the stamp from the surface to which it is attached.

In manufacturing my improved stamps I first punch one or more holes in the sheet of paper which shall constitute the outer layer of the stamp. I then cover this perforated paper with a second imperforate sheet, and unite the two by means of a suitable adhesive gum or cement, in the usual manner. The sheet thus prepared is then ready to receive the proper design, which is imprinted upon the perforated side thereof in such manner as to extend over and include therein some portion of the inner or imperforate layer disclosed by the perforations in the outer layer.

When the stamp has been duly printed, the imperforate layer or under side thereof is coated with gum, in the ordinary manner, so that it may be made to adhere to any desired surface.

A number of subjects may be imprinted, as usual, upon one large sheet prepared for the purpose, as herein set forth, and the finished stamps be afterward separated, in the customary manner.

I claim as my invention—

A postal or revenue stamp composed of two layers, one of which is perforated, the two being united and printed on the perforate side, and gummed on the imperforate side, substantially in the manner and for the purpose herein set forth.

S. M. CLARK.

In presence of—
DAVID A. BURR,
A. A. BROOKE.

EXHIBIT F.

UNITED STATES COURT OF CLAIMS.

SOLOMONS *vs.* THE UNITED STATES. } No. 10697. (Filed September 17, 1875.)

The defendant, considering the facts herein set forth to be proven, and deeming them material to the due presentation of this case in the findings of fact, requests the court to find the same as follows:

I.

That during the time this stamp was used by the Government it was not used by any one else, or for any other purpose than designating the tax paid.

II.

That neither the patentee, Clark, nor his assignee, Solomons, manufactured for sale any articles containing this device, nor have such articles been manufactured under his patents, nor have licenses to manufacture been sold by them or either of them.

III.

That there was no priority of invention by the assignor of this claimant, but that a similar device had been described and exhibited by others.

IV.

That the device is so simple and natural that it would suggest itself to the ordinarily endowed inventive mind, and was, therefore, not patentable.

V.

That in a proceeding before the supreme court of the District of Columbia in a matter wherein the assignor of this claimant and one Addison C. Fletcher were parties concerning the priority of invention of this device, the same was decided against the said Spencer M. Clark, assignor; that these stamps were first printed and delivered to the office of Internal Revenue on August 25, 1868; that they commenced to be used on November 2, 1868; that no patent was issued on the same until December 21, 1869, and that the assignment of Clark to the claimant was that not made until December 6, 1869; that prior to this assignment the United States had had the free, undisturbed, and unchallenged use of this device.

VI.

That prior to the adoption and use by the Government of this stamp, and during the entire time of its continuance, by express contract with Clark, the Government was entitled to use the same free from any claim for royalty compensation.

VII.

That Clark never in any manner or any form made application to the Government for compensation; that the claimant and assignee herein was well aware of that fact and that the assignment was colorable and fraudulent.

EXHIBIT G.

TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,
Washington, February 18, 1885.

SIR: I have the honor to acknowledge the receipt of the petition of Hyland C. Kirk attorney, making claim for clients, the successors to Addison C. Fletcher, the alleged inventor of a device for perforating tax-paid spirit stamps, &c., referred by you to this office under date of the 16th instant, with the request that I furnish you with such information relative to the claim as I may possess or as the records of this office may exhibit, and in reply to state that the paper marked Exhibit A in the petition is a copy of a publication dated December 24, 1867, signed "E. A. Rollins, Commissioner of Internal Revenue," to be found in the Internal Revenue Record of December 28, 1867, volume 6, No. 26; that Exhibit B accompanying papers is a true copy of a letter addressed to the Commissioner of Internal Revenue, Addison C. Fletcher, July 1, 1872, and also a true copy of letter of Commissioner Douglass, July 3, 1872, to Mr. Fletcher, in reply to his letter of the 1st, with the exception of the word "Washington" at the heading, which is not in the original, and the word "Resp'y" is written out "Respectfully" in full in the original. From this last letter it will appear that the quantity of stamps used corresponded with Exhibit C accompanying the papers.

As there is no appropriation applicable to the payment of such claims, and as a case analogous thereto is now pending in the Court of Claims, which it is claimed by the present petitioner is an interference, I have the honor to suggest that it might be well to refer the within papers to that court under section 1063 of the United States Revised Statutes, in order that it may be judicially determined which, if either, of the said claimants is entitled to a remuneration from the Government for the use of the stamps in question.

The papers in the case are herewith returned.

Very respectfully,

WALTER EVANS,
Commissioner.

HON. HUGH MCCULLOCH,
Secretary of the Treasury.

○

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1613.

PETER MARCK, THOMAS J. WRIGHT, ADMINISTRATOR, AND OTHERS.

APRIL 9, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GEDDES, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 6203.]

The Committee on War Claims, to whom was referred the bill (H. R. 6203) for the relief of Peter Marck, Thomas J. Wright, administrator, and others, beg leave to report:

That the Committee on War Claims of the Forty-eighth Congress, not being clearly and fully advised of all the facts in the case, referred it to the Court of Claims for a finding under the provisions of an act entitled "An act to afford assistance and relief to Congress and the executive departments in the investigation of claims and demands against the Government," approved March 3, 1883.

Said claim has been returned by said Court of Claims to the committee, with the following findings of fact filed by the court February 1, 1886:

I.

The steamboat Prima Donna was chartered November 22, 1864, by Capt. J. V. Lewis, assistant quartermaster, United States Army, at Cincinnati, to transport a cargo from Cincinnati to Nashville, and to bring back such freight and troops as the officers of the Quartermaster's Department might send. It was to be a round trip, from Cincinnati to Nashville and return.

II.

There was no written contract or charter-party between Captain Lewis and the owners for the service of the boat. The terms of the agreement were that the Government should pay $200 per day for the services of the boat and crew and management, besides furnishing coal for its running, and the owners were to furnish the boat, manned, equipped, victualed, and officered, and operate and navigate the same, the movements and cargo only being under the direction of the officers of the Quartermaster's Department, while the owners had the entire and absolute possession of the boat, one of whom was on board and navigated the same.

III.

The steamboat while so chartered carried a cargo from Cincinnati to Nashville, arriving at Nashville November 28, 1864. In pursuance of the original orders given by Captain Lewis for the vessel to return to Cincinnati after delivering the cargo at Nashville, the captain, on December 2, 1864, was ordered by the quartermaster at that place to take on board as many unserviceable mules as she could accommodate, and proceed with the same to Louisville. The captain objected to leaving, and protested against doing so, a report having come up that the Confederate forces were on the bank be-

low Nashville in great numbers, and fully armed and equipped, but the quarterm reiterated the order to leave. The captain requested a military escort, but th quest was refused, and the quartermaster threatened that the captain and crew sh be arrested if they did not immediately comply with the order; thereupon the st boat yielded compulsory obedience and left Nashville under these orders. Abo miles below Nashville, on the Cumberland River, at a place called Bell's Mills was captured by Confederate forces armed with field pieces, and the captain and were held as prisoners of war. The vessel herself was shortly afterwards recapt and taken back to Nashville, and on December 17, 1864, was sent to Cincinnati, w she was discharged December 31, 1864 and the owners were paid in full for her ser to that date.

IV.

Joseph Scott was captain of said steamboat, and his wages at the time of ca were $250 a month; Isaac M. Clement was chief engineer, and his wages were $ month; David Vaughn was carpenter, and his wages were $75 a month; Barn Schooley was steward, and his wages were $75 a month; Frederick Kimmerly watchman, and his wages were $50 a month; Peter Marck, Frederick Smith, McNabb, and Thomas Miller were deck-hands, and the wages of each were $40 a m All of these persons were captured as aforesaid on December 3, 1864, and remain captivity till the 15th of April, 1865, when they were paroled and released, wit exception of Captain Scott, who was released on the 11th of April, 1865; Barn Schooley, who escaped December 25, 1864; and Peter Marck, who was paroled F ary 22, 1865, and reached his home at Cincinnati March 4, 1865, though not finall changed till April 15, 1865. They have received no wages for the time they w captivity, nor any commutation of rations.

The claims set up in this case were allowed by the Third Auditor, but disall by the Second Comptroller on the ground that such payments were not warrant law.

V.

The claimants' wages and commutation of rations for the period of their cap would amount to the following:

Joseph Scott, captain, at $250 a month, December 3, 1864, to April 11, 1865, four months and nine days	$1,(
Commutation of rations, 25 cents a day	
	1,1
Isaac M. Clement, chief engineer, at $150 a month, December 3, 1864, to April 15, 1865, four months and thirteen days	(
Commutation of rations	
	(
David Vaughn, carpenter, at $75 a month, December 3, 1864, to April 15, 1865, four months and thirteen days	
Commutation of rations	
Barney J. Schooley, steward, at $75 a month, December 3, 1864, to December 25, 1864, twenty-two days	
Commutation of rations	
Frederick Kimmerly, watchman, at $60 a month, December 3, 1864, to April 15, 1865, four months and thirteen days	
Commutation of rations	
Peter Marck, deck-hand, at $40 a month, December 3, 1864, to March 4, 1865, three months and one day	
Commutation of rations	

mith, deck-hand, at $40 a month, December 3, 1864, to April 15, months and thirteen days	$177 33
on of rations	33 25
	210 58
ller, same rate and time	177 33
on of rations	33 25
	210 58

BY THE COURT.

anscript of record.

day of February, 1886.

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

embers of the crew of said steamer first filed their claim with nting officers of the Treasury Department, by whom some of ns were settled and paid, while for some reason not known to mittee the claims comprised in this bill were not paid, and a eir relief was presented to the Forty-seventh Congress, and ted on favorably by the Committee on War Claims, passed e of Representatives, and failed to secure consideration in the r want of time. A bill for their relief was presented to the hth Congress and was disposed of by reference to the Court of s heretofore stated.

ommittee therefore report the bill (H. R. 6203) providing for ent of the amount found due said several claimants by said Claims, and recommend that it do pass.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1614.

JOSEPH B. BURTON.

APRIL 9, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SMALLS, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 6705.]

The Committee on War Claims, to whom was referred bill H. R. 6705, for the relief of Joseph B. Burton, having carefully considered the same and accompanying papers, submit the following report:

That on or about the 21st day of July, 1862, the claimant was duly sworn into the service of the United States at the city of La Fayette, county of Tippecanoe, State of Indiana, as a private in Company A, Seventy-second Regiment Indiana Volunteers; that he was regularly enlisted by Capt. Nathaniel Herron, commanding said company; that the said company and regiment left the city of Indianapolis, State of Indiana, on or about the 17th day of August, 1862, for the seat of war in State of Kentucky; that this claimant was detailed from said company to follow said regiment with the camp and garrison equipage and ammunition, which he did on the night of the 17th of August, 1862, and went with said regiment into camp at Lebanon, Ky.; that he continued to serve as such private soldier, with musket and other accouterments, until on or about the 8th day of January, 1863, when said regiment was mounted and served as mounted infantry; that at the time of the mounting of said regiment this claimant was detailed in the Commissary Department, where he was variously employed, part of the time as courier between the division and corps headquarters; that he participated as such private with his gun in the following battles:

(1) Supporting the column of General Buell in his march from Corinth to Louisville in September, 1862, skirmishing with enemy from Elizabethtown, Ky., to said river.

(2) Frankfort, Ky., October, 1862.

(3) Skirmishing with Morgan's cavalry, January, 1863, at Lavergne, Tenn.

(4) Battle of Hoover's Gap, Tenn., June 24, 1863.

(5) Battle of Chickamauga, Ga., September, 19, 20, and 21, 1863.

That in all the foregoing engagements he performed all the duties required of enlisted men under similar circumstances, and faithfully and honorably all other duties to which he was assigned by his superior officers.

He further says that after said regiment left the State of Indiana, they were in the service of the United States some nine months before they received their first installment of pay; that when this affiant presented himself to the paymaster of the Army for his pay said paymas-

ter refused payment for the reason that his name, through the neglect of his officers, had been omitted in making out the pay-rolls. That after said payment had been refused this affiant proceeded to the quarters of said officers and inquired as to why his name had been omitted from said rolls, and was informed that it was an oversight in making out the muster-in-roll previous to the regiment leaving Indianapolis; that a brother of this claimant, Jeremiah C. Burton, appearing on the rolls, they also supposed this claimant, Joseph B. Burton, was also on said rolls until the said company had been mustered for pay while in Kentucky.

The said officers further informed this claimant that it was too late to correct said rolls or to add his name to the next roll, claiming they had no power to make such correction.

That this claimant used every effort in his power to have such correction made, and laboring under the belief that at the time of the final muster-out of the service of said regiment he would receive justice; that he continued to perform faithfully all the duties of such soldier and did faithfully and honorably discharge such duties during the entire term of service of said regiment, about three years.

Lewis Gros, late captain of Company A, Seventy-second Indiana Volunteer Infantry, testifies as follows:

I was mustered into the service of the United States as third sergeant of Company A, Seventy-second Regiment Indiana Volunteers on the 16th day of July, 1862. I was present at the muster-in of Joseph B. Burton, July 21, 1862, and saw said Burton sworn into the service as a private in said company and regiment. I was with said Burton more or less from the date of said muster-in until the final muster-out of said regiment. That this affiant was promoted first lieutenant of said company February 2, 1863, and captain December 3, 1864. That said Burton was, during his term of enlistment, a faithful and honorable soldier. That he discharged all the duties required of him to the entire satisfaction of his superior officers; that said Burton participated in several engagements with the enemy and honorably acquitted himself upon each and every occasion; that when said regiment was mustered for pay sometime during the month of April or May, 1863, it was found that by some oversight his name had been omitted from the muster-in roll of said company; that the officers of said company (before the promotion of this affiant) claimed that owing to the lapse of time before the error was discovered that they had no right to correct said rolls, consequently his name was never added thereto.

He further states that said soldier is as much entitled to be borne upon the rolls of said company and to his honorable discharge as any enlisted man in the command."

Your committee therefore recommend the passage of the bill with the following amendment: In line 10, after the word "aforesaid" add the following: "Deducting therefrom any sum of money heretofore paid him on account of said service."

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1615.

SCHUYLKILL COUNTY, PENNSYLVANIA.

APRIL 9, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. LYMAN, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 2001.]

The Committee on War Claims, to whom was referred the bill (H. R. 2001) to authorize the proper accounting officers of the Treasury to audit and pay the claim of the county of Schuylkill, in the State of Pennsylvania, for money advanced by it under allotments made by soldiers of said county, during the late rebellion, by virtue of section 12 of the act of Congress entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," approved July 22, 1861, have had the same under consideration, and submit the following report:

July 22, 1861, Congress passed an act entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property." The twelfth section of said act is as follows:

SEC. 12. *And be it further enacted*, That the Secretary of War be, and he is hereby, authorized and directed to introduce among the volunteer forces in the service of the United States the system of allotment tickets now used in the Navy, or some equivalent system, by which the family of the volunteer may draw such portions of his pay as he may request.

In pursuance of said act, September 19, 1861, an order was issued from the War Department, of which the following is the second paragraph:

II. In accordance with section 12 of the act of Congress of July 22, 1861, entitled "An act to authorize the employment of volunteers," the following method of enabling such of the volunteer forces of the United States as may desire it, to assign portions of their pay for the benefit of their families is hereby adopted:

(1) The assignment of pay will be made on a separate roll, similar to the annexed form, to be executed under the supervision of the captain or immediate commander of the recruit at the time of enlistment, or of the soldier in camp.

(2) When completed, the allotment-roll is to be transmitted to the Paymaster-General, by whom the deductions will be made on each subsequent pay-roll, and the aggregate amount of each company's assignment will be transmitted by him to the distributor named in the roll, together with a copy of said roll.

On December 24, 1861, Congress passed an act entitled "An act to provide for allotment certificates among the volunteer forces," the first section of which act is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States shall appoint, for each State having volunteers in the United States service, not exceeding three persons, who shall be authorized by the President's commission to visit the several Departments of the Army in which volunteers from their respective States may be, and there

procure from said volunteers from time to time their respective allotments of their pay to their families or friends, duly certified in writing, and by them, or by some commissioned officer of such Department, attested in pursuance of such orders as may be made for that purpose by the Secretary of War, and upon which certified allotment the several paymasters shall, at each regular payment to troops, give drafts payable in the city of New York, to the order of such persons to whom said allotments were or may be made.

In compliance with the foregoing provisions of law certain volunteers from the county of Schuylkill assigned or allotted portions of their pay to county commissioners of that county, or to the Schuylkill County relief board, for the benefit of their families, and said county advanced to families of such soldiers the sums thus allotted when for any reason the troops were not paid regularly, and awaited reimbursement from the paymasters when the troops should be paid. It is now claimed that all these sums so advanced have not been reimbursed to the county. The committee think, from the evidence before them, that this claim is correct. It is claimed by the county that in some instances the Government officers paid to the soldiers money which had been thus allotted, and which the county had already advanced to the soldiers' families; this the committee also believe to be true.

But some of the evidence tends to show that the county may have been negligent in some regard, and to throw around the bill the proper safeguards, the committee report the following amendment, and recommend that as so amended the bill do pass:

Add at the end of the bill the following: "*Provided*, That no sum shal be so refunded when it shall appear to said accounting officers that the soldier making such particular allotment or allotments shall have been also paid by the United States, unless it shall also appear that such double payment was not through any negligence in reference thereto on the part of the officials of said county charged with the duty of making such advances."

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1616.

J. G. FLOURNOY.

APRIL 9, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. TUCKER, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany bill H. R. 7650.]

The Committee on the Judiciary have had under consideration the bill (H. R. 7303) for the relief of J. G. Flournoy, of the State of Mississippi, and ask leave to report the accompanying bill in lieu thereof, and append the petition of the said J. G. Flournoy to this report.

MERIDIAN, MISS., *March* 25, 1886.

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

Your petitioner, J. G. Flournoy, of Meridian, Miss., respectfully asks that his disabilities incurred as a Southerner in the late war be removed, and that he be restored to all the rights and privileges of a citizen of the United States.

Respectfully submitted.

J. G. FLOURNOY.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1617.

BRIDGE ACROSS THE MISSOURI RIVER NEAR CHAMBERLAIN, DAK.

APRIL 9, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. BYNUM, from the Committee on Commerce, submitted the following

REPORT:

[To accompany bill H. R. 7651.]

The Committee on Commerce, to whom was referred the bill (H. R. 4793) for the construction of a bridge by the Chicago, Milwaukee and Saint Paul Railway Company, across the Missouri River, near or in the vicinity of Chamberlain, in the Territory of Dakota, having duly considered the same, reports a substitute therefor. The substitute is in conformity with the recommendations of the War Department, filed herewith, and made a part hereof.

The committee recommend that the original bill lie upon the table, and that the substitute do pass.

WAR DEPARTMENT,
Washington City, April 7, 1886.

SIR: I have the honor to acknowledge the receipt of a letter of the 25th of January last, from the clerk of your committee, inclosing for such suggestions as I may desire to make, Senate bill 1123, authorizing the Chicago, Milwaukee and Saint Paul Railway Company to construct, operate, and maintain a pile ponton railway bridge across the Missouri River near or in the vicinity of Chamberlain, in the Territory of Dakota.

In reply I beg to inclose a letter of the 6th instant, on the subject, from the Acting Chief of Engineers, and its accompanying copy of a report of the 1st instant from Maj. C. R. Suter, Corps of Engineers, who considers the span of 400 feet long, as proposed in the bill, ample for all purposes, but is of opinion that it would be entirely inadmissible to construct the balance of the superstructure on short spans resting on pile bents as is done in the case of the bridge at Prairie du Chien, for the reason that these narrow spans would soon be so choked up with drift and silt as to unduly contract the waterway.

The views of Major Suter are concurred in by the Acting Chief of Engineers and by this Department.

Very respectfully, your obedient servant,

WM. C. ENDICOTT,
Secretary of War.

Hon. S. J. R. MCMILLAN,
Chairman Committee on Commerce, United States Senate.

MISSOURI RIVER COMMISSION,
1415 WASHINGTON AVENUE,
Saint Louis, Mo., April 1, 1886.

GENERAL: The copies of House bill 4793 and Senate bill 1123, herewith returned, have been submitted to the Missouri River Commission for an expression of their views thereon, as requested in your indorsements on the inclosures.

Passing by for the present some minor criticisms on the bills under consideration, the Commission decide that for bridges above Kansas City no spans of less width than 300 feet should be allowed over the waterway of the river. In the case of a low bridge a clear opening of this width is imperative, and unless it can be given no low bridge should be allowed. A clear height of 50 feet, measured from extreme high-water mark to the lowest part of the superstructure, is required in the case of a high bridge and 10 feet for a low bridge. The piers in all cases should be parallel to the current, and the axis of the bridge as nearly as possible at right angles thereto. The channel opening in low bridges and the channel span in high bridges should have the required width of 300 feet at all stages of the river. No riprapping around piers should be allowed in any case, or any other substitute for imperfect foundations which will sensibly contract the waterway.

These requirements, especially as regards the width of spans, are dictated by a consideration of the peculiar characteristics of the Missouri River. The velocity of its current is so great at all stages as to render unusual precautions necessary to prevent bridges erected over it from unduly obstructing navigation. Any undue contraction of waterway not only materially increases the velocity of current through the bridge, but also gives rise to eddies and cross currents which render its passage hazardous as well as difficult. In the various bridge charters passed by Congress the fact seems to have been lost sight of that the greater or less elevation of the superstructure of a bridge does not alter its relation to the free flow of water between its piers. Yet, in the case of high bridges, widths between all piers of 300 feet or more, are invariably required while in low bridges widths of 160 feet, or less, are allowed and only one or two of the spans are required to be from 200 to 300 feet wide. Even in this last case the provision was only introduced to allow the passage of rafts and had no reference to the clear waterway. Moreover, on the Missouri River, bridge sites are invariably chosen at narrow sections, where the contraction of waterway becomes a matter of great importance. Again, in the case of high bridges, all spans over the waterway are generally required to give clear widths of 300 feet and 50 feet clear height. In case of necessity any of these openings can be used by boats, but in the case of a low bridge only two openings are available, having widths of but 160 feet, and as a matter of fact it is very rare that more than one of these can be used. Hence, if a boat fails to enter one of these narrow openings disaster is certain. A moment's reflection will show that the distinction thus set up is entirely arbitrary, and has no support in reason or fact. These recommendations of the Commission are designed to make the requirements in all cases harmonious and sufficient for the purpose intended, viz: The protection of the navigation interests.

I pass now to a special consideration of the bills themselves.

* * * * * * *

S. 1123 and H. R. 4793 are identical, and authorize the Chicago, Milwaukee and Saint Railway Company to build over the Missouri River at Chamberlain, Dak., a pile ponton bridge similar to the bridge over the Mississippi River at Prairie du Chien, Wis.

The only material specifications are that that the ponton drawer shall be 400 feet long if practicable, and that the location shall be approved by the Secretary of War. In this case a wide opening is provided for boats ample for all purposes, but if the permission here given be literally carried out the balance of the superstructure will be carried on short spans resting on pile bents. At least such is the construction of the bridge at Prairie du Chien. Such a structure would be entirely inadmissible, as these narrow spans would soon be so choked up with drift and silt as to unduly contract the waterway. If the bridge can be made to conform in this respect to the general requirements previously noted no objection could be made to its construction.

* * * * * * *

Very respectfully, your obedient servant,

CHAS. R. SUTER,
Major of Engineers, United States Army,
President Missouri River Commission,

Brig. Gen. JOHN NEWTON,
Chief of Engineers, U. S. Army, Washington, D. C.

49TH CONGRESS, 1st Session. HOUSE OF REPRESENTATIVES. REPORT No. 1618.

REPORT ON RESOLUTION MAKING BILLS FROM MILITARY COMMITTEE SPECIAL ORDER.

APRIL 9, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. STEELE, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany Mis. Doc. 202.]

The Committee on Military Affairs report back favorably the resolution referred to it for consideration setting apart Tuesday and Wednesday (May 4 and 5 next) for consideration by the House of bills reported from this committee after the morning hour on each of such days, and recommend its adoption by the House, for the following reasons:

The committee have upon the Calendar, and will have at that time, several bills of importance affecting the Army and its efficiency; several bills making provision for the construction of military roads for the approach to national cemeteries, and a bill providing for the enlargement of soldiers' homes. Also bills affecting the status of cadets at the Military Academy and their assignment to the Army, and other bills, none of which involve large increased expenditures of public money.

These bills have been carefully matured by the committee, involve no extravagance, and in the opinion of the committee will accomplish much needed reform and improvement in the military service. Unless some time be given the committee for consideration other than is provided for by the Rules of the House our labor will be lost, and the office of this committee for affirmative action will be wholly destroyed.

The committee therefore recommend the passage of the resolution.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1619.

ADJUSTMENT OF RAILROAD LAND GRANTS IN KANSAS.

APRIL 10, 1886.—Recommitted to the Committee on the Public Lands and ordered to be printed.

Mr. J. A. ANDERSON, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany bill H. R. 7021.]

The Committee on the Public Lands, to whom were referred the bills (H. R. 3076 and H. R. 7021) to provide for the adjustment of land grants made by Congress to aid in the construction of railroads within the State of Kansas, and for other purposes, having given the subject careful consideration, respectfully submit the following report, and recommend the adoption of the accompanying bill (H. R. 7021) as amended.

The bill provides for the adjustment of said grants by the Secretary of the Interior, and, if in such adjustment it shall be found that lands have been certified to or for the benefit of said railroad companies, or either of them, in excess of the amount to which they were lawfully entitled, or that lands have been certified which were reserved from the operations of said grants, or settled upon under the homestead, preemption, or timber-culture laws, by *bona-fide* settlers, within granted limits, prior to the definite location of said roads, or settled upon under said laws within indemnity limits, prior to the selection of said lands by the railroad companies, or that lands not granted or lands not earned by said companies have been so certified, then, and in all such cases, the bill makes it the duty of the Attorney-General to commence and prosecute, in the proper courts, the necessary proceedings to cancel all patents, certifications, and evidence of title so found to have been unlawfully issued, and to restore the title thereof to the United States.

The bill protects the rights of all *bona-fide* settlers within the limits of railroad grants in all the States and Territories, whose entries have heretofore been erroneously canceled, or their applications denied, on account of any railroad grant or the withdrawal of public lands for railroad purposes, except such as relinquished possession of their lands, and such as acquired other lands under the public land laws, where they had remained in possession of the land, claiming right thereto under any claim under the general land laws of the United States.

The bill also protects the rights of persons who purchased wrongfully certified lands from the railroad companies, except such tracts as lawfully belong to *bona-fide* settlers.

It requires the railroad companies to pay the money received from the sale of said lands, not exceeding $2.50 per acre, to the United States, and authorizes suit to be brought for the recovery of the same in case of refusal.

It provides that patents shall issue from the United States direct to the purchasers of said lands, upon their making proof of the fact of such purchase, at the proper local land office, within one year after the adjustment of said grants respectively.

It also provides that all lands wrongfully certified or patented, and not sold by said companies, or either of them, shall be immediately restored to market under the public land laws; and that any lands heretofore claimed by said companies, or either of them, under their respective grants, but not certified or patented, which, upon a proper adjustment, shall be found not to belong to said companies, shall be restored to market under the public land laws, and *bona-fide* settlers residing thereon shall have priority of right under said laws.

Also, that no more lands shall be certified or conveyed to or for the benefit of either of the railroad companies, within the State of Kansas, until the grants therein shall have been adjusted, as required by said bill.

The bill is believed to be just and equitable in all its provisions.

It protects the lawful rights of all parties in interest, as far as it is possible at this late date to protect such rights, and will, if enacted into a law, be the means, it is hoped, of settling speedily complicated questions involving vast interests, which otherwise are liable to lead to endless litigation.

It secures to settlers, whose entries have been wrongfully canceled, or their applications denied, their rights under the homestead and pre-emption laws.

It protects the interests of the State and United States.

That a large amount of public land has heretofore been erroneously certified to and for the benefit of railroad companies is not and cannot be disputed, as has been repeatedly shown by the Commissioners of the General Land Office.

The amount of such certification can only be determined by an accurate adjustment of said grants, as contemplated by the bill herewith submitted.

Your committee accordingly recommend the adoption of the bill H. R. 7021, with the following amendments:

In section 3, line 1, after the word "grants," insert the words "or any other railroad, wagon road, or canal grant."

In line 9, after the word "laws," insert "where he has remained in possession of the land claiming his right thereto under any claim under the general land laws of the United States."

At the end of line 18 add the words, "*Provided also*, This section not to apply to any tract of land in possession of any party deriving title under any of said railroad grants, where such possession is in conflict with parties in possession under claim under the general land laws of the United States, as contemplated in the first clause of this section down to the first proviso."

Mr. VAN EATON, from the Committee on the Public Lands, submitted the following

VIEWS OF THE MINORITY:

The undersigned fully concur in all measures which provide for the recovery by the United States of all lands heretofore granted for the construction of railroads which have not been heretofore earned by such construction. But they cannot so concur in the majority report upon the present bill, because they are unable to discover any existing necessity for such proposed legislation.

Grants to aid in the construction of canals and railroads cover a period extending from 1828 to 1871. More than 50,000,000 acres of land have been conveyed to States and corporations in satisfaction of grants, wherein the condition of seasonable construction has been fully met. The principles of measurement and rules of construction applied in all such grants find their basis established at the very commencement of the system, and under such principles and rules these millions of acres have been conveyed. Many of the grants for the construction of railroads have been entirely adjusted in accordance with these long-established rules and principles, and it is very certain that the titles thus conveyed thereunder have passed into the hands of thousands of innocent purchasers for value, whose labor and investment have largely enhanced the value of such lands. Titles throughout the settled portions of the West rest largely upon the integrity of these ancient adjustments which it is the declared purpose of this bill to now reopen and disturb.

Whatever changes in the construction of the law may have occurred in recent years, it is now proposed to apply to all railroad grants and to reopen as an original matter questions determined by the proper administrative officers of the Government many years since, and on the faith of which determination these titles have been created and put forth upon the world.

The assumed basis for this threatened destruction of property rights springs from the declaration of the present Commissioner of the General Land Office, who finds an established basis of measurement determining the lateral limits of these grants which has been in force for nearly forty years not in accord with his construction of the law, and who thereupon announces the determination to readjust all such grants, and, if necessity, to produce new results, regardless of all that has been hitherto done and in disregard of all its executed consequences. There has been no argument before nor consideration by the committee as to the soundness of this new method of measurement as matter of law, nor the propriety, from either a legal or equitable standpoint, of thus attempting to change the construction and practice of forty years in order to accomplish results which may disturb titles long since vested and which have become the basis of community property rights.

Titles to reality in all settled communities which have stood the test of time, and often of judicial scrutiny in controversities between private

litigants, should not be clouded by attack through the judicial tribuna or otherwise. And certainly legislation which compels adjustment these railroad grants where the titles have stood for many years u questioned, and passed from hand to hand as the representative values, should not be had upon a mere assumption of error in the pri ciples and practice of the adminstrative officers extending through many years.

From the establishment of the Government to the present time t power and duty of the Attorney-General to invoke the aid of the cou in recovering lands assumed to have been erroneously conveyed by t Government has stood unquestioned. As matter of practical admin tration he acts daily in this direction upon the request of the officers the Land Department, who are under the law directly charged with t duty of protecting the Government in this regard. But the performan of that duty does not need the incentive of legislation, nor should the w of Congress control the judgment of the highest law officer of the Gove ment in determining the existence or non-existence of a remedy in fav of the United States, nor compel him to institute and carry forwa litigation which, in his judgement, cannot succeed upon either legal equitable grounds.

The present bill makes it obligatory upon both the officers of the La Department to adjust all grants however ancient and the Attorney-G eral to commence proceedings for recovery regardless of the justice, w dom, or policy of such proceeding. While all of these grants have be adjusted in whole or in part by the officers of the Land Department, a ing in accordance with settled precedent and long-established rules measurement which the railroads did not inaugurate nor control, this l seeks to punish the Government's grantees for the assumed mistakes its own officers, and to put in litigation titles which were obtained with fraud and in accordance with such long-established precedents. Rec nizing the existing fact that the lands so conveyed have in large p passed into the hands of innocent purchasers for value, the bill ho out to such purchasers the glittering promise of a new title by gift fr the United States after their existing titles have been clouded for ma years with litigation and finally set aside. As this promise is a m gratuity upon the part of the Government, it can be rescinded at a future time. But assuming its integrity for the present, the bill th provides for suits against the railroad companies to recover the G ernment price per acre for all lands to which its purchasers may ceive such gift of title from the Government. The futility of su legislation must be apparent to every legal mind. Upon the recov of these titles by the Government the purchasers from the railro stand without legal or equitable remedy against the United Sta thereon. The assumption of the obligation by the Government to ma a new title to such purchasers cannot create a legal or equitable obli tion from the railroad companies to the Government in turn to rec to it the value of such lands. The sole responsibility of the railr companies would be upon the warranty of title, if any, given their p chasers. No obligation to the Government can be created beyond t point by legislation or otherwise.

And, finally, the minority protest that the only result of such legi tion as this is to cloud and embarrass the titles of thousands of innoc men, who, during the pendency of litigation which this bill directs, find themselves unable to handle their property by sale, mortgage otherwise. The evil results flowing from such condition of affa whether of long or short duration, is so great that it manifestly can

tify Congress in thus legislating. It is precisely the case where un-
: the existing circumstances it is far better to stop with ascertainin g
at the law has been construed to be and what forms of measuremen t
ve been adopted through so many years by the officers charged with
) administration of these grants and bound by an official oath, than
seek to rescind what has thus been done in order to recover a few
)usand acres of land at the end of long and widespread litigation,
ich must carry in its train all the evils which flow from the genera l
heaval of real titles in settled communities.

H. S. VAN EATON.
ISAAC STEPHENSON.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1619½.

AMENDMENT OF REVISED STATUTES.

APRIL 10, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. HEWITT, from the Committee on Ways and Means, submitted the following

REPORT:

[To accompany bill H. R. 5789.]

The Committee on Ways and Means, to whom was referred House bill 5789, submit the following report:

That the change provided for in the bill has been rendered necessary by the opening of a new railway which has its terminus at Cape Charles City, to which the business formerly done at Cherrystone is thus transferred. The Secretary of the Treasury has approved the proposed change, as will appear by his letter of April 5, 1886, hereto annexed.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., April 5, 1886.

SIR: I have the honor to acknowledge receipt of House bill No. 5789, entitled "A bill to amend section 2552 of the Revised Statutes of the United States," transmitted in letter from your committee, dated the 31st ultimo, for an expression of my views thereon.

The object of the bill is to make Cape Charles City the port of entry, instead of Cherrystone, for the district of Cherrystone, in the State of Virginia.

I see no objection to the passage of said bill.

Respectfully, yours,

C. S. FAIRCHILD,
Acting Secretary.

Hon. WILLIAM R. MORRISON,
Chairman Committee on Ways and Means, House of Representatives.

A BILL to amend section twenty-five hundred and fifty-two of the Revised Statutes of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph one of section twenty-five hundred and fifty-two of the Revised Statutes of the United States be amended by striking out "Cherrystone," in the sixth line, and inserting in lieu thereof "Cape Charles City," so that it will read "Cape Charles City shall be the port of entry," and so forth.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1620.

REDUCTION OF TARIFF TAXES AND COLLECTION OF THE REVENUE.

APRIL 12, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. MORRISON, from the Committee on Ways and Means, submitted the following

REPORT:

[To accompany bill H. R. 7652.]

The Committee on Ways and Means, to which was referred so much of the President's message and accompanying documents as relates to the revenue and the methods of its collection, respectfully submits the following report:

The rate of duty or tax on imported goods subject to duty is as low as 5 on some and higher than 200 per cent. on others. The average rate for the fiscal year 1885 a little exceeded 47 per cent., or $47 of tax on $100 worth of imported goods. This is the highest rate paid in any year since 1868, and above the average rate of the war period from 1862 to 1868. In his first annual message after the tariff revision of 1883, President Arthur gave to the Congress information that the reduction of unnecessary taxes intended and calculated by the tariff commission and the previous Congress had not been verified, and said: "So the question still presses, What legislation is necessary to relieve the people of unnecessary taxes?"

While recommending measures by him deemed necessary and expedient, the President, in his first message to this Congress, says:

> The fact that our revenues are in excess of the actual needs of an economical administration of the Government justifies a reduction in the amount exacted from the people for its support. * * * The proposition with which we have to deal is the reduction of the revenue received by the Government and indirectly paid by the people from customs duties.

The Treasury receipts for the fiscal year 1885 were $323,690,706.38. The increased receipts from customs and internal taxes, the principal sources of revenue, for the months of the fiscal year of 1886 already past, over the receipts of the same months of last year, justify the estimate that the receipts for the present fiscal year will exceed $335,000,000. Nor may our annual Treasury receipts be expected again to fall below that sum without reduced taxation, inasmuch as these receipts result chiefly from the taxes on articles of necessity and comfort to be consumed in continually increasing quantities with our ever-growing population.

The expenditures for the fiscal year 1885, including pensions and the legal requirements of the public debt, were $305,830,970.54. Neither "the actual needs of an economical administration of the Government"

nor the patriotic expectations of the people justify any increase of this enormous annual expenditure, and we may safely estimate the annual surplus to exceed $30,000,000.

The reductions to result from the proposed bill are within this estimated surplus and a little exceed $25,000,000 on the basis of last year's importations. (See table of estimates submitted with this report.)

Secretary of the Treasury Manning, in his first annual report on the condition of the customs service, says:

> Many rates of duty begun in war have been increased since. * * * They have been retained, although the long era of falling prices, in the case of specific duties, has operated a large increase of rates. They have been retained at an average ad valorem rate for the last year, * * * nearly 4 per cent. more than the rate before the latest revision. The highest endurable rates of duty, which were adopted in 1862–'64 to offset internal taxes upon almost every taxable article, have in most cases been retained now from fourteen to twenty years after every such internal tax has been removed. * * * They have been retained upon articles used as materials for our own manufactures (in 1884 adding $30,000,000 to their cost), which, if exported, compete in other countries against similar manufactures from untaxed materials. Some rates have been retained after ruining the industries they were meant to advantage. Other rates have been retained after effecting a higher price for a domestic product at home than it was sold abroad for. All changes have left unchanged, or changed for the worse, by new schemes of classification and otherwise, a complicated, cumbrous, intricate group of laws which are not capable of being administered with impartiality to all our merchants. * * * Nothing in the ordinary course of business is imported unless the price here of the domestic, as well as of the imported, article is higher by the amount of the duty and the cost of sea-transit than the price abroad.
>
> * * * * * *
>
> As for duties affecting articles that are also produced in the United States, the first to be safely discarded are those upon materials used by our own manufacturers, which now subject them to a hopeless competition at home and abroad, with the manufacturing nations, none of which taxes raw materials.

These views of Secretary Manning as to the existing condition of the customs service and tariff taxation are not partisan, but are in accord with the views pressed on Congress by his predecessors, Secretaries Folger and McCulloch.

It is the purpose of the bill reported to correct some of the classifications, rid the customs laws of the complications of which the Secretary complains, and so change these laws for the better that they will be "capable of being administered with impartiality to all our merchants."

The duties intended to be removed by the bill are chiefly those which tax articles used by our own manufacturers, which now subject them to a hopeless competition at home and abroad with the manufacturing nations, none of which taxes such materials, that our own manufacturers may successfully compete, both at home and abroad, with manufacturing nations which do not tax such materials, thus securing markets for the products of hands now idle for want of work to do. Some of the materials upon which great industries are built, such as wood, salt, hemp, and wool, are placed on the free list.

In the past twenty years we have obtained from tax on imported wood an amount estimated at less than $20,000,000, to encourage felling our trees and destroying our forests. In a much shorter period we have given more than 35,000,000 acres of land in bounty to encourage the planting of other trees. The tax on imported salt is remitted to those who catch and trade in fish, and to those who pack meats for the foreign market. It is believed this tax should be remitted to all.

After a century of failure to make hemp either a profitable crop or a successful industry through protective taxation, farther effort should be

lexistence, wool, with everything imported, was taxed. From then now some qualities of wool have paid some rate of duty. For years last past the rate on imported wool has been more than le that imposed on other products of the pasture, field, and farm. e other lower tax-protected products have outrun or kept far in nce of the wondrous growth of our population. Wool protected le as much has fallen further behind. Wool finds its market at , and its price is increased by a tax, part of the burden of which be borne by the grower of other farm products, whose surplus in gn markets fixes his price at home, and to the increase of which ool-growing neighbor contributes nothing.

e price of wool has been downward for many years; it declined the tax was highest and protection greatest.

om the statements of the Ohio and other wool growers' associations Senate Ex. Doc. 72, pp. 224–227) it appears that the market price ol is not three-fourths of the actual cost of production; that with xisting protective rate of ten cents on the pound the price is still ents below the price at which it can be profitably grown in the wool-growing States of Ohio and Pennsylvania.

appears, therefore, that the attempt to make wool growing profit- by the use of the taxing power has not been successful, while the as been the great national hindrance to the woolen manufactur- ndustry, as well as a most grievous burden upon all buyers of en clothing.

the tariff commission scheme of 1883 to make both wool growing wool manufacturing profitable by taxing both, the plan of 1867 adopted, as described by the late President Garfield, who said of it:

> basis of that legislation was this: That upon the several grades of imported duty should be imposed sufficient to promote the growth of sheep husbandry in nited States. A specific duty was then imposed on woolen goods as near as le equal to the duty put upon the wool which entered into the manufacture. as not protection, but simply an equivalent duty, which placed the woolen acturer on the free-trade level. To this specific duty was then added a duty er centum ad valorem on woolen goods, as a protection to the manufacturer t foreign competition.

has been already shown by statements of wool growers that the

especially woolen and flax, hemp, jute, or linens, the industries are left with substantially the same if not greater advantages than under existing laws. Other articles, the rates on which are so to be reduced, as cotton yarns, thread, and coarser cotton cloths, and sugar, are now dutiable at unnecessarily and unreasonably high rates. These will find compensation in the burdens of taxation sought to be removed for reductions far greater than any proposed by the bill. We get from duties on cotton goods $10,900,000. The rates on goods from which we collect $2,100,000 of these $10,900,000 are slightly reduced, while the rates on which we collect the other $8,800,000 are unchanged. Sugar with the present low price is left at the high, but still revenue, rate, equivalent to 66 per centum; at the present higher rate we collect on sugar more than one-fourth of all revenue derived from customs.

With the still existing high, if not unwarrantable, scale of current ordinary expenditure, and the one-half of the money obligations of the late civil war yet to be paid, a high rate of taxation must be long maintained; and in submitting the proposed bill affecting the cost of shelter, of part of the food, and of all the clothing of the people, it has been the effort of your committee to adopt such rates of taxation as will be permanent and as will only need to be disturbed by unforeseen national emergency, and at the same time to exempt necessary articles from taxation, and thereby promote domestic industries.

The bill as reported also contains numerous provisions in reference to the administration of the customs laws. The changes recommended have been rendered necessary in part by the provisions of the tariff act of March 3, 1883; in part by the growth of business and the modifications incident to progress. The necessity for this remedial legislation was brought to the attention of the last Congress by the then Secretary of the Treasury, Judge Folger, and a bill was framed by the committee, and reported to the House, embodying many of the provisions of the bill herewith submitted. No action, however, was taken upon this bill. Meanwhile, a new administration came into power, and new and additional questions of great importance had arisen, which were brought to the attention of Congress, and referred to this committee, in a special report upon the collection of duties, submitted by the present Secretary of the Treasury at the beginning of the session. Very many of the matters referred to in that report are dealt with in the bill now reported, and reference is made thereto for such detailed information as it is impossible to give within the compass of this report.

On the 10th of February the Secretary of the Treasury, in response to a resolution of the House calling for information upon questions arising under the tariff act of 1883, addressed a letter to the Speaker, which will be found in House Ex. Doc. No. 68 of the present session of Congress. Reference to this document will explain the necessity of the legislation herewith proposed, defining more clearly the rates of duty to be imposed upon articles in regard to which protests have been made and litigation is pending.

On the 16th day of February the Secretary of the Treasury transmitted to the House a report on the revision of the tariff, with accompanying documents, which is to be found in Senate Ex. Doc. No. 72 of the first session of the present Congress. In this report the Secretary thoroughly discusses the question of frauds upon the revenue and makes general recommendations as to the necessity of legislation for the prevention of dishonesty in the importation of foreign goods and their entry for consumption. In the bill herewith sub-

mitted some of the embarrassments suggested by the Secretary are sought to be removed, and whatever is formulated for this purpose has received the approval of the Secretary of the Treasury. It is not pretended, however, that the committee has dealt exhaustively with the evils which have excited the condemnation both of the mercantile classes and of the officers whose duty it is to enforce the law. So long as the present complicated tariff shall exist, and duties are imposed upon more than four thousand articles largely subject to ad valorem rates, these evils will continue. All that Congress can do, in the absence of a general revision of the tariff with new and simple classifications, is to provide for each cause of complaint as it arises. In the bill proposed the most pressing and prominent of the grievances are dealt with.

In addition to the settlement of such controverted questions, an attempt has been made to relax the provisions of the law which interfere with the freedom of exchange, more particularly with reference to the warehousing of goods in bond and their withdrawal for consumption or re-exportation. A provision has also been inserted for the allowance of drawbacks to the full extent of the duty paid upon any imported materials which have entered into the production of articles exported. The object of this provision is to remove an impediment to the growth of our foreign commerce. Already, to a considerable extent, we are able to compete in foreign markets with other nations in consequence of superior advantages in some particulars possessed by this country, but so long as we impose taxes upon raw materials we cannot hope to establish a market for our commodities and competition with nations possessing the great advantage of free raw materials. Nevertheless, by the drawback system, which can do no injury to any domestic interest, a partial remedy is afforded in some cases which will enable us to procure and maintain a foreign trade otherwise rendered impossible by our own customs laws.

The underlying consideration with the committee in formulating the proposed legislation, both as to warehousing and as to drawbacks upon exports, has been to enlarge, as far as possible, the area for the employment of our own labor and capital, and to make useful the natural resources of the country in its products and geographical position, so as to aid in the maintenance of our shipping interest, now, and for some years past, in a state of depression and decay.

The Secretary of the Treasury also addressed a letter to the Speaker of the House of Representatives, which was duly referred to this committee, in reference to protests, appeals, and suits against the exaction of duties, which is contained in House Ex. Doc. No. 43, of the first session of the present Congress. The law recommended by the Secretary has been adopted by the committee and will be found in sections 13, 14, 15, and 16 of the bill herewith submitted. The reasons for this legislation are fully set forth in the document referred to, and reference is made thereto for such information as may be necessary in order to understand fully the bearing and effect of the legislation recommended.

The most important matter dealt with in this portion of the bill is that which relates to the duties upon coverings and packages, which has been the subject of innumerable protests, many thousands of suits, and of partial adjudication in the case of Oberteuffer *v.* Robertson, which has been recently decided by the Supreme Court of the United States. This decision makes it imperatively necessary that legislation shall be had in order to define the question of dutiable value upon which

depends the collection of the customs, in all cases where ad valorem duties are applicable. The provision inserted in the proposed law has had the careful consideration of the committee and the favorable scrutiny of the officers of the Treasury. It cannot be asserted that the proposed legislation will settle every question which may hereafter arise, but it is believed to be a complete remedy for the questions now in dispute. It will certainly simplify very much the complications which have caused general dissatisfaction as well among the officers of the customs as the merchants, whose business has been deranged by the uncertainties of construction incident to the existing law.

In order to relieve both the merchants and the customs officers from annoying exactions and unnecessary labor, it is proposed to abolish all oaths and fees, and to substitute in lieu thereof, as in other commercial countries, the declarations of the importer, but preserving the same penalties as are now imposed by law for false statements.

A limitation of $500 has been imposed upon the value of wearing apparel and other property which may be brought in free of duty by a passenger arriving in the United States from abroad, but provision has been made by which foreign tourists, theatrical companies, and professional lecturers, may bring in a larger amount of property without the payment of duty, upon giving bonds, when required so to do, for their reexportation within six months, with power to grant a further extension of six months in the discretion of the Secretary of the Treasury. This provision, taken in connection with the proposed sections making it a crime either to give or receive any money for the passage of baggage through the custom-house, will, it is believed, bring to an end a great abuse in regard to the excessive amounts of baggage brought in free in competition with the merchandise of importers, who have to pay duties. The complaints in regard to the passing of baggage have become so serious as to amount to a scandal, which demands the enactment of such punitive legislation as will deter passengers and customs officers alike from violating the plain provisions of the law.

Within the compass of this report it is not possible to go into any greater detail as to the nature of the specific legislation intended to simplify and give efficacy to the laws existing for the collection of duties, but the effort of the committee has been, in all cases, to settle existing controversies, and to provide, as far as possible, against future ones arising out of ambiguous language or conflicting provisions of law. In this effort the committee has been governed by the policy of removing, wherever practicable, artificial and unnecessary obstructions to the free interchange of commodities under the natural and healthful laws of trade, so that the country may continue to grow in wealth and prosperity.

Table showing the articles, values, amount, and rates of duty on importations for the fiscal year ended June 30, 1885, and the rates and estimated amount of duty on the same importations under the proposed bill to reduce tariff taxes.

Articles.	Importations of 1885.		
	Quantities.	Values.	Duties received 1885.
FREE LIST.			
Timber, hewn and sawed, and timber used for spars and in building wharves.....C feet..	6,158.00	$1,285 00	$257 00
Timber, squared or sided, not specially enumerated or provided for.....C feet..	67,132.00	10,427 00	671 32
Sawed boards, plank, deals, and other lumber of hemlock, white-wood, sycamore, and bass-wood, and all other articles of sawed lumber.....M feet..	498,682.48	6,148,069 45	763,768 71
Hubs for wheels, posts, last-blocks, wagon-blocks, oar-blocks, gun-blocks, heading-blocks, and all like blocks or sticks, rough-hewn or sawed only.....	.....	59,038 61	11,807 72
Staves of wood of all kinds.....	.....	253,703 00	25,370 30
Pickets and palings.....M..	4,698.50	51,027 26	10,205 45
Laths.....do...	154,812.50	199,818 52	23,221 87
Shingles.....do...	69,753.75	158,042 78	24,413 83
Pine clapboards.....do...	120.65	1,261 00	241 30
Spruce clapboards.....do...	2,875.77	40,566 00	4,313 68
Wood, unmanufactured, not specially enumerated or provided for.....	.....	38,960 00	7,792 00
Total wood and lumber.....	.....	.....	1,072,063 18
Provided, That if any export duty is laid upon the above-mentioned articles, or either of them, by any country from whence imported, all said articles imported from said country shall be subject to duty as now provided by law.			
Salt in bags, sacks, barrels, or other packages....pounds..	351,276,969	1,030,028 72	421,532 39
Salt in bulk.....do...	412,322,341	386,796 85	329,857 85
Total salt.....	.....	.....	751,390 24
Hemp.....tons..	4,917,814	778,327 00	122,945 34
Manilla, and other like substitutes for hemp, not specially enumerated or provided for.....tons..	25,308,433	3,898,275 00	632,710 87
Jute butts.....do...	78,230,677	2,304,553 00	391,153 38
Jute.....do...	14,922,348	785,507 00	157,101 40
Sunn.....do...	100,430	10,271 00	1,506 46
Sisal grass.....do...	31,796,531	2,245,020 00	476,048 00
And other vegetable substances, not specially enumerated or provided for.....tons..	1,594,853	140,538 00	23,922 79
Flax straw (hempseed):			
Flax, not hackled or dressed.....	3,869,282	862,975 00	77,385 66
Flax, hackled, known as dressed line.....	1,014,726	599,453 00	40,589 00
Tow of flax.....	1,699,882	270,239 00	16,998 82
Tow of hemp.....	709,767	84,957 00	7,097 67
Total textile fibers.....	.....	.....	1,947,459 39
Herrings, pickled or salted.....bbls..	49,088.09	543,697 68	49,088 09
Mackerel.....	21.75	100 00	43 50
Salmon:			
Pickled.....	9.77	92 00	19 55
Preserved.....	.....	9 00	2 25
Other fish:			
In barrels.....	2,011.46	14,411 00	4,022 91
Not in barrels.....pounds..	4,414.798	157,767 54	22,074 04
Prepared or preserved.....	.....	31,495 32	7,873 84
Total fish.....	.....	.....	83,124 18
All wools, hair, &c.....	68,146.652	9,474,263 87	3,164,295 96
Wools on the skin.....	.....	.....	.....
Woolen rags, shoddy mungo, waste, and flocks.....	789 040.50	323,522 00	78,904 05
Total wools, &c.....	.....	.....	3,243,200 01
Total duties remitted by free list.....	.....	.....	7,097,237 00

Table showing the articles, values, amount, and rates of duty on importations, &c.

Articles.	Importations, 1885.		Duties.		Rates of duty under—		Equivalent ad valorem rates under—	
	Quantities.	Values.	Received in 1885.	Proposed bill.	Present tariff.	Proposed bill.	Present tariff.	Proposed bill.
COTTON AND COTTON GOODS.								
Cotton thread, yarn, warps, or warp-yarn, whether single or advanced beyond the condition of single by twisting two or more single yarns together, whether on beams or in bundles, skeins, or cops, or in any other form:								
Valued at not exceeding 25 cents per pound..pounds..	6,554.50	$1,459 00	$655 45	$524 36	10 cts. p. lb.....	8 cts. p. lb.....	44.92	35.94
Valued at over 25 cents per pound, and not exceeding 40 cents per pound.....pounds..	173,497.18	62,215 00	26,024 58	22,554 63	15 cts. p. lb.....	13 cts. p. lb	41.83	36.25
Valued at over 40 cents per pound, and not exceeding 50 cents per pound.....pounds..	111,222.10	49,722 00	22,244 42	17,795 54	20 cts. p. lb.....	16 cts. p. lb.....	44.74	35.79
Valued at over 50 cents per pound, and not exceeding 60 cents per pound .....pounds..	240,320.85	136,442 05	60,080 21	48,064 17	25 cts. p. lb.....	20 cts. p. lb	44.03	35.23
Valued at over 60 cents per pound, and not exceeding 70 cents per pound .....pounds..	72,823.61	48,193 00	24,031 79	18,205 90	33 cts. p. lb.....	25 cts. p. lb.....	49.87	37.77
Valued at over 70 cents per pound, and not exceeding 80 cents per pound .....pounds..	43,256.13	33,164 00	16,437 34	12,976 83	38 cts. p. lb.....	30 cts. p. lb.....	49.56	39.12
Valued at over 80 cents per pound, and not exceeding $1 per pound ..... pounds..	26,552.50	24,228 00	12,745 20	9,293 37	48 cts. p. lb.....	35 cts. p. lb.....	52.61	38.35
Valued at over $1 per pound.....do....	277,455.50	333,918 00	166,959 00	133,567 20	50 p. ct.....	40 p. ct	50.00	40.00
Cotton cloth:								
Not bleached, dyed, colored, stained, painted, or printed, and not exceeding 100 threads to the square inch, counting the warp and filling, and exceeding in weight five ounces per square yard ...sq. yards..	62,121	2,896 25	1,553 04	1,242 42	2½ cts. p. sq. yd....	2 cts. p. sq. yd....	53.62	43.10
Bleached .....do ..	1,081,269	60,510 66	37,844 45	27,031 73	3½ cts. p. sq. yd ..	2½ cts. p. sq. yd....	62.54	44.67
Dyed, colored, stained, painted, or printed ..... do....	1,047,404	78,168 60	47,133 21	31,422 12	4½ cts. p. sq. yd....	3 cts. p. sq. yd.....	60.30	40.20
Not bleached, dyed, colored, stained, painted, or printed, Exceeding 100 and not exceeding 200 threads to the square inch, counting the warp and filling...sq. yards..	129,241	8,442 00	3,877 23	3,231 03	3 cts. p. sq. yd.....	2½ cts. p. sq. yd....	45.93	37.28
Bleached.....do....	8,065,116.50	622,335 80	322,604 66	241,953 50	4 cts. p. sq. yd.....	3 cts. p. sq. yd.....	51.84	38.88
Dyed, colored, stained, painted, or printed .....do....	2,901,359.18	304,078 75	145,067 97	116,054 36	5 cts. p. sq. yd.....	4 cts. p. sq. yd.....	47.71	38.17
Not exceeding 200 threads to the square inch, counting the warp and filling, not bleached, dyed, colored, stained, painted, or printed, valued at over 8 cents per square yard; bleached, valued at over 10 cents per square yard; dyed, colored, stained, painted, or printed, valued at over 13 cents per square yard .....square yards..	3,828,168	563,526 15	225,410 46	197,234 16	40 p. ct..... ..	35 p. ct	40.00	35.00
Exceeding 200 threads to the square inch, counting the warp and filling, not bleached, dyed, colored, stained, painted, or printed .....square yards..	316,175	24,931 00	12,647 00	9,485 25	4 cts. p. sq. yd	3 cts. p. sq. yd.....	50.73	38.05

painted, or printed, valued at over 10 cents per square yard; bleached, valued at over 12 cents per square yard; and dyed, colored, stained, painted, or printed, valued at over 15 cents per square yard	11,179,393	1,967,161 43	786,864 58	688,506 51	40 p. ct.	35 p. ct.	40.00	35.00
(On all cotton cloth not exceeding 100 threads to the square inch, counting the warp and filling, and not exceeding in weight 5 ounces per square yard, 40 per cent. ad valorem. And after December 31, 1886, no duty in excess of 40 per cent. ad valorem shall be levied, collected, and paid on any of the above-mentioned cotton cloth, thread, yarn, warps, or warp-yarn.)								
Spool-thread of cotton, 6 cents per dozen spools, containing on each spool not exceeding 100 yards of thread; exceeding 100 yards on each spool, for every additional 100 yards of thread or fractional part thereof in excess of 100 yards, 6 cents per dozen.....doz.	628,828 50	85,876 56	44,017 99	37,729 71	7 cts. p. doz.	6 cts. p. doz	51.26	42.71
Total cotton and cotton goods affected by bill		4,739,944 25	2,117,573 72	1,748,278 91			44.67	36.88
COTTONS NOT REDUCED BY BILL.								
Damask (cotton)		741,406 03	296,562 42		40 per cent		40.00	
Velvet (cotton)		2,629,745 78	1,051,898 31		do		40.00	
Clothing, ready-made, and other wearing-apparel of cotton, not elsewhere specified		351,085 66	122,870 00		35 per cent.		35.00	
Cords, braids, gimps, galloons, webbing, goring, suspenders and braces		617,676 25	215,976 70		do		35.00	
Embroideries		5,053,213 54	2,021,285 42		40 per cent.		40.00	
Handkerchiefs, hemmed		414,574 19	165,829 68		do		40.00	
Knit goods, composed wholly of cotton—								
Shirts and drawers—								
Fashioned, narrowed, or shaped wholly or in part by knitting machines or frames, or knit by hand		72,870 50	29,148 20		40 per cent.		40.00	
Made on knitting machines or frames		67,388 00	23,585 80		35 per cent.		35.00	
Stockings, hose and half hose—								
Fashioned, narrowed, or shaped wholly or in part by knitting machines or frames, or knit by hand		5,313,682 16	2,125,472 86		40 per cent.		40.00	
Made on knitting machines or frames, not herein otherwise provided for		194,260 00	67,991 00		35 per cent		35.00	
All other goods, not herein otherwise provided for, made on knitting machines or frames		586,560 00	205,296 00		do		35.00	
Laces, insertings, trimmings, and lace window-curtains		4,551,282 60	1,820,513 03		40 per cent.		40.00	
All other manufactures of cotton not especially enumerated or provided for		1,909,066 67	668,173 35		35 per cent		35.00	
Total cotton manufactures		27,242,155 63	10,932,176 49				40.13	

Table showing the articles, values, amount, and rates of duty on importations, &c.—Continued.

Articles.	Importations, 1885.		Duties.		Rates of duty under—		Equivalent ad valorem rates under—	
	Quantities.	Values.	Received in 1885.	Proposed bill.	Present tariff.	Proposed bill.	Present tariff.	Proposed bill.
HEMP, JUTE, AND FLAX GOODS.								
Brown and bleached linens, ducks, canvas, paddings, cot-bottoms, diapers, crash, huckabacks, handkerchiefs, lawns, or other manufactures of flax, jute, or hemp, or of which flax, jute, or hemp shall be the component material of chief value		$12,159,892 28	$4,255,962 27	$3,647,967 68	35 p. ct.	30 p. ct.	35.00	
Flax, hemp, and jute yarns....pounds..	11,978,585	597,127 00	208,994 45	179,138 10	35 p. ct.	30 p. ct.	35.00	
Flax or linen thread, twine and pack-thread		637,857 14	255,142 86	191,357 14	40 p. ct.	30 p. ct.	40.00	
Oil-cloth foundations, or floor-cloth canvas, or burlaps exceeding sixty inches in width, made of flax, jute, or hemp, or of which flax, jute, or hemp, or either of them, shall be the component material of chief value....square yards..	2,462	1,008 45	403 38	302 53	40 per cent.	30 per cent.	40.00	
Oil-cloths for floors, stamped, painted, or printed, and on all other oil-cloth (except silk oil-cloth), and on waterproof cloth, not otherwise provided for ..square yards..	472,349	194,101 94	77,640 78	58,230 58	40 per cent.	30 per cent.	40.00	
Gunny-cloth, not bagging, valued at 10 cents or less per square yard					3 cents per pound	30 per cent.		
Valued at over 10 cents per square yard					4 cents per pound.	30 per cent.		
Bags and bagging, and like manufactures, not specially enumerated or provided for in this act (except bagging for cotton), composed wholly or in part of flax, hemp, jute, gunny-cloth, gunny-bags, or other material		1,166,288 41	466,515 36	349,886 52	40 p. ct.	30 pr. ct.	40.00	
Bagging for cotton, or other manufactures not specially enumerated or provided for in this act, suitable to the uses for which cotton-bagging is applied, composed in whole or in part of hemp, jute, jute-butts, flax, gunny-bags, gunny-cloth, or other material:								
Valued at 7 cents or less per square yard....pounds..	235,791	9,994 00	3,536 87	2,998 20	1½ cts. per lb	30 pr. ct.	35.39	
Valued at over 7 cents per square yard.....do....	3,246	133 00	64 92	39 90	2 cts. per lb	30 pr. ct.	48.81	
Burlaps of flax, jute, or hemp, or of which flax, jute or hemp, or either of them, shall be the component material of chief value (except such as may be suitable for bagging for cotton):								
Not exceeding 60 inches in width		3,431,908 98	1,029,572 70	1,029,572 70	30 per cent.	30 per cent.	30.00	
Exceeding 60 inches in width		489,095 00	195,638 00	146,728 50	40 per cent	30 per cent.	40.00	
Grass cloth and other manufactures of jute, ramie, China,		21,210 87	7,423 80	6,363 26	35 per cent.	30 per cent.	35.00	

Sail duck or canvas for sa .s ....do	165,085	31,208 96	9,362 69	9,362 69	30 per cent	30 per cent	30.00
Sheetings, Russia and other, of flax or hemp, brown or white....yards	34,651	5,896 75	2,063 87	1,769 02	35 per cent	30 per cent	35.00
All other manufactures, not specially enumerated and provided for—							
Of flax, or of which flax shall be the component material of chief value		91,435 28	36,574 10	27,430 58	40 per cent	30 per cent	40.00
Of flax, jute, hemp, or manilla, or of which flax, jute, hemp, or manilla shall be the component material of chief value		527,249 87	184,537 47	158,174 96	35 per cent	....do	35.00
Of grass		4,170 46	1,251 14	1,251 14	30 per cent	....do	30.00
Embroideries (flax or linen) or manufactures of linen, if embroidered or tamboured, in the loom or otherwise, by machinery or with the needle or other process, not specially enumerated or provided for		26,794 95	8,038 49	8,038 49	....do	....do	30.00
Laces and insertings, flax or linen		1,137,494 07	341,248 22	341,248 22	....do	....do	30.00
Seines and seine and gilling twine		24,115 38	6,028 85	6,028 85	25 per cent	25 per cent	25.00
Carpets, hemp or jute ....yards	210,625	71,595 00	12,637 50	12,637 50	6 cents per yard	6 cts. per yard	17.65
Cables and cordage—							
Cables and cordage, tarred ....pounds	557,873	63,762 60	16,736 18	11,157 46	3 cents per pound	2 cts. per pound	26.25
Cordage, manilla, untarred ....do	86,494	10,073 66	2,162 37	1,297 41	2½ cts. per pound	1½ cts. per pound	21.47
Cordage, all other untarred....do	16,191	2,916 91	566 69	404 77	3½ cts. per pound	2½ cts. per pound	19.42
Total, hemp, jute, and flax goods		20,705,330 96	7,123,102 96	6,191,386 20			
WOOLS AND WOOLENS.							
Woolen cloths, woolen shawls, and all manufactures of wool of every description, made wholly or in part of wool, not specially enumerated or provided for in this act:							
Valued at not exceeding 80 cents per pound..pounds	365,745.50	235,370 25	210,390 52	82,379 58	35 cts. p. lb. & 35 p. ct	35 per cent	89.39
Valued at above 80 cents per pound....do	8,531,419.71	11,249,597 25	7,485,835 91	3,937,359 03	35 cts. p. lb. & 40 p. ct.	....do	66.54
Flannels, blankets, hats of wool, knit goods and all goods made on knitting-frames, balmorals, woolen and worsted yarns, and all manufactures of every description composed wholly or in part of worsted, the hair of the alpaca, goat, or other animals (except such as are composed in part of wool), not specially enumerated or provided for in this act:							
Valued at not exceeding 30 cents per pound .pounds	76,408	20,423 75	14,789 08	7,148 31	10 cts. per lb. and 35 per cent.	....do	72.36
Valued at above 30 cents per pound, and not exceeding 80 cents per pound....pounds	109,011	40,459 58	27,242 15	14,160 85	12 cts. per lb. and 35 per ct.	....do	67.33
Valued at above 40 cents per pound, and not exceeding 60 cents per pound....pounds	1,126,008.31	622,994 32	420,729 54	218,048 01	18 cts. per lb. and 35 per ct.	....do	67.53
Valued at above 60 cents per pound, and not exceeding 80 cents per pound....pounds	1,934,217.46	1,399,594 89	954,070 40	489,858 21	24 cts. per lb. and 35 per ct.	....do	68.17
Valued at above 80 cents per pound....do	2,618,717.43	3,987,141 66	2,511,407 77	1,395,499 58	35 cts. per lb. and 40 per ct.	..do	62.99
Bunting....square yards	13.00	8 00	4 10	2 80	10 cts. p. sq. yd. & 35 p. c.	....do	51.25

Table showing the articles, values, amount, and rates of duty on importations, &c.—Continued.

Articles.	Importations, 1885.		Duties.		Rates of duty under—		Equivalent ad valorem rates under—	
	Quantities.	Values.	Received in 1885.	Proposed bill.	Present tariff.	Proposed bill.	Present tariff.	Proposed bill.
WOOL AND WOOLENS—Continued.								
Women's and children's dress-goods, coat-linings, Italian cloths, and goods of like description, composed in part of wool, worsted, the hair of the alpaca, goat, or other animals, valued at not exceeding 20 cents per square yard ..... square yards..	22,332,982.52	$3,418,313 30	$2,313,058 78	$1,196,409 65	5 cts. p. sq. yd. and 35 p. ct.	35 per cent.....	67.67	.....
Valued at above 20 cents per square yard .....do ...	4,955,726.65	1,615,883 56	993,254 28	565,559 24	7 cts. p. sq. yd. and 40 p. ct.	....do	61.47	.....
Composed wholly of wool, worsted, the hair of the alpaca, goat, or other animals, or of a mixture of them, square yards	27,000,379	6,479,491 08	5,021,830 74	2,267,821 88	9 cts. p. sq. yd. and 40 p. ct.	....do	77.50	.....
But all such goods with selvedges made wholly or in part of other materials or with threads of other materials, introduced for the purpose of changing the classification, shall be dutiable at 35 per centum ad valorem; all such goods weighing over four ounces per square yard ..... pounds...	2,025,680.50	2,684,298 78	1,782,707 69	939,504 57	35 cts. per lb. and 40 per cent.	... do	66.41	.....
Clothing, ready-made, and wearing apparel of every description, not specially enumerated or provided for in this act, and balmoral skirts, and skirting, and goods of similar description, or used for like purposes, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals ..... pounds..	333,715.54	696,597 72	377,295 41	243,809 20	40 cts. per lb. and 35 per cent.	....do	54.16	.....
Cloaks, dolmans, jackets, talmas, ulsters, or other outside garments for ladies' and children's apparel, and goods of similar description, or used for like purposes, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, or other animals .....pounds..	903,272.81	1,107,103 50	849,314 18	387,486 22	45 cts. per lb. and 40 per cent.	....do	76.71	.....
Webbings, gorings, suspenders, braces, beltings, bindings, braids, galloons, fringes, gimps, cords, cords and tassels, dress-trimmings, head-nets, buttons, or barrel buttons, or buttons of other forms for tassels or ornaments, wrought by hand or braided by machinery, made of wool, worsted, the hair of the alpaca, goat, or other animals, or of which wool, worsted, the hair of the alpaca, goat, or other animals is a component material..pounds...	266,315.20	470,897 00	315,343 09	164,813 95	30 c. p. lb. & 50 p. ct.	....do	66.97	.....

Manufactures—								
Balmorals—								
Valued at above 40 and not exceeding 60 cents per pound ..... pounds..	21. 50	11 30	7 82	3 95	18 c. p. lb. & 35 p. c	....do	69. 20	.....
Valued at above 60 and not exceeding 80 cents per pound ..... pounds..	.....	.....	.....	.....	24 c. p. lb. & 35 p. c	...do	.....	.....
Valued at above 80 cents per pound ..... pounds..	70. 50	66 00	51 07	23 10	35 c. p. lb. & 40 p. c	.. do	77. 38	.....
Carpets and carpeting of all kinds—								
Aubusson, Axminster, and Chenille carpets, and carpets woven whole for rooms ..... square yards..	125, 288	347, 032 00	160, 489 21	121, 461 20	45 cts. per sq. yd. and 30 per cent.	...do	46. 25	.....
Brussels carpets ..... do ..	222, 175. 85	237, 837 58	138, 004 03	83, 243 15	30 cts. per sq. yd. and 30 per cent.	.. do	58. 02	.....
Patent velvet and tapestry-velvet carpets, printed on the warp or otherwise ..... square yards..	75, 667. 67	78, 090 92	42, 344 20	27, 331 82	25 cts. per sq. yd. and 30 per cent.	....do	54. 22	.....
Saxony, Wilton, and Tournay velvet carpets ..... do....	47, 772. 40	91, 551 34	48, 962 98	32, 042 97	45 cts. per sq. yd. and 30 per cent.	....do	53. 48	.....
Mats, screens, hassocks, and rugs, not exclusively of vegetable material	.....	274, 589 14	109, 835 66	96, 106 20	40 per cent	....do	40. 00	.....
Of wool, flax, or cotton, or parts of either, or other material, not specially enumerated or provided for ... sq. yds.	20, 176. 34	19, 210 62	7, 684 25	6, 723 71	....do	....do	40. 00	.....
Tapestry brussels, printed on the warp or otherwise, square yards	122, 546. 08	80, 990 20	48, 806 27	28, 346 57	20 cts. per sq. yd. and 30 per cent.	....do	60. 26	.....
Treble ingrain, three-ply, and worsted-chain, Venetian carpets ..... square yards	2, 752	2, 209 00	992 94	662 70	12 cts. per sq. yd. and 30 per cent.	30 per cent	44. 95	.....
Yarn, Venetian, and two-ply ingrain carpets ... sq. yards.	69, 346. 25	40, 899 00	17, 817 42	12, 269 70	8 cts. per sq. yd. and 30 per cent.	....do	43. 56	.....
Druggets and bockings, printed, colored, or otherwise, square yards	3, 169	842 00	727 95	252 60	15 cts. per sq. yd. and 30 per cent.	....do	86. 45	.....
Belts or felts, endless, for paper or printing machines, pounds	151, 904. 25	139, 607 00	72, 262 95	41, 882 10	20 c. p. lb. & 30 p. c.	.. do	51. 76	
Total woolens	.....	35, 341, 110 74	23, 925, 260 39	12, 360, 210 85	.....	.....	.....	
On all sugars, ninety per centum of the several duties and rates of duty now imposed on said sugars ..... pounds..	2, 578, 993. 335	69, 076, 856 99	50, 885, 915 89	45, 797, 324 30	1.40 to 3¼ cts. p. lb.	1.26 to 3.15 cts. p. lb.	73. 66	.....

RECAPITULATION.

Estimated amount of decrease of duty.

Free list	$7, 097, 237 00
Cottons	369, 294 81
Hemp, jute, and flax	931, 716 76
Woolens	11, 565, 049 54
Sugar	5, 088, 591 58
Total	25, 051, 889 69

Mr. McKINLEY, from the Committee on Ways and Means, submitted the following as the

VIEWS OF THE MINORITY.

The undersigned, dissenting from the report of the majority of the committee on House Bill 7652, present the following objections to its passage:

The substitute reported by the committee differs widely from bill No. 5576, which was introduced by the chairman of the committee and referred to the Committee on Ways and Means on the 15th day of February last.

The substitute is a new creation and embodies little which was in the original bill. It takes from the dutiable and places upon the free list the following articles:

All wools, hair of the alpaca, goat, and other like animals, unwashed, washed, or scoured.
Wools on the skin.
Woolen rags, shoddy, mungo, waste, and flocks.
Fish: Mackerel, herring, salmon, and all other fish, fresh, smoked, dried, salted, pickled, or preserved, except anchovies and sardines or other fish preserved in oil.
Timber, hewn and sawed, and timber used for spars and in building wharves.
Timber, squared or sided, not specially enumerated or provided for in this act.
Sawed boards, plank, deals, and other lumber of hemlock, white-wood, sycamore, and bass-wood, and all other articles of sawed lumber.
Hubs for wheels, posts, last-blocks, wagon-blocks, oar-blocks, gun-blocks, heading-blocks, and all like blocks or sticks, rough-hwen or sawed only.
Staves of wood of all kinds.
Pickets and palings.
Laths.
Shingles.
Pine clapboards.
Spruce clapboards.
Wood, unmanufactured, not specially enumerated or provided for in this act.
Hemp, manila, and other like substitutes for hemp, not specially enumerated or provided for in this act.
Hemp seed for agricultural purposes.
Jute-butts.
Jute.
Sunn.
Sisal grass, and other vegetable substances, not specially enumerated or provided for.
Salt in bags, sacks, barrels, or other packages.
Salt in bulk.

It reduces the duties upon manufactures of wool to 35 per cent. ad valorem, and the duties on hemp, jute, and flax goods to 30 per cent. ad valorem. It deals with about one-fifth of the cotton schedule, and makes a reduction thereon of about 18 per cent. from the present law.

The majority assert, that in the year 1885, the average rate of duty upon imported goods a little exceeded 47 per cent., but this only means that prices and values were unusually low, and furnishes no justification for this bill. What the average ad valorem rate of duty will be under our tariff laws, if amended by this bill, is left to conjecture, for the majority report does not disclose even an estimate, but whether

it will be higher or lower than the present will depend upon values. Nothing is more unsound and fallacious than to assume that a reduction of duties is demanded when average ad valorem rates show a high percentage. In times of business depression and low prices, the ad valorems corresponding with the specific duties show increased percentages over periods of high prices, because, as everybody knows, or ought to know, a given specific duty is a larger percentage of a low value, than it is of a high one.

The ad valorem equivalent upon sugar for 1885 was 73.66 and in 1882 it was 55.37, while the duty was lower in the former year than in the latter. The argument that when values are low and a specific rate of duty becomes a high ad valorem the specific rate should be reduced, if sound, then when values are high, and the ad valorem necessarily low, the same reasoning would increase the duties.

The home producers require in times of exceptionally low prices higher protection against foreign producers than when exorbitant prices prevail. At such times foreign competition is healthful, to keep prices within reasonable limits. To base a reduction of tariff duties upon the present business condition, and the present low values and unprofitable prices, is to assume that the present unsatisfactory condition is to continue and ought to.

The majority says:

> The rate of duty * * * on imported goods subject to duty is as low as 5 on some, and higher than 200 per cent. on others.

Is it not a remarkable fact after this statement that the bill of the committee does not correct these glaring inequalities, but leaves the articles dutiable at 200 per cent. where it finds them, and of those bearing the lower rates of duty, some are placed upon the free list, while others are slightly reduced.

There is no attempt in this bill to equalize the duties upon imported goods on any just principle, or to make equitable reductions throughout the tariff list. Of thirty-one or more articles dutiable at from 100 to 358 per cent., not one is dealt with in this bill, while other articles upon which is imposed a duty from 10 to 20 per cent. are cut down or transferred to the free list.

The recommendations of the Secretary of the Treasury for the substitution of specific for ad valorem rates is wholly disregarded by the majority, and the system condemned by the Secretary as inviting frauds upon the revenue and injurious to home producers and honest importers is suffered to continue without effort at a remedy.

This bill goes into operation on the 1st of January, 1887, except as to hemp and flax, which are exempted until July 1, 1887. Why these productions should have six months of license not accorded to other industries equally deserving may be manifest to the majority, but is surely not based upon any principle of fair play or sound statesmanship. Again, may we inquire upon what principle or theory of revenue reform is hemp-seed for agricultural purposes made free, and flax-seed for a like purpose left on the dutiable list?

The free list is peculiarly an assault upon the agricultural interests of the country, seeking out from the four thousand articles in the tariff their leading products to be driven out by ruinous competition from abroad.

The original bill (No. 5576), which has been before the committee and the country for nearly two months, proposed to reduce the duties on the metal, the glass and earthen ware, and woolen schedules an average of about 20 per cent., and a like reduction upon sugar and rice; to place

coal and iron ore upon the free list, and to reduce the duties upon chemicals and very slightly on the lowest grades of wools used for making carpets. The interests throughout the country affected by that bill had due notice, and realizing the injuries which would result to them from its adoption came before the committee with earnest protest.

The well organized associations of the iron and steel, the pottery and glass ware manufacturers and the workingmen engaged in these industries appeared before the committee and these schedules are dropped from the bill. The coal and iron producers of the North and the South were heard by the committee, and these great products of the mines are taken from the free list, where the bill had placed them, and restored to the dutiable list without amendment or reduction. The sugar interests of Louisiana pressed upon the committee the importance of being let alone, and the proposed reduction of 20 per cent. has given place to a compromise reduction of 10 per cent. The rice growers were also heard, and this valuable and staple product of the South, which, under existing law, is dutiable at 106 per cent. on certain grades, was saved from the destroying hand.

The wool growers of the country were led to believe from the bill first before the committee, that no adverse action would be had touching their interests. They were, therefore, not before the committee in any official way, and those who were heard spoke for the restoration of the duty of 1867, without dreaming that the inadequate protection they now enjoyed was to be swept from them, and their vast interests left to the mercy of a competition with wool growers in Australia, New Zealand, and the South American States, where the principal cost of production is the herding required by shepherds, where labor is cheap, and where feeding, either in winter or summer, does not enter into the cost of sheep husbandry.

The first effort, therefore, in the direction of free trade is aimed at the unorganized farmers of the country, who, removed from the centers of trade, busy on their farms and plantations, unused to meeting committees of Congress, and unadvised thattheir interests were to be dealt an unfriendly blow, they are to be the first victims of the British policy, through the agency of the American Congress. Theirs is a large interest; few in the country are larger; it is found in every State of the Union, and indeed in most counties; it is in the hands of the many, not the concentrated few. The flock-masters and their workmen number at least two million persons; the number of flocks will reach one million one hundred thousand, and the capital invested has been estimated by competent authority at more than $500,000,000, and the annual product of 1883 was valued at $128,000,000. Under the duty of 1867 the industry has grown to large proportions.

In 1860 the sheep in the United States numbered a little over 22,000,000; in 1883 the number had reached 50,600,000. In 1860 the clip was 60,200,000 pounds; in 1883 it reached 320,000,000 pounds. The duty of 1867, which gave to wool growing its greatest encouragement and induced the farmers to increase their flocks and expend their means for the finest varieties of sheep, and for their care and improvement, and which finally made the American wools the best in the world, adapted to all the uses of manufactures, even the highest grades of woolen and worsted cloths, has added nothing to the cost of wool to the manufacturer or consumer; on the contrary, that cost has been greatly cheapened. In 1867 the price was 51 cents; in 1870 it was 46 cents; in 1875, 43 cents. There has been a steady reduction, with occasional fluctuations, since the act of 1867, until now it is so low as to be temporarily unprofitable.

Free wool will be of no permanent benefit to the manufacturer or consumer, but positive loss to both, and great loss to the flock-masters and those depending upon them for employment. The decay of sheep husbandry in the United States would be a national calamity; it would place our manufacturers at the mercy of the foreign producers. This is an industry which cannot be built up in a day; it has required years of care and cost to reach its present development, and sound policy demands its continuance and encouragement.

The minority endeavored to meet the reasonable expectations of this large class of their fellow-citizens and restore the duty of 1867 upon wool, but were prevented by the votes of the majority, and from the same cause are unable to maintain even the existing rates. We could not believe that the majority would take from the dutiable list wool which had been kept there since 1824, and which even the free-trade law of Robert J. Walker, framed in 1846, had not made free, but the majority of the committee has done it so far as it can, and nothing is left for this great interest, which enriches every State in the Union, but to appeal to Congress and to the country to repudiate the work of the committee.

Hemp, another agricultural product of growing importance, is placed upon the free list. True, this was one of the interests affected by the chairman's original bill, but, less fortunate than others, the appeals which came from Kentucky and other sections were not heeded by the committee reporting this substitute. This is not so large an interest as that of wool or salt, but it is a promising one, and gives diversity of production to the soil and variety of occupation to the farmer, which at this time, with our production of cereals increasing beyond the demands of our home markets and the cheap India wheat meeting us everywhere, is of the highest importance to the agriculturists of every State in the Union. It should have and receive fair and adequate protection, and not be crippled at this time, when the outlook for its profitable development promises so much.

The report of the Hon. J. R. Dodge, statistician of the Agricultural Department (report No. 27), issued in March of this year, gives the following interesting statement of this production, which would seem to controvert the views of the majority concerning this industry:

> Mr. C. E. Bowman, commissioner of agriculture of Kentucky, and agent of the United States Department of Agriculture for that State, estimates the hemp crop grown there in 1884 at 5,000,000 pounds, that grown in 1885 at 8,000,000 pounds, and that to be grown the present season—assuming the yield to be an average one—at 10,000,000 to 12,000,000 pounds. The figures for 1884 are larger than those returned by the assessors and published in the report of the State auditor; but the auditor himself (Mr. Russell Macreary) agrees with Mr. Bowman that a true return would confirm the estimate just given. The price of hemp is now quoted at from $5.60 to $5.75 per 100 pounds, and engagements for the crop to be grown this year are being made at the rate of $5.25 to $5.50. At these figures Mr. Bowman considers this crop the best paying one now grown in the State, and anticipates that the area devoted to it will this year be from 30 to 50 per cent. greater than in 1885.

Of flax, which is taken from the dutiable and placed upon the free list, the flax growers and spinners of America protest against this unjust and unreasonable action upon the part of the committee:

At a convention held in Chicago on February 25, 1886, of persons interested in the flax and hemp industry, the following resolutions were passed unanimously, as showing the spirit of co-operation manifested at said convention:

> *Resolved*, That we, as growers and manufacturers in convention assembled, agree to use every endeavor to advance the interests of the flax and hemp industry in the United States; that as growers we will use every effort to raise and prepare the fiber

with reference to the wants of the manufacturers, and that, as manufacturers, we will co-operate with the growers and give preference to American flax and hemp.

Whereas any reduction of the tariff at this time on foreign fibers, including jute, manila, sisal flax, and hemp, would, in our opinion, be disastrous to important domestic industries, both agricultural and manufacturing: Therefore be it—

Resolved by this convention, representing both producers and manufacturers, That our Senators and Representatives in Congress be urged to oppose any such reduction, whether by direct legislation or indirectly by reciprocity treaty.

This industry, it will be seen, is receiving a fresh impetus, and the growers believe that if fair duties are continued they will be able to increase their production and make this a profitable feature of agriculture.

Putting fish on the free list is an unexpected blow at the fishing interests of the country. It comes, also, at a time when it will be most severely felt. Under the treaty of 1871 free fish had been the price the United States paid for the right of fishing in provincial waters. A little more than a year ago it had become evident to everybody that the price was too high, that free-fish importation from Canada, even coupled with the right of fishery on the colonial coast, was steadily and surely ruining American fisheries. Fully convinced of this fact, the fishermen of the northern coast, with the unaminity born of thorough information, demanded the abrogation of the treaty of 1871, so far as it related to fisheries. Congress responded promptly by ordering notice of abrogation, and the treaty ceased to operate last July. The President had the misfortune to be so misinformed as to propose a convention with Great Britain on the subject, but the indignant remonstrances of all interested has been so potent in reason, and so sound in foundation, that by common consent the recommendation of the President has dropped out of every man's thought. This bill proposes to enact the very outrage the fear of the possibility of which so aroused the indignation of the whole New England fishery interests without distinction of politics. It does more, it proposes to give to Canada for nothing what the Dominion is longing to pay a high price for. The bill proposed by the majority could hardly afford to have in it so striking an example of the folly of theories which pay no attention to existing facts.

The committee, by the bill reported, fails to grasp and deal with the great question of the taxation of imports, either on the principle for revenue only or for revenue with incidental protection to our industries. This is illustrated throughout their bill, and in no case more marked than in placing salt on the free list. This article is manufactured in fifteen States and Territories, and exists in others. As raw material, it is as cheap as sand, gravel, or clay for building purposes, and equally with them prepared for use, represents labor, and is only the more costly to the extent it is prepared for higher uses. It was protected in 1849 at the rate of 2 cents on each bushel; the price to the consumer was then $1.35 per bushel. Under the protection policy of 1861, by the development of the industry at home, the price has fallen to 8 cents a bushel, and neither as a measure of relief to the consumer, or to reduce revenues, can the proposed action be justified. Seven thousand wage-workers employed in this industry are assaulted without justification or reason.

The minority cannot too earnestly protest against the passage of this bill. They view its presence here, sanctioned as it is by the unanimous vote of the majority, as the first step toward a reversal of a revenue system founded by the fathers, and the substitution of the British system of tariff for revenue only. The large free list which it proposes, com-

prising so many important productions of home make and growth, warn us that the evident ultimate purpose is to make dutiable only such articles as we cannot produce in the United States, and release from customs duties such foreign products, whether of the field, the forest, or the factory, as compete with our domestic products. We see in this the beginning of a system of levying duties upon foreign imports, pernicious as it is unpatriotic; borrowed from our foreign rivals, whose interest in destroying American tariffs has never been concealed; a system destructive of our productive industries and the home market for agricultural products and degrading to American labor, and which, when it has been tried in the Government, has eventuated in falling revenues, a tarnished credit, and a depleted Treasury.

The meaning of this measure cannot be misunderstood. Secretary Manning, in his report to Congress, made in December last, outlined the coming policy when he said:

> The preference of the tax-payer for duties upon articles not produced in the United States is justified by the fact that such duties cost him no more than the Treasury of his country gets. As for duties affecting articles that are also produced in the United States, the *first* to be safely discarded are those upon materials used by our own manufacturers. * * *

The committee have accepted and adopted the Secretary's political creed, "that *the first* to be safely discarded are those upon materials used by our manufacturers," and its free list discards wool, lumber, flax, hemp, and all the fibers. The second step will be to discard all duties upon imported articles competing with our own, and then at last duties only will be levied upon articles not produced in the United States, among which are tea and coffee.

We must dissent wholly from this doctrine and its conclusions and insist that the true method of levying duties upon imports to raise the requisite revenues for the Government is to impose them upon the imported articles which compete with the products of our own industries and labor, and while such duties will secure the necessary revenues, they will at the same time encourage home productions, create a home market, and furnish employment for American workingmen, without increasing the burdens of the people. All articles other than luxuries not produced in the United States, except in case of great national necessity, should be admitted duty free.

The bill is opposed to this principle; in fact it recognizes no just principle, and proceeds upon no system of equitable revision or reduction of the tariff. It singles out a group of interests because believed to be the weakest, yet some of them the most deserving and least able to bear this unreasonable discrimination, and strikes them down. The committee feels impelled to do something, and this bill is the result. It is born of party necessity; there appears to be no other reason for it. It is here because the Democratic party is here in control. The people of the country are not asking for it. It is in response to no public sentiment or national requirement. In the judgment of the minority it will increase rather than diminish our customs receipts so that it will answer no sentiment for a reduction of the surplus. It will help no American interest; it will cripple, if not destroy, all it touches.

With salt at 8 cents per bushel, and the highest grade of wool selling at 32 cents per pound, the worn-out cry of cheap food, and cheap clothing will fail of its force and deceive nobody. The industrial classes of this country know from sad experience that cheap goods, so called, means cheap labor, and that things are the dearest when they are without the means to buy them.

The people are tired of Congressional interference with the business of the country, tired of legislative "nagging," and the laborers are restless under the constant threat to reduce duties, which they realize means to them reduced wages and diminished comforts.

In our opinion, this is a most unfortunate time to disturb the tariff, when prices are abnormally low, when business is in the unsatisfactory condition we find it, and worthy laborers without employment. The present industrial, agricultural, and labor depression should not be extended, as it inevitably will be, by a measure like the one proposed, which if passed will only widen and intensify the distress. All have been looking for better prices and better times, and it was confidently believed they were to be realized in the very near future but for the presence of this bill, and the agitation already had and yet to come.

If there be an honest desire upon the part of the committee and the House to reduce taxation, avoid a surplus in the Treasury, and leave that surplus with the people, we respectfully invite their attention to the internal-revenue laws, which last year collected in taxes from its own citizens more than $112,000,000. Here it will find a field for labor where it can diminish the revenues and reduce "war taxes" without hurt to any American interest.

If they would give attention to one single suggestion alone, which concerns the use of untaxed alcohol in the industrial arts, they would find ample field for all the reduction the revenues of the United States would bear, would release some manufacturers of great burdens, and much encourage home industry. Such encouragement, however, would so militate against the real purpose of the bill that any attention to this suggestion could hardly be expected.

WM. D. KELLEY.
FRANK HISCOCK.
THOMAS M. BROWNE.
T. B. REED.
WM. McKINLEY, JR.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1621.

RAILROAD COMPANIES AND THEIR EMPLOYÉS.

APRIL 12, 1886.—Ordered to be printed.

Mr. MORRISON, from the Committee on Rules, submitted the following

REPORT:

The Committee on Rules, to which was referred a House resolution proposing to create a select committee of five members to investigate the disturbed condition of the relations now existing between the railroad companies engaged in carrying on inter-State commerce and their employés, has had the same under consideration, and reports herewith a substitute for the said resolution.

In the opinion of the committee the resolution referred to it was too comprehensive in its terms to enable any committee appointed under it to make the proposed investigation and report during the present session of Congress, and therefore the substitute proposes to confine the investigation exclusively to the existing disturbances in the five States of Illinois, Missouri, Kansas, Arkansas, and Texas, an investigation which it is believed can be made within a reasonable time and at reasonable expense to the Government.

The substitute also proposes to authorize the committee to visit or send a subcommittee to any of the States named if it shall be considered necessary to do so in order to facilitate the investigation.

It is proposed that the expense shall not exceed the sum of $3,000, which shall be paid out of the contingent fund of the House.

Resolved, That a select committee, to consist of seven members, be appointed by the Speaker to investigate the cause and extent of the disturbed conditions now exisiting in the relations between railway corporations engaged in carrying on inter-State commerce and their employés in the States of Illinois, Missouri, Kansas, Arkansas, and Texas. Said committee shall have power to send for persons and papers, examine witnesses under oath, sit during the sessions of the House, and may visit or send a subcommittee to such places in said States as may be necessary in order to facilitate such investigation. It shall report to the House during the present session, with such recommendations as it may deem proper to make; and the expenses incurred, not to exceed the sum of $3,000, shall be paid out of the contingent fund of the House upon vouchers certified by the chairman and one other member of the committee.

In case said committee shall visit or send a subcommittee to any of the States aforesaid, the Clerk of the House is hereby authorized to advance to the chairman such sum as may be necessary to defray the expenses of such visit, not to exceed $1,000 at any one time, and not exceeding in the aggregate the said sum of $3,000.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1622.

CAMPBELL v. WEAVER.

APRIL 12, 1886.—Laid over and ordered to be printed.

Mr. HALL, from the Committee on Elections, submitted the following

REPORT:

The Committee on Elections, having had under consideration the contested election case of Frank T. Campbell v. *J. B. Weaver, from the sixth Congressional district of Iowa, make the following report:*

The Congressional district from which this election contest comes is composed of seven counties, and the official returns show the vote for Congressman to have been as follows:

	For Weaver.	For Campbell.	Majorities.
Davis County	2,071	1,149	922
Jasper County	2,763	2,978	215
Keokuk County	2,707	2,497	210
Mahaska County	2,866	3,397	531
Monroe County	1,403	1,370	33
Poweshiek County	1,938	2,257	319
Wapello County	2,936	2,975	39
Weaver's majority			67

In the notice of contest, and in the evidence taken in support of it, the contestant charges and seeks to establish the following facts:

(1) That at said election seventy-one persons not possessing the legal qualifications of electors voted for contestee, the alleged disqualification consisting of non-residence, alienage, nonage, mental incapacity, conviction of felony, &c.

(2) That at Newton Township, Jasper County, three ballots were, by mistake of the judges, deposited in the amendment box, two being for contestant and one for contestee.

(3) That at Baxter, Independence Township, Jasper County, three other ballots were by mistake deposited in the amendment box, two being for contestant and one for contestee.

(4) That two tickets for contestee, folded together as one, were not wholly rejected, but counted as one.

(5) That one ticket for contestant was by mistake deposited in the amendment box at Lynn Grove Township, Jasper County, and not counted.

(6) That the vote of one Henry Rheine, an elector of Davis County, was wrongfully refused and rejected, his vote being offered for contestant.

(7) That the vote of one John Brier, sr., was in like manner refused and rejected at Clear Creek, Keokuk County, his vote being for contestant.

(8) That four votes were erroneously counted against contestant at Jefferson Township, Mahaska County.

(9) That 152 illegal votes for contestee were received by the judges at East and West Oskaloosa precincts, in Oskaloosa Township, Mahaska County, from electors whose names were not upon the registration lists, and who did not comply with the law in furnishing the affidavits in manner and form as required.

(10) That 60 illegal votes for contestee were in like manner received by the judges in violation of the registry law at Center Township, Wapello County.

These several facts are denied by the contestee, who in turn brings the following countercharges of illegal votes cast for the contestant, errors and omissions, &c.:

(1.) That there were cast and counted for contestant 35 illegal votes by persons who were not qualified electors, by reason of their alienage, non-residence, minority, or imbecility.

(2.) That by mistake of the judges in making out the returns of Richland Township, in Keokuk County, contestee received five less votes than entitled, as shown by the returns themselves.

(3.) That two ballots for contestee, deposited by mistake in the amendment box, were not counted.

(4.) That the vote of James Owens, for contestee, at Prairie City, in Jasper County, was wrongfully refused and rejected.

(5.) Colonization of 9 negroes into Mahaska County, and 18 into Wapello County.

I.—*The contestant's claims.*

There is no serious question as to the votes found in what is called the amendment box. The people of Iowa were at the same election voting upon several constitutional amendments, and for such votes a separate ballot-box was kept. Occasionally, by mistake, a general ticket would be deposited in the amendment box, and in consequence not be counted. Neither party controverts the propriety of counting such votes where the facts are established. The same thing may be said of the several cases where an elector's vote was improperly refused. Also where two or more votes were found in the ballot-box folded together. They should both be rejected and indorsed, "rejected as double," under the statutes of Iowa. Your committee therefore allow the 2d, 3d, 4th, 5th, 6th, and 7th claims of the contestant as hereinbefore set out, and these are here disposed of, out of their order, as the more serious contest relates to the other specifications.

(1) *The illegal votes.*—Of these, without giving other reason than that the evidence justified it, in the opinion of your committee, the following are rejected, and the contestee is charged with them in the count:

Chris. Bokenthein, alien, contestant's brief	2
Herman Olrich, alien, contestant's brief	4
John Kinzebach, alien, contestant's brief	5
J. H. Meyer, alien, contestant's brief	6
Henry Rhime, rejected, contestant's brief	22
W. G. Demar, convict, contestant's brief	27
John G. Walthier, alien, contestant's brief	23
Thomas Burchley, alien, contestant's brief	28
Caleb Vert, non-resident, contestant's brief	35
J. E. Vert, non-resident, contestant's brief	36
Thomas Moreland, alien, contestant's brief	42
Michael Gallagher, alien, contestant's brief	55
B. Budde, non-resident, contestant's brief	57
Amos Guthrie, insane, contestant's brief	6

Making 14 votes which are rejected.

Of the remaining illegal votes, there are 36 objected to as non-residents, 12 as aliens, 5 as minors, and 4 as idiots or imbeciles. Each particular case depends upon its own peculiar facts, but a consideration of each would require more time and space than is believed to be necessary. Your committee has gone over each separately and carefully; and it appears, with reference to each class of cases, that the evidence is insufficient to exclude the vote. In some instances, where the vote is shown to be illegal, there is an entire absence of evidence as to the candidate for whom the vote was cast.

In cases of alleged non residence, where it is shown for whom the vote was cast, the evidence fails to show the actual fact of non-residence. The question of residence being one of intention largely, the evidence quite fully and satisfactorily establishes the qualifications of the several voters in this class of cases. In other cases the evidence offered is wholly hearsay or otherwise incompetent. Your committee have, therefore, disallowed the several objections made by the contestant to these remaining 57 votes.

(2) *The four votes alleged to have been erroneously counted against contestant at Jefferson Township, Mahaska County.*—This presents a case where a single witness, a bystander at the counting of the votes by the judges, who never saw the official vote except as reported in the papers, states as a matter of memory "the returns as reported gave Campbell 77 and he was entitled to 78; Weaver 115; he was only entitled to 112." This is all the evidence to support the claim to the four votes. As against this there is produced the official return, which is presumed to be correct, and the testimony of the judges of election, who verify the returns as being in fact correct. Your committee disallow this claim of the contestant.

(3) *The illegal votes in Oskaloosa Township in Mahaska County, and Centre Township in Wapello County.*—This presents the more serious and important question in the contest, and involves a construction of the Iowa election statute relative to the registration of voters. The objection made by the contestant to all this class of votes is that the voters were not registered by having their names placed upon the registration list of the township in which they offered their votes; and that the affidavits, required by the statute to authorize the reception of the ballots of unregistered voters, and upon which these votes were received, did not contain and set forth all the data and facts required. The objections may be more particularly and specifically stated as follows:

(1) Thirty-eight voters, not registered, who were vouched for by one Chas. Blatner, who himself was not a registered voter, as required.

(2) Thirty-one voters in whose affidavits no reason is assigned for not being registered.

(3) Thirteen non-registered voters in whose affidavits "neglect" is assigned as the reason for not being registered.

(4) Some of the voters are vouched for by J. R. Eckert, and others by I. B. Bolton, who swear that they live in both *East* and *West* Oskaloosa.

(5) One hundred and three voters whose affidavits give "left off the register" as the reason for not being registered.

(6) Forty-six fail to state their residence; three affidavits have no *jurat* signed.

(7) Fred. Bolinger vouches for Wm. Pitt and Pitt for De Witt, neither being registered; Wm. West vouches for the residence of Wilson and De Witt.

The total number of votes thus attacked is 212.

THE REGISTRATION LAWS OF IOWA.

Prior to 1868 there was no registration of voters required in Iowa. In that year the present registration statute was enacted, but it is exceptional and not uniform in its operation. It applies only to townships and incorporated towns and cities having a population of 6,000 or over. By this is meant, that in general and county elections a registry is required in such townships, and in municipal elections such towns and cities must have a registration.

It is only in municipal elections that the provision of the statute requires any public posting of the registration list, or requires the registry to show the residence of the voter "by number of the dwelling, if there be a number, and the name of the street or other location of the dwelling place of each person." (Code of Iowa, sec. 599.) Hence it must be borne in mind that the registration for general election, and in the townships and rural parts of townships containing cities, does not come under the above provisions. Consequently, the general provisions of the statute, such as regulate the method of registration, and the mode of voting, &c., apply to two classes of registration lists—one in cities, where great particularity of description, street, number, &c., are required, and another where this particularity is not required.

It is made the statutory duty of the board of registration *to enter the names of all qualified electors on the list.*

> The township trustees and clerk shall constitute the board of registry, and shall meet annually: * * and shall make a list of *all* qualified electors in their township, which shall be known as the register of elections.—*Code*, § 595.

This duty on the part of the board is not obviated by section 596 of the code, which provides, in effect, that the register shall be made from the assessor's list and the poll-books of the previous election. This is made clear by the general and controlling language of the preceding section, that "they shall make a list of *all* the qualified electors," as well as the succeeding sections, 597 and 599, wherein is prescribed the methods of amending, adding to, and striking from, the register list, so as to secure *all* the names of qualified electors. The board may enter on the list any additional names. It is not necessary that there shall be oath or affidavit, if the board is satisfied a name has been omitted or should be entered on the list. They are to "revise, correct, and complete the register of elections." There is no provision requiring or compelling the elector to appear and personally see that his name is entered on the list, or affixing any penalty or condition for not doing so. The whole duty is expressly devolved upon the board of "making a list of *all* qualified voters."

The fact that the affidavit prescribed for the non-registered voter requires a "satisfactory reason for not appearing at the board of registry" (in city elections) is not as a penalty for not appearing, but only to aid in showing with still greater certainty that the elector is qualified, and that there is no attempt at fraud or imposition in his offering to vote. Indeed, Mr. Cooley, in his work on Constitutional Limitations, page 616, holds—

> That one entitled to vote cannot be deprived of the privilege by the action of the authorities is a fundamental principle.

In other words, the elector cannot be punished by forfeiture of his privilege of voting by failure to appear before the board of registration. He has a right to infer that the board will discharge its duty, and that on the day of election his name will appear on the list. If it is not there he can present the affidavit, not as a penalty, but as a right.

The important and controlling provision of the statute is the following:

SEC. 618. The judges in election precincts where the registry law is in force shall designate one of their number to check on the register the name of every person voting; and no vote shall be received from any person whose name does not appear there, unless he shall furnish the judges his affidavit showing that he is a qualified elector, and a sufficient reason for not appearing before the board on the day for correcting the register, and shall also prove by the affidavit of one freeholder or householder whose name is on the register, that such affiant knows him to be a resident of that election precinct, giving his residence by street and number, if in a city or incorporated town, as the same is in such cases required to appear on the register. Said affidavits shall be kept by the judges, and by them filed in the office of the township clerk, and all such affidavits may be administered by either of the judges or clerks of election.

SEC. 603. At the general elections each township shall be an election precinct, and a poll shall be opened at the place of election therein. But the board of supervisors may, in their judgment, divide any township in their county into two or more precincts.

It is to be noted, however, that, in case of such division into two or more precincts, there can be but one general register list for all the precincts. There can be but one board of registration, and its duty is to prepare a list for the whole township.

The question then presents itself whether the provisions of section 618 are directory or mandatory or partly both. It is not a case in which the vote of a non-registered elector was received without any affidavit or proof whatever, as directed in the statute. There is no claim or pretense that the elector was not in all other respects qualified. There is no claim or pretense that any of the alleged defects or imperfections in the affidavit were the result of design or of any intent to evade or defeat the statute.

But the case is where the elector finding himself omitted from the registration list, resorts in good faith to the second method of qualifying himself as to the method of voting; attempts to prepare, subscribe, and swear to an affidavit in compliance with the statute; presents it to the judges for inspection and examination to satisfy them of the existence of the requisite qualifications and a satisfactory reason for not appearing before the registration board; the examination is made bona fide; the judges are satisfied, and the vote received. Are *all* of these provisions mandatory; and can such a ballot be rejected because the reason for not being registered is omitted, or may not afterwards be satisfactory to some court or person who was not a judge of election, or because of some technical mistake, or clerical omission, which, if noticed at the time could at once have been corrected, and all question as to the legality and regularity of the vote obviated?

Little aid is derived from decisions in Iowa or elsewhere. In the case of Edmunds *v.* Banburry, 28 Iowa, 267, the plaintiff, insisting that the registry law was unconstitutional and void and being unregistered, tendered his vote without any attempt to make the required affidavit, which being refused, he sued the judges of the election. The court held the law constitutional, and that the judges were justified in refusing his vote. This was correct whether the provisions of section 618 are directory or mandatory.

In a later case, Nefzger *v.* R. R. 36, *Id.*, 642, at a special township election to determine whether property should be taxed to aid in building a railroad, held without any pretense of registration; the court held that the law, requiring all elections to be conducted under the registry system was mandatory, and that the election was void. But this does not reach the question, for there can be no doubt that a gen-

eral statute which declares that all elections shall be held under a registry system is mandatory in its general sense.

The question has arisen as to the character of the statute, wherein it provides that no vote shall be received from any person whose name does not appear on the list, unless he shall furnish an affidavit, or proof, &c. In the cases of Doerflinger *v.* Helmantel, 21 Wisconsin, 566; in re-election of McDonough, 105 Penn., 490, and cases in one or two courts of interior jurisdiction, provisions of this character have been held mandatory. It has been held directly otherwise in Illinois. (See Dall *v.* Irwin, 78 Ills., 170; Clark *v.* Robinson, 88 *Id.*, 504)

This identical question arose in the contested-election case of Curtin *v.* Yokum in the Forty-sixth Congress. It was a case where there was in many precincts a practical disregard of the registration law, and hundreds of non-registered electors were allowed to vote without producing the proof required. A most elaborate and learned report was made by the majority, Mr. Springer being the chairman, holding that the statute was mandatory, and such votes should be excluded. The minority held the doctrine that the law was directory, and that any other rule would make the law a fraud upon the voter.

The constitution of Pennsylvania expressly declares that no registry law shall deprive the elector of his vote. There can be no doubt that a registry law which would enable the elector to deposit his ballot in good faith, believing himself registered, and which would subsequently reject his ballot because it should appear he was unregistered, would, in effect, defeat that constitutional provision. It may be well said the constitutional clause alluded to is only declaratory, and that it is fundamental law in all States where the ballot obtains and citizens exercise the right of suffrage.

The constitutional provision in Iowa is the same in substance:

ART. 2, SEC. 1. Every male citizen of the United States of the age of 21, who shall have been a resident of this State six months next preceding the election, and of the county in which he claims his vote sixty days, shall be entitled to vote at all elections which are now or hereafter may be authorized by law.

In the case of Edmonds *v.* Banbury, *ante*, while it was held that a registry law which permitted all to vote was not obnoxious to the Constitution, it was also held that the right to vote, thereby conferred, could not be impaired by any legislature.

In Wheelock's case, 1 Norris, 297, the highest court of judicature in Pennsylvania has declared as follows:

The State constitution gives to every citizen possessing the qualifications prescribed the right to vote; and section 7 of the same article provides that no elector shall be deprived of the privilege of voting by reason of his name not being registered. To disfranchise all the voters of a township, as we are asked to do in his petition, the facts on which we are asked to act should show a case free from legal doubt. If we by our decision should permit the carelessness or even the fraud of officers, whose duty it is to furnish a list of voters at the elections, to defeat the election and deprive the people of the county of the officer who was elected by a majority of their votes, we would thus make the people suffer for an act in which they did not participate and which they did not sanction. In so doing, instead of punishing an officer for the violation of the election law, we practically punish the voters of the county by defeating their choice of a county officer as declared at an election. A decision of this kind would be fraught with danger by inviting unscrupulous and unprincipled persons on the eve of an important election to secrete or destroy the list of voters or other important papers in a township in which the majority may determine the result in the county

It cannot be seriously contended that the right of a single individual citizen to vote is not as securely guarded by the constitutional guaranty as that of the electors of an entire township. And it must be held that

if the fraud, mistake, or omissions of a board of registry or of the judges of election could not deprive the electors of a whole precinct of their right to vote, so it could not that of a single elector. Accordingly, after much consideration in the Curtin-Yokum case, the House, whose decisions in matters of such high privilege and affecting the constitution of the House itself ought be the highest authority in the world, decided in favor of the sitting member, and in effect held the registry law to be directory.

The same action was had by the House in the later case of Lowe *vs.* Wheeler, in the Forty seventh Congress, where it was held that when electors who are not registered are permitted to vote without challenge, their votes cannot afterwards be rejected, because to do so would perpetrate a fraud upon the elector and deprive him of his vote. Thus it will be seen that the question is not a settled one, and it may be very doubtful as to the weight of authority one way or the other. But may not this conflict be reconciled in a manner entirely satisfactory and in recognition of a just rule of interpretation?

It is difficult to escape the conclusion that where a registry law requires the production of an affidavit by an unregistered elector as the condition for his voting, it is mandatory to a certain degree and for a certain purpose. It is mandatory so far as to require good faith in its observance and to prevent its willful evasion. But the whole scope and purpose of such a law is to defeat fraud, subterfuge, and evasion, and to enable every lawful and qualified voter to vote and have his vote counted in a canvass purged of all illegal votes. The moment the operation of the registration defeats itself, operates to defraud the legal elector and defraud him of his vote, it not only ceases to be mandatory, but is *quoad hoc* void.

To illustrate this more fully: The law requires the registry board to enter the names of all the electors on the list. The elector, when he approaches the polls to vote, has the right to presume *omnia recte acta*, and that his name is properly on the list. He cannot know that it is or is not there. Even though he may have appeared before the board of registry and seen his name registered, it may have been subsequently erased upon showing or fraudulently. Hence, when he comes to vote, his offer to vote is itself an inquiry whether he is registered.

The list is in the possession of the judges, and an inspection of it alone can give answer to the inquiry. The elector cannot inspect it, and the law makes it the duty of the judges to answer whether the elector is registered. They may answer "yes" verbally, or silently by signs and acts, in receiving the vote. It matters not whether the elector makes the inquiry aloud, or simply by tendering the ballot; or whether the answer is aloud or by silently receiving the ballot, the effect is the same. The judges may have been mistaken in the name, or may have made the answer in fraud, intending to cause the subsequent rejection of the ballot for want of registry. There can be no question that the elector in such an instance, if correctly informed that he was not registered, could still rectify that omission and secure his vote by presenting the requisite affidavit. And the failure to give him the true information as above supposed, would not only be a direct violation of law, and a fraud on him, but deprive him of that right, and, consequently, of his vote; and the result would be the direct and immediate consequence of the conduct of the judges.

It would be a gross fraud upon the elector and deprive him of the very right which it is the whole purpose of the law to protect and subserve. The law should not bear a construction which would permit such consequences. Indeed to that extent the law would be unconsti-

tutional. For it may be safely asserted that where the Constitution affirmatively confers the right to vote upon the citizen, the legislature has no power to prescribe regulations that would thus entrap him and deprive him of that right.

Not any of the cases cited go to this extent. The Wisconsin case—Doerflinger *v.* Hilmantel—and the Pennsylvania case, in Re-election of McDonough, simply hold the general doctrine that in its general sense the statute is mandatory. They simply assert that where the elector is not registered and votes as a non-registered voter without the additional affidavit or proof, his vote must be rejected. If they are to be deemed as going farther than this they are *obiter dicta* and of no authority.

The elector cannot be deprived of his vote except by conviction of felony. A registry law is only reasonable when it puts the elector, who does not comply with it, in the attitude of remaining away from the polls or refusing to vote. To register or furnish an affidavit is a reasonable regulation accompanying the act of voting. If this act is omitted or refused it is equivalent to remaining away and refusing to vote. But when this same statute deprives of his vote an elector who comes in good faith and is advised by the authorities, and believes he is registered, and whose vote is received in such manner as to deprive him of his right to rectify the omission by affidavit, it violates directly the constitutional clause conferring the right, and is to that extent void.

Hence we insist that a vote deposited in good faith by the elector, supposing himself to be registered, cannot be rejected upon subsequent discovery that he was not. But where the elector is advised or knows that he is not registered, no such consequences will follow. No such fraud can be perpetrated upon him. He is not deprived of any *locus penitentiæ* in procuring an affidavit. He knowingly violates the law, and his vote is a fraudulent one.

This your committee believe to be the true rule, and announce it as a principle. Where the elector, acting in good faith and honestly supposing himself to be registered, deposits his vote, and the same is received by the judges, it is a valid vote. But where the elector does not act in good faith and knows he is not registered his vote should be rejected.

It is worthy of consideration that the statute in question is only so far mandatory as to control the action of the judges of election. While it is a negative statute it applies to and affects the judges only. "No vote shall be received" by the judges, unless the elector is registered. But suppose they do receive it? The judges might be punished. But there is no provision affecting the elector. He is not to be punished or his vote cast out.

Under the rule or principle announced above, it may sometimes be a matter of some difficulty to establish the want of good faith on the part of the non registered elector whose vote has been received by the judges. But most unquestionably, in the absence of other evidence, the presumption of innocence and *omnia recte acta* prevails in such case. The burden of showing want of good faith must necessarily rest upon the one challenging the vote and asking its rejection.

It is quite well settled that when the elector offers his vote he must establish all legal qualifications to justify its reception. But the act of the judges in receiving it is judicial. When it has been received every presumption is in favor of its regularity and legality. Whoever seeks to cause its rejection must assume the burden of establishing the disqualifications, even to proving a negative.

"Evidence which might have been sufficient to put the voter to his explanation if challenged at the polls is not deemed sufficient to prove a vote illegal after it has been admitted." (Gooding *v.* Wilson, 42 Congress.)

"Of course some weight is to be given to the decision of the judges of election, whose province it is in the first instance to admit or exclude votes. Their action is to be presumed correct until it is shown to have been erroneous." (McCrary on Elections, sec. 372; see, also, *Id.*, sec. 294, New Jersey Cases, 1 Bartlett, 24; People *v.* Peare, 13 N. Y., 74.)

There can be do doubt that if the foregoing views are maintained they are conclusive of the question involved in the present case. For if a ballot received from an elector who in good faith believed himself registered as required by law would be voted, still more so would it be the case where he in good faith presented an affidavit in supposed compliance with the law and the judges accepted it as sufficient.

The distinction between the essential qualifications of the elector and the mere methods or machinery of election must not be confounded. The judges of election cannot by receiving a ballot give qualifications to one who is not a qualified elector. The elector, when challenged, may take the required oath as to his qualifications, and the judges then admit his vote. This will not prevent his vote from being subsequently thrown out when it is shown he was not qualified. But suppose in administering the oath by mistake some important line or sentence of the oath was omitted by the judge, would that alone cause a rejection when it appeared the oath was taken in good faith?

So, too, if regularly registered, acceptance of his ballot does not establish his real qualification. Neither does it when he votes upon affidavit. All these things are mere preliminary proofs to enable him to deposit the ballot. They are not part of his real qualifications. Hence an error or mistake in the preliminaries, when the ballot is received, will not cause its rejection.

But the statute, in so far as it provides what declarations shall be set forth in the affidavits, is directory only. And in this particular the assumption, hereinbefore rebutted, that a vote received without registration is illegal, would not control the actual question in this case. It may well be held that an affidavit is necessary, and also that a failure to comply in respect of all the statements required would not render the affidavit void. There is no prescribed formula for the affidavit. It shall show that the elector is qualified and a sufficient reason for not appearing before the registry. He shall also prove by one freeholder who is on the register that he knows him to be qualified, giving residence, &c.

Suppose there are errors or omissions in the statement, but the vote is received by the judges. What shall the proof be that will subsequently reject the vote? That the elector was not in fact a qualified elector or that he failed to "say in his affidavit" that he was a qualified elector? Shall the substance give way to the shadow? There is no doubt that the affidavit is to be submitted to the judges. They are to pass upon its compliance with the statute. Here again we find the same method of perpetrating a fraud upon the elector. The judges are to aid the elector by carefully inspecting the affidavit in the discharge of their duty, and if it does not contain the necessary allegations to so decide and by pointing out the imperfections enable the elector to rectify and perfect his proof. The law providing for affidavits was intended as a means of securing the vote, not defeating it.

In other words, the judges of election have no power to pass upon the legal and essential qualifications of the elector. They have no right or power to hear evidence or pass upon that question; but as to whether the affidavits comply with the statute, whether they show a satisfactory reason for not appearing at the registry board and contain the necessary statements, is a matter addressed to their judgment and examination; and when that judgment has allowed and received the vote

it is final. The proof has been sufficient to justify the reception of the ballot, and thenceforward the only question that can be raised must relate to the essential qualifications of the voter. Of course it is not necessary to add that this proposition may be modified by the proviso that the paper offered as an affidavit is intended as such in good faith, and is not palpably an evasion or subterfuge.

Turning now to the several classes of affidavits and the respective objections to them, the following disposition of them is made:

(1) The 38 votes vouched for by Charles Blatner, who was not himself registered as required. There is no legal evidence that this Chas. Blatner was not registered. The register list is not produced, nor is a copy of it, which is the only legal and competent evidence as to who was registered. (Harris *v.* Whitcomb, 4 Gray, Mass., 433.) But among the affidavits appears one made by C. Blatner, who was not registered, and he is vouched for by Chas. Blatner. Upon this the contestant assumes that C. Blatner vouches for himself and that Chas. Blatner was not registered. There are 37 other affidavits vouched for by Chas. Blatner; and the contestant *assumes* that this Chas. Blatner was not registered and the affidavit not valid in consequence.

The rule already announced would deny the soundness of the claim. But an inspection of the signatures on the above affidavit, which was before the committee, shows that they are in different handwriting, and there must be two Charles Blatners. It is stated outside of the record that there are two, an uncle and nephew. Certainly in the absence of the register list there is no competent evidence of the claim made.

(2) The 31 voters in whose affidavits no reason is assigned for not appearing before the register board. Here a large batch of affidavits are produced, out of which 31 are selected. They are not identified by the voter, the notary public, or the judges. They are simply produced by the township clerk, into whose hands they were placed after the election. Where or how they have been kept, or who had access to them, what changes, substitution, or manipulation, is not shown; yet they are, in view of the present claim to reject them, the ballots of the electors. What would be thought of the count of the ballots of a ballot-box that had thus been thrown about without more proof as to the identity and genuiness of the ballots? The very necessity of the case shows that these affidavits are required, and are used and preserved, not as a means of enabling the subsequent rejection of illegal votes, but as evidence in criminal procedure in the courts where all the facts can be adduced and the genuiness of the paper shown. In any event the omission to fill the blank was oversight or inadvertence, and the law requiring it is directory. Besides, as will be seen, the number of this class of votes is not sufficient to change the result in any event.

(3 and 5) Thirteen cases where "neglect" is assigned, and 103 where "left off the register" is assigned for not appearing before the registry board. With one or two exceptions these affidavits were presented and used in the two Oskaloosa precincts in Mahaska County. The evidence shows very conclusively that the registry list in that township was not an honest one. In its preparation it was found in unauthorized hands and at unauthorized places. Out of a voting population of about 800, about 200 names, nearly all Democrats, were omitted. Old citizens who were property-holders, and had voted there for many years, found themselves unregistered, although their names must have been upon the poll lists and assessment lists. On election day the fact that 25 per centum of voters' names was omitted, and nearly all of one political party, must have created a profound impression of neglect or fraud on

the part of the registry board. The evidence shows that some of the electors were so indignant and humiliated that they refused to furnish the necessary affidavit and declined to vote. In such a state of affairs the words "neglect" and "left off the register" are pregnant with meaning, and furnish "sufficient reason" to any unbiased mind. Those terms, as thus used, do not imply "neglect" on the part of the elector, but on the part of sworn officers, in whose honesty and efficiency the electors were authorized by law to depend. These objections are overruled.

(4) Affidavits of J. R. Eckert and J. B. Bolton, who, in vouching for electors, swear they live in East Oskaloosa and West Oskaloosa. The statute does not require the one vouching for the elector to state that he lives in the precinct. As hereinbefore shown, the registry is made for the whole township. Oskaloosa Township was divided into two precincts—East and West. In a legal sense these citizens did live in both. It was only required they should be freeholders and electors.

(6) Forty-six failed to state their residence, and three affidavits have no *jurat*. As already shown, the requirement applies only to residents of cities and towns in municipal elections. This was a general election, and there is no proof that these electors resided in any city or town. As to the three affidavits without *jurats*, the judges of election are authorized to administer these oaths, and it is probable the voters were sworn and subscribed the affidavit before them, and the judges received them, but in the hurry omitted to write out the *jurat*. Their reception by the judges under the statute is presumptive that they were sworn to, but that the *jurat* was omitted.

(7) There is no legal and competent evidence that Bolinger or William Pitt were not registered. Harris *v.* Whitcomb, 4 Gray, 433.

(8) As to the objection that the sixty affidavits received at Centre Township, Wapello County, failed to state that the voucher was a freeholder, the statute does not require it. Section 618, Code of Iowa. It is sufficient if the judges of election know the fact.

This disposes of the case as made by the contestant.

II.—*The contestee's counter-claim.*

(1) An examination of the evidence will satisfactorily show that the following illegal votes were cast for contestant. There is no method of clearly stating each particular case, except by setting forth the evidence respectively in each, which is not deemed necessary.

Name.	County.	Page of record.	Page of contestee's brief.
NON-RESIDENTS.			
Harry Miller	Poweshiek	404-6	24
E. S. Preston	do	418	24
John Anderson	do	418-21	25
Marion S. Gordon	do	412-18	25
William Poindexter	Mahaska	422-464	26
Frank Ferguson	do	485 seq.	27
Matthew Edmondson	do	493	28
Andrew Koon	do	496	28
Montus Mullbach	do	409-10	28
J. Harry Rodgers	do	532	29
B. C. Coleman	do	534	30
E. Dee	do	542-50	30
J. T. Spencer	do	547	30
Peter Anderson	do	500	31
Lincoln Bitiny	do	464	31
George Heavle	do	569	31
W. H. Smith	do	572	32
M. Trescott	do	577	32

Name.	County.	Page of record.	Page contest brief.
NON RESIDENTS—Continued.			
F. Lint	Wapello	593	
Samuel Reed	do	592	
F. H. Webber	do	606	
George W. Dewitt	do	645	
J. P. Campbell	do	609	
David De Hart	do	618–43	
John W. Fordemwalt	do	665–6	
ALIENS.			
Charles Deal	Powesheik	414	
George Sampson	do	415	
David Suedon	Keokuk	570	
MINORS.			
John Martin	Wapello	639	
BRIBED.			
William Blake	Keokuk	575	
John Baker	Wapello	597–610	
Harrison Baker	do	603–5	
Parkson Peters	do	625	
IMBECILES AND INSANE.			
Patrick O'Connor	Mahaska	443–8	
Joseph Padgett	Davis	651–691	

In all, 35.

(2) A mistake of 5 votes in the count of Richland Township, in K kuk County. It is made plainly to appear that the judges of elec first counted the votes, ascertained the number cast for the contes and contestee, and entered the true number on the returns, and fi out the tally-list afterwards and omitted 5 votes. The county canv ers acted on the tally-list and not the return, and in this manner mistake was made.

(3 and 4) As to these there is no serious question. They are pr cally conceded.

(5) The colonization of these colored men is quite clearly establis and the proof is very satisfactory that they voted for the contest There were three of the nine at Mahaska County (Record, 438 *et seq.*) eighteen at Wapello County (Record, 523 *et seq.*) traced to the p Six of them could not be traced. Of the number of illegal votes clai by contestee the contestant concedes 16, but he does not specify t all.

In conclusion your committee make the following statement of result:

Votes cast for Weaver		1
Deduct illegal votes allowed		
		1
Votes cast for Campbell	16,617	
Deduct illegal votes:		
Illegal votes	35	
The 5 at Richland	5	
The 2 in Amendment box	2	
One rejected	1	
Colonization	21	
	64	
		1
Weaver's majority		

CAMPBELL vs. WEAVER.

APRIL 19, 1886.—Laid over and ordered to be printed.

E. PAYNE, from the Committee on Elections, submitted the following as the

VIEWS OF THE MINORITY:

The minority of the committee dissent from the views of the majority the following grounds:

The minority of the committee do not think it profitable to present evidence, or even a statement of the facts, on which they dispose the individual votes, challenged on either side of this controversy, such a course would prolong this report to such an extent that it uld not be read by many members of the House, and at the same ie would not affect the result; for there are not enough of such votes overturn the majority of contestee independently of the non-regis-ed votes cast in Oskaloosa Township, Mahaska County, for con-tee, and which we shall show hereafter were illegally received under laws of Iowa and returned for him.

We do wish to dissent most emphatically from the assumption in the jority report, that more of such illegal votes were proved to have en cast for contestant than for contestee, and that the result increases e majority for contestee from 67 to 117. On the other hand a careful view and weighing of the evidence in the case leads inevitably to the nclusion that the balance of illegal votes outside of Oskaloosa Town-ip is against contestee, and would reduce his alleged majority as re-rned.

The attempted proof of colonization was a failure, composed largely, it was, of hearsay evidence, and any assumption of any intentional ong-doing on the part of the contestant or his supporters in this case entirely gratuitous, and is not warranted by the evidence.

THE NON-REGISTERED VOTERS IN OSKALOOSA TOWNSHIP.

Whatever view may be taken of the status of the individual votes llenged upon either side, the whole case turns upon these non-istered votes cast in Oskaloosa Township, and the disposition that nade of them. If the views of the minority are correct as to these n-registered votes, then there must be deducted from the majority of sitting member at least 134 votes, and these would overbalance even 117 majority claimed for him in the majority report, as well as the majority claimed for him in his brief filed with the committee.

THE REGISTRY LAWS OF IOWA.

The following are in substance the sections of the Iowa code, which scribe the manner in which the registry shall be made for each elec-n:

he township trustees and clerk shall constitute the board of registry, and shall t annually, * * * and shall make a list of all qualified electors in their town-, which shall be known as the register of elections. (Code, sec. 595.)

The register of elections shall contain the names of the voters at full length, alphabetically arranged, with residence set opposite. It shall be made from the *assessor* list, and the *poll-books* of the *previous election*, and shall be kept by the township clerk, and shall at all times be open to inspection at his office without charge. He shall, also, within two days after the adjournment of the board, post up a certified copy thereof in a conspicuous place in his office, or in such other place as the board may direct. (Code, sec. 596.)

The board shall meet on Tuesday preceding general election to complete registry. Must give previous notice by publication; at time of meeting "they shall revise, correct, and complete the register of election, and shall hear any evidence that shall be brought before them in reference to such correction." It further provides that names may be added or stricken from the register at this meeting. (Code, sec. 597.)

These sections seem to contemplate, what would appear to be a most natural result from such a method of making up the lists in the first instance, an incomplete list of the voters in a large precinct, unless the board were aided in their duties by the appearance before them of the voters themselves, who had neglected to vote at the last election, and who were not tax-payers in the district. But this registry law does not even require the presence of the voter at the place of registry, but his name may be placed on the register if any person shall make it appear to the registry board that he is a legal voter in that precinct.

But if the name of a legally qualified voter is left off the list he still is not deprived of his vote. The following section of the statute affords him an ample and a simple remedy:

SEC. 618. The judges in election precincts where the registry law is in force shall designate one of their number to check on the register the name of every person voting; and *no vote shall be received* from any person whose name does not appear there, *unless* he shall furnish the judges his affidavit showing that he is a qualified elector, and a *sufficient reason* for *not appearing* before the board on the day for correcting the register, and shall also prove by the affidavit of one freeholder or householder whose name is on the register, that such affiant knows him to be a resident of that election precinct, giving his residence by street and number, if in a city or incorporated town, as the same is in such cases required to appear on the register. Said affidavits shall be kept by the judges, and by them filed in the office of the township clerk, and all such affidavits may be administered by either of the judges or clerks of election.

In Oskaloosa Township, it seems that the Republican committee were diligent on the days for correcting the registry and saw that the voters belonging to their party were all registered. On the other hand, it appears that the committees for the Democratic and Greenback parties made no attempt to correct the registry, or to see that the names of the voters of their party were put upon the lists before the election. The result was that about two hundred of the members of those parties were not registered. The assumption that there was any dishonesty in the making of the registry in Oskaloosa is not warranted by the evidence. Neither the poll-list of the last election or the assessment lists were offered in evidence. There is nothing in the case to show, or from which it can be inferred, that a single name was left off the list, which appeared on either the poll-list or the assessment list of the previous year. Nor can this be inferred, from the fact that some old citizen, who had been a resident for twenty-five years, was not registered. The laws of Iowa do not require a man to be a tax-payer in order to be a voter; and it cannot be assumed that the "old citizen" voted in 1883 in Oskaloosa Township. This assumption on the part of the majority of the committee only illustrates how easy it is for eminent lawyers to forget that fraud cannot be found from mere suspicion, but that it *must be proved.*

These names being off the registry, on election day these parties could vote only upon complying with section 618 of the statute quoted above. This section provides, so far as it is applicable to this case, that—

No vote shall be received from any person whose name does not appear there [on the register] unless he shall furnish to the judges his affidavit showing that he is a qualified elector, and a sufficient reason for not appearing before the board on the day for correcting the register, &c.

The first question arising upon this statute is, is it *mandatory?*

In answering this question it should be borne in mind that the only object of the statute is to prevent illegal voting. If these plain words, so plain that they do not admit of construction, "no vote shall be received" are to be construed as directory, and not mandatory upon every one affected by the provision, then the statute by its own interpretation defeats itself. The law becomes a dead letter and wholly inoperative. But we are not left wholly to our own interpretation of this law. In the first place the highest court in the State of Iowa has declared this law constitutional. (See Edmunds *vs.* Barnburry, 28 Iowa, 267.) The question of constitutionality was the only question litigated in that case.

The constitutional provision of Iowa is:

ART. 2, SEC. 1. Every male citizen of the United States of the age of twenty-one, who shall have been a resident of this State six months next preceding the election, and of the county in which he claims his vote sixty days, shall be entitled to vote at all elections which are now or hereafter may be authorized by law.

This registry law deprives no voter of his vote; it only provides a method of proving his right to vote.

We are not without direct judicial authority for the position that this law is mandatory. (See Nefzgar *vs.* R. R. Co., 36 Iowa, 642.)

We deem it unnecessary to consider only the second ground of relief, viz, the entire disregard of the provisions of the registry law, for it seems to us, upon that ground, if none other, the action of the court is fully sustained. Section 8, chapter 171, 12 General Assembly, the act provides:

* * * * * * *

(The act previously quoted.)

"The object of the act, as declared in its title, is to prevent fraudulent voting. *Its language is mandatory.* It reads: '*No vote shall be received* from any person whose name does not appear on the register.' To hold that an elector may vote whose name is not on the register would render an observance of the law merely optional, and its provisions merely nugatory."

The court then refer to and quote 16 Mich., 342; 21 Wis., 566; "Dwarris' Statutes, 715, and cases cited."

Congress has never reversed the decisions of a State court as to the constitutionality or force of its own enactment.

A law similar in all respects has been held mandatory in other States, and also it has been held that no vote could be received under it from a non-registered voter, unless he furnished the affidavit required by the terms of the law, and that this, too, is mandatory. (See *in re* Election of McDonnough, 105 Penn., 490, and the exceedingly well considered case of Doerflinger *vs.* Helmantel, 21 Wis., 566.) We quote from the opinion of Dixon, Chief J.:

It is furthermore alleged that of those 544 votes 145 were received from persons, no one of whom proved to the inspectors receiving his vote by the oath of a householder of the district that he knew such person to be an inhabitant of the district, nor did any one of them furnish the inspectors any proof upon oath that he was a resident of the election district. It will be seen from these statements, not that there was a total want of proof, or an attempt to evade the requirements of the act, but only that the proofs were, in some particulars, defective. It is not, therefore, a question whether

the statute may be wholly disregarded or dispensed with by the inspectors, but whether, when an attempt is made in good faith to execute it, a mistake in the execution or any departure, however slight, from the terms of the statute will vitiate the proceedings and annul the votes so irregularly received. In other words, it is a question whether the voters are disfranchised by any such mere irregularity or error in the proceedings.

This is the precise question, as I understand it. I say the precise question, because no fraud or intentional misconduct on the part of any one is alleged; nor is it alleged that there was any inherent disqualification in the persons who gave the votes. They were qualified electors of the district, entitled under the constitution and laws to vote at the election, except that their votes were not received in the form prescribed by the statute. As to one hundred and forty-five of them, the fact that they were inhabitants of the district was not proved before the inspectors; and as to the others, their particular places of residence within the district were not given. As to all of them, the inspectors may have acted upon their own knowledge of the facts, and thought that proof was unnecessary.

Such being the technical, and, as it seemed to me, purely formal nature of the objections, I must say that I was surprised to hear counsel at the bar insist that those votes must now be rejected. I had not then examined the act, and it was contrary to all my notions of the intention and effect of election laws, derived from the decisions of this and other courts upon other statutes on the same subject. I supposed the question before the courts always was, who received the greatest number of votes for the office from the legally qualified voters, without regard to any matter of mere form or want of form in the receiving, canvassing, or return of the votes; and that to hold the contrary would be, as has been very pertinently said, to place a higher value on the statute regulation than on the right itself—to sacrifice substance to form.

This construction of former statutes, that they were directory and not imperative, and therefore not jurisdictional on the part of the officers conducting the elections, is well known. For the sake of justice upon the facts here pleaded, I regret that this act does not admit of the same construction. It seems certainly a very severe regulation which excludes the votes of legally qualified voters under such circumstances. But, on examining the act, I am satisfied that it cannot be so construed. It is essentially an imperative statute, and deprives the inspectors of all jurisdiction to receive the votes of unregistered voters, unless the conditions as to the affidavit and oath are fully complied with.

And first it is to be observed that there is a material difference between this and former statutes. They were regulations of the time and manner of conducting elections, designed for the government of the officers having charge of the polls. No duty was imposed upon the voters except that of going to the polls and depositing their votes. It was considered that the voters ought not to forfeit their privileges or lose their votes by reason of the mistakes or misconduct of the officers, which it was out of the power of the voters to remedy or prevent.

By this act, however, every voter is made or may become an agent in the execution of the law. Copies of the register, as made by the board, are filed in the office of the town, village, or city clerk, and posted in some conspicuous place in the room in which the meeting is held, so as to be accessible to any elector who may desire to examine the same or make copies thereof. On Tuesday preceding the general election a meeting of the board of registry is held at the place designated for holding the polls of election, for the purpose of revising, correcting, and completing the lists. Any elector of the district whose name has been omitted may appear at such meeting and cause the same to be entered upon the register. If he does not so appear, and still desires to vote, he must furnish the inspectors at the polls his affidavit, giving his reasons for not appearing on the day for the correction of the register, and likewise prove by the oath of a householder of the district that he knows him to be an inhabitant of the district; and, if in an incorporated village or city, give his residence within the district.

In this matter of a voter whose name has been omitted, and who has not appeared on the day for the correction of the register, the burden of answering the requirements of the law, by furnishing the affidavit and proof, is thrown upon the voter himself. He is presumed to know the law, and must go to the polls prepared to comply with its conditions; and if he does not, and his vote is lost, it may, so far as it is the fault of any one, with justice be said to be his own fault. It is in the nature of a penalty imposed by the law for his neglect to do what is required of him. The inspectors cannot receive his vote, and if they cannot, it cannot afterwards be received and counted by the courts.

And next it is to be observed that it is a negative statute. It has been said on very high authority that negative words will make a statute imperative. (Dwarris on Statutes, 715; 7 Law Lib., 55, and cases cited.) The words of the act are: "No vote shall be received at any annual election in this State, unless," &c. It is difficult to conceive of any language more strongly imperative than this. (21 Wisconsin, pp. 568–571.)

The position that this law is mandatory is indorsed by Democratic authority in the contested election case of Curtin *vs.* Yocum, in the Forty-sixth Congress. The majority report was most elaborate, made by Mr. Springer, the chairman of the committee, and was concurred in by all the Democratic members. This report is grounded upon the opinion that the statute precisely similar to the Iowa statute is mandatory. The minority of the committee, however, considering the peculiar constitutional provision in the constitution of Pennsylvania, held that this law was either unconstitutional or directory in its character, and the House adopted by a close vote the views of the minority. The provision in the constitution of Pennsylvania is as follows:

No elector shall be deprived of his privilege of voting by reason of his name not being registered. (Sec. 7 of the Con.)

But the case of McDonnough, in the 105 Penn. cited above, is a later case, and of course was not before that committee. However, it confirms the views of the majority in the Curtin case.

It is true that the courts in the State of Illinois have held a contrary construction of a similar statute (see 78 Ill., 170, and 88 Ill., 504), but in those cases it was held that the statute was merely directory, and not mandatory.

After a review of all the cases we find it impossible, as it seems to be "difficult" for the majority (page 7, majority report) to escape the conclusion that this registry law, requiring the "furnishing of an affidavit" by an unregistered voter as a condition for his voting is mandatory. And we believe that it is mandatory upon all. It is the condition precedent—"no vote shall be received," &c. There is no middle ground.

It is not denied that this rule may sometimes work hardship and even deprive the honest elector of his right of suffrage. What law is there which is not obnoxious to the same charge? Ignorance will pervert and set at naught the most perfect laws. If the plea of ignorance were allowed as an excuse many salutary laws would be practically annulled.

In Oskaloosa township 31 voters presented affidavits, in which there were no reasons given for not appearing before the board on the day for correcting the registry. These affidavits are all in the same form and the following is a sample of the whole:

STATE OF IOWA, *Mahaska County, ss:*

I, Walter Mitchell, on oath do say that I am a resident of West Oskaloosa Township, county of Mahaska and State of Iowa; that I am a citizen of the United States; that I am twenty-one years of age; that I have resided in the State of Iowa six months, and county of Mahaska sixty days last preceding this election; that I have not voted in this election, and the reason my name does not appear on the register list is, . Walter C. Mitchell.

C. BLATTNER.

Subscribed and sworn to before me by said affiant this 4th day of November, A. D. 1884.

[SEAL.] J. B. BOLTON,
Notary Public.

In the same township 103 gave as a reason "left off the register." This is a sample of these affidavits:

STATE OF IOWA, *Mahaska County, ss:*

I, Walter Hunter, on oath do say that I am a resident of West Oskaloosa Township, county of Mahaska and State of Iowa; that I am a citizen of the United States; that I am twenty-one years of age; that I have resided in the State of Iowa six months,

and county of Mahaska sixty days last preceding this election; that I have not voted in this election, and the reason my name does not appear on the register list is left off registry.

WALTER HUNTER.

Subscribed and sworn to before me by said affiant this 4th day of November, A. D. 1884.

[SEAL.] J. B. BOLTON,
Notary Public.

It is conceded that all these affidavits were presented by Democrats, and upon them the affiants were permitted to vote. We maintain that all these votes should be deducted from the count of votes for the sitting member. If we are right in our conclusions that this statute is mandatory, there can be no doubt as to the rejection of the 31 votes, where no excuse is given. But is it not equally true of the 103 voters who say that the reason they did not appear is "left off the register"? Can this, by any process of construction, be made to furnish an excuse? We will not go into the question as to who is to judge of the sufficiency of the excuse, or whether it is competent for the House to reverse a decision of the judges, where any excuse is furnished; but in this instance we maintain that the words "left off the register" furnish no excuse for the non-appearance, and that there is nothing for the judges of election to act upon. It appears to us impossible to spell out an excuse from these words.

The majority of the committee, in their report, after a labored argument, at page 8 say:

This your committee believe to be the true rule, and announce it as a principle = Where the elector, acting in good faith and honestly supposing himself to be registered, deposits his vote, and the same is received by the judges, it is a valid vote. But where the elector does not act in good faith and knows he is not registered his vote should be rejected.

But that principle if correct does not affect this contest. In this case the voter knew that he was not registered; hence his affidavit. He knew the law and that it was necessary to furnish the affidavit, presenting all the facts essential for the judges of election to act upon. He was not deceived by the judges as to any fact peculiarly within their knowledge; he knew that he was not registered as well as they; he knew that he must present a reason as well as they, for he was bound to know the law. And hence the reasoning in the majority report, as in the Illinois cases, is inapplicable to this case. It is impossible to work out any deception or fraud in this case from the evidence.

It is true that the unbiased mind must come reluctantly to a conclusion that would disfranchise a voter for the single reason that he had failed to comply with the registry law. And yet it is our duty to uphold the laws. Even were we convinced that the law was a bad one, our duty would be the same. But there are no more commendable laws upon the statute book than these same registry laws. No laws have done more to guard the purity of the ballot-box than these same laws. In every State where they are in force they have thrown up a bulwark against fraud and dishonest voting that human ingenuity has seldom been able to compass. Any construction that weakens their force or construes away their mandatory character is a step backward, and should not be adopted, unless plainly required by the well-settled rules of construction. It should be our aim to enforce these salutary measures to their full intent and meaning. If we enforce them in this case we can reach no other conclusion than that the contestant is entitled to the seat now held by the contestee. And we therefore recommend

doption of the following resolutions as a substitute for those rec-
nded by the majority:

olved, That James B. Weaver was not elected to a seat in the
-ninth Congress as a member from the Sixth Congressional district
wa, and is not entitled to a seat.

olved, That Frank T. Campbell was elected and is entitled to a
in the Forty-ninth Congress as a member from the Sixth Congres-
l district of the State of Iowa.

SERENO E. PAYNE.
FREDERICK D. ELY.
A. H. PETTIBONE.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1623.

PAGE v. PIRCE—LEAVE TO TAKE TESTIMONY.

APRIL 14, 1886.—Laid over and ordered to be printed.

Mr. R. S. GREEN, from the Committee on Elections, submitted the following

REPORT:

The Committee on Elections, to whom was referred the contested-election case of Charles H. Page against William A. Pirce, from the second Congressional district of Rhode Island, submit the following statement:

The contestee claims not to have been represented at the examination of the witnesses of the contestant, relying on the fact that the testimony was not taken within the time prescribed by statute. The contestant, on his part, testifies to a verbal agreement between himself and the counsel of the contestee waiving the taking of such testimony within such time. The counsel of contestee, while admitting an agreement with contestant, denies that it had such extent or effect. While the committee would be inclined, in ordinary cases, to require that parties should strictly observe the directions of the statute, the testimony presented in this case by the contestant discloses such wholesale and open bribery, implicating even the contestee personally, that the House, in justice to its own dignity, must, in the opinion of the committee, take notice of the same. As the contestee, relying on his understanding of the agreement, abstained from the cross-examination of the witnesses and from the production of evidence to contradict the case made by contestant, we recommend that time be given as provided in the accompanying resolution:

Resolved, That William A. Pirce, sitting member from the second Congressional district of Rhode Island, be allowed thirty days from the passage of this resolution within which to resubpœna and cross-examine witnesses heretofore examined by Charles H. Page, the contestant, and to take any testimony he may desire, and that ten days thereafter be allowed to said Page to take evidence in rebuttal.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT 1623, Part 2.

PAGE v. PIRCE—LEAVE TO TAKE TESTIMONY.

APRIL —, 1886.—Laid over and ordered to be printed.

Mr. ELY, from the Committee on Elections, submitted the following as the

VIEWS OF THE MINORITY:

The undersigned dissent from the opinion of the majority in this case, and submit the following as the views of the minority:

This contest concerns the second Congressional district of Rhode Island. The election returns legally made show that Pirce received 7,746 votes; that Page received 5,995 votes; that Alfred B. Chadsey received 1,500 votes; and that other persons received 235 votes. Pirce received 1,751 votes over Page and 16 votes over all. Page does not appear in this case as a citizen claiming that the election was void, but as a contestant, claiming that he was duly elected in Congress from said district. At the date of the November election, 1884, Page was a member of the senate of Rhode Island, and continued to hold his seat in said senate and act and vote as a member of said senate after the 4th day of March, 1885, and after that date, in April, 1885, became a candidate for re-election, was elected a member of said senate, accepted the office, and has been since his said election, and during this session of Congress, acting and voting as a member of said senate, all in contravention and violation of the constitution of the State of Rhode Island, if he is and has been, since the 4th day of March, 1885, as he now claims and asks this House to declare, a Representative in Congress from his State.

It appears that Page served his notice of contest on Pirce within the time required by law, to wit, on the 5th day of February, 1885, and Pirce answered on the 5th day of March, 1885, and on that day served his answer on Page. Page took no testimony within the time required by law, but on the 12th day of June, 1885, did notify Pirce that he should begin to take testimony on the 25th day of June, 1885, and did between said date and the 20th day of July, 1885, in the absence of Pirce and against his written protest, examine certain persons, and the questions asked and answers given have been printed in this case, with the understanding and agreement that it should not affect, impair, or prejudice Pirce's rights. Said 25th day of June was seventy-two days after Page's time for taking testimony under the statute had expired, being one hundred and twelve days from the day on which the answer of Pirce, the returned member, was served upon Page, the contestant.

The law limiting the time for taking testimony in contested-election cases in the House of Representatives is found in section 107 of the Revised Statutes and section 2 of chapter 119 of the Statutes of 1875.

Section 107 of the Revised Statutes is as follows, viz:

In all contested-election cases the time allowed for taking testimony shall be ninety days, and the testimony shall be taken in the following order: The contestant shall take testimony during the first forty days, the returned member during the succeeding forty days, and the contestant may take testimony in rebuttal during the remaining ten days of said period.

Section 2 of chapter 119 of the Statutes of 1875 is as follows:

That section 107 of the Revised Statutes of the United States shall be construed as requiring all testimony in cases of contested election to be taken within ninety days from the day on which the answer of the returned member is served upon the contestant.

Page alleges and makes oath that he made an oral agreement with Stephen A. Cooke, jr., the attorney of Pirce, on the 9th day of March, 1885, to the effect that the testimony might be taken at any time before the meeting of Congress in December, 1885. Said Cooke, under oath, denies that he made said agreement. Page supports his affidavit by the affidavit of Frederick C. Hull, and Pirce, in reply to Hull's affidavit, files the affidavit of Charles C. Gray, to the effect that Hull had for some years made his headquarters at Page's office, had been employed by Page in various capacities, and derived therefrom most of his support, and that prior to the election for Congress, 1884, Hull presented at the printing office of which Gray is superintendent a written copy of a spurious Republican ticket to be used at said election; that said ticket was set up at Hull's request, and the form taken away by Hull, the name of the candidate on said spurious ticket being William H. Pirce. These affidavits are attached to the printed record in this case. It also appears that in a correspondence between Page and Cooke, Cooke informed Page on the 28th day of April, 1885, that he never made the agreement now claimed by Page, and yet Page allowed fifty-three days thereafter to elapse before he attempted to take any testimony.

After Page served his notice to take testimony on Pirce, Pirce served, on the 23d day of June, 1885, his protest against and objection to taking such testimony on Page, and notified him that he should not appear during the taking thereof in person or by attorney. Pirce seasonably appeared before the Committee on Elections and moved that this contest be dismissed, because the testimony was not taken in time.

In our opinion this motion should be granted. Even if the agreement were made as claimed by Page, he has no standing before this House. Whether we regard the statutes concerning contested elections as absolutely binding on the House, or as rules of procedure, neither Page nor Pirce, nor both could waive or abrogate them. The House alone can do that. If Page desires the time for taking testimony to be extended or that testimony already taken be received and considered as if taken in time, it is his duty to apply to the House, and this he has not done or attempted to do. He should also allege and prove a sufficient reason for such indulgence to him on the part of the House. This he has failed to do. If any agreement, founded on mere convenience of counsel, be sufficient, which we deny, certainly an oral agreement is not. This was decided in O'Hara *v.* Kitchin, in the Forty-sixth Congress, five years ago, and has never been overruled or even questioned. We make one or two brief quotations from the able report of the Committee on Elections in that case and earnestly approve them as wise and just. Democrats and Republicans all join in saying:

The evils resulting from permitting the parties, at their own convenience, to regulate the time of taking testimony without regard to the statutes or public interest, are too serious and obvious to require comment. In any case, if such agreements are to be regarded, they should be in writing and signed by the parties or their attorneys.

And again—

The misunderstandings that often honestly arise from oral agreements are alone sufficient to justify courts in insisting that none but written agreements will, if questioned, be recognized. We think it of great importance in election cases that parties should understand absolutely that all agreements in contravention of the statutes of the United States in regard to the taking of testimony, to be considered at all, should be in writing, properly signed, and made a part of the record itself.

The case of O'Hara *v.* Kitchin is directly in point. There affidavits alleging an oral agreement to take testimony out of the time limited by the statute to have been made, and counter affidavits denying the making of such agreement, were filed. But the committee "decline to determine on the affidavits the question whether or not any such oral agreement as the contestant sets up was made, and consider the case as if there were no such agreement," and say:

The committee, therefore, are of opinion that this contest should be dismissed, on the ground that the testimony was not taken in time.

Mr. Page does not claim that he was ignorant of this report. We think that he should not be allowed to disregard it and knowingly violate it.

We repeat that the convenience of counsel or parties is not a sufficient reason for postponing the time for taking testimony beyond the statute limit, and emphatically not for the unprecedented length of postponement contemplated by the agreement alleged to have been made in this case. Under this agreement a year from the election might elapse before a word of testimony should be taken. As a fact, seven months did elapse. In the interval witnesses may have died or disappeared. The recollection of others concerning the facts may have become indistinct or imperfect. Such delays endanger the rights of the people to be represented by the man of their choice.

We believe that Page abandoned his contest intentionally before he attempted to take testimony and then concluded to renew it after the time for taking testimony had expired; that in no aspect of the case can we find that he was elected; that the agreement which he claims is not proved to have been made; that his claim in his brief to have been elected by 4,260 majority is so preposterous and absurd as to be an insult to the intelligence of the committee to whom it was presented. We therefore find that this contest should be dismissed, and we recommend the passage of the following resolution:

Resolved, That Charles H. Page is not entitled to a seat in this House as a Representative in the Forty-ninth Congress from the second Congressional district of Rhode Island.

It does not follow, however, from the passage of this resolution that the investigation shall be discontinued. It is claimed by the majority of of this committee that the affidavits which have been printed disclose a state of facts in this election which require investigation. If such be the fact, we claim it has no bearing on the question which we have discussed or the conclusion to which we have arrived. But to such investigation we interpose no objection. On the contrary, we will vote for it, and recommend every member of the House to vote for it. We will also do all in our power without delay to make it thorough, searching, and complete. If the result of the election was procured by bribery or intimidation the election should be declared void.

But we solemnly protest that in a matter affecting, not only the right to a seat in this House, but the character of the sitting member, charging him with offenses wicked, criminal, and infamously degrading, it is his right to meet all the witnesses face to face when they give their tes-

timony-in-chief. This is a right not founded in fancy or sentiment, but is of the highest importance in reaching right conclusions in such an investigation. Such right is so clear and just that it is recognized everywhere and by every court. In depositions (so called) taken in the absence of the sitting member, he has no opportunity to object to questions or answers, however objectionable they may be in form or substance. The presence of the opposing party restrains the examiner from putting leading questions. Indeed, the entire tone of the deposition becomes abnormally favorable to the contestant when his presence is not counterbalanced by the presence of the contestee, and, of course, makes its impression on him who reads the deposition.

We recommend the passage of the following resolution:

Resolved, That this contest be recommitted to the Committee on Elections, with instructions to investigate all cases of intimidation and bribery alleged or charged in the printed record in this case in or concerning the Congressional election 1884, in the second Congressional district of Rhode Island, and for that purpose to appoint a sub-committee of three of its members, who shall be authorized to proceed to Rhode Island and take testimony there, to send for persons and papers, to administer oaths, to employ a stenographer, and incur such necessary and reasonable expenses as may be required for the purpose of conducting said investigation, not exceeding $2,000, which shall be paid out of the contingent funds of the House upon proper vouchers certified by said subcommittee; and upon the testimony so taken the Committee on Elections shall determine the validity or invalidity of the right of the sitting member to a seat in this House.

FREDERICK D. ELY.
SERENO E. PAYNE.
GEO. W. E. DORSEY.
J. H. ROWELL.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1624.

ADMINISTRATORS OF S. H. HILL, DECEASED.

APRIL 15, 1886.—Committed to the Committee of the Whole House on the Private Calendar and ordered to be printed.

Mr. RICHARDSON, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 5849.]

The Committee on War Claims, to whom was referred the petition for the relief of S. H. Hill, of Columbus, Ga., having considered the same, report:

That the claim is for rent of buildings for military purposes for different periods included between April 16 and December 1, 1865, amounting to $1,212.50, for which vouchers are given. These buildings were located in Columbus, Ga. The vouchers were presented to the Third Auditor for settlement, by whom they were rejected, for the reason, as assigned, that as "Georgia was a State in rebellion during the late war, payment of the same is prohibited by the act of Congress of February 21, 1867."

Two of the vouchers are in due form, unconditional, and are indorsed by the proper officers, as follows:

The within account will be paid on presentation at the office of chief quartermaster at Augusta, Ga.

The remaining two are signed by the same officer as the former, J. B. Winslow, captain and assistant quartermaster, but are not approved by the colonel commanding.

The signatures of these two officers are certified to as genuine by the Third Auditor, and the omission of approval in the last two is merely a defect in form, and they are evidences of a contract equally with the two which are perfect in form.

The act of February 21, 1867, is declaratory of the act of July 4, 1864. Neither of these acts are intended to affect contracts made by the proper officers or agents of the Government. These vouchers are undoubted evidences of a contract. The parties were competent to contract, a consideration has been given by the petitioner, and the Government should undoubtedly pay the vouchers.

The committee report the accompanying bill appropriating the sum of $1,212.50 in full payment of said vouchers, and recommend that it do pass.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1625.

THOMAS J. PITZER.

APRIL 15, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. RICHARDSON, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 932.]

The Committee on War Claims, to whom was referred the bill (H. R. 932) for the relief of Thomas J. Pitzer, submit the following report:

The claimant, Thomas J. Pitzer, of Knox County, Kentucky, brings this claim for $400, the price of two good mules taken from him in 1864, at or near Barboursville, Ky. The proof is conclusive that claimant was a loyal citizen, and it is equally as well shown that the two mules were taken and used by the Army of the United States. The witnesses differ a little as to the value of the mules, one witness fixing the value at $150 each, and the other at $200 each. The committee fix the value at the sum of $200 each, making $400 for the two, and this sum they recommend be paid claimant. The committee think there is nothing in the statement of the agent of the Quartermaster-General that claimant purchased these mules from some men residing in a State in insurrection, there being absolutely nothing in the record to show any collusion or bad faith in any part of the transaction.

The committee are of opinion that the claim should be allowed, and therefore recommend that the bill do pass.

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1 CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 1626.

GEORGE CONWAY.

APRIL 15, 1886.—Laid on the table and ordered to be printed.

RICHARDSON, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 4141.]

Committee on War Claims, to whom was referred the bill (H. R. 4141) for the relief of George Conway, submit the following report:

e claimant in this case is George Conway, who was captain of the Voltigeur. It appears that on or about the 25th day of April, his vessel was at New York City; was loaded with hay belong- o the Government, and was about to sail for Fortress Munroe. vessel belonged to the Government. While waiting for orders essel in some way caught on fire, and the captain being unable to guish the flames deemed it wise to run the bark to the shallow on the Jersey shore and scuttle her. This he did. The vessel fterwards raised, and was sold for $7,500 by the Quartermaster- ral. The captain had his supplies on board, together with his cal instruments, all his own personal property, and some were lost lestroyed. It appears that the captain might have saved his prop- but he alleges that he was so intent upon protecting the interests e Government that he gave no attention to his own.

e claimant now asks that the United States make good his loss, 1 he says occurred to him on account of his devotion to the interests e Government he was serving, and the neglect of his own personal sts and property. He insists that he was damaged to the amount ,934.24 by the losses he sustained. The committee think the ict of the captain was unselfish and praiseworthy, but they do ink he did more than was his duty. The safety of the vessel and had been confided to him. He was employed and paid to navi- the bark, and take care of and protect the property intrusted to ontrol and custody. To have forgotten his trust, or permitted e imperiled, to look after his private property would have been fessional and unbecoming an officer. His first duty in such a case o save the property of the Government—a duty and responsibility 1 he assumed when he hired himself to take charge of the vessel. e committee, in coming to this conclusion, do not mean to say that son in the service of the Government may not go beyond the line ict duty, and the requirements of his position, and save public rty at a loss to himself, for which compensation should be made;

but in this case, considering all the facts, the committee think the claim should be rejected. In saving the property on the vessel, the captain acted as agent for the Government, and what he saved was saved for the Government alone. The Government lost more property by the fire than its agent, the captain, lost, and might make some question against him that proper care was not taken by him to prevent the fire.

The committee recommend that the bill do lie on the table.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1627.

KATHARINE C. B. MERRILL, EXECUTRIX.

APRIL 15, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. RICHARDSON, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 7878.]

The Committee on War Claims, to whom was referred the report and accompanying papers in the case of Katharine C. B. Merrill, executrix of Ayres P. Merrill, deceased, late of Natchez, Miss., have considered the same, and respectfully report:

That during the Forty-eighth Congress a law was passed directing he Quartermaster-General to investigate and report the amount and alue of stores and supplies taken from the plantations of said Ayres '. Merrill, in the vicinity of Natchez, Miss., and used by the Army of he United States during the late rebellion, and also to report all the icts and evidence for the consideration of Congress.

Congress appears to have been entirely satisfied from the testimony i file, consisting of statements by Generals Grant, Gresham, Ransom, ocker, and others, that said Merrill was loyal during the rebellion, id for that reason did not direct the Quartermaster-General to in- iire into his loyalty. At the instance and request, however, of the ecutrix the investigating agent took additional testimony touching yalty, fully establishing to the satisfaction of the Quartermaster- eneral that said Ayres P. Merrill was loyal to the Government during e entire rebellion.

The agent designated to make the investigation was one of the most reful, experienced, and trusted agents of the Department. From his port it appears that he went upon the plantations and had the fields easured, and the sites of the cribs, some of which have been since de- oyed, also accurately measured, and their size and capacity proved fully as it could be done. The number of mules was proved by stimony showing the number of single and double plows used on ch plantation, as well as by the evidence of the blacksmith by whom e mules were shod. The agent reported that the witnesses examined peared to be in nearly every instance honest and truthful. Fourteen the witnesses named by him, he says, are in intelligence above the erage of their race and condition in life, and that their statements n, he believes, be relied on. He mentions some as being particularly ight and trustworthy.

Stores and supplies were taken from four plantations. The home ace or residence of Mr. Merrill, called Elms Court, was 2 miles from atchez and contained 200 acres. Six miles from said city was a planta-

tion called Hedges, containing 1,081 acres. In Louisiana, 5 and 6 miles below Natchez, were two plantations called Scotland and Saint Genevieve, each containing from 600 to 800 acres of land cleared for cultivation. Only property taken and used by the army and embraced in the term "stores and supplies" was investigated by the agent, and his investigation appears to have been thorough and exhaustive. The agent reported that he was satisfied he had gone under rather than above the quantities and numbers taken by the army.

It appears from the evidence that Mr. Merrill was on friendly and intimate terms with the Federal officers in command at Natchez, and that his house was a place of resort for them while he remained there.

The army reached Natchez about July 15, 1863, and about September 15, following, Mr. Merrill left with his wife for New York City. It appears also that he voluntarily offered to the officers in command any stock, grain, or other property he had, anticipating that payment would be made him, which would probably have been done had he remained in Mississippi. Possessed at that time of considerable means, he did not press the matter of his claim, but rather left it in the hands of the officers at Natchez for settlement.

About 1871 or 1872 the health of Mr. Merrill became bad, and partly on this account, and partly on account of financial reverses, he could not prosecute his claim before the Southern Claims Commission. Under the law he would have been required to bring his witnesses to Washington from four plantations, besides witnesses to prove his loyalty which would have involved an expense of several thousand dollars. For the reason that he could not incur this expense, and his health rendering him unable to undergo the labor of bringing his witnesses to Washington, Congress passed the law referred to for his relief, directing the investigation.

About ten years after the property was taken, and when Mr. Merrill was in the city of New York, and in bad health, he dictated to one of his daughters the items of his losses as then remembered by him. From the testimony this paper was not intended to be an accurate statement of his losses, nor could he possibly know, as he left Mississippi before much of the property was taken. Some of the property taken and used by the army, as appears by the report of the agent and the accompanying evidence, was omitted entirely from the memorandum, being either forgotten or overlooked at the time. When the executrix and executor presented their petition to Congress by their attorney, they alleged that a large quantity of stores and supplies was taken, and they prayed that the Quartermaster-General be directed to investigate the amount of loss sustained by said Ayres P. Merrill by the taking and use of his property.

The investigating agent, who appears to have been one of the most faithful and competent in the service, after a thorough and exhaustive investigation on the ground, reported the value of the stores and supplies so taken at $67,536. From this he deducted the sum of $1,010, the amount of a voucher paid said Merrill, as appears by the records of the Treasury Department, leaving the sum of $66,526, and for which sum he recommends payment. When he transmitted his report and the evidence to the Quartermaster-General that officer was of the opinion that the *memorandum* referred to was *the claim*, and that no item could be considered unless embraced in the memorandum. In his report to Congress he therefore omits the items of hogs, fencing, molasses, and part of the corn on the Hedges place, for the reason only that they are not named in the memorandum, though they are "stores and supplies

rom the report and accompanying evidence of the agent their
g and use appear to have been as fully proved as the other prop-
Omitting these items the Quartermaster-General recommends the
)f $51,392.50, less the $1,010 previously paid, making $50,382.50.
er the report was made by the investigating agent additional testi-
was taken, not within reach of the agent, but under directions of
Quartermaster-General, and this testimony appears to establish an
ional amount of property taken and used to the extent of $1,200,
mount being admitted by the Quartermaster-General and being
aced in his report. If this sum is added to the amount reported
e agent it will make $67,726.
ur committee, however, being divided upon the question of allow-
ie whole amount of "stores and supplies" established by the evi-
, or limiting the allowance to the sum reported by the Quarter-
er-General, have concurred in reporting the latter sum.
ey therefore report the accompanying bill, appropriating the sum
0,382.50, and recommend its passage.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1628.

ELIZABETH HENDERSON.

APRIL 15, 1886.—Laid on the table and ordered to be printed.

Mr. HIESTAND, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 2178.]

The Committee on Claims, to whom was referred the bill (H. R. 2178) for the relief of Elizabeth Henderson, submit the following report:

Your committee have considered this bill, and have directed that it be recommended to the House that it do not pass, and that it be laid on the table.

C

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1629.

BONDS OF EXECUTORS IN THE DISTRICT OF COLUMBIA.

APRIL 15, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. HEMPHILL, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany bill H. R. 7879.]

The Committee on the District of Columbia, to whom was referred the bill (H. R. 3189) to amend the law relating to executors in the District of Columbia, respectfully report that they have had the same under consideration, and recognizing the necessity for such a provision of law as is aimed at, submit the following substitute for said bill, with the recommendation that the House bill lie on the table and the substitute *do pass*.

A BILL to amend the law relating to the bonds of executors in the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever hereafter a testator shall, by last will and testament, request that his executor or executors be not required to give bond for the performance of his or their duty as such executor or executors, then and in such case the bond required of such executor or executors shall be in such penalty as the court may consider sufficient to secure the payment of the debts due by said testator; and said bond shall be conditioned accordingly, and shall be in no other or greater penalty: *Provided, however*, That the penalty of this bond shall not exceed double the value of the estate; and when less than this sum, may be increased, or an additional bond be required, whenever it shall be made to appear to the court that the bond as given is insufficient to secure the payment of the debts of the testator: *And provided further*, That whenever any creditor or distributee or legatee entitled to take under the said will shall make it appear to the court that any executor who has given such bond only as is herein provided for is wasting the assets of the estate, or that the assets in the hands of such executor are in danger of being lost, wasted, or misappropriated, then and in such case the court shall have power to remove said executor or require him to give additional bond, with security in penalty sufficient to secure the interests of all the creditors and distributees or legatees entitled to take as aforesaid, and conditioned accordingly; and on his failure to give bond or bonds as aforesaid, as required by the court, within a time named by such court, his letters testamentary shall be revoked forthwith.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1630.

BOOK-MAKING AND POOL-SELLING IN THE DISTRICT OF COLUMBIA.

APRIL 15, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. HEMPHILL, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany bill H. R. 5044.]

The Committee on the District of Columbia, to whom was referred the bill (H. R. 5044) to prohibit book-making of any kind and pool-selling in the District of Columbia, for the purpose of gaming, have had the said bill under consideration, and respectfully report:

They propose certain amendments to the bill confining the operation of it to the District, extending its terms to embrace boat-races, races of any kind, and contests of any kind, and fixing the minimum penalty for its violation at $25, instead of $100, and recommend that the bill, as amended by the committee, do pass.

The bill, with proposed amendments, is herewith appended as part of this report.

A BILL to prohibit book-making of any kind and pool-selling in the District of Columbia for the purpose of gaming.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be unlawful for any person or persons, or association of persons, in the District of Columbia, to bet, gamble, or make books and pools on the result of any trotting-race or running-race of horses, or boat-race, or race of any kind, or on any election, or contest of any kind.

SEC. 2. That any person or persons, or association of persons, violating the provisions of this act, shall be fined not exceeding $500 nor less than $25, or be imprisoned not more than ninety nor less than thirty days, or both, at the discretion of the court.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1631.

TO PUNISH THE SELLING AND ADVERTISING OF LOTTERY TICKETS IN THE DISTRICT OF COLUMBIA.

APRIL 15, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. HEMPHILL, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany bill H. R. 7880.]

The Committee on the District of Columbia, to whom was referred the bill (H. R. 2294) to punish the selling and advertising of lottery tickets in the District of Columbia, have considered the same, and respectfully report:

They are informed by the District Commissioners that the sale of lottery tickets is already prohibited in the District by existing law; but that the police complain that it is difficult to enforce the law, in consequence of the continued publication of lottery drawings, and that by use of the mails and express companies much business is carried on, to the detriment of many persons, and especially of the ignorant poor. The committee recommend that the words "selling and" be stricken from and that the words "and for other purposes" be added to the title of the bill; that another section, looking especially to the prevention of advertising all lottery schemes and devices, be substituted for section 1; that section 1 be stricken out, as covered by existing law, and that the penalties denounced by the bill be somewhat modified, all of which amendments fully appear in the accompanying bill; and that the bill so amended do pass.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1633.

MANUSCRIPTS BELONGING TO THE UNITED STATES.

APRIL 15, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. SINGLETON, from the Joint Committee on the Library, submitted the following

REPORT:

[To accompany bill S. 1851.]

The Joint Committee on the Library, to whom was referred the bill (S. 1851) establishing a commission to report to Congress on manuscripts belonging to the Government, have had the same under consideration, and report the same back with a recommendation that it do pass.

The bill does not provide for any expenditure of money, but only looks to the raising a commission whose duty it shall be to inquire into the character and value of manuscripts belonging to the Government, and propose some plan for editing and publishing the same. We have many valuable manuscripts, some of which have been acquired by purchase and others by donation. Among them are the Franklin, the Rochambeau papers, and a copy of the records of Virginia made the first year or two after her settlement. The bill provides that the Secretary of State, the Librarian of Congress, and the Secretary of the Smithsonian Institution shall constitute the commission, and report to Congress their opinion as to the best means of giving publicity to these historical manuscripts.

O

CONGRESS, } HOUSE OF REPRESENTATIVES { No. 1684.
st Session. }

NTERNATIONAL POLAR EXPEDITION TO LADY FRANKLIN BAY.

APRIL 15, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. BARKSDALE, from the Committee on Printing, submitted the following

REPORT:

[To accompany Senate concurrent resolution.]

The Committee on Printing, to whom was referred Senate concurrent resolution providing for the printing of the Report of the International Polar Expedition to Lady Franklin Bay, Grinnell Land, as herewith submitted, report the same favorably, and recommend its passage.

The cost of printing the 4,500 copies is estimated at $8,877.37.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1635.

REPORT OF COMMISSIONER OF EDUCATION.

APRIL 15, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. BARKSDALE, from the Committee on Printing, submitted the following

REPORT:

[To accompany House concurrent resolution.]

The Committee on Printing, to whom was referred House resolution providing for the printing of the report of the Commissioner of Education, have had the same under consideration, and report it back to the House with an amendment, as follows: Strike out "20,000" in the seventh line and insert "25,000," so that it will read:

"*Resolved by the House of Representatives (the Senate concurring)*, That of the Report of the Commissioner of Education for 1884–'85 there be printed 6,000 copies for the use of the Senate, 12,000 copies for the use of the House, and 25,000 copies for distribution by the Commissioner."

The estimated cost of printing the 43,000 copies is $27,023.50.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1636.

CLASSIFICATION OF LABOR AND EQUALIZATION OF PAY OF EMPLOYÉS.

APRIL 15, 1886.—Laid on the table and ordered to be printed.

Mr. CLEMENTS, from the Committee on Reform in the Civil Service, submitted the following

REPORT:

[To accompany bill H. R. 5135.]

The Committee on Reform in the Civil Service, to whom was referred the bill (H. R. 5135) to classify and equalize the pay of the employés under the Government of the United States, beg leave to report:

That they have had the same under consideration, and, having already reported with a favorable recommendation a bill with a similar object in view, they do recommend that this bill do not pass, and that it lie upon the table.

O

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 1637.

NDING THE REVISED STATUTES RELATING TO YACHTS.

L 15, 1886.—Referred to the House Calendar and ordered to be printed.

ISS, from the Committee on American Ship-Building and Ship-Owning Interests, submitted the following

REPORT:

[To accompany bill H. R. 1602.]

Committee on American Ship-Building and Ship-Owning Inter- whom was referred the bill (H. R. 1602) amending the Revised s relating to steam yachts, having had the same under consid- , report it back to the House, with the following amendments:

n line 13, after the word "yachts," insert "of ten tons measure- over."

n line 14, after the word "models," insert the word "and."

n line 17 strike out the word "licensed," and insert in lieu thereof issioned only."

n line 20 strike out the word "license," and insert in lieu thereof d "commission"

lso strike out the words "the Secretary of the Treasury may e," and insert in lieu thereof the words "that already prescribed identification of yachts and their owners."

fter the word "owners," in line 23, insert the word "exclu-

trike out all after the word "to," in line 24, down to and includ- word "Treasury," in line 28, and insert in lieu thereof "apply take out an official number of, and such steam yachts as are en tons measurement to be allowed to sail under the certificate l by the inspector-general of steamboats."

n line 29 strike out the word "license," and insert in lieu thereof d "commission."

n line 34 strike out the words "enrolled and licensed," and in- lieu thereof the words "commissioned or certificated."

In line 37 strike out the word "licensed," and insert in lieu the word "commissioned."

Strike out all after the word "pilotage," in line 38, down to and ng the word "off," in line 39, and insert in lieu thereof the words s a pilot be employed or port duties not levied under."

After the word "launches," in line 49, insert "used exclusively sure purposes."

In line 50 strike out the word "thirty-five," and insert in lieu the word "fifty."

In line 50 strike out the words "the master," and insert in lieu "a competent person."

(15) In line 51, after the word "engineer," insert the following: "And shall not be included with the provisions of section 4481, except that such launches shall be provided with sufficient life-preservers as the local inspectors shall in each case, in their judgment, deem just and proper, in proportion to their tonnage and persons allowed by the inspection certificate to be carried, such launches when attached to steam yachts shall be inspected as a portion of the equipment of such yacht."

(16) After the word "State," in line 58, add: "*Provided*, That nothing in this act shall be so construed as to exempt yachts from inspection by health officers as required by law."

This bill is for the relief of owners of steam yachts solely used for pleasure, and has the approval of the officials of the Treasury Department, including the supervising inspector of the steamboat inspection service of the second or New York district.

It will also, it is expected, stimulate to a great degree the building of steam yachts and launches by American ship-builders. The relief from port charges in coastwise trips will increase the number of visits to the various ports, all of which will have a tendency to increase the trade of the ports so visited, and thereby conduce to the pecuniary interests of such places by the encouragement of traffic on shore.

Yachting is not only a matter of international importance and interest and worthy of consideration, but the passage of this bill will do much also to encourage a very important industry, and will exert a large and favorable influence on ship-building and naval design in America.

Your committee believe that this bill will furnish the relief desired and accomplish all that is stated in the above report, and therefore recommend its passage.

C

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1638.

MEETING OF THE ELECTORS OF PRESIDENT AND VICE-PRESIDENT, ETC.

APRIL 15, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. CALDWELL, from the Select Committee on the Election of President and Vice-President, submitted the following

REPORT:

[To accompany bill S. 9.]

The committee has had under consideration Senate bill No. 9, to fix the day for the meeting of the Electors of President and Vice-President, and to provide for and regulate the counting of the votes for President and Vice-President and the decision of questions arising thereon, and report the same back to the House with amendments, as follows:

(1) A verbal amendment in the third section, line 22, insert, after the words "state of," the word "a," so that it shall read, "state of a controversy or contest," &c.

(2) A material amendment to section 4, lines 38, 39, is as follows: Strike out after the words "shall be rejected," the words "except by the affirmative votes of both houses," and insert after the word "one," in the same line, the word "lawful," so that the clause shall read "and no electoral vote or votes from any State from which but one lawful return has been received shall be rejected."

The majority of the committee were of opinion that where there was but a single return from a State the two houses should not have the power to reject the vote of the State.

(3) A material amendment is to the same section (No. 4), lines 61, 62, 63, after the word "which," to and including the word "State," at the end of the sentence, strike out the words "the two houses, acting separately, shall concurrently decide to be the lawful votes of the legally appointed electors of such State," and insert the words "were cast by electors whose appointment shall have been duly certified under the seal of the State, by the executive thereof, in accordance with the laws of the State, unless the two houses, acting separately, shall concurrently decide such votes not to be the lawful votes of the legally appointed electors of such State," so that the clause will read, "and in such case of more than one return, or paper purporting to be a return, from a State, if there shall have been no such determination of the question in the State aforesaid, then those votes, and those only, shall be counted which were cast by electors whose appointment shall have been duly certified under the seal of the State, by the executive thereof, in accordance with the laws of the State, unless the two houses, acting separately, shall concurrently decide such votes not to be the lawful votes of the legally appointed electors of such State."

The bill as it passed the Senate provided that where there was more than one return from the State, and no tribunal established in the State

to decide the question between the contesting electors, only those votes should be counted which the two houses, acting separately, should concur in deciding were the lawful votes of the State.

The committee were of the opinion that where there was more than one return from a State, and but a single State government, the vote of the State, legally certified by the executive to have been cast by the legally appointed electors should be counted, unless both houses concur in rejecting the vote.

Should these amendments be adopted by the House and the bill pass, the mode of counting the electoral vote may be thus briefly stated. In those States where a tribunal has been established, under the laws thereof, for the determination of contests concerning the appointment of electors therein, and such tribunal has decided what electors were duly appointed, the determination of the State tribunal shall be conclusive. Where there is but one return from a State the vote so returned shall be counted.

But in case there should arise the question which of two, or more, of such State authorities determining what electors have been appointed, is the lawful tribunal of such State, the votes of the electors of such State shall be counted, whose title as electors the two houses, acting separately, shall concurrently decide is supported by the decision of such State so authorized by its laws.

Under the amendment, where there is but one State government and two sets of returns, purporting to be the vote of the State, then that return shall be counted which is supported by the certificate of the executive of the State, under the seal thereof and in accordance with its laws, unless both houses, acting separately, shall concur in deciding that the vote so certified and returned is not the lawful vote of the State.

The bill provides the means of determining what is the vote, how it shall be counted, its count, and the authoritative declaration of the result.

The two houses are, by the Constitution, authorized to make the count of electoral votes. They can only count legal votes, and in doing so must determine, from the best evidence to be had, what are legal votes; and if they cannot agree upon which are legal votes, then the State which has failed to bring itself under the plain provisions of the bill, and failed to provide for the determination of all questions by her own authorities, will lose her vote.

Congress having provided by this bill that the State tribunals may determine what votes are legal coming from that State, and that the two houses shall be bound by this determination, it will be that State's own fault if the matter is left in doubt.

The power to determine rests with the two houses, and there is no other constitutional tribunal.

Congress prescribes the details of the trial and what kind of evidence shall be received, and how the final judgment shall be rendered.

The interests involved are too precious and the dangers too great to be left longer without adequate provisions against trouble and discord.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REP'T 1638, Part 2.

MEETING OF THE ELECTORS OF PRESIDENT AND VICE-PRESIDENT, &C.

APRIL 30, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. DIBBLE, from the Select Committee on Election of President and Vice-President, submitted the following as the

VIEWS OF THE MINORITY:

[To accompany bill S. 9.]

The undersigned agree with the majority as to the constitutional prerogative of each State to appoint in its own way its electors for President and Vice-President, and determine and certify the result of such election, and are of the opinion that the two houses of Congress simply act in a ministerial manner in securing an accurate count of the votes and computation of the result. They therefore concur with the majority in supporting the amendment of the committee to strike out in section 4, lines 38 and 39, the words "except by the affirmative vote of both houses." They do not concur in the amendment proposing to insert the word "lawful" after the word "one" in line 38, so that the expression shall be "one lawful return" instead of "one return." They conceive that the word "lawful" may afford a pretext for usurpation by Congress of the very power which the committee intends to repudiate in striking out the words in lines 38 and 39.

The undersigned cannot agree to the proposition embodied in the latter clause of the amendment proposed in section 4, lines 61, 62, and 63, whereby in case of more than one return or paper purporting to be a return from a State, whenever the State has failed by any determination of its own to designate and certify which is its real vote, of the two or more thus coming before the two houses and claiming to be counted, after providing by the amendment that "those votes and those only shall be counted which were cast by electors whose appointment shall have been duly certified under the seal of the State, by the executive thereof, in accordance with the laws of the State," the majority, by the concluding clause of the amendment, provide that by the concurrent vote of both houses even this lawfully certified vote may be rejected, thus disfranchising a State, when there is a certificate under its seal, duly certified by its executive, according to law. We cannot subscribe to a recognition of such power in the two houses.

The Constitution prescribes that Congress may determine the day when the several electoral colleges shall cast their votes, which day shall be the same throughout the United States. Possibly votes cast on any other day by the electors are not lawful votes. But, up to the time of casting the votes in the electoral colleges, each State has the right, in cases of contest, of determining which are its lawfully chosen electors. Congress has no power to interfere with this right of determination, by requiring it to be made at least six days prior to the cast-

ing of the electoral vote, as proposed in the second section of the bill. And in case a contention shall arise in a State as to who are its lawfully-chosen electors, and it should happen that no State law exists which will meet the emergency thus arising, we contend that Congress has no Constitutional power to prescribe that such State may not provide for the determination of such contention at any time prior to the day for casting the electoral vote.

For these reasons the undersigned suggest a further amendment removing the restrictions of time upon the action of a State in making provision for determination of controversy concerning her choice of electors.

The undersigned, therefore, submit the following additional amendments to the bill:

(1) In section 2, lines 1, 2, and 3, strike out the words "laws enacted prior to the day fixed for the appointment of the electors," and insert the word "law"; and in line 8 of the same section strike out the words "so existing on said day."

(2) In section 2, lines 5, 6, and 7, strike out the words "and such determination shall have been made at least six days before the time fixed for the meeting of the electors"; and in line 9 in same section strike out the words "at least six days," and the word "said" in same line.

If the amendments are adopted, the section will read as follows:

"SEC. 2. That if any State shall have provided by law for its final determination of any controversy or contest concerning the appointment of all or any of the electors of such State, by judicial or other methods or procedures, such determination made pursuant to such law, and made prior to the time of meeting of the electors, shall be conclusive," &c. (the rest of the section being without amendment).

(3) Amend the amendment proposed by the majority of the committee, numbered (3), by striking out from the said amendment the words "unless the two houses, acting separately, shall concurrently decide such votes not to be the lawful votes of the legally-appointed electors of such State."

A copy of the bill, as it will read if these amendments be adopted, is annexed hereto.

DANIEL ERMENTROUT.
LEWIS BEACH.
JNO. T. HEARD.
THOS. D. JOHNSTON.
SAMUEL DIBBLE.

[S. 9.]

A BILL to fix the day for meeting of the electors of President and Vice-President, and to provide for and regulate the counting of the votes for President and Vice-President, and the decision of questions arising thereon.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the electors of each State shall meet and give their votes on the second Monday in January next following their appointment, at such place in each State as the legislature of such State shall direct.

SEC. 2. That if any State shall have provided by law for its final determination of any controversy or contest concerning the appointment of all or any of the electors of such State, by judicial or other methods or procedures, and such determination shall have been made before the time fixed for the meeting of the electors, such determination made pursuant to such law, and made prior to the said time of meeting of the electors, shall be conclusive, and shall govern in the counting of the electoral votes as

in the Constitution, and as hereinafter regulated, so far as the ascertain-
the electors appointed by such State is concerned.
That it shall be the duty of the executive of each State, as soon as practica-
the conclusion of the appointment of electors in such State, by the final
ıment under and in pursuance of the laws of such State providing for such
ıment, to communicate, under the seal of the State, to the Secretary of State
nited States, a certificate of such ascertainment of the electors appointed,
orth the names of such electors and the canvass or other ascertainment under
of such State of the number of votes given or cast for each person for whose
nent any and all votes have been given or cast; and it shall also thereupon
ıty of the executive of each State to deliver to the electors of such State, on
› the day on which they are required by the preceding section to meet, the
tificate, in triplicate, under the seal of the State; and such certificate shall
ed and transmitted by the electors with and at the same time and in the same
as is provided by law for transmitting by such electors to the seat of Govern-
› lists of all persons voted for as President and of all persons voted for as Vice-
t; and section one hundred and thirty-six of the Revised Statutes is hereby re-
and if there shall have been any final determination in a State of a contro-
contest as provided for in section two of this act, it shall be the duty of the
e of such State, as soon as practicable after such determination, to communi-
der the seal of the State, to the Secretary of State of the United States, a
te of such determination, in form and manner as the same shall have been
ınd the Secretary of State of the United States, as soon as practicable after
ipt at the State Department of each of the certificates hereinbefore directed
ınsmitted to the Secretary of State, shall publish, in such public newspaper
all designate, such certificates in full; and at the first meeting of Congress
er he shall transmit to the two houses of Congress copies in full of each and
ch certificate so received theretofore at the State Department.
. That Congress shall be in session on the second Wednesday in February
ng every meeting of the electors. The Senate and House of Representatives
et in the Hall of the House of Representatives at the hour of 1 o'clock in the
n on that day, and the President of the Senate shall be their presiding officer.
ers shall be previously appointed on the part of the Senate and two on the part of
se of Representatives, to whom shall be handed, as they are opened by the Presi-
the Senate, all the certificates and papers purporting to be certificates of the
l votes, which certificates and papers shall be opened, presented, and acted
the alphabetical order of the States, beginning with the letter A; and said
having then read the same in the presence and hearing of the two houses,
ake a list of the votes as they shall appear from the said certificates;
votes having been ascertained and counted in the manner and according to
s in this act provided, the result of the same shall be delivered to the Presi-
the Senate, who shall thereupon announce the state of the vote, and the
f the persons, if any, elected, which announcement shall be deemed a sufficient
ion of the persons, if any, elected President and Vice-President of the United
ınd, together with a list of the votes, be entered on the journals of the two
Upon such reading of any such certificate or paper, the President of the
hall call for objections, if any. Every objection shall be made in writing,
ll state clearly and concisely, and without argument, the ground thereof, and
signed by at least one Senator and one member of the House of Representa-
fore the same shall be received. When all objections so made to any vote or
om a State shall have been received and read, the Senate shall thereupon
w, and such objections shall be submitted to the Senate for its decision;
Speaker of the House of Representatives shall, in like manner, submit such
ns to the House of Representatives for its decision; and no electoral vote
from any State from which but one return has been received shall be re-
If more than one return or paper purporting to be a return from a State
ıve been received by the President of the Senate, those votes, and those
all be counted which shall have been regularly given by the electors who
wn by the evidence mentioned in section 2 of this act to have been appointed,
etermination in said section provided for shall have been made, or by such
rs or substitutes, in case of a vacancy in the board of electors so ascer-
as have been appointed to fill such vacancy in the mode provided by the laws
tate; but in case there shall arise the question which of two or more of such
ibunals determining what electors have been appointed, as mentioned in sec-
f this act, is the lawful tribunal of such State, the votes regularly given of
ectors, and those only, of such State shall be counted whose title as electors
houses, acting separately, shall concurrently decide is supported by the de-
f the tribunal of such State so authorized by its laws; and in such case of
an one return or paper purporting to be a return from a State, if there shall
en no such determination of the question in the State aforesaid, then those

votes, and those only, shall be counted which were cast by electors whose appointment shall have been duly certified under the seal of the State, by the executive thereof, in accordance with the laws of the State. When the two houses have voted, they shall immediately again meet, and the presiding officer shall then announce the decision of the questions submitted. No votes or papers from any other State shall be acted upon until the objections previously made to the votes or papers from any State shall have been finally disposed of.

SEC. 5. That while the two houses shall be in meeting as provided in this act the President of the Senate shall have power to preserve order; and no debate shall be allowed and no question shall be put by the presiding officer except to either house on a motion to withdraw.

SEC. 6. Then when the two houses separate to decide upon an objection that may have been made to the counting of an electoral vote or votes from any State, or other question rising in the matter, each Senator and Representative may speak to such objection or question five minutes, and not more than once; but after such debate shall have lasted two hours it shall be the duty of the presiding officer of each house to put the main question without further debate.

SEC. 7. That at such joint meeting of the two houses seats shall be provided as follows: For the President of the Senate, the Speaker's chair; for the Speaker, immediately upon his left; the Senators, in the body of the hall upon the right of the presiding officer; for the Representatives, in the body of the hall not provided for the Senators; for the tellers, Secretary of the Senate, and Clerk of the House of Representatives, at the Clerk's desk; for the other officers of the two houses, in front of the Clerk's desk and upon each side of the Speaker's platform. Such joint meeting shall not be dissolved until the count of electoral votes shall be completed and the result declared; and no recess shall be taken unless a question shall have arisen in regard to counting any such votes, or otherwise under this act, in which case it shall be competent for either house, acting separately, in the manner hereinbefore provided, to direct a recess of such house not beyond the next calendar day, Sunday excepted, at the hour of ten o'clock in the forenoon. But if the counting of the electoral votes and the declaration of the result shall not have been completed before the fifth calendar day next after such first meeting of the two houses, no further or other recess shall be taken by either house.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1639.

THOMAS R. WARE.

APRIL 15, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. TUCKER, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany bill H. R. 7881.]

The Committee on the Judiciary have had under consideration the petition of Thomas R. Ware, of Virginia, for the removal of his political disabilities, and respectfully recommend the passage of the bill which is herewith reported.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1640.

JOHN McC. PERKINS.

APRIL 15, 1886.—Laid on the table and ordered to be printed.

Mr. TUCKER, from the Committee on the Judiciary, submitted the following

REPORT:

The Committee on the Judiciary, to whom has been referred the memorial of John McClay Perkins, of Massachusetts, praying for the impeachment of Thomas L. Nelson, judge of the district court of the United States for the State of Massachusetts, have duly considered the same, and beg leave to report thereon:

The charge made is substantially as follows:

In a patent case, under the style of Andrew B. Hendryx *et al. v.* John B. Fitzpatrick, the defendant was adjudged guilty of contempt in equity for willfully violating an injunction granted in said case, and was fined therefor June 4, 1883. The memorialist alleges he was one of the petitioners in said case.

The memorial states that the fine was imposed by virtue of the provisions of section 725 of the Revised Statutes of the United States.

The first fine, as stated by the memorialist, was for the master's charges, of $218, which the defendant refused to pay; whereupon an attachment was ordered against him, to confine him in jail until he paid the same. The defendant paid said sum of $218, as ordered by the court.

On the 12th of June, 1883, defendant again refused to pay another sum of money, $892.96, as ordered by the court on June 4, 1883.

The memorial states, further, that on the 13th of June, 1883, Thomas Nelson, judge of the district court, acting as circuit judge, on motion of the petitioners, ordered a process of attachment against said defendant, and that he be confined in jail until he paid the said sum of $892.96. Under this process defendant was confined in jail by the marshal of the court.

Memorialist then states, as his conclusion from the facts and the law applicable to them, that defendant could only be released upon a payment of the said sum or by a pardon from the President. He charges that he was one of petitioners, and also attorney for them, and was absent from the city of Washington, as the court and its clerk well knew, when Thomas L. Nelson, judge as aforesaid, on the 26th of June, 1883, unlawfully, willfully, and corruptly ordered, in the name of the President of the United States, the marshal to remove and release the defendant from jail; upon which order the defendant was released by the marshal.

Memorialist charges that, in so ordering the release of defendant, the said judge violated his oath of office to obey the Constitution and laws of the United States, and, practically, and in effect, usurped a prerogative of the President of the United States, and that he did this with-

out any attempt to give memorialist any notice of his intention to re lease said defendant.

Such is the charge made by memorialist, upon which the House o Representatives is asked to impeach Judge Thomas L. Nelson.

The charge that it was done unlawfully, willfully, and corruptly ha no averment of the memorial to sustain it but the facts already men tioned. No corrupt motive is shown; nor wherein any corruption c the judge was attempted or was exercised. The willfulness and unlaw fulness of the action must be tested by a reference to the law cited b the memorialist and by the record.

Your committee, because the memorial was imperfect in citing th record of the action of the judge, thought it best to obtain the recor and examine into the question fully upon its merits, as disclosed by th record. That record is herewith appended and marked A.

By the record it appears, "in the matter of complainant's petition t have said defendant adjudged to be in contempt," on the 13th of Jun 1883, that Nelson, J., after reciting that on the 4th of June, 1883, sa defendant was adjudged in contempt, and was ordered to pay, on th 12th of June, 1883, a fine of $892.96, "for the use of the petitioners and that said money was not paid as ordered; that for the contem &c., a warrant to commit said defendant to jail be issued, and there to keep him "until said sum of $892.96 is paid, or until the furth order of the court."

By reference at this point to the Revised Statutes of the United Stat section 725, it will appear that—

> The said courts shall have power to impose and administer all necessary oaths, a to punish by fine or imprisonment, at the discretion of the court, contempts of th authority.

And under the proviso of said section, this power extends "to t disobedience or resistance by any party, juror, witness, or other pers to any lawful writ, process, order, rule, decree, or command of the sa courts."

From this section the courts derive their power to imprison for co tempt of their authority and the power is to imprison *at the discretion the court.* The authority granted is for the enforcement of judic orders, and is limited by judicial discretion. The penalty of imprisо ment is the means provided to secure the enforcement of the judic order, and is expressly to be limited as to time and mode of imprisо ment by the discretion of the court; when that discretion limits the ti beyond which the imprisonment cannot extend the term of imprisо ment is fixed by judicial power, and requires no executive interventi to secure a release. If the term of imprisonment was fixed at ten da imprisonment after the ten days expired would cease, because it wou be illegal.

By recurring to the terms of the order for the imprisonment of th defendant, it will be seen there are two limitations as to the time imprisonment. It shall continue until he pays the sum of $892.96, "until the further order of the court." The court reserved to itself, in order for the imprisonment, in the discretion with which it was invest by the law, to terminate the imprisonment when it willed to do When the court thereafter decided to order his release it usurped executive prerogative; it only exercised its own discretionary pow according to the terms of its original order for imprisonment under th section of the Revised Statutes.

Pursuing the examination of the record, it will be seen that the w

rant of commitment followed the language of the order, "until said sum of $892.96 is paid, pursuant to said order, or until the further order of the court."

On the 21st of June, 1883, an order was entered upon the petition of the imprisoned defendant, in which it was averred by him that he had no property, and could not pay the sum of $892.96, as ordered; that he may be examined as to his means, &c.; that a commission of the court be specially appointed to examine said defendant on oath as to his estate and effects, the disposal thereof, and his ability to pay said sum of money, "and to hear any legal and pertinent evidence that may be introduced relating thereto, by said John B. Fitzpatrick or said Hendryx *et al.*, the original petitioners or their attorneys." The commissioner was authorized to administer the oath under chapter 162, section 39, of the public statutes of Massachusetts, if he shall be satisfied he can truthfully take it; and commissioner was ordered to report and to give notice of the proceedings before him to said Hendryx *et al.*, and it was expressly provided that though defendant was to be brought before the commissioner by *habeas corpus*, it was not to operate a discharge of the defendant.

Subsequently defendant, under order of the court, gave bond with security conditioned for his appearance from day to day before said commissioner.

On the 3d of November, 1883, defendant purged himself of his contempt by averring his total inability to pay, and refers to the poor debtor's oath taken by him before the commissioner under the previous order of the court, and to the report of the commissioner made under said order.

On the 9th of November, 1883, upon his personal recognizance to appear from day to day of each term of the court until the entry of final decree in the cause, and to answer such matters as shall be alleged against him in the matter of said alleged contempt, and shall do what is enjoined on him by the court, &c., the said defendant was discharged.

Subsequently, in April, 1884, this matter of contempt came to be heard before Lowell and Nelson, J J., in the circuit court of the United States, district of Massachusetts, upon the motion of the plaintiff to recommit the defendant under the original order.

Lowell, J., delivered an elaborate opinion, in which he reviews a number of authorities, and the court, under the sanction of his opinion, denied the motion to recommit. Judge Lowell, in his opinion, maintains as the result of the cases he cites that a fine as in this case, for the benefit of the plaintiffs, was not a criminal penalty, not a compensation by civil remedy, a conclusion which your committee think is justified by reason and the authorities. (See Appendix B.)

Upon this review of the record the committee state their conclusions:

(1) The original order of commitment limited the term of improvement until the further order of the court, and no pardon of the President was needed to release the prisoner when the court ordered his discharge in its judicial discretion; that determined the imprisonment according to the conditions upon which it was originally ordered. In this view the discussion in Judge Lowell's opinion is unnecessary to vindicate the propriety of the release.

(2) That discretion was properly exercised to release the defendant when he purged himself of his contempt by satisfactory proof that he could not do what the court ordered, and that his failure was from inability and not from disobedience or resistance. To have refused the discharge on such proof would have been judicial cruelty, and is not judicial usurpation of executive prerogative.

(3) There is nothing to create even a suspicion of corruption in this case. The action of Judge Nelson has the sanction of the opinion of Judge Lowell, and the charge of corruption is as plausible against the one as the other, and is groundless as to both.

(4) Your committee do not think for the reasons above given, that the discharge of the defendant was either unlawful or willful. But if your committee thought the order of discharge wrong in point of law, the error imputed would neither lessen respect for the ability of the court nor awaken a suspicion of the honorable and conscientious motives which controlled the judges comprising it. Impeachment by article 2, section 4, of the Constitution can only be for "treason, bribery, or other high crimes and misdemeanors." A mistake as to the law must be made by some of the judges of every court wherein a difference of opinion occurs. If such mistakes were high crimes and misdemeanors, impeachment would be of daily occurrence and the judicial term of office would be for short terms. Judges cannot therefore be impeached merely for errors of judgment nor are they civilly liable to a party injured for them. (Randall *v.* Brigham, 8 Wall., 523.) The error imputed must indicate either gross incapacity for the office or flagrant prejudice or a corrupt purpose. Nothing of either of these appears in this case.

Your committee therefore report back the memorial, to be filed with and as part of this report, with a recommendation that it do lie on the table.

A.

[Circuit court of the United States, district of Massachusetts. In equity. No. 1812. Andrew B. Hendryx *et al.*, complainants, *v.* John B. Fitzpatrick, defendant. In the matter of complainants' petition to have said defendant adjudged to be in contempt. Order of court. June 13, 1883.]

NELSON, I.:

Whereas on the 4th day of June, A. D. 1883, said John B. Fitzpatrick was adjudged to be in contempt, for which offense it was on said 4th day of June, ordered, adjudged and decreed by said court that said John B. Fitzpatrick, among other things, pay a fine of $892.96 and the costs of the proceeding against him, the said sum of $892.96 to be paid into the registry of said court for the use of the petitioners, on or before the 12th day of June, A. D. 1883.

And whereas the said sum has not been paid into court pursuant to said order,

It is now, to wit, June 13, ordered that for the contempt aforesaid by the non-payment of said sum, a warrant to commit said John B. Fitzpatrick issue to the marshal of said district commanding him to arrest the said Fitzpatrick, and to convey and deliver into the custody of the keeper of the jail in Boston, in said district, the said John B. Fitzpatrick, to be kept in said jail until said sum of $892.96 is paid, or until the further order of court.

By the court.

ALEX. H. TROWBRIDGE,
Deputy Clerk.

[Warrant to commit.]

UNITED STATES OF AMERICA,
Massachusetts District, ss:

To the marshal of our district of Massachusetts, or either of his deputies, and the keeper of the jail in Boston, in the county of Suffolk, in our said district, greeting:

These are in the name of the President of the United States of America to command you, the said marshal or deputies, and each of you, forthwith to arrest, to convey, and deliver into the custody of the keeper of our said jail the body of John B. Fitzpatrick of Boston, in said district, who hath been convicted in our Circuit Court of the United States for the first circuit, now holden at Boston, within and for the district of Mas-

sachusetts, of the crime of a contempt of the order and decree of this court made the 4th day of June, A. D. 1883, ordering among other things that said John B. F patrick pay the sum of $892.96 into the registry of said court for the use of the p tioners in the cause of Andrew B. Hendryx, Nathan S. Johnson, Lockwood Hotchk and John McC. Perkins, petitioners, in contempt against said John B. Fitzpatrick, or before the 12th day of June, A. D. 1883, and for the contempt aforesaid, by the n payment of which said sum, ordered by our said court to be arrested, and to be c mitted to the jail at Boston, in the county of Suffolk, in said district, until said s of $892.96 is paid, as appears of record in said court.

And you, the said keeper, in the name of the President of the United States afc said, are hereby commanded to receive the said John B. Fitzpatrick into your cust in our said jail, and him there safely to keep until said sum of $892.96 is paid, pur ant to said order, or until the further order of court.

Hereof fail not, at your peril.

Witness the honorable Morrison R. Waite, at Boston, this 19th day of June, in year of our Lord 1883.

ALEX. H. TROWBRIDGE,
Deputy Clerk of the Circuit Court of the United States for the District of Massachusetts

UNITED STATES OF AMERICA,
Massachusetts District, ss:

BOSTON, *June* 13, 188

Pursuant hereunto I have this day arrested and committed the within-named p oner to the jail in Boston.

WM. D. POOL,
Deputy Marshal of the United States for the District of Massachusetts

[Circuit court of the United States, district of Massachusetts. In equity. No. 1812. Andrew Hendryx *et al.*, petitioners, *v.* John B. Fitzpatrick, defendant. Order of court. June 21, 1883.

NELSON, *J.*:

Upon the filing of the petition of the defendant this day, and upon an *ex pa* hearing on said petition, it being stated in said petition that the defendant "has property and cannot pay" the $892.96 which he was ordered to pay into the regis of this court for the use of the said Hendryx *et al.*, and the said defendant ask "that he may be examined by the court or by such person as the court may appo to make such examination and report the same to this court as to his property a means and ability to pay the sum aforesaid:"

It is ordered that Henry L. Hallett, esq., a commissioner of this court, be s cially appointed to examine the said John B. Fitzpatrick on oath concerning his tate and effects, the disposal thereof, and his ability to pay the said $892.96 which was ordered to pay as aforesaid, and to hear any legal and pertinent evidence th may be introduced relating thereto by said John B. Fitzpatrick or by said Hendr *et al.*, the original petitioners, or their attorney. In the said examination the s commissioner shall conform to the requirements of section 38 of chapter 162 of Public Statutes of Massachusetts, and, upon such examination, if said commissio shall be satisfied that the said John B. Fitzpatrick can truthfully take the oath forth in section 39 of said chapter 162 he may administer to him said oath.

The clerk of this court is directed to issue a writ of habeas corpus to bring the s John B. Fitzpatrick before the said commissioner, but the cost of said writ and service thereof and the proper fees of the commissioner shall be paid by the said F patrick if he shall require such writ and service and action by the said commissio

This order is not to be construed as discharging the said Fitzpatrick from arr but the said commissioner is required to report his action under this order of court, when the court will take such action as may be deemed proper thereon.

Such notice shall be given to the said Andrew B. Hendryx *et al.*, the original p tioners, of all proceedings before the said commissioner, as the said commissioner n deem sufficient and direct, according to chapter 162 of the Public Statutes of Mas chusetts, by which in all respects said examination is to be conducted.

By the court.

JOHN G. STETSON, *Clerk*

[Circuit court of the United States, district of Massachusetts. In equity. No. 1812. Andrew Hendryx *et al.*, petitioners, *v.* John B. Fitzpatrick. Order of court, June 26, 1883.]

NELSON, *J.*:

Ordered, upon application of defendant, be brought forthwith before said court a give security for his appearance from day to day before said court and before He

L. Hallett, esq., commissioner, to be examined as prayed for and as required by the order of the court made herein on the 19th day of June, A. D. 1883.

It is further ordered that Alexander H. Trowbridge, deputy clerk of said court, examine such securities as may be offered and approve that bond to be given as such security if the same shall be sufficient to secure the sum of $2,000, in which sum said bond is to be given.

By the court.

ALEXANDER H. TROWBRIDGE,
Deputy Clerk.

[MEMORANDUM.—Habeas corpus issued, and John B. Fitzpatrick being brought before the court, gave bond required by the above order of June 26, 1883.—JOHN G. STETSON, clerk.]

[Circuit court of the United States, district of Massachusetts. In equity. No. 1812. A. B. Hendryx *et al.* v. John B. Fitzpatrick. In contempt. Motion for discharge of defendant. Filed November 3, 1883.]

And now the said respondent, John B. Fitzpatrick, comes and moves this honorable court that he be adjudged to be purged and free from contempt, and that he be finally discharged from all possible consequences of such contempt in the above-named action and matter; and his bail to appear from day to day in this court and before the commissioner to examine him as to his property, &c., be also discharged.

Because he says that, in disobeying the injunction for which he was adjudged to be in contempt and imprisoned, he did not intend any disrespect or contempt of this court, and for this he refers to the report of the master, upon which the respondent was ordered to pay into court certain sums of money for the use of the plaintiffs.

And the respondent further, upon this branch of the said contempt, offers to submit himself to further examination, and submit himself to the order of this court thereon.

And this respondent further says that, in excuse for not obeying the order of this court to pay the aforesaid sums of money for the benefit of the plaintiffs, he was wholly unable, and without means or property, to pay such sums or any sum as aforesaid. And under the discretion of this court he has been examined by a commissioner appointed by the same, for the purpose, as to his property and means to pay such sums, and the poor debtor's oath was duly administered to him. And this respondent respectfully refers to the report of said commissioner in this behalf.

JOHN B. FITZPATRICK,
By his attorney, A. H. BRIGGS.

[Personal recognizance of defendant.—Memorandum.]

UNITED STATES OF AMERICA,
Massachusetts District, ss:

At a circuit court of the United States begun and holden at Boston, within and for the district of Massachusetts, on the 15th day of October, in the year of our Lord 1883, to wit, November 9, 1883:

[In the case of Andrew B. Hendryx *et al.*, petitioners, *v.* John B. Fitzpatrick. In the matter of alleged contempt. No. 1812 equity docket.

Personally appeared John B. Fitzpatrick, the above-named defendant, and acknowledged himself to be indebted unto the United States of America in the sum of $2,000, to be levied on his goods or chattels, lands or tenements, and in want thereof upon his body, to the use of the said United States, if default be made in the performance of the condition following:

The condition of this recognizance is such that if the said John B. Fitzpatrick shall personally appear before the circuit court of the United States, now holden in Boston, within and for the district aforesaid, from day to day during the present term, and from term to term and from day to day of each term until entry of final decree in the equity cause No. 1684, pending in this court between the petitioners herein and the said Fitzpatrick, to answer to such matters and things as shall be objected against him in the matter of the said alleged contempt, and under the said complaint, No. 1812, now pending in said court, and shall do and receive that which by the said court shall be then and there enjoined upon him and not depart without license, then the above obligation to be void and of none effect; otherwise to abide in full force, power, and virtue.

Attest:

JOHN G. STETSON, *Clerk.*

[MEMORANDUM.—Upon filing the foregoing personal recognizance John B. Fitzpatrick was discharged.—JOHN G. STETSON, *Clerk.*]

B.

[Circuit court of the United States, district of Massachusetts. No. 1812 equity docket. Andrew B. Hendryx *et al. v.* John B. Fitzpatrick. In the matter of contempt of court. Before Lowell and Nelson, JJ. Opinion of the court. April 2, 1884.]

LOWELL, *J.*:

In this case the defendant was enjoined from infringing a patent, *pendente lite*, because, though the court had serious doubts of its validity, the defendant had himself sold the patent to the plaintiffs for a considerable sum of money, and it was thought no more than justice that he should refrain from violating his own implied warranty until the final hearing.

Afterwards proceedings for contempt for a violation of the injunction were prosecuted by the plaintiffs, and after evidence taken and a hearing the defendant was ordered to pay the fees of the master by a certain day, the costs of the proceedings and certain profits assessed by the master by certain other days, and in default of payment to be committed. These last two sums when paid in were to be paid out to the plaintiffs.

The defendant failed to make the last two payments, and was committed to prison. After he had been in confinement for about two weeks, the district judge, with my approval, though I was unable to sit in the case, permitted the defendant to go before the master, and prove, if he could, in proceedings like those under the poor debtor law of Massachusetts, that he had no property which he could apply to the payment of his debts. The plaintiffs were duly notified of the hearing before the master and did not attend, and the master admitted the defendant to take the poor debtor's oath, and thereupon the court discharged him upon his own recognizance.

The plaintiffs now move that the defendant may be recommitted under the original order. They argue that every order since made in the cause is *ultra vires* and void, because the first order was a final decree in a criminal case and could not be varied after the term, and because the defendant could only be discharged from arrest by the pardon of the President.

It would be a sufficient answer to this argument that if the order was a criminal one, having the consequences contended for, the fine should have been made payable to the United States, and the plaintiffs would have no concern with it; but we will explain why all the orders are, in our opinion, proper.

The original order was an interlocutory civil order for benefit of the plaintiffs, and the commitment was for failure to pay the money, not for the original contempt. While, therefore, the imprisonment may not have been strictly and technically within our poor debtor law (Rev. Stats., sec. 991), which, however, we think it was, yet it should, at all events, be governed by similar rules. It was made in this way because the master found that the contempt was not willful, and I thought that no punishment was necessary.

The process of contempt has two distinct functions, one, criminal, to punish disobedience; the other, civil and remedial, to enforce a decree of the court and indemnify private persons.

In patent causes it has been usual to combine the two, and to order punishment if it is thought proper, or indemnity to the plaintiff if that is all that justice requires, or both. (*Re* Mullee, 7 Blatch., 23; Doubleday *v.* Sherman, 8 Blatch., 45; Shillinger *v.* Gunther, 14 Blatch., 152; Phillips *v.* Detroit, 3 Ban. & A., 150; Dunks *v.* Grey, 3 Fed. Rep., 862; Searls *v.* Worden, 13 Fed. Rep., 716; Matthews *v.* Spangenberg, 15 Fed. Rep., 813.)

We are aware that it was, at one time, the opinion of Judge Blatchford that a sum of money ordered to be paid to a plaintiff in a cause of this kind was a criminal fine, which could only be remitted by a pardon; but we are of opinion that such a fine for the benefit of a private person cannot be remitted by the President, and is a debt of a civil nature, and that Judge Blatchford has so treated it in the latest case which has come before him. His first opinion is stated in Mullee's case (7 Blatch., 23, and Fischer *v.* Hayes, 6 Fed., Rep., 63), but when the latter case came before the Supreme Court they expressed a significant doubt whether the order to pay money for the use of the plaintiff was not an interlocutory decree in a civil cause (Hayes *v.* Fischer, 102 U. S., 121); and when the case came back Judge Blatchford admitted the defendant to bail (Fischer *v.* Hayes, 7 Fed. Rep., 96), which he could not have done if the judgment were criminal in its nature.

The doubt of the Supreme Court might well have been even more strongly expressed. An order upon a defaulting trustee, assignee in bankruptcy, or other person subject to account, to pay money into court, is civil, and may be waived by the party adversely interested, and is a debt to which a bankrupt law, discharging the debt, and an insolvent law, discharging the person, are applicable. (See Baker's Case, 2 Strange, 1152; *ex parte* Parker, 3 Ves., 554, and the decisions hereinafter cited.)

In McWilliams's case (1 Sch. & Lef., 169), a defendant in contempt for not paying a legacy into the court of chancery in obedience to its order, was attached while attending the commissioner to be examined as a bankrupt. His arrest was lawful if the contempt was a criminal offense. That very learned chancery lawyer, Lord Redesdale, said that it was merely a mode of enforcing a debt; that if it were not so, he had no right to make the original order; that the substance and not the form of the proceeding must govern, and its substance was not criminal. The petitioner was discharged. The same point was decided in the same way in *ex parte* Jeyes (3 Dea. & Ch., 764) and *ex parte* Bury (3 M. D. & DeG., 309).

The remark of the lord chancellor in McWilliams's case that he had no right to make an order of this sort for the benefit of a private person, excepting as a civil remedy, is highly pertinent to this case.

Where a person had been committed to prison for nine months for contempt in not paying money into a county court, sitting in bankruptcy, James, L. J., said:

"The order, on the face of it, is wrong, for it is an absolute order of commitment for contempt of court for non-payment of money. This is a penal sentence. The court of chancery never made an order in this form."

And again:

"The order of commitment was such as had never been made in the court of chancery, and was justly characterized by the chief judge as novel and surprising." (*Ex parte* Hooson, L. R. 8, Ch. 231.)

This distinction is preserved in our Revised Statutes. The courts have power to punish for contempt, section 725; but all forms and modes of proceeding which are usual in equity may be followed in cases in equity, section 913. By virtue of section 725, the district court may punish contempts. Like power is given the district judge when sitting in chambers in bankruptcy by section 4973, and the cognate but distinct power of enforcing his decrees "by process of contempt and other 'remedial' process" is recognized by section 4975. (See *In re* Chiles, 22 Wall., 157.)

Some of the older cases hold that, in contempt in civil cases at common law, the proceedings, after the order of attachment, should be on the crown side of the court; that is, in the name of the sovereign. (The King *v.* The Sheriff of Middlesex, 3 T. R., 133; Same *v.* same, 7 T. R., 439; Folger *v.* Hoogland, 5 Johns., 235.) This is still the better practice, or, at least, a good practice, if punishment is asked for. (Cartwright's case, 114 Mass., 230; Durant *v.* The Supervisors, 1 Woolworth, 377; U. S. *ex rel.* *v.* A. T. & S. F. Ry. Co., 16 Fed. Rep., 853.)

If this was ever the rule of chancery it has long since ceased to be so, when the sole purpose of the attachment is to enforce a decree or order, such, for instance, as to sign an answer, to make a conveyance, to pay money, &c. All such orders may be waived or condoned by the private person interested in them, and are civil and remedial. (*Ex parte* Hooson, L. R. 8, ch. 231; *ex parte* Eicke, 1 Gl. & J., 261; Wall *v.* Atkinson, 2 Rose, 196; Wyllie *v.* Green, 1 DeG. & J., 410; Buffum's case, 13 N. H., 14; People *v.* Craft, 7 Paige, 325; Jackson *v.* Billings, 1 Caines, 252; anon, 2 P. W'ms, 481; Const *v.* Ebers, 1 Mad., 530; Smith *v.* Blofield, 2 Ves. & B., 100; Brown *v.* Andrews, 1 Barb., 227; *ex parte* Muirhead, 2 Ch. D., 22; Lees *v.* Newton, L. R., 1 C. P., 658; *re* Rawlins, 12 L. T. (N. S.), 57.)

In patent cases it has been usual to embrace in one proceeding the public and the private remedy; to punish the defendant if found worthy of punishment, and at the same time, or, as an alternative, to assess damages and costs for the benefit of the plaintiff, as is seen by the cases cited in the beginning of this opinion. A course analogous to this has been said, *obiter*, to be proper by Miller, J., *in re* Chiles, 22 Wall., 157, 168. "The exercise of this power has a twofold aspect, namely, first, the proper punishment of the guilty party for his disrespect of the court and its order; and, the second, to compel his performance of some act or duty required of him by the court which he refuses to perform," citing Stimpson *v.* Putnam, 41 Vt., 238, where a defendant was, at the same time, fined $50 for the benefit of the State, and $1,170 and interest and costs, for that of the party injured by breach of an injunction. The chancellor, in that case, said: "This proceeding for contempt is instituted not only to punish the guilty party, but also, and perhaps chiefly, to cause restitution to the party injured."

Such, we repeat, has been the practice in patent causes. It is used in other cases as in the familiar one of a witness neglecting to answer a summons, who may be fined for his disobedience and also be required to testify.

If the proceedings should be criminal in form it would make no difference. A criminal sentence, for the benefit of a private person, is to be treated as civil to all intents and purposes. It is beyond the King's pardon and within the equitable jurisdiction of the court at all times. (4 Bl. Com., 285.) At this place the author, speaking of disobedience to any rule or order of court, of the sort we are considering, says "Indeed, the attachment for most part of this species of contempts, and especially for non-payment of costs and non-performance of awards, is to be looked upon rather as a civil execution for the benefit of the injured party, though carried on in the shape

of a criminal process for a contempt of the authority of the court. And therefore it hath been held that such contempts, and the process thereon, being properly the civil remedy of an individual for a private injury, are not released or affected by the general act of pardon."

Where a defendant had been convicted of an offense against the laws prohibiting lotteries, and had been sentenced to a term of imprisonment which had expired, and to pay costs for the use of the prosecutor, and had not paid them, he was discharged from custody under the lord's act, which was an early insolvent law, like our poor debtor laws, so far as the discharge of the person is concerned. (Rex *v.* Stokes, Cowp., 136.) Aston, J., after saying that an attachment is an execution for a civil debt, and that the public offense had been purged by the imprisonment, added:

"This stage of the cause, therefore, is merely of a civil nature, and a matter solely between party and party, unconnected with the offense itself;" that it comes within the insolvent debtor's act. "If not, the consequence must be imprisonment for life; for a general pardon would not extend to him," that is, would not release him from costs due a private person, or from imprisonment on account of them, "as was agreed in Rex *v.* Stokes, 23 Geo., 2."

So, where a penalty was inflicted by a criminal proceeding, but for the benefit of a private person, and an attachment was issued for want of a sufficient distress, Buller, J., said that the proceeding was like a civil action, and that *ex parte* Whitchurch (1 Atk., 54), where attachment for not performing an award was held to be criminal, was no longer law. It was held, therefore, that the defendant could not be attached on Sunday. (The King *v.* Myers, 1 T. R., 265.)

We do not mean to be understood that the court has a general discretion to annul orders passed for the benefit of a party to the suit; but that where inability is shown to comply with the order, as, for instance, insanity, if the decree requires an act to be done, or poverty, if the decree is for the payment of money, it is according to the course of the court, and of all courts, to discharge the imprisonment, of which the end is proved to be unattainable. (See, besides the cases already cited, Wall *v.* Court of Wardens, 1 Bay, 635; *re* Sweatman, 1 Cow., 144; Kane *v.* Haywood, 66 N. Car., 1; Galland *v.* Galland, 44 Cal., 478; Pinckard *v.* Pinckard, 23 Ga., 286.)

Where an attorney of any court fails to pay over money to his client, the court may, after due proceedings, commit him for a contempt. This was formerly considered to be criminal, and is fully explained in 2 Hawkins, Pl. Cor., 218, *et seq.* But it has long since been settled that it is of a civil character. (*Ex parte* Cullingford, 8 B. & C., 220; Rex *v.* Edwards, 9 B. & C., 652.) The lord chief justice in the latter case said that it had "always" been held that attachments for non-payment of money were in the nature of civil process.

In Regina *v.* Thornton (4 Ex., 820) and The Queen *v.* Hills (2 E. & B., 175) costs in a criminal case were in question, and the defendant was discharged, in one, because the prosecutor had proved for the amount in bankruptcy, and thus waived the attachment; and in the other, because the defendant had been discharged as an insolvent. In the former of these cases, it was said by Pashley, arguendo, that the courts had exercised the power to discharge a defendant in such a case, on account of poverty, as early as 29 Edward I.

It was admitted, in argument, in the case before us, that the court would not have been justified in imposing a pecuniary fine upon the defendant if he had proved his poverty before the order was made; but that afterwards it was too late. We are of opinion that no such distinction can be maintained; but that the defendant should be released from imprisonment in such a case, though his evidence is produced while the order is in process of enforcement against him.

Petition denied.

[Memorial for the impeachment of Thomas L. Nelson, district judge of the United States for Massachusetts.]

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

In conformity with the provisions of the Constitution, which gives you jurisdiction for the impeachment of civil officers of the United States, your memorialist prays that you may take such measures as may seem proper and meet to you for the impeachment of Thomas L. Nelson, district judge of Massachusetts, for the following reasons:

In the circuit court of the United States for the district of Massachusetts, in case No. 1812, of A. B. Hendryx *et al.*, petitioners, *v.* John B. Fitzpatrick, defendant in contempt, in equity, for willfully violating an injunction in a patent case (in which suit I am one of the petitioners), the defendant had been found guilty of violating the injunction order of this court, and was fined therefor on June 4, 1883.

The fine was imposed by virtue of the provisions of section 725 of the Revised Statutes of the United States. Said fine was divided into three parts, and was made payable at intervals of a few days thereafter, namely, on June 8, June 12, and June 15, 1883.

Defendant, Fitzpatrick, refused to pay the master's charges of $218, which was the first part of the fine, and due on June 8, 1883.

Thereupon, on the next day, on motion of petitioners, June 9, 1883, the court issued process of attachment against said defendant, John B. Fitzpatrick, and ordered him, said defendant, to be confined in the Charles street jail, in the city of Boston, in said district of Massachusetts, until said defendant, Fitzpatrick, paid into the registry of said court said fine of $218, that being the first part of said fine imposed on June 4, 1883.

Upon the issuing of said process of attachment, said defendant paid said first part of the fine, being $218, as ordered by the court to be done.

On June 12, 1883, said defendant, Fitzpatrick, again refused to pay into the registry of said circuit court the second part of said fine, being the sum of $892.96.

Thereupon, on June 13, 1883, said court (Thomas L. Nelson, said district judge, acting as a circuit judge of the United States), on motion of petitioners, ordered process of attachment against said defendant, Fitzpatrick, and that he be confined in the Charles street jail, in said city of Boston, until he paid into the registry of said circuit court said second part of said fine, being the sum of $892.96.

Accordingly said process of attachment was issued against said Fitzpatrick, and he was confined by the marshal of the district of Massachusetts, in said Charles street jail, in said Boston, until he had paid into the registry of said circuit court the said sum of $892.96, that being the second part of the fine.

At this point the law is well settled, and has been uniformly acted on by all Federal tribunals since the formation of the Constitution. That defendant, Fitzpatrick, could not, under these facts, lawfully obtain release from his imprisonment, except by a payment of said fine of $892.96 or by a pardon from the President of the United States.

Said defendant, Fitzpatrick, has never paid said fine of $892.96 into the registry of this circuit court, as he was ordered by this circuit court to do, and he has never been pardoned by the President of the United States, as the Constitution provides.

I need not remind the House of Representatives that the power of pardoning persons convicted of crimes against the United States is confided by the Constitution to the Presidnet alone.

It is hardly necessary for me to cite cases to support my statements of the law, because it has been so well settled and uniformly acted on by all Federal tribunals. But I will, from many cases, cite *In re* Mullee, 7 Blatch., 23; Fisher *vs.* Hayes, 20 O. G., 601; 3 Opps. Att'ys-Gen., 622, Feb. 27, 1841; 4 Opps. Att'ys-Gen., 317, April 15 1844; 4 Opps. Att'ys-Gen., 458, Nov. 28, 1845; 8 Opps. Att'ys-Gen., 281, Jan. 1, 1857

I am the attorney for the petitioners in this case, as well as one of the petitioners myself; and I am the only one of the petitioners that is pecuniarily and directly interested in this fine.

In my absence from Boston, being then in the city of Washington, where my family then resided, as was well known by the court and its clerk here in Boston, in my absence I say, Thomas L. Nelson, United States judge for the district of Massachusetts, on June 26, 1883, unlawfully, willfully, and corruptly ordered, in the name of the President of the United States, the marshal of the district of Massachusetts to remove and release said defendant, Fitzpatrick, from said Charles street jail, in said Boston where said Fitzpatrick had been confined as a prisoner in the name of the President of the United States on said June 13, 1883.

Whereupon said marshal for the district of Massachusetts, in compliance with said illegal and void order of said District Judge Nelson, did illegally and without any lawful authority remove and release said Fitzpatrick from said Charles street jail, in said Boston.

In so doing, said district judge, Thomas L. Nelson, not only violated his oath of office, to obey the Constitution and laws of the United States, but he practically and in effect usurped a prerogative of the President of the United States, specially intrusted to the President alone by the Constitution.

It should be noted here that said District Judge Nelson made no attempt whatever to give your memorialist any notice of his intention to release said defendant, Fitzpatrick, from said Charles street jail, although said Judge Nelson well knew that your memorialist was then in Washington.

Such a reckless and outrageous assumption of power by a Federal judge, in defiance of both law and justice, and also in defiance of vested rights of citizens, will be the death-knell of both law and liberty in the United States courts, if allowed to pass unnoticed by the House of Representatives. It will mean revolution.

When a Federal judge is allowed to assume despotic powers at his own arbitra

aid, John McClary Perkins, and, being duly sworn, deposes that the facts stated foregoing memorial are true, of his own knowledge.

[L.] EDWARD O. HOWARD,
Notary Public.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1641.

REPEALING REVISED STATUTES.

APRIL 15, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. OATES, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany bill H. R. 7882.]

The Committee on the Judiciary, to whom was referred House bill 3184, *having had the same under consideration, report thereon as follows:*

The measure herewith reported is intended to dispense with proof of loyalty in behalf of a few old men in the Southern States of two classes and in two respects, to wit: Those who, for service in the Army of the United States or active militia, are entitled to bounty land, but who cannot obtain the same under section 3480 of the Revised Statutes except by proof of outspoken loyalty to the Union during the late war. Hence, a man resident in a Southern State whose sympathies were with the Union, but who remained inactive and silent, cannot make the proof required.

The other class is composed of those invalid pensioners who were dropped from the roll for disloyalty, and those old soldiers who received wounds or other disability in the Mexican or Indian wars and who never received any pension, but who are entitled under the law, but cannot prove their loyalty by loyal witnesses, as required by the practice of the Pension Office under section 4716 of the Revised Statutes. Some of those men when disabled were men of fortune or means sufficient to enable them to live in comfort, and hence never applied to the Government for pensions. But now that they are old and poor they request the Government, in whose service their disability was incurred, to remove the only bar which excludes them from receiving its bounty, which it so generously provides for all of its faithful servants.

Very few, if any, of these old men were ever in the Confederate service, but they had sons or other relatives who were, and, as a matter of course, sympathized with them and gave some aid and comfort, which excludes them as honest men from proving loyalty to the Union during that period.

Your committee are of the opinion that the time has come when the requirement of proof of loyalty upon the part of the classes of men in this report referred to should be dispensed with, and hence report herewith a substitute for said bill, and recommend its passage.

○

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1642.

RIGHT OF ACTION IN THE COURT OF CLAIMS.

APRIL 15, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. CULBERSON, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany bill H. R. 7882.]

The Committee on the Judiciary, to whom was referred House bill 4305, have considered the same and report it to the House with the recommendation that it lie upon the table, and that the substitute for said bill herewith reported do pass.

The committee submit the following reasons for the foregoing recommendation:

A large amount of property in the States in rebellion or insurrection was seized during the war and immediately after the cessation of hostilities, without regard to the ownership of such property, or the political status of its owners, or the possession of the property at the time of the seizure, by the military and other Federal authorities. The seizure and sale of this property were made under the acts of March 12, 1863, and July 2, 1864, known as the captured and abandoned property acts and other measures amendatory and supplementary thereof.

The law required the property to be sold and the proceeds placed in the Treasury to the credit of the property.

The third section of the act of March 12, 1863, under which the bulk of the property was seized, provided as follows:

> Any person claiming to have been the owner of any such abandoned or captured property may, at any time within two years after the suppression of the rebellion, prefer his claim to the proceeds thereof in the Court of Claims, and on proof to the satisfaction of said court of his ownership of said property, of his right to the proceeds thereof, and that he has never given any aid or comfort to the present rebellion, to receive the residue of such proceeds, after the deduction of any purchase-money which may have been paid, together with the expense of transportation and sale of said property, and any other lawful expenses attending the disposition thereof.

Under this provision of the statute many suits were instituted in the Court of Claims by persons claiming to be the owners of property seized under the acts referred to, and when the proof required by the statute was made judgment was rendered in their favor and the money paid.

Over $30,000,000 were placed in the Treasury on account of sales of property under the act of March 12, 1863, and other kindred acts.

The amount now on hand of this fund is $10,512,007.96.

The following statement is believed to be substantially correct, and will show the whole amount of money received into the Treasury on ac-

count of captured and abandoned property, and the amounts pa
from time to time:

Whole amount of abandoned and captured property sales		$31,722
Cost of collecting, sale, and other expenses	$6,551,000 00	
Transferred to Freedman's Bureau	243,000 00	
Internal-revenue taxes and commercial intercourse fees	1,406,000 00	
Released to claimants by Secretaries Chase, Fessenden, and McCulloch	2,550,675 24	
		10,750
Balance covered into Treasury under resolution of March 30, 1872		20,971
Paid on special acts of relief	$290,906 32	
Paid on judgments against Treasury agents	64,557 27	
Paid on judgments under act of March 12, 1863	9,833,423 16	
Paid by Secretary of the Treasury under act of May 18, 1872	195,896 25	
Disbursed for expenses under joint resolution of March 30, 1868	75,000 00	
		10,459
Balance in Treasury		10,51

The Government has had the use of this money for more than
years, and if it is ever to be distributed to its owners some add
legislation is required. Congress, at every session, is asked to
individual claimants to bring suit in the Court of Claims to establis
rights in this fund. This privilege has been accorded to some a
nied to others.

Further legislation is necessary in order to distribute this fu
cause the limitation of two years from and after the close of the
which claimants of this property were required to prefer their
has long since expired, and there is now no means provided by
which the claimants of the fund can enforce their rights.

Formerly there was much contention upon the status of this
the Treasury, especially that portion of it derived from the sale o
erty belonging to those who adhered to the rebellion. It is evide
the terms of the act of 1863 that it was not the intention of Co
that the title to the property seized under it should be divested fr
loyal owners. *They* were allowed two years from and after the c
the war in which to prefer their claims to the property, and bec
provision was made by which persons who had been disloyal could
their claims in the property and enforce their rights, it was con
that the seizure and sale of so much of this property as belonged
loyal persons worked a divesture of title and absolutely transfer
proceeds to the Government. On the other hand, it was contend
such seizure and sale of property of disloyal persons did not div
title of the original owners and that the fund derived from suc
was placed in the Treasury to be kept there to await the determ
of the Government whether it should be returned to the owners
property or not.

Your committee believe that this contention has been settled
Supreme Court of the United States in the case of Klein *v.* The
States, reported in 13 Wallace, page 138, and the following quo
are made from the report of the case:

1. That it was not the intention of Congress, by the enactment of that stat
the title to property seized under it should be divested from the loyal owner
2. That the proceeds of the property should go into the Treasury withou
of ownership.
3. That the same intention prevailed in regard to the property of own
though then hostile, might subsequently become loyal.

4. That it was for the Government itself to determine whether those proceeds should be restored to the owner or not.

5. That the President's proclamations of pardon and amnesty, with restoration of rights of property, and particularly that of July 4, 1868, *was a decision on the part of the Government which decided affirmatively the right of all the owners of such property to the proceeds thereof in the Treasury*; and *the restoration of the proceeds became the absolute right of the persons pardoned.*

6. And that "the Government constituted itself the trustee for those who by that act were declared entitled to the proceeds of captured and abandoned property, *and for those whom it should thereafter recognize as entitled.*"

And in its opinion the court uses this language:

That it was not the intention of Congress that the title to these proceeds should be divested absolutely out of the original owners of the property, seems clear upon a comparison of different parts of the act.

We have already seen that those articles which became by the simple fact of capture the property of the captor, as ordnance, munitions of war, and the like, or in which third parties acquired rights which might be made absolute by decree, as ships and other vessels captured as prize, were expressly excepted from the operation of the act; and it is reasonable to infer that it was the purpose of Congress that the proceeds of the property for which the special provision of the act was made should go into the Treasury without change of ownership. Certainly such was the intention in respect to the property of loyal men. That the same intention prevailed in regard to the property of owners who, *though then hostile, might subsequently become loyal*, appears probable from the circumstances that no provision is anywhere made for confiscation of it, while there is no trace in the statute book of intention to divest ownership of private property not excepted from the effect of this act otherwise than by proceedings for confiscation.

It is thus seen that, except as to property used in actual hostilities, as mentioned in the first section of the act of March 12, 1863, no titles were divested in the insurgent States, unless in pursuance of a judgment rendered after due legal proceedings. The Government recognized to the fullest extent the humane maxims of the modern law of nations, which exempt private property of non-combatant enemies from capture as booty of war; even the law of confiscation was sparingly applied. The cases were few indeed in which the property of any not engaged in actual hostilities was subjected to seizure and sale.

We conclude, therefore, that the title to the proceeds of the property which came to the possession of the Government by capture or abandonment, with the exceptions already noticed, was in no case divested from the original owner. It was for the Government itself to determine whether these proceeds should be restored to the owner or not. *The promise of the restoration of all rights of property decided that question affirmatively as to all persons who availed themselves of the proffered pardon.* * * * *The restoration of the proceeds became the absolute right of the persons pardoned*, on application within two years from the close of the war. It was, in fact, promised for an equivalent. "Pardon and restoration of political rights" were "in return" for the oath and its fulfillment.

And then the court adds this strong language:

To refuse it would be a breach of faith not less cruel and astounding than to abandon the freed people whom the Executive had promised to maintain in their freedom.

It will be observed that the court decides that the title to the proceeds of the property which came to the possession of the Government by capture or abandonment, with the exception of property used in actual hostilities, was in no case divested from the original owner.

The question therefore arises whether the Government ever determined that the proceeds of the sales of property under the captured and abandoned property acts which belonged to disloyal persons should be restored to them.

Whatever of occasion for dispute there may have been upon this question at one time there seems to be none now.

Under the act of July, 1862, known as the confiscation act, the President was authorized at any time thereafter, by proclamation, to extend to persons who may have participated in rebellion in any State or part thereof pardon and amnesty, with such exceptions and at such time and on such conditions as he should deem expedient for the public welfare.

On the 8th day of December, 1863, the President issued his proclamation, in which he referred to the act of 1863, relating to captured and abandoned property, and offered pardon and amnesty, with restoration of all rights of property, except as to slaves and property to which third persons had acquired rights, to all persons who had participated in the rebellion who would take an oath to support the Constitution and the laws. Certain classes were excepted from the benefits of pardon and amnesty under that proclamation.

On the 29th of May, 1865, another proclamation was issued extending pardon and amnesty, with a full restoration of all property rights, except as to slaves, &c., to all persons who had participated in the rebellion. A similar oath was required, and fourteen classes of persons were excepted from the benefits of the proclamation.

On the 7th of September, 1867, another similar proclamation of pardon and amnesty was issued, which reduced the excepted classes from fourteen to seven. Finally, on the 4th day of July, 1868, a proclamation was issued by the President extending pardon and amnesty to all, with some exceptions, who had participated in the rebellion, with restoration to all rights of property except in slaves, and on the 25th of December, 1868, without exception, unconditionally, and without reservation. No oath was required.

The legal effect of the proclamations to which reference has been made was to wipe out all disability by reason of disloyalty and to present the offender before the law as a new man, as innocent as if he had never been charged with treason. These proclamations also serve to show that the President of the United States, authorized by the Constitution and by statute, determined to restore the proceeds of the sales of captured and abandoned property belonging to disloyal owners to them upon condition that they would comply with the requirements of the proclamations. Those who complied with the conditions of those proclamations were instantly rehabilitated as citizens, restored to equality before the law, and to all rights of property. In the language of the Supreme Court before quoted:

> The promise of the restoration of all rights of property decided that question affirmatively as to all persons who availed themselves of the proffered pardon. * * * The restoration of the proceeds of captured and abandoned property became the absolute right of the persons pardoned, on application within two years from the close of the war.

Those who had failed to avail themselves of the proffered pardon extended by the proclamations containing conditions (if there were any such) were covered and embraced by the proclamation of July 4, 1868, which extended pardon and amnesty to all, without condition, with full restoration to property rights.

Your committee submit the following, taken from the decision of the Supreme Court in Padelford's case, reported in 9 Wallace:

> In the case of Garland this court held the effect of a pardon to be such "that in the eye of the law the offender is as innocent as if he had never committed the offense;" and in the case of Armstrong's foundry we held that the general pardon granted to him relieved him from a penalty which he had incurred to the United States. It follows that at the time of the seizure of the petitioner's property he was purged of whatever offense against the laws of the United States he had committed by the acts mentioned in the findings, and relieved from any penalty which he might have incurred. It follows further that if the property had been seized before the oath was taken the faith of the Government was pledged to its restoration upon the taking of the oath in good faith. We cannot doubt that the petitioner's right to the property in question at the time of the seizure was perfect, and that it remains perfect, notwithstanding the seizure.
>
> But it has been suggested that the property was captured in fact, if not lawfully; and that the proceeds having been paid into the Treasury of the United States, the

petitioner is without remedy in the Court of Claims unless proof is made that he gave no aid or comfort to the rebellion. The suggestion is ingenious, but we do not think it sound. The sufficient answer to it is that after the pardon no offense connected with the rebellion can be imputed to him. If, in other respects, the petitioner made the proof which, under the act, entitled him to a decree for the proceeds of his property, the law makes the proof of pardon a complete substitute for proof that he gave no aid or comfort to the rebellion. A different construction would, as it seems to us, defeat the manifest intent of the proclamation and of the act of Congress which authorized it. Under the proclamation and the act the Government is a trustee, holding the proceeds of the petitioner's property for his benefit; and having been fully reimbursed for all expenses incurred in that character, loses nothing by the judgment, which simply awards to the petitioner what is his own.

But for the bar made by the statute of limitations of two years it seems that all persons, loyal and those who had been disloyal, might prefer their claims to this property, and upon proof of their right to the property obtain the proceeds.

Pardon and amnesty relieved claimants of captured and abandoned property from proving their adhesion to the Government of the United States during the late war.

The following is the whole of the opinion of the court in Pargoud's case, 13 Wallace:

We have recently decided in the case of Armstrong against the United States that the President's proclamation of December 25, 1868, granting pardon and amnesty unconditionally and without reservation to all who participated directly or indirectly in the late rebellion relieves claimants of captured and abandoned property from proof of adhesion to the United States during the late civil war. It was therefore unnecessary to prove such adhesion or personal pardon for taking part in the rebellion against the United States. The judgment of the Court of Claims dismissing the petition is reversed.

It follows, from what has been said, that this fund in the Treasury does not belong to the Government, but is the property of citizens of the United States, and held in trust for them by the Government. Ought the Government longer refuse to distribute this fund among the owners of it?

Your committee believe that it is true, as alleged, that the bulk of this fund yet remaining in the Treasury belongs to persons who participated in the late rebellion, but in view of the fact that under the Constitution and the laws of the United States, as declared by the Supreme Court, the restoration of the proceeds of this property became the absolute right of the persons pardoned, the former political status of the owner can afford no just reason for withholding the money.

No laches can be imputed to this class of claimants.

The statute authorized claims to the proceeds of sales of captured and abandoned property to be preferred in the Court of Claims at any time within two years from the suppression of the rebellion. When was the rebellion suppressed? That became a question for the courts in order to apply the statute of limitations. In December, 1869, the Supreme Court decided, in Anderson *v.* United States (9 Wallace, page 56), that the rebellion was suppressed on the 20th of August, 1866, the date of the President's proclamation declaring the final and complete suppression of the rebellion. The limitation of the right to commence suit therefore expired on the 20th day of August, 1868.

Some claimants who had participated in the rebellion filed suits in the Court of Claims before the bar of limitation was complete, but a large majority of that class of claimants did not commence suit because it was generally understood that, notwithstanding the proclamations of pardon and amnesty, the claimant would be required to prove his loyalty before he could have a standing in the court.

It was a matter of doubt among the members of the legal fraternity as to what effect would be given by the Supreme Court to the proclamations of pardon and amnesty. In 1869 the Supreme Court decided that the necessity of proving loyalty in order to recover the proceeds of captured and abandoned property had been removed by the proclamations of pardon and amnesty.

This decision come too late to benefit that class of claimants. The limitation had already expired, and the bar was complete.

In view of the law and the facts as above stated, your committee deem it unwise for the Government, and unjust to the claimants of this fund, for Congress to decline longer to make some provision by which they may establish and enforce their rights.

Your committee therefore recommend the passage of the substitute herewith reported.

CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
t Session. } { No. 1643.

TABLISHING A SUB-TREASURY AT LOUISVILLE, KY.

, 15, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

McCREARY, from the Committee on Coinage, Weights, and Measures, submitted the following

REPORT:

[To accompany bill H. R. 902.]

e Committee on Coinage, Weights, and Measures, to whom was red the bill (H. R. 902) establishing a sub-treasury at Louisville, have had the said bill under consideration, and report the same, ecommend its favorable consideration and passage by the House.

e whole monetary transactions of the Government are now con- d through the office of the United States Treasurer and forty-one ıal-bank depositories and nine sub-treasuries, located at New York, ıı, Philadelphia, Baltimore, Saint Louis, Chicago, Cincin nati, New ns, and San Francisco.

far back as 1882 the report of the Secretary of the Treasury that there were in the sub-treasury at New York about 19,000,000 andard silver dollars, while the sub-treasury and mint at San isco had nearly 41,000,000.

Secretary assigned as his reason for not bringing over a part of silver dollars from San Francisco that there was no unsatisfied or them elsewhere, and the expense of coinage is great, never ıan one per cent.

sub-treasury has been established by act of Congress since 1873, o one can deny the necessity for another sub-treasury.

question is, then, where shall the sub-treasury be located? The material points to consider are geographical position, accessibility rounding country, distributing power, amount and character of ıt and prospective collections and disbursements of public money, pplying these tests, we believe Louisville, Ky., is the proper place ate the sub-treasury.

isville is the metropolis of Kentucky, and is located on a beautiful ıu at the falls of the Ohio River, 338 miles from its mouth. It population of nearly 200,000, and is increasing in numbers and ı. It occupies a central place with reference to the valley of the sippi, and has great advantages on account of its extended con- vith the river systems of that valley. It is by water 132 miles Cincinnati, 598 miles below Pittsburgh, 368 miles above Cairo, ıiles above Memphis, 1,337 miles above New Orleans, and 558 from Saint Louis.

ıated midway between the Gulf of Mexico and the Northern Lakes, lso between the eastern and western ranges of the North Ameri- ıountains, Louisville is the the great focal point of the Missis-

sippi Valley. It is also in the heart of the valley of the Ohio, which comprehends an area of 201,720 square miles, which is about double the area of France, and nearly equal to Germany. Louisville has a river frontage of 12 miles, and a river trade in the south and in the west combined of over 12,000 miles.

Thirty navigable rivers are accessible by steamers from her wharves, and she has opened avenues of trade to a vast and wealthy domain, comprising 16 States with a population of many millions.

Of the 117 counties in the State of Kentucky, 108 can be reached by water or railroad connections.

The railway connections of Louisville give her direct communication with all parts of the country by the following trunk lines: Chesapeake and Ohio Railroad; Louisville Short Line Railroad; Ohio and Mississippi Railroad; Jeffersonville, Madison, and Indianapolis Railroad; Louisville, Evansville, and Saint Louis Railroad, and the Cincinnati Southern by way of the Louisville and Knoxville Railroad.

The last census shows that in the United States the center of population is in the State of Kentucky, and Louisville is near that center.

Within 300 miles of Louisville, or a half day's journey, there are 11,000,000 of people.

As a distributing point Louisville is unexcelled. While at many cities the coin of the United States would be distributed at an expense to the Government, the products of the State of Kentucky and the extensive business and manufacturing interests of the city of Louisville would secure its distribution through the natural channels of trade without much expense.

There are in Louisville 1,352 manufacturing establishments in active operation, which have a capital of about $40,000,000, and employ over 24,000 workmen, and put in the market annually finished wares amounting to more than $60,000,000.

Louisville is the second city in the United States in the manufacture of furniture, and is also one of the leading pork-packing cities of the country, having a capital invested in the pork and ham trade of nearly $3,000,000.

It is, perhaps, the largest plow-manufacturing city in the world, the united capacity of its plow manufactories being over 1,500 per day. Over 200,000 plows and 50,000 cultivators are annually manufactured in that city, and there are in and around Louisville 23 tanneries, representing an invested capital of $2,500,000.

Louisville furnishes the largest supply market in the world for sole leather. In the article of jeans and jeans clothing the annual sales of that city are 5,005,000 yards, representing over $1,000,500. One hundred and twenty tons per day of cast gas and water pipe are manufactured, or 30,000 tons per annum. The largest plate-glass works in the United States are located around the falls, one being at Louisville and the other at New Albany, just opposite Louisville. The paper mills of Louisville occupy a capital of $1,000,000. The boot and shoe trade amounts to $6,000,000 annually, and the capacity of the flour mills of the city is 1,000 barrels per day. The sales of tobacco from January 1, 1885, to January 1, 1886, amounted to over 127,000 hogsheads, the value of which was between $12,000,000 and $13,000,000.

Louisville is also the largest market on the continent for fine whiskies, and millions of dollars are invested in its manufacture.

In the following industries Louisville leads the world: Tobacco, jeans and jeans clothing, cast gas and water pipes, plows, live stock, cement, fine sole-leather, plate glass, and fine whiskies.

Aside from being a commercial and industrial center of acknowledged size and importance, equal to other cities where sub-treasuries are now established, Louisville is a very important financial center. Its banking institutions number twenty-four, employing $8,871,300 in capital.

The internal revenue collected in the State of Kentucky during the year 1885 was $14,482,476, being the largest amount collected in any State in the Union, excepting Illinois.

Last year only two of the sub-treasury cities—Chicago and Cincinnati—collected more internal revenue than Louisville, and the aggregate receipts of the sub-treasuries at Baltimore, San Francisco, Boston, and New Orleans did not equal the receipts at the city of Louisville.

The disbursements at Louisville on account of the pension laws of the United States last year were $1,815,926. In this respect Louisville will compare favorably with a majority of the sub-treasury cities.

Of the nine sub-treasury cities, only five—New York, Boston, Philadelphia, Chicago, and San Francisco—have pension agencies.

The foregoing facts are not original with the committee, but they have heretofore been prepared and made public in various ways, and are now again presented as valuable information to show that the bill should be passed and a sub-treasury established at Louisville, Ky.

The annual cost of conducting the sub-treasury at Louisville, Ky., is $9,560, and the sum of $5,000 is appropriated to make such repairs and alterations as may be necessary, and to put suitable rooms, offices, vaults, and safes in the custom-house in said city in proper condition, and to purchase such furniture and fixtures as may be needed.

C

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1644.

INSPECTION OF LIVE STOCK.

APRIL 15, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. DUNHAM, from the Committee on Commerce, submitted the following

REPORT:

[To accompany bill H. R. 3899.]

Your committee adopt the report from the Committee on Commerce in the Forty-eighth Congress, which is as follows:

The bill empowers the President of the United States to appoint, for such customs districts of the United States as may be necessary, inspectors of live stock, dressed meats, and hog products intended for foreign shipment, not to exceed fifteen in number for any one customs district, who shall be designated as "United States inspectors of live stock, dressed meats, and hog products of the ——— customs district." It requires that such inspectors shall give bond, in such penalty and with such security, to be approved by the collectors of customs of the district, as may be required for the prompt and faithful performance of their duties. It is made the duty of such inspectors, upon application made to them therefor, to promptly and faithfully inspect live stock, hog products, or dressed meats submitted to them for examination and inspection; and, upon payment to them by the persons making such application of such reasonable fees and charges as may be prescribed by the Secretary of the Treasury, to furnish written certificates of such inspection and examination, to be signed and sealed by the inspectors in their official capacity; and in case such product intended for foreign shipment is in packages or in such shape that the same may be stamped, the inspector shall stamp such packages or fix a memorandum showing that the same has been inspected, examined, and approved. The certificate of inspection thus furnished is required to accompany, and be produced with, the shipment of such live stock or product to which such inspection or examination relates.

This bill makes it unlawful to import into the United States any adulterated or unwholesome food, or vinous or spirituous or malt liquors, adulterated or mixed with any poisonous or noxious chemical drug or other ingredient injurious to health.

It makes the person importing into the United States any such adulterated food or drink guilty of a misdemeanor and liable to prosecution therefor in the district court of the United States, and punishable, on conviction, by a fine not exceeding $1,000 for each separate shipment, or by imprisonment by the court for a term not exceeding one year, or by both of these penalties, at the discretion of the court.

It provides that any article designed for consumption as human food or drink, and any other article of the classes or description mentioned in the act, which shall be imported into the United States contrary to its provisions shall be forfeited to the United States, and shall be proceeded against under the provisions of chapter 18, of title 13, of the Revised Statutes of the United States; and if declared forfeited may be destroyed or returned to the importer for exportation from the United States, after payment of all costs and expenses. And the Secretary of the Treasury is authorized to cause such imported articles to be inspected or examined in order to ascertain whether they have been unlawfully imported.

The bill also provides that whenever the President is satisfied that any importation is being made, or is about to be made, into the United States from any foreign country of any article used for human food or drink that is adulterated to an extent dangerous to the health or welfare of the people of the United States, he may issue his proclamation suspending the importation of such articles from such country for such period of time as he may think necessary to prevent such importation, and making it unlawful during said period to import into the United States from the countries

designated in the proclamation of the President any of the articles the importation o which is so suspended.

Sections one, two, three, four, and five of the bill have for their object to provid by proper inspection, and by furnishing the official evidence of such inspection, again the exportation of diseased or unwholesome livestock, hog products, or dressed meat so as to provide against all reasonable objections to their purchase and consumptio in foreign markets and countries, and so as to secure to our own people such price therefor as are paid for sound and healthy live stock, hog products, and dressed meat This is due alike to the interest of those who export such articles and to persons wh purchase or consume them in foreign countries.

Sections six and seven of the bill have for their object the protection of the peopl of the United States against the evil effects of adulterated or unwholesome food, or c vinous, spirituous, or malt liquors imported into the United States from foreign cou tries. This is made necessary by a proper regard of the health and well-being of th people as well as for the interest of honest dealers in such articles.

The eighth section of the bill enables the President to protect the health and we fare of the people of the United States against the importation of articles used f human food or drink which are adulterated to an extent dangerous to health, b the issuance of this proclamation prohibiting such importation.

Such a law as the one proposed is rendered necessary as well by the condition our foreign trade as for the promotion on sound and just principles of the interes and welfare of our own people and of those of other countries with whom they enj trade relations.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1645.

AMERICAN CUSTOMS UNION.

APRIL 15, 1886.—Laid on the table and ordered to be printed.

Mr. MCCREARY, from the Committee on Foreign Affairs, submitted the following

REPORT:

[To accompany H. Res. 14.]

The Committee on Foreign Affairs, to whom was referred joint resolution (H. Res. 14) requesting the President to invite the co-operation of the Governments of American nations in securing the establishment of free commercial intercourse among those nations and an American customs union, have considered said resolution, and report the same with an adverse recommendation.

O

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1646.

INTERNATIONAL AMERICAN CONGRESS.

APRIL 15, 1886.—Laid on the table and ordered to be printed.

McCREARY, from the Committee on Foreign Affairs, submitted the following

REPORT:

[To accompany H. Res. 94.]

he Committee on Foreign Affairs, to whom was referred joint reso-)n (H. Res. 94) to authorize the President of the United States to te the autonomic Governments of America to send delegates to an rnational American Congress to arrange for the arbitration of all onal differences, have had the said resolution under consideration, report the same with an adverse recommendation, and ask that it n the table.

C

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1647.

COMMERCIAL RELATIONS BETWEEN THE UNITED STATES AND MEXICO AND CENTRAL AND SOUTH AMERICA AND BRAZIL.

APRIL 15, 1886.—Laid on the table and ordered to be printed.

Mr. MCCREARY, from the Committee on Foreign Affairs, submitted the following

REPORT:

[To accompany bill H. R. 5444.]

The Committee on Foreign Affairs, to whom was referred the bill (H. R 5444) for the encouragement of closer commercial relationship, and in the interest of and the perpetuation of peace between the United States and the Republics of Mexico and Central and South America and the Empire of Brazil, have had said bill under consideration, and report the same with an adverse recommendation, and ask that it lie on the table.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1648.

AMERICAN COMMERCE AND ARBITRATION.

APRIL 15, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. MCCREARY, from the Committee on Foreign Affairs, submitted the following

REPORT:

[To accompany bill H. R. 7884.]

The Committee on Foreign Affairs, to which was referred the bill (H. R. 7267) authorizing the President of the United States to arrange a conference for the purpose of promoting arbitration and encouraging reciprocal commercial relations between the United States of America and the Republics of Mexico, Central and South America, and the Empire of Brazil, have had the same under consideration, and respectfully report the accompanying bill, and recommend its passage.

This bill, as far as is deemed proper and practicable, is for the accomplishment of the same results sought in Joint Resolutions 14 and 94 and House Bill 5444, to wit, the establishment of more intimate commercial and other international relations between the United States and other autonomic States of the American continent.

The subject of establishing closer international relations between all the Republics of the American continent and also the Empire of Brazil, containing in the aggregate one hundred millions of people, for the purpose of improving the business intercourse between those countries and securing more extensive markets for the products of each is both interesting and important. Sixty years ago this subject was discussed and a conference was suggested between representatives of our Government and the other Governments, and President John Quincy Adams appointed representatives to the Congress held at Panama to consider measures for promoting peace and reciprocal commercial relations between said countries. This conference was beneficial, but at that time our people were looking more to Europe for business and commerce than to the countries south of us, and no action was taken by our Congress. Now the United States is at peace with all the world and our population and wealth make this the foremost Republic of the world, and our Government should inaugurate the movement in favor of an American conference.

The present depression of business and low price of farm products are caused, to a considerable extent, by a limited market for our surplus products. Some of the best markets we can look to are not far beyond our southern border. They are nearer to us than to any other commercial nation. The people of Mexico and of Central and South America produce much that we need, and our abundant agricultural, manufactured, and mineral productions are greatly needed by them. These countries cover an area of 8,118,844 square miles, and have a

population of 42,770,374. Their people recognize the superiority of our products, and desire more intimate business intercourse with our people, but the great bulk of their commerce and trade is with Europe. The Argentine Republic has from forty-five to sixty steamships running regularly between Buenos Ayres and European ports, and no regular line between that country and the United States, and our commercial facilities with the other republics of Central and South America are about the same.

In 1884 our exports were valued at $733,768,764.

Of this amount we exported but $64,719,000 to Mexico and South and Central America.

Our annual mechanical and agricultural products are valued at fifteen thousand millions of dollars, while we seldom have sold more than seventy-five millions of dollars worth of these products to our nearest neighbors, who buy in Europe at least five times as much as they get here.

The total commerce of the countries named in 1883 was as follows:

Imports	$331,100,599
Exports	391,294,781

Of the $331,100,599 of merchandise sold to those countries, the share of the United States was only $42,598,469; yet we are their closest neighbor.

The disparity of our trade with Peru, Chili, Argentine Republic, and Brazil is both amazing and humiliating.

Last year the imports of merchandise were as follows:

To—	From Great Britain.	From United States.
Peru	$6,235,685	$748,106
Chili	11,060,880	2,211,007
Argentine Republic	29,692,295	4,317,293
Brazil	33,946,215	7,317,293

The following tables exhibit the population of the countries named, and the relations of trade carried on by them with the United States and Great Britain during the last year:

	Argentine Republic.	Brazil.	Central America.	Chili.	Colombia.
Population	2,406,000	10,108,291	2,900,000	2,400,396	2,951,323
Exports to Great Britain	$5,793,965	$23,507,165	$6,526,950	$12,977,465	$2,166,389
Imports from Great Britain	29,692,295	33,946,215	4,624,560	11,060,880	6,107,645
Exports to United States	4,328,510	45,263,660	6,409,001	604,525	2,342,007
Imports from United States	4,347,293	7,317,293	2,762,531	2,211,007	5,583,368

	Mexico.	Peru.	Venezuela.	Uruguay.	Dominion of Canada.
Population	9,389,461	3,050,000	2,075,242	447,000	4,750,000
Exports to Great Britain	$3,502,500	$10,414,170	$1,300,565	$3,283,625	$45,558,555
Imports from Great Britain	5,415,765	6,235,685	3,028,680	8,131,640	44,727,095
Exports to United States	9,267,021	1,764,890	6,309,580	2,734,617	39,000,000
Imports from United States	8,340,784	742,105	3,043,609	1,682,443	50,000,000

Total values of free and dutiable merchandise imported into the United States from Mexico and Central and South America during the year ending June 30, 1895, with the estimated amounts of duty collected on such imports.

Countries from which imported.	Value of merchandise.			Estimated amounts of duty collected.
	Free of duty.	Dutiable.	Total.	
Argentine Republic	$3,154,337	$1,174,173	$4,328,510	$364,933 28
Chili	399,464	205,061	604,525	68,386 89
Mexico	5,173,441	4,093,580	9,267,021	635,960 72
Central American States	6,149,873	259,142	6,409,015	140,759 88
United States of Colombia	2,335,083	6,994	2,342,077	1,714 68
Venezuela	6,267,887	41,693	6,309,580	20,297 40
Peru	1,749,632	15,258	1,764,890	5,148 06
Brazil	38,136,191	7,127,469	45,263,660	6,607,377 15
Uruguay	2,317,131	417,478	2,734,617	255,480 80
Bolivia, Ecuador, Paraguay, and Patagonia	753,321	280	753,601	140 00
Total	66,436,368	13,341,128	79,777,496	8,100,198 86

	Per cent
Total value of merchandise free of duty	83.28
Total value of merchandise subject to duty	16.72
Equivalent ad valorem rate of duty on—	
Dutiable merchandise	10.15
Free and dutiable merchandise	60.72

The consumption of cotton goods in Central and South America and in Mexico amounts to nearly one hundred millions of dollars annually, and although they are so near our cotton fields, England furnishes about 95 per cent. of these goods.

Cotton fabrics constitute the wearing apparel of nearly three-fourths of those people, and they have to import all they use.

England monopolizes this trade because of her cheap transportation facilities, and because her mills furnish goods especially adapted to the wants and tastes of the consumers, which our mills have never attempted to produce.

It is very important that transportation facilities between the United States and her southern neighbors should be improved; for as long as the freight from Liverpool, Hamburg, and Bordeaux is $15 a ton, they cannot be induced to pay $40 a ton to bring merchandise from the United States.

There is not a commercial city in these countries where the manufacturers of the United States cannot compete with their European rivals in every article we produce for export.

The report of the South American Commission shows, by the testimony of the importing merchants of those countries, that aside from the difference in cost and convenience in transporting, it is to their advantage to buy in the United States, because the quality of our products is superior, and our prices are usually as low as those of Europe. In this connection it may be important to consider whether a common standard of gold and silver coins equal in value, weight, and fineness in all of the countries named, and current in all of them, would help to increase commerce and friendly relations among them.

The bill does not seek to control the conference or determine what it shall do, but simply to bring representative men of each Government together, to discuss and recommend for adoption to their respective Governments some plan of arbitration for the settlement of disagreements and disputes that may hereafter arise between them, and to consider questions relating to the improvement of business intercourse between said countries, and to encourage such reciprocal commercial rela-

tions as will be beneficial to all, and secure more extensive markets for the products of each.

While no scheme may be devised by which all and every disagreement and dispute may be submitted to arbitration in such manner as to always avoid international war, it certainly will be in accordance with the civilization and Christianity of this age to seek to establish a plan of arbitration by which questions of difference may be arranged and settled peaceably.

The Amphictyonic council of Greece, composed of delegates from each of its states, and empowered to examine and decide all their disputes, did much to preserve peace between them for many years, and the Achæan league did the same, and was often solicited even by foreign nations to act as arbiter of their disputes, and the recent adjustment of the controversy over the "Alabama claims" shows that the Government of the United States favors arbitration.

While we have great respect for those who advocate a reform of our laws on currency and taxation, we believe that the great questions presented in the bill under consideration should not be delayed, but should receive prompt action, so as to keep pace with the other important subjects referred to.

It is not proposed to intrust to the conference the power to make final and definite treaty arrangements—that would be in opposition to our Constitution; but it is believed that all will be benefited by a conference held under the invitation and auspices of the most prosperous and powerful nation of the American continent, from which assemblage reports of the proceedings shall be made to the respective Governments for proper action.

The bill provides that the commissioners shall report the proceedings thereof to the President, who shall transmit the same to Congress, and it is believed that nothing but common good can grow out of such a conference.

At no time since the organization of our Government has there been a deeper conviction of the propriety of connecting in closer relations our Republic and the Republics of Mexico, Central and South America, and the Empire of Brazil.

Whatever tends to bring into kindly accord the interests and aims of our country and those of our neighbors will be beneficial.

The report of the commissioners, appointed under the act of 1884, shows that the people of these countries are anxious to encourage more intimate commercial relations with the people of the United States.

They say in their report:

> Unless we have been completely misled by the expressions and protestations of the ruling powers of each and every one of the Governments we have visited, the only estrangement possible between them and us will flow from our own indifference and neglect. Indeed, we have already lost much that naturally belongs to us from this cause. Every President and cabinet officer, every leading and thoughtful citizen we met, joined in the sentiment of gratified surprise that our country had taken the initiative by this embassy in bringing about more cordial and hearty communication between the various Republics and our own. In our effort to reach more intimate relations we have, then, this basis of kindness and desire upon the part of those we seek to reach as a foundation for our action. We shall plant seed in a genial soil, beneath a propitious sky.

VIEWS OF THE MINORITY.

I regret extremely that I am unable to concur with my associates on the Foreign Affairs Committee who advise the House to accept and pass the bill H. R. No. 7267, which requests the President to invite the several Governments on this continent therein named to join this Government in a conference, and authorizes the President to appoint three commissioners who shall attend the conference on behalf of this Government, and appropriates $20,000 therefor. The objects and aims of the conference, as vaguely mentioned in the bill, are three fold. One is to discuss and recommend for adoption by this Government, and each of the other Governments, *some plan* of arbitration for the settlement of disagreements and disputes hereafter arising between them. Another is to consider questions relating to the improvements of business intercourse between "said countries." A third is to encourage such peaceful and reciprocal commercial relations as will be beneficial to all, and secure more extensive markets for the surplus products of each of said countries.

If the bill shall become a law this Government will, as befits its dignity and power on this continent, be the initiator of the conference, and will naturally be considered by the participating nations as the one to take the lead in formulating the propositions to be considered by the conference. I have seen no indication that the President has suggested or advised the proposed conference, and if such a conference is to be convened by his invitation, on the request of Congress, then the promoters in Congress should, as it seems to me, define, with reasonable precision, not only the objects to be sought by those representing this Government in the conference, but the ways and means by which those objects are to be obtained, including, in the outline, the concessions which our law-making power, as distinct from our treaty-making power, might be willing to make. If the conference were proposed by other Governments, as was the congress at Panama in 1826, or if the President had initiated the conference now proposed, and had asked the sanction of the Senate by the confirmation of commissioners, and of the two Houses by an appropriation of money therefor, then the President could be assumed to be in possession of, or to have formulated, the measures to be proposed at the conference, and the stipulations which, if inserted in a treaty, he would be willing to sign and transmit to the Senate for its action. But, in the present case, the initiation of negotiations to be carried on by the President comes, so far as I am informed, entirely from the House. If the conference should convene under the proposed bill, and the assembled powers were to ask our commissioners for an outline of their plan as regards the three topics, what reply should the President instruct them to make?

ARBITRATION.

The first topic in the bill is arbitration. It proposes that the conference shall discuss, and recommend, "some plan." What plan? Which "disagreements and disputes" are to be submitted to arbitration? What sort of arbitration? Those are problems concerning which the President should, by the bill, be advised, or else most inconvenient

consequences might flow from a rejection by the Senate, or Congress, of a plan or system of arbitration which had been adopted by the conference on the initiation and advocacy of our own commissioners.

What is abitration, as understood in international intercourse? Vattel defines it to be "a reasonable and natural mode of deciding such disputes *as do not directly affect the safety of the nation.*" The exclusion contained in this definition is most important. It is believed that during the century and a quarter which has intervened since this definition was written, no powerful government has consented, or indicated its willingness to consent generally to the reference to an arbitration, either by neutral governments, or by commissioners, of any but secondary questions, such as claims for pecuniary compensation for injuries, questions of boundary lines, disputes over the interpretation of treaties, and other similar questions. Wars have been prevented by the mediation, or good offices, of some friendly government or governments, but the exercise of mediation, or of good offices, is rather a method of *conciliation* than of *arbitration*, which last implies the power of definite and final decision.

The United States, ever since the organization of their national Government, and notably in the treaty of peace of 1783, have frequently used with great success arbitration as a method for the settlement of secondary questions. The plenipotentiaries to the Congress of Paris of 1856, in their twenty-second protocol, express in the names of their Governments the wish that the States, between whom serious difficulties may arise, would, before appealing to arms, have recourse, as far as circumstances will admit, to the good offices of a friendly power. But there again the exceptions "as far as circumstances will admit," and the employment only of good offices (which last is often a simple formality to bring the contending parties together), as distinct from arbitration, which pronounces a real obligatory judgment, are significant.

It may be said that the international tribunal at Geneva was the submission by this Government of a question too important to be called a secondary question, but it is to be remembered that it was by the result of negotiations by the Joint High Commission at Washington that the "three rules" were formulated, which left little to be done at Geneva, excepting to ascertain the facts, apply the rules, and assess the damages. It was the decision of the British Government that war ought not to come out of the "Alabama claims" which led up to the Joint High Commission, which in turn created the tribunal at Geneva.

The bill reported to the House gives no indication of the class of "disagreements and disputes" which this Government will consent to refer to arbitration. Will the United States consent to confer on any tribunal the power to adjudge the cession of territory by us, or the demolition of our fortifications, and to decree anything and everything to be done by us which, according to the present usages of international law, may be imposed upon a defeated nation by its victors in war? Probably not, and if not, then precisely what class of questions will the United States say may be referred to arbitration? If arbitration is to be a complete substitute for war, then it would seem essential that the jurisdiction of the arbitrators shall cover all "disagreements and disputes" which may possibly lead to war. When a commotion or insurrection or civil war is, to the great possible injury of a neighboring nation, on the point of breaking out within any one of the nations to participate in the conference, shall the origin of the outbreak, and the claims of the contending parties, be submitted to arbitration, or shall the sphere of arbitration

be limited to questions which, according to existing international usage, are capable of constituting legitimate causes of war? Will the United States consent to submit to arbitration a decision of the question whether or not this Government shall make an apology to some other nation?

Assuming the proposed bill to be so enlarged and amended as to declare definitely the class of questions which this Government may declare to the conference that it is willing, in behalf of itself, to submit to arbitration, then what international machinery shall be provided on this continent to ascertain the facts which underlie the dispute, and give judgment? Shall this international organization, for the settlement of "disagreements and disputes," be of a *permanent* character, with authority to take immediate jurisdiction without waiting until the parties concerned mutually agree to submit to arbitration? Is there to be on this continent a permanent Congress of Nations, or a new international Nation? Are the several independent nations on this continent to form themselves into a federation for the purpose of arbitrating disputes between themselves? If this Congress of Nations is not to be in perpetual session, then by whom is it to be convened in order to deliver its judgment upon "disagreements and disputes" tending to disturb the peace of the continent? As our own thirty-ninth Government, which is the Federal Government at Washington, clasps and enfolds the thirty-eight State governments in the union of States, and as is intended to settle disputes and prevent war between them, shall there be a new international Nation on this continent, with a Congress, a court, and an executive, to settle disputes and prevent war between the several nations?

What limitation shall be placed upon the nature of the award and judgment which this international tribunal may make?

And when the proposed bill has been amended so as satisfactorily to answer these questions, then will come the other question, whether the decisions of this new international tribunal on this continent shall have only a moral authority, or provision shall be made for the physical enforcement of the verdict. Is the new contrivance to be, in the first place, an appeal from force to reason, and then, if reason does not prevail, an appeal back again from reason to force? If there is to be armed force behind the decision of this new board of arbitration, how shall this force be maintained, who shall command it, and what shall be the limit of international expenditure therefor?

If it be said that the proposed bill only contemplates an effort to concert measures between the independent Governments on this continent to exercise a *moral* authority between nations where "disagreements and disputes" unfortunately arise, and thus settle them in an amicable and satisfactory manner, it may be said that this Government has already given ample indication that such is its wish. But if, on the other hand, a chief object of the proposed bill is to urge the several Governments of the Republics of Mexico, Central and South America, to agree on "some plan of arbitration for the settlement of disagreements and disputes that may hereafter arise *between them*," but which do not directly concern this Government, then it will deserve consideration whether uninvited by those Governments or either of them, it will be prudent for this Government to thus attempt to participate in the mutual relations of other independent Governments on this continent, and whether, if we do thus endeavor, we shall not thereby enter upon a field of effort from which hitherto our well-established policy, and the warning voice of Washington, have excluded us.

Arbitration as a means in the affairs of individuals of obviating the necessity of recourse to courts of law, or in the affairs of nations of pre-

venting the arbitrament of the sword, has much to commend it. Courts of *conciliation* are scarcely less effective and benevolent than courts of *arbitration*, whether in individual or international affairs. But before the proposed bill shall become a law, ought not Congress to define the circumstances and conditions under which the decision of the arbitrators shall *not* be binding? Surely an independent government cannot be expected to be bound if the arbitrators are incapable (as perhaps this Government had reason to suspect in its latest arbitration of the fishery question); or if the arbitrators acted in bad faith; or if the contending parties have not been misunderstood; or if the award shall have been in excess of the terms of the reference; or if the decision shall have been contrary to natural justice. These questions and others like them will naturally come to the front on the assembling of the proposed conference, and our commissioners will naturally ask for instructions from the President. The law which initiates the Congress should, as it seems to me, clearly intimate to the President its opinion.

In July, 1873, Mr. Gladstone said in the House of Commons that a general and permanent system of arbitration would make practical progress, not by attempting permanent international concert, which would then be premature, but by "a steady adherence on the part of those powers who are readily inclined and convinced and persuaded, on the subject to principle, first governing themselves by justice and moderation, and next losing no opportunity of recommending a peaceful settlement of disputes between nations."

IMPROVEMENT OF "BUSINESS INTERCOURSE."

The second topic to be discussed by the conference concerns "the improvement of business intercourse betweens aid countries." And here, again, what is to be accomplished by the President in that direction seems rather vague and difficult to practically deal with. Does the "improvement of business intercourse between said countries" imply and include the improvement of the means of transportation by land and by sea? Does this Government intend to commit that large problem to an international conference, and to hold out the expectation to the Governments participating in such conference that this Government will be bound by the result of the deliberations? Or, if not, then should there not be in the bill a limitation and definition of the subjects relating "to the improvement of business intercourse between said countries," concerning which a conference is invited?

MARKETS FOR SURPLUS PRODUCTS.

The third object of the proposed conference is declared in the bill to be the encouragement of "such peaceful and reciprocal commercial relations as will be beneficial to all and secure more extensive markets for the surplus products of *each* of said countries." It is to be inferred from this language that one of the objects which this Government seeks to promote is the obtaining of "more extensive markets for the surplus products of Mexico, Brazil and the States of Central and South America." It is not to be assumed that this Government will initiate a conference between themselves and the other Governments on this continent in order to monopolize *for ourselves* the purchase of "the surplus products of each of said countries." It is not to be assumed that either of those countries will undertake to sell its surplus products to none else but ourselves. The purpose is, on the contrary, declared to

be such "reciprocal commercial relations" as will secure more extensive markets for the surplus products of *each*. Whether or not all who dwell on this Western Hemisphere, or even we of the United States of America, would be more prosperous and better off if all commercial relations with the Eastern Hemisphere were prohibited or prevented, is of course a very large question. But so long as the people and the governments on this continent which are at the south of us shall find on the other continent, and not find on this continent, the surplus capital and money which they need, it will not be reasonable for us to hope that Mexico, Brazil and the Republics of Central and South America will cease to hold commercial intercourse with Europe, or that European holders of the indebtedness of those states will cease to exercise very potential influence in their affairs, and in the end control, it is feared, any conference to be assembled under the proposed bill. There is no danger that the primacy of the United States of America upon this continent, which comes of their situation, population, wealth, enterprise, energy and determination to assert their rights, will be questioned or denied. But it is true, nevertheless, that we seek an outlet for the surplus product of our skill and our prosperous labor, and for that reason we should welcome the enlargement of "such peaceful and reciprocal commercial relations" between us and the Spanish races to the south of us. For the same reason we should encourage similar "peaceful and reciprocal commercial relations" with the five millions and more of people of our own race, speaking our own language, reading our newspapers, and living under laws and political institutions similar to our own. And for the same reason we should encourage "peaceful and reciprocal commercial relations" with the peoples who inhabit the islands of the Gulf of Mexico, and the surrounding seas, which islands are now the colonial dependencies of European governments. But the Dominion of Canada to the north of us and the islands of the Gulf to the south of us are excluded from the arrangements contemplated in the proposed bill.

Nothing is now so desirable for our own people as a free and reciprocal interchange of products between ourselves and the people of other nations on this continent. But what now hinders such free interchange so much as our tariff laws? If this Government shall invite Brazil, Mexico and the republics of Central America and South America to join us in a conference to promote such free and reciprocal interchange of products, what concessions in our tariff schedules is the President to be authorized to instruct our commissioners to propose on our part? The question of our own tariff will naturally and immediately come up for discussion and consideration. Shall, for example, our commissioners be authorized to offer to the Argentine Republic to admit its wool into our ports free of duty?

No one can be more sensible than I am of the great advantages which in our country flow from that free commercial intercourse, unvexed by tariffs or custom-houses, which the Federal Constitution secures. I wish by some possible and wise contrivance, those advantages now enjoyed by and between Maine and California, Florida and Alaska, could be realized by and between every nation and every producer on this hemisphere from Baffin's Bay to Cape Horn. But is this Government now in a condition to successfully ask in a diplomatic way the accomplishment of such a result? To use Mr. Gladstone's language, should we not first of all begin to govern ourselves in tariff matters with "justice and moderation?" And then, too, does opinion in this House tend to tolorate a reform or protective system by treaties? What is to be the fate of the Sandwich Islands treaty and Mexican treaty? Is there not a

disposition against the sugar arrangements of the Hawaiian Islands treaty to even sacrifice the great political and naval advantages which that treaty gives to us, situated as these islands are in the track of traffic between California and China, Japan and Australia?

And if we cannot successfully compete in our own jurisdiction with foreign manufacturers, excepting by the aid of prohibitory or impeding tariff rates, I am at a loss to understand how our commissioners to the proposed conference can convince Mexico or Brazil or the Republics of Central and South America that we can, in their jurisdiction, compete successfully against those same manufacturers and offer our products at cheaper prices than European manufacturers can offer similar articles.

So far as this bill (7267) endeavors to accomplish an increase of trade by the exchange of products between the people of our own United States and the people living under other governments on this continent (including the colonies hereon possessed by European governments) the object is one which deserves encouragement and success, but it may well be doubted whether such an object can be best promoted by international conferences and treaty stipulations. So far as the welfare of our own Government is concerned, it is to be feared, as I have already said, that the deliberations of an international conference between the representatives of this Government and of other independent governments established and having the seat of authority on this continent, would be in danger of injurious interference, so far as this government is concerned, by the intrigues of those in Europe who are the holders of so large a part of the indebtedness of Central American or South American States.

It is true that the trade and commercial intercourse now existing between foreign peoples on this continent and other peoples are not altogether carried on with ourselves. The following statements will exhibit the population of the independent states on this continent, including the colonial Dominion of Canada, and the relation of trade carried on by them with the United States to the trade carried on by them with Great Britain, and the vessels in which it is carried on:

	Argentine Republic.	Brazil.	Central America.	Chili.	Colombia.
Population	2,406,000	10,108,291	2,900,000	2,400,396	2,951,323
Exports to Great Britain	$5,793,965	$23,507,165	$6,526,950	$12,977,465	$2,166,389
Imports from Great Britain	29,692,295	33,946,215	4,624,560	11,060,880	6,107,645
Exports to United States	4,328,510	45,263,660	6,409,001	604,525	2,342,007
Imports from United States	4,317,293	7,317,293	2,762,531	2,211,007	5,583,368

	Mexico.	Peru.	Venezeula.	Uruguay.	Dominion of Canada.
Population	9,389,461	3,050,000	2,075,245	447,000	4,750,000
Exports to Great Britain	$3,502,500	$10,414,170	$1,300,565	$3,283,625	$45,558,556
Imports from Great Britain	5,415,765	6,235,685	3,028,680	8,131,640	44,727,095
Exports to United States	9,267,021	1,764,890	6,309,580	2,734,617	39,000,000
Imports from United States	8,340,784	742,105	3,043,609	1,682,443	50,000,000

Total values of free and dutiable merchandise imported into the United States from Mexico and Central and South America during the year ending June 30, 1885, with the estimated amounts of duty collected on such imports.

Countries from which imported.	Value of merchandise.			Estimated amounts of duty collected.
	Free of duty.	Dutiable.	Total.	
Argentine Republic	$3,154,337	$1,174,173	$4,328,510	$364,933 28
Chili	399,464	205,061	604,525	68,386 89
Mexico	5,173,441	4,093,580	9,267,021	635,960 72
Central American States	6,149,873	259,142	6,409,015	140,759 88
United States of Colombia	2,335,083	6,994	2,342,077	1,714 68
Venezuela	6,267,887	41,693	6,309,580	20,297 40
Peru	1,749,632	15,258	1,764,890	5,148 06
Brazil	38,136,191	7,127,469	45,263,660	6,607,377 15
Uruguay	2,317,139	417,478	2,734,617	255,480 80
Bolivia, Ecuador, Paraguay, and Patagonia	753,321	280	753,601	140 00
Total	66,436,368	13,341,128	79,777,496	8,100,198 86

	Per cent.
Total value of merchandise free of duty	83.28
Total value of merchandise subject to duty	16.72
Equivalent ad valorem rate of duty on—	
Dutiable merchandise	10.15
Free and dutiable merchandise	60.72

Statement showing the value of imports and exports of merchandise carried in American and foreign vessels, respectively, in the foreign trade of the United States with Mexico, Central America, the West Indies, and South America during the year ending June 30, 1885.

Countries.	Imports.		Exports.		Total.	
	In American vessels.	In foreign vessels.	In American vessels.	In foreign vessels.	In American vessels.	In foreign vessels.
Mexico*	$3,748,890	$2,841,767	$4,799,254	$1,560,359	$8,548,144	$4,402,126
Central American States and British Honduras	4,915,347	1,712,028	2,377,733	754,551	7,293,080	2,466,579
THE WEST INDIES.						
Cuba	28,975,822	13,330,271	8,074,752	931,408	37,050,574	14,261,679
British West Indies	2,560,874	7,802,507	2,589,694	4,621,185	5,150,568	12,423,692
Porto Rico	2,590,135	3,514,128	691,113	878,092	3,281,248	4,392,220
Hayti	626,464	1,844,972	1,080,286	2,227,021	1,706,750	4,071,993
San Domingo	1,311,746	149,673	937,566	49,135	2,249,312	198,808
French West Indies	419,654	727,861	752,205	666,768	1,171,859	1,394,629
Dutch West Indies	233,479	153,189	440,463	226,379	673,942	379,568
Danish West Indies	169,275	167,028	435,836	150,323	605,111	317,351
Total	36,887,449	27,689,629	15,001,915	9,750,311	51,889,364	37,439,940
SOUTH AMERICA.						
Brazil	10,108,298	35,155,362	3,681,883	3,635,410	13,790,181	38,790,772
United States of Colombia	774,597	1,567,480	4,917,069	666,300	5,691,666	2,233,780
Venezuela	4,357,892	1,951,688	2,128,394	915,215	6,486,268	2,866,903
Argentine Republic	3,338,446	999,064	2,543,715	2,132,786	5,882,161	3,122,850
Uruguay	496,594	2,238,023	382,402	1,300,041	878,996	3,538,064
Chili	290,342	314,183	1,581,687	629,320	1,872,029	943,503
British Guiana	390,309	531,045	875,886	764,771	1,266,195	1,295,816
Peru	811,245	953,645	511,585	230,520	1,322,830	1,184,165
Dutch Guiana	258,212	7,127	277,364	21,654	535,576	28,781
French Guiana	1,803	.....	81,184	29,660	82,987	29,660
All other South America	558,224	195,377	383,740	44,271	941,964	239,648
Total	21,385,962	43,903,994	17,364,909	10,369,948	38,750,871	54,273,942
Grand total	66,937,648	76,147,418	36,725,728	22,435,169	102,590,850	98,582,587

* In addition to the merchandise stated as imported and exported in vessels, merchandise to the value of $2,676,364 was imported, and merchandise to the value of $1,981,171 was exported "in cars and other land vehicles."

Until there shall be a reform of our own laws of currency and taxation, and a plan adopted that promises permanency, there will be, it is feared, little hope of a successful result of diplomatic negotiations with the neighboring governments on this continent looking to an increase of trade and commercial intercourse by them with ourselves. What reply could our representatives make to-day when asked what our policy about currency and taxation is to be? The theory of our existing tariff legislation is that our own manufacturers can only be saved alive against foreign competition by preventing, through a custom-house tax on nearly every completed manufacture our own people from buying a similar fabric in a foreign country. That tariff legislation has, it is believed, created the very evil which the proposed bill and one of the proposed joint resolutions would endeavor to remove.

One of the difficulties with which we in the United States have now to contend is that, by reason of our present tariff laws, we cannot in our own workshops compete with European manufacturers, notwithstanding the great advantage we have from the efficiency of better paid and better educated labor. So long as such tariff laws shall be maintained, it is not believed that any diplomatic negotiations will enable the United States to do in the Dominion of Canada, or in Mexico, or in Central America, or in South America what we cannot do at home—which is to compete with European manufacturers. Freedom to *buy* in these communities we now have, and we can enlarge its use to any degree, but freedom to *sell* to those communities we can only enlarge by producing equally good articles which we will sell at least as cheaply as our European competitors. All schemes whatever for retaining a protective system and gaining foreign markets are impossible of success, no matter how many railways we may build or steamships we may subsidize. It will be seen from the statistics already given that a large part of the products of our neighbors to the south of us are now admitted at our custom-houses free of duty, but the difficulty of increasing the exports of our manufactured products to those countries remains, because our protective tariff inflicts what, owing to the increased cost of manufacture, is in effect *an export tax* upon our products, which frustrates the efforts of our enterprising and inventive people to have more complete possession of the neighboring markets upon this continent.

The annual report of Secretary Manning to Congress, and his subsequent communications on currency, taxation and tariff reform, together with the recent report of the Bureau of Labor, clearly indicate how and when a removal of the existing business depression is to come. A rehabilitation of silver, and a restoration of the old price of that metal by open mints for all comers bringing gold or silver; free coinage of full legal-tender coins of both metals on an international ratio contemplated by the second section of Mr. Bland's law of 1878, and endeavored to be promoted by Secretary Bayard; a sound system of finance; and a wise adaptation of the burden of taxation to the back that must bear it, will do more to open markets for our products in South America than will any diplomatic negotiations to be carried on by the President, and should precede such attempted negotiations.

PERRY BELMONT.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1649.

SCHUYLKILL RIVER EAST SIDE RAILROAD COMPANY, PHILADELPHIA.

APRIL 15, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ERMENTROUT, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 880.]

The Committee on Military Affairs, to whom was referred Senate bill 880, *have considered the same, and report:*

A bill similar to this (H. R. 2017) has already been favorably reported upon by the House. The report in the case (House Report No. 1399) and also Senate Report No. 419 are hereby made part of this report, and your committee recommend that Senate bill 880 do pass, and that House bill 2017 lie on the table.

[House Report No. 1399, Forty-ninth Congress, first session.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2017) granting the right of way to the Schuylkill River East Side Railroad Company through the Arsenal and Naval Asylum grounds at Philadelphia, Pa., having had the same under consideration, beg leave to submit the following report:

The location of the line of this railroad through the property of the arsenal, in the city of Philadelphia, covers a space of 205.57 feet in length by 60 feet in width. The line occupies ground between high and low water marks, which is wholly unused by the Government. A provision of the bill requires the railroad company to extend a substantial bulkhead along the port-warden's line in front of the arsenal property. This will not only materially benefit and extend the property of the Government, but will also improve the sanitary condition of the location by filling in the marshy ground between the proposed track and the port-warden's line. This will give the Government a good landing for shipments by the river should it be desirable at any future time for such purposes.

The location of the railroad line through the property of the United States Naval Asylum covers a space on the Schuylkill River of 376.69 feet in length by 60 feet in width, with the exception of a space of 85 feet in length. The entire location is between high and low water marks, the space of 85 feet is occupied by a wharf, with which the location of the railroad line does not interfere, the front being 100 feet outside of the railroad limits. None of this property is used by the Government for any purpose. By the filling in and construction of this railroad line, and the filling in and grading of the property outside of this line to the level of the wharves on the river front, similar improvement in the sanitary condition of the neighborhood and advantages to the Government will be secured.

This bill has been submitted to both the Secretary of War and the Secretary of the Navy for their approval, and has been returned with letters containing the views of these officers as to the propriety of granting the right of way on the Government property, both of which letters are printed with this report. The Secretary of War expresses the opinion that the right can be granted without serious injury to

which case the committee are of opinion that the rights of the Government ciently protected by the provisions of the bill and the proposed amendmen this amendment they therefore recommend that the bill do pass.

AMENDMENT.

After the word "Philadelphia," in line 25, insert the following:

"*Provided, also*, That the company construct a proper switch and siding, able means for crossing to the wharf, for the purpose of shipping and receivin by water."

NAVY DEPARTMEN
Washington, March 27

SIR: I have the honor to acknowledge the receipt of your letter of Januar closing copy of House bill 2017, covering also the request of the Schuylkill Ri Side Railroad Company to a right of way through the grounds of the Naval at Philadelphia, and requesting my opinion as to the advisability of the prop so far as it relates to the grounds of the Naval Asylum.

The passage of the railroad across the Naval Asylum grounds is undesir Naval Hospital being within 500 feet of the proposed crossing. But the ob are not of such a nature as, in my judgment, to entitle the Department to i against public enterprise of such a character as this. It may or may not be nuisance to the hospital and to the adjoining grounds, according as this cr used. If trains are allowed to stand in the neighborhood, cutting off the wa and switching with the noise of bells and locomotives which those things would be of serious inconvenience to the hospital, and perhaps in the end re removal of the hospital to some other locality. The value of the remainin front will also depend very largely upon the manner in which the right of wa by the railroad.

I would, therefore, suggest that in any law that should be passed with rel this matter that the boar[illegible] authorized to pass upon the question of damages location should be entitled to annex conditions to the use of the right of way they may deem judicious and proper under the circumstances, to be accepte railroad company prior to any entrance upon the land.

Very respectfully,

W. C. WHITNE
Secretary of the

Hon. DANIEL ERMENTROUT,
Committee on Military Affairs, House of Representatives.

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be laid where proposed without serious injury to the public interests in so far as this Department is concerned."

These views are concurred in.

In this connection it is proper to state that application was made to the Department by the railroad company in question for the right of way across the Schuylkill Arsenal grounds; but as such right of way contemplated a permanent occupancy, the company was advised that application should be made to Congress for the desired privilege.

Very respectfully, your obedient servant,

WM. C. ENDICOTT,
Secretary of War.

Hon. DANIEL ERMENTROUT,
Of the Committee on Military Affairs, House of Representatives.

[Senate Report No. 419, Forty-ninth Congress, first session.]

The Committee on Military Affairs, to whom was referred the bill (S. 880) granting the right of way to the Schuylkill River East Side Railroad Company through the Arsenal and Naval Asylum grounds at Philadelphia, Pa., having had the same under consideration, beg leave to report:

The right of way asked through the Arsenal grounds will, if granted, be a way 205.57 feet in length by 60 feet in width. That part of the Arsenal grounds intended to be thus occupied lies between high and low water marks. It is vacant ground not likely to be applied to any Government use. Under the provisions of the bill the railroad company is required to construct a bulkhead along the port-warden's line on the Schuylkill River in front of the Arsenal property. The filling up, thus made necessary, will actually enlarge the property of the Government and will remove many causes of disease.

The right of way asked through the Naval Asylum grounds will, if granted, be a way 376.69 feet in length by 60 feet in width, with the exception of a space 85 feet in length. The part of the Naval Asylum grounds intended to be thus occupied lies also between high and low water marks. The space of 85 feet, to which reference has been made, is occupied by a wharf. The location of the proposed railroad does not interfere with this wharf in any manner. The part of the Naval Asylum grounds through which the proposed railroad will extend is not used by the Government for any purposes. The filling up of the marsh land on the Naval Asylum grounds, which will be made necessary by the construction of the proposed railroad, will add materially to the value and healthfulness of the Government property.

This bill has been submitted to the Secretary of War and to the Secretary of the Navy by the Committee on Military Affairs of the House of Representatives. (See House Report No. 1399.) The Secretary of War suggested an amendment to the bill providing for the construction of a proper switch and siding, and of suitable means for crossing to the wharf for the purpose of shipping and receiving freight by water. With this amendment the War Department was of opinion that the proposed track could be laid through the Arsenal grounds without serious injury. Your committee has made this precise amendment to the bill.

The Secretary of the Navy apprehended that some annoyances might arise if trains were allowed to stand in the neighborhood of the Naval Asylum, cutting off access to the water front, or from the noise of bells upon the trains, or from the steam-whistles on the locomotives. He suggested that such conditions should be annexed to the grant of the right of way, through the Naval Asylum grounds, as would sufficiently obviate the risk of these inconveniences. Your committee have annexed such conditions by a proper amendment made to the bill.

The form of the amendment made at the suggestion of the Secretary of War has been communicated to that officer, as is shown by the House report referred to, and is satisfactory to him. The precise form of the amendment annexing conditions to the use of the right of way, which was suggested as proper by the Secretary of the Navy, has been more recently submitted to that officer and approved by him.

The committee, therefore, in reporting this bill in its amended form, are satisfied that every proper precaution has been taken to protect the interests of the Government as a proprietor. Such precaution having been taken, it is right that the Government should grant the right of way asked for without imposing further conditions upon the railroad company. The line of railway which will traverse the Arsenal and Naval Asylum grounds is a part, and an indispensable part, of a new line of railway extending from the city of Washington to the city of New York.

Your committee therefore recommend that the bill as amended should pass.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1650.

KENSINGTON AND TACONY RAILROAD COMPANY, PHILADELPHIA.

APRIL 15, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ERMENTROUT, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 7885.]

The Committee on Military Affairs, to whom was referred House bill 243, granting the right of way to the Kensington and Tacony Railroad ompany through the grounds of the Arsenal at Bridesburg, Philadelhia, have had the same under consideration, and beg to report a subitute therefor.

From the evidence submitted to them they are satisfied that the inrests of the Government would be subserved by the construction of e Kensington and Tacony Railroad through the Arsenal grounds as oposed, as in this manner the property of the United States at that int would have direct rail communication with the Philadelphia and enton Railroad, and through that line with the entire system of the nnsylvania Railroad Company, so that not only the transportation of wder, arms, and other military supplies would be greatly facilitated d rendered less dangerous and expensive than by wagon transportan, but in such emergencies as happened during the riots of 1877, en large quantities of arms and ammunition had to be promptly nsported to all parts of the country, the possession of such facilities uld be absolutely indispensable. The location of the proposed Kengton and Tacony Railroad does not interfere in any manner with any he improvements of the Government upon the Arsenal grounds, and tead of damaging its property, adds materially to its value.

he committee, therefore, recommend the passage of the proposed stitute, the location of the said railroad to be approved by the Secary of War and to follow the general route laid down upon the acpanying map.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1651.

MARTIN MURPHY.

APRIL 15, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ERMENTROUT, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 2156.]

The Committee on Military Affairs, to whom was referred House bill 2156, *beg leave to submit the following report:*

That having examined the testimony in this case and duly considered the same, they are led to the conclusion that Martin Murphy was a faithful soldier, with a good record up to the date of leaving the hospital in 1864, which constitutes the charge of desertion. The evidence shows that said Murphy was wounded on the 8th day of May, 1864, at Spottsylvania, Va. He was first sent to Carver Hospital, and afterwards to the General Hospital, Albany, N. Y., where he was on the 28th July, when he was taken to his home, 9 miles away. It appears that he left the hospital without leave and never returned; but, in mitigation of his offense, it is shown by his own testimony and that of his brother Michael, and supported by Patrick O'Neil and John Neagle, that at no time prior to the muster out of his company was he sufficiently recovered from the effects of his wound to do duty. It also appears in evidence that prior to the date of the application to the War Department for a discharge, the doctor who attended him in his sickness had died. This testimony is only rebutted by the conclusions of the Surgeon-General, whose opinion was asked "whether on the wound received the case was made out, and who replied that "the gunshot wound was not of sufficient gravity to prevent the soldier from completing his enlistment." The committee are of the opinion that a charge which must affect a soldier's standing through life and his name after death should not be permitted to stand simply because a Surgeon-General gives it as his opinion that the healing of a gunshot wound should not require the time claimed by the testimony in this case. They therefore recommend the passage of the bill.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1652.

JOHNSON S. PRALL.

APRIL 15, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ERMENTROUT, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 329.]

The Committee on Military Affairs, to whom was referred House bill 329, beg leave to submit the following report:

An examination of this case, and of the evidence hereto appended, satisfies your committee that the application deserves favorable consideration, and they therefore recommend that the bill do pass.

The affidavit of the beneficiary and letter of the Adjutant General of the Army are annexed hereto and made a part of this report.

STATE OF ILLINOIS,
Cook County, ss:

Johnson S. Prall, being duly sworn, on oath says that he is forty-eight years of age; a resident of Highland Park, Lake County, Illinois, and a native-born citizen of the United States. That in the month of October, 1861, he enlisted in Company I, First Regiment Michigan Engineers and Mechanics, with his brother, Lieut. Theo. H. Prall, since deceased, and was duly mustered into the United States service on or about October 29, 1861. Soon after he received from Capt. Spencer Mather, of Company K, First United States Sharpshooters, a personal friend in civil life, a promise of a lieutenancy if he would get transferred and would recruit for his, Mather's, company. Through his brother, Lieut. Theo. H. Prall, he obtained a ten days' furlough with the express understanding and promise, given, as affiant believes and was informed, with the consent of the colonel of the regiment, that upon furnishing a substitute affiant could be transferred without other formality. Affiant went to Pontiac, Mich., and within six days sent into camp by one Phillip Meyers, since deceased, a substitute and afterwards received a letter from Lieutenant Prall informing him that the said substitute had come to camp and been duly enrolled as affiant's substitute, and that affiant was released from service with said regiment of Engineers and Mechanics.

Affiant states that he was totally ignorant of any wrong action on his part in the action taken by him above, and trusted entirely to his officers and their representations; that he has forgotten the name of the substitute by him furnished, but remembers that he paid some seven dollars to send him to the camp of the Engineer Regiment at Marshall, Mich.

Affiant began recruiting for the First United States Sharpshooters November 5, 1861, and recruited in several counties in Michigan until March 20, 1862, and was then ordered with the company under Captain Mather, to Washington, D. C., and was with said company as a sergeant through all the engagements of the Peninsula campaign, in which the company and regiment (the First United States Sharpshooters) took part, until June, 1862, just previous to the seven days' fights. Affiant took part as above in the siege of Yorktown, the battles at West Point and Hanover Court House, and various skirmishes. That in June 1862, affiant was sent with Captain Willetts, of Company B of his regiment, to Michigan, to recruit for the regiment and was stationed, by Colonel or General Smith, commanding at Detroit, at Pontiac, and began recruiting but was soon after taken sick with typhoid fever, and finally discharged at Detroit in July, 1862, on account of disability from said sickness. Affiant never knew until within the last few years that he was carried on the rolls of the First

Michigan Engineers and Mechanics as a deserter. Never had any intention to desert from the service and in all respects, while in the said service, tried to do his duty as a good soldier.

JOHNSON S. PRALL.

Sworn to and subscribed before me this 23d day of March, A. D. 1886.
[SEAL.] WM. ELIOT FURNESS,
Notary Public.

STATE OF KANSAS,
McPherson County, ss:

Clement F. Miller, being duly sworn, on oath says that he was first lieutenant and adjutant of First Regiment Michigan Engineers and Mechanics; that he has read the foregoing affidavit of Johnson S. Prall, and that he believes that the part of said affidavit relating to the enlistment of the said Johnson S. Prall in Company I of said First Regiment of Michigan Engineers and Mechanics and of his leaving said company and regiment are true, and that he distinctly remembers of said Prall obtaining a leave of absence, and that, to the best of his recollection, a substitute was procured by said Prall, and said substitute was mustered into service.

CLEMENT F. MILLER.

Subscribed and sworn to before me this 30th day of March, A. D. 1886.
[SEAL.] E. L. LOOMIS,
County Clerk.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, February 11, 1886.

SIR: I have the honor to return herewith House bill No. 329, Forty-ninth Congress first session, for the removal of the charge of desertion against Johnson S. Prall, late of Company I, First Regiment Michigan Engineers and Mechanics Volunteers, referred by the chairman of the House Committee on Military Affairs under date of January 12, 1886, for whatever the records of this office may afford, and the views of the Department relative to the case, and in compliance with your instructions on letter of transmittal to report as follows:

Johnson S. Prall was enrolled October 1, 1861, and mustered in October 29, 1861, to serve three years in Company I, First Michigan Engineers and Mechanics. There is nothing on muster-roll of company from date of his enrollment to December 31, 1861, to indicate either his presence or absence, but on muster-rolls from December 31, 1861, to June 30, 1862, he is reported "Absent since December 17, 1861," cause of absence not stated. On rolls covering from June 30, 1862, to October 31, 1862, he is borne as "Absent without leave from August 1862," with remark "Enlisted in Berdan's Sharpshooters." He was dropped from rolls December 31, 1862, and on muster-out roll of company dated September 22, 1865, he is reported "Deserted December 17, 1861, at Marshall, Mich., enlisted subsequently in Berdan's Sharpshooters." There is no record that he furnished a substitute or received a leave of absence, as alleged by him.

Johnson S Prall was enrolled November 12, 1861, and mustered March 15, 1862, to serve three years in Company K, First United States Sharpshooters and served in that organization until July 16, 1862, when he was discharged for disability while holding the grade of sergeant.

In application for removal of the charge of desertion presented to this office by the soldier, he states that after enlisting in Company I, First Michigan Engineers and Mechanics, he was offered a lieutenant's commission if he would assist in recruiting a company for Berdan's Sharpshooters; that his captain went with him to the colonel of his regiment, who told him if he would furnish a substitute he could go and it would be all right; that he was given verbal leave of absence by his colonel, to enable him to recruit for the Sharpshooters on condition that he furnish a substitute, which condition he complied with; that his company commander and first sergeant were knowing to the consent given by the colonel, but that both are now dead; that he assisted in recruiting men for Company K, First United States Sharpshooters, was made sergeant of that company and served therein until discharged, September 11, 1862.

On March 19, 1885, the application was denied by this office on the ground that his enlistment in the First United States Sharpshooters without a discharge from the First Michigan Engineers and Mechanics constituted him a deserter by operation of law (22d now 50th Article of War), and the Department was, consequently, powerless to afford relief in the premises.

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

R C. DRUM,
Adjutant-General.

The SECRETARY OF WAR.

)ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 1653.

RANDE, MEXICO AND PACIFIC RAILROAD COMPANY.

APRIL 15, 1886.—Laid on the table and ordered to be printed.

IMENTROUT, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 670.]

mmittee on Military Affairs, to whom was referred the bill (H. R. to authorize the Rio Grande, Mexico and Pacific Railroad Company rchase certain lands, beg leave to submit the following report:

r due examination by the War Department, said Department lvised against passage of the same, in which conclusion your ttee concur, and report the bill adversely, and recommend that pon the table.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1654.

FRANCIS J. CONLAN.

APRIL 15, 1886.—Laid on the table and ordered to be printed.

Mr. CUTCHEON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 2125.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2125) for the relief of Francis J. Conlan, report as follows:

This bill is to direct the Secretary of War to issue an honorable discharge to Francis J. Conlan, from Light Battery G, Fifth United States Artillery, as of date October 15, 1867, and to amend the military record of said Conlan *to show that he was not dishonorably discharged*, and pay him all pay, bounty, and allowances that may be due him without reference to said dishonorable discharge.

The military record of this man is shown by the following report from the Adjutant-General's Office:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, D. C., March 6, 1886.

Francis J. Conlan enlisted on the 15th day of October, 1864, and was assigned to Battery G, Fifth Regiment of United States Infantry. The muster-roll of said battery for March and April, 1866, reports him, "absent in confinement awaiting sentence of a general court-martial." He was tried for violation of the ninth Article of War, viz, "Any officer or soldier who shall strike his superior officer, or draw or lift up any weapon, or offer any violence against him, being in the execution of his office, on any pretense whatsoever, or shall disobey any lawful command of his superior officer, shall suffer death, or such other punishment as shall, according to the nature of his offense, be inflicted upon him by sentence of a court-martial;" was found guilty and sentenced to be dishonorably discharged the service of the United States and to be confined at hard labor for the period of two years at Columbus, Ohio. Proceedings of court promulgated in general court-martial order No. 22, Department of Arkansas, April 30, 1866. The muster-roll of company for May and June, 1866, shows that he was discharged May 2, 1866, at Little Rock, Ark., in accordance with sentence of the general court-martial, a private.

J. C. KELTON,
Assistant Adjutant-General.

There has been furnished the committee, in support of the bill, the affidavit of Thomas Young, formerly of Light Battery G, to which Conlan belonged. He says:

I remember the facts of the case, as they were known to all the members of the battery. Private Conlan had been absent from the quarters on a pass, and was returning under the influence of drink. He met Colonel Arnold, who ordered him to the guard-house. Instead of complying, Private Conlan stood, and he and Colonel Arnold had some words, which ended by Colonel Arnold striking Conlan, and after a struggle between them assistance came to Colonel Arnold, and Conlan was taken to the

guard-house and tied up to a cart-wheel. After being tied up for a time, he was put in one of the cells and kept until morning, when he was taken before the court-martial, which was then in session. He was not allowed to return to his company quarters after his trial. He was conveyed immediately to the Arkansas prison, outside the city of Little Rock, Ark. * * *

When the sentence of the court-martial was read to the members of the battery, we all were surprised at the severity of it, particularly in the case of Conlan, who was considered one of our best men, and we all thought that the most he would get would be about a month in the guard-house, with perhaps a ball and chain or a fine of $5.

The affidavit of Conlan himself does not differ materially in its statement of the occurrence out of which his arrest arose from that of Thomas Young, as above; but he charges that Colonel Arnold, after he had, with assistance of Lieutenant Post, overcome him, beat him inhumanly. That he had no opportunity to prepare for his trial, which came on the next day, and that his accuser, Colonel Arnold, was the president of the court that tried him and sentenced him, although, as affiant states, he had himself excused from sitting in this case, yet he remained in the room "until they had fixed up everything to suit." The sentence of the court was that he should be "dishonorably discharged from the service of the United States, and be confined at hard labor for two years at such military prison as the proper authority may direct."

The sentence was approved by the department commander, and the Ohio State prison, at Columbus, was selected as the place of confinement.

Conlan was dishonorably discharged, and served out his time in the Columbus prison, making a hundred days "good time" for good conduct, and was discharged February 8, 1868.

James F. Gregory, lieutenant colonel and aide-de-camp, certifies, under date of December 21, 1883, in a letter to Conlan, as follows:

From the time I joined the battery (December, 1865) until the day you were placed under arrest (I think in the early summer, 1866), you were considered, I believe, by all the officers—certainly by myself—one of the best men in the battery.

It appears from an unsworn statement of said Conlan, addressed to Hon. John A. Logan, and filed with the committee, that subsequent to his discharge from confinement Conlan enlisted in the Navy of the United States, and served an entire term of enlistment on board the steamer Benicia in the Chinese waters, and was discharged with what is known as a "big discharge" and a "good-conduct badge," in October, 1872.

Since then he was for some years a commissioned officer in the Pennsylvania National Guard. From the evidence before the committee the unfortunate affair for which he was court-martialed seems to be the one blot upon his record, and having regard to both his previous and his subsequent life, the committee must deeply regret that it should have occurred.

It is a very trite saying that men do in a moment what they regret for a life-time.

Nor can we resist the conclusion that his trial took place too near to the offense and under circumstances that rendered it probable that his punishment was more than commensurate with the offense.

But no amount of sympathy can change the fact. He was guilty of a violation of the ninth Article of War, the extreme penalty of which is death.

He disobeyed the lawful command of his superior; he did "offer violence" to his superior officer; he was convicted by due course of

y procedure; he was dishonorably discharged the service, and
rve a term of two years in the State prison at Columbus for
in civil life, would have been considered a trivial offense.
cannot certify to the contrary. We cannot now put an honora-
charge in place of a dishonorable one, however much we may be-
hat his punishment was an excessive one.
think that it is too late now to change this record of twenty years
ad so recommend that the bill do lie upon the table.

GRESS, } HOUSE OF REPRESENTATIVES. { REPORT
sion. } { No. 1655.

ORRECT THE RECORD OF CERTAIN SOLDIERS.

APRIL 15, 1886.—Laid on the table and ordered to be printed.

HEON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 1777.]

nittee on Military Affairs, to whom was referred the bill (H. R. To authorize the Secretary of War to correct the record of cer-ritorious soldiers of the late war, and secure to them an hon-lischarge from the service, and to provide for the payment of ıry and bounty withheld from such soldiers by reason of their desertion," have had the same under consideration, and submit owing report:

it section of said bill provides—

olunteer soldier who served in the late war faithfully according to the enlistment until the 9th day of April, A. D. 1865, shall be deemed or held n a deserter from the Army, &c.

y difference, in effect, between this provision and the existing t the latter fixes the date for the termination of hostilities at 65, while this bill places it at the date of Lee's surrender, April

nmittee is of the opinion that no change in that respect ought le.

he date of Lee's surrender the army of Johnston in the Caro-ained for some time intact, and other forces of the Confederates with unbroken organizations, and for aught that any man in could know hostilities might continue for months. We are of on that no man was excusable for leaving his colors and his until a more definitive close of hostilities. We think that the earliest date which could properly be fixed for the close

ond section provides that—

tary of War be, and he is hereby, authorized upon such proof as he may ient, taken and presented under and in accordance with such regulations prescribe, to correct the record of any soldier who served in the war of the c.

oses to vest in the Secretary of War the same discretionary t is now vested in Congress for the removal of the charge of

act of 1884, the Secretary of War was authorized and directed

to correct the record of soldiers belonging to all the general cla
which it was believed could safely and properly be relieved in that

We are not prepared to say that there is any other general class w
relief should be made a matter of right; and to repose a discretic
cases not within the general classes, would in effect open up every
not included in such general classes, which the committee do not t
would be wise, and therefore report said bill adversely, and recomm
that it do not pass.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1656.

GEORGE H. MELOY.

APRIL 15, 1886.—Laid on the table and ordered to be printed.

Mr. CUTCHEON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 5428.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 5428) for the relief of George H. Meloy, report as follows:

George H. Meloy was drafted into the service of the United States September 4, 1863, to serve for three years, and was assigned to Company C, One hundred and forty-third Pennsylvania Volunteers.

August 18, 1864, he was tried and convicted of desertion, and was sentenced "to forfeit all pay and allowances now due, and to forfeit $10 per month of his monthly pay for the period of eighteen months, and to make good all time lost by his desertion."

No evidence is presented to the committee to show that this finding and sentence was incorrect. The only evidence before the committee is the accompanying report of the Adjutant-General, dated March 5, 1886.

The committee cannot recommend the reversal of the judgment of a general court-martial in a case of this kind, and recommend that the bill do not pass.

WAR DEPARTMENT,
ADJUTANT-GENERAL'S OFFICE,
Washington, March 5, 1886.

SIR: I have the honor to return herewith House bill 5428, Forty-ninth Congress, first session, authorizing the setting aside of the sentence of a general court-martial in the case of George H. Meloy, late private Company C, One hundred and forty-third Pennsylvania Volunteers, transmitted by the chairman of the House Committee on Military Affairs, and in compliance with instructions thereon to report as follows:

George H. Meloy was drafted into the service of the United States September 4, 1863, to serve for three years, was assigned to Company C, One hundred and forty-third Pennsylvania Volunteers, and served therein until May 10, 1864, when he is reported (on muster rolls covering from that date to August 31, 1864) as "absent; wounded in action." He was present for duty with his company from on or about September 1, 1864, to June 12, 1865, when he was mustered out with it. (There is no record of the capture of this soldier by the enemy.)

On or about August 18, 1864, he was tried before a general court-martial, convened at Alexandria, Va., on the following charge and specification, to wit: Charge, desertion; specification, "in this, that he * * * did, without proper authority, absent himself from his company and regiment, and so remained until apprehended at or near Edward's Ferry, on the Potomac River, on or about the 23d day of May, 1864. This at or near Fredericksburg, Va., on or about the 17th day of May, 1864." He was found guilty of both the charge and specification, and sentenced to be returned to his regiment for duty, "with loss of all pay and allowances now due, and forfeit $10 per month of his monthly pay for the period of eighteen (18) months, and make good

all time lost by desertion." The proceedings, findings, and sentence of the court were approved by the military governor of Alexandria, Va., and duly promulgated August 18, 1864.

There is no evidence touching the case of this soldier now on file in this office, an application for removal of the charge of desertion having been returned to him with the information that there was no provision of law under which the Department could reopen the case of a soldier convicted of desertion by a general court-martial, the sentence of which had been carried into execution.

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

R. C. DRUM,
Adjutant-General.

The Hon. SECRETARY OF WAR.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1657.

JOHN KNOCKELMANN.

APRIL 15, 1886.—Laid on the table and ordered to be printed.

Mr. CUTCHEON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 3952.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3952) to remove the charge of desertion from the record of John Knockelmann, respectfully report:

That the only evidence presented to the committee in support of said bill is the report of the Adjutant-General, under date of March 13, 1886, appended hereto. From this it appears that said John Knockelmann enlisted February 3, 1862, to serve three years, in Company K, Fifty-fourth Ohio Volunteers, and served therein until December 20, 1862, when he deserted and never returned.

It does appear that September 13, 1864, he enlisted in Company B, Fifty-third Kentucky Regiment, in which organization he served until September 15, 1865, when he was mustered out. But there is nothing in the evidence to satisfy the committee that he did not desert his first command, and until so satisfied they cannot recommend a change in the record.

They therefore recommend that the bill do lie on the table.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, March 13, 1886.

SIR: I have the honor to return herewith House bills 3952 and 5533, Forty-ninth Congress, first session, authorizing removal of the charge of desertion against John Knockelmann, late of Company K, Fifty-fourth Ohio Volunteers, transmitted by the chairman of the House Committee on Military Affairs, and in compliance with instructions thereon to report as follows:

John Knockelmann was enrolled and mustered in February 3, 1862, to serve three years, in Company K, Fifty-fourth Ohio Volunteers, and served therein until December 20, 1862, when he deserted and never returned. A careful search of the records of this office has failed to elicit any evidence of his discharge from this regiment, or of his whereabouts from December 20, 1862, to September 13, 1864, when he was enrolled at Covington, Ky., to serve one year in Company B, Fifty-third Kentucky Volunteers, in which organization he served until September 15, 1865, when he was mustered out of service.

In an application for removal of the charge of desertion against him as of Company K, Fifty-fourth Ohio Volunteers, presented to this office in 1883, Knockelmann testified that he was mustered out at Memphis, Tenn., while in hospital, but never received a discharge; that he proceeded from Memphis to his home, and there remained until partially recovered, when he enlisted in Company B, Fifty-third Kentucky Volunteers.

The application was denied by this Office on the ground that the enlistment of this soldier in the Fifty-third Kentucky Volunteers, without a discharge from the Fifty-fourth Ohio Volunteers, constituted him a deserter from the latter by operation of law [twenty-second, now fiftieth, Article of War], and the Department has no power, therefore, to remove the charge.

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

R. C. DRUM,
Adjutant-General.

The Hon. SECRETARY OF WAR.

C

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1658.

RELIEF OF GEORGE HENRY PARKER FROM THE CHARGE OF DESERTION.

APRIL 15, 1886.—Laid on the table and ordered to be printed.

Mr. CUTCHEON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 4613.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 4613) for the relief of George Henry Parker from the charge of desertion, report:

That the only evidence submitted to the committee in support of this bill is the accompanying report from the Adjutant-General, under date of March 9, 1886, which is made a part hereof.

The committee see no ground in the evidence for granting the proposed relief and recommend that said bill do not pass.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, March 9, 1886.

SIR: I have the honor to return herewith House bill 4613, Forty-ninth Congress, 1st session, authorizing removal of the charge of desertion against George Henry Parker or Henry Parker, late of Eighth Company, Second Battalion, Veteran Reserve Corps, transmitted by the chairman of the House Committee on Military Affairs, and, in compliance with instructions, thereon to report as follows:

Henry Parker was enrolled October 29, 1861, to serve three years in Company E, Ninety-sixth New York Volunteers, and served therein until May 10 (or 8), 1862, when he is reported as having deserted. On August 22, 1862, he was "brought back" (also "taken and returned") and served until August 6, 1863, when he was transferred to the Veteran Reserve Corps. On March 31, 1864, he deserted from the Eighth Company, Second Battalion, Veteran Reserve Corps, and never returned.

No evidence has been presented to this office with a view to obtaining a removal of the charges of desertion against this soldier.

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

R. C. DRUM,
Adjutant-General.

The Hon. SECRETARY OF WAR.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1659.

W. P. PAYNE.

APRIL 15, 1886.—Laid on the table and ordered to be printed.

Mr. CUTCHEON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 1705.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 1705) for the relief of W. P. Payne, report as follows:

This is a bill to enlist W. P. Payne in Company F, Second Tennessee Cavalry, as of the 1st day of August, 1862.

It appears from the report of the Adjutant-General that he is entirely unknown to the records of that office.

It would appear from the annexed affidavit of Elbert Reid, Wyatt Roberson, and George Pickelsimer, that about August 1, 1862, said Payne did attempt to enlist, and set out with others to go to Cumberland Gap for that purpose, and on the route was in some way wounded and he was thus prevented from enlisting.

We do not think that we can now commence the work of enlisting those who intended to enlist but did not. If at the time he was wounded he was actually and in good faith rendering military service to the United States under any commanding officer recognized by the authorities thereof, it would be competent for Congress to grant him a pension for any disability incurred. But we could hardly say that he was a member of Company F, Second Tennessee Cavalry, when in fact he was not.

The committee recommend that the bill do lie upon the table.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, March 12, 1886.

SIR: I have the honor to return herewith House bill 1705, Forty-ninth Congress, rst session, directing the placing of the name of W. P. Payne on muster-rolls of ompany F, Second Tennessee Cavalry, and his muster from August 1, 1862, transiitted by the chairman of the House Committee on Military Affairs, and in compliince with instructions thereon to report that the name of W. P. Payne is not borne n any rolls or records of the organization mentioned on file in this office.

There is, at present, no evidence having a bearing upon the subject-matter of the ill on file in this office, as all the evidence heretofore presented was returned to the Ion. R. B. Vance, in 1884, with the information that in the absence of any record of he enlistment, muster-in, or service of Mr. Payne, no favorable action could be taken ipon the application to have such a record made.

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

R. C. DRUM,
Adjutant-General.

The Hon. SECRETARY OF WAR.

STATE OF NORTH CAROLINA,
County of Cherokee:

On this 27th day of January, 1886, personally appeared before me, a justice of th peace in and for aforesaid county, duly authorized to administer oaths, Elbert Reid Wyatt Roberson, and George Pickelsimer, who, after being by me duly sworn, sa they were members of Company F, Second Regiment of Tennessee Cavalry; that Will iam P. Payne volunteered on or about the 1st of August, 1862, in Cherokee County North Carolina, under one John R. Simonds, together with affiants and others, for th expressed intention of joining the Union Army, which was then at Cumberland Gap, i the State of Tennessee; that while on the way towards Cumberland Gap, on or abou August 10, 1862, on Walden's Ridge, Tennessee, said William P. Payne received a sever gunshot wound, passing through the left shoulder; that affiants, Simonds, and al his men that succeeded in getting to the Federal lines joined the said Company F Second Regiment Tennessee Cavalry, and their enlistment dated August 1, 1862 that they were considered in service and drew pay from the date of their enlistmen by Simonds, and that the said William P. Payne is as much entitled to enlistmen dated August 1, 1862, as Simonds and his other recruits, in the opinion of affiants Affiants further say that they have no interest in any pension or bounty that sai Payne may be entitled to for the said injury or service.

ELBERT REID.
WYATT ROBERSON.
his
GEORGE + PICKELSIMER.
mark.

Attests:
A. J. KILPATRICK.
L. B. WASHBURN.

Sworn to and subscribed before me on the day above written, and I certify th affiants are personally known to me; that they are respectable citizens of Cherok County, and are entitled to credit, and that I have no interest in this case.

W. F. BRIANT,
A Justice of the Peace.

STATE OF NORTH CAROLINA,
Cherokee County:

I, James C. Axley, clerk of the superior court in and for said county, do hereb certify that W. F. Briant, whose name is signed to the foregoing affidavit, is an ac ing justice of the peace in and for said county, duly commissioned and sworn, an that the above is his signature.

Given under my hand and seal of said court at office in Murphy, the 28th day January, A. D. 1886.

[SEAL.]

JAS. C. AXLEY,
Clerk Superior Court.

GRESS, } HOUSE OF REPRESENTATIVES. { REPORT
sion. } { No. 1660.

JAMES M. McKAMEY.

86.—Committed to the Committee of the Whole House and ordered to be printed.

, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 5775.]

ittee on Military Affairs, to whom was referred the bill (H. R. or the relief of James M. McKamey, submit the following

the 12th of February, 1862, Mr. McKamey enlisted as a Company E, Third Tennessee Infantry, and was mustered into and served as such until the 26th day of August, 1862, when, le of Richmond, Ky., he was made a prisoner of war. That gagement the detachment of his regiment with which he was as so utterly routed it was weeks before a sufficient number ivors of that detachment could be gotten together for the forming a reorganization and rejoining their regiment.

ortly after Mr. McKamey's capture he was paroled, and while to join his regiment he was commissioned second lieutenant ting officer for the Eleventh Tennessee Cavalry, under and of authority of Andrew Johnson, then military war governor ee. That upon the 1st of October, 1862, he entered upon and to discharge his duties as such until the 1st of November, the Eleventh Tennessee Cavalry, by consolidation, became to the Ninth Tennessee Cavalry, and that in the apportion- fficers under the consolidation Mr. McKamey was left out.

ie 8th of November, 1864, he enlisted as sergeant, Company Tennessee Mounted Infantry, and faithfully served in that ntil the 27th of July, 1865, when he was discharged. That of desertion made against Mr. McKamey, on the 24th of 362, was erroneously made; that instead of being a deserter prisoner of war.

g Mr. McKamey's commission as second lieutenant and re- fficer, although the records in the Department do not show yet there is abundant evidence to warrant your committee that he was commissioned, and that he did serve as such utenant and recruiting officer of the Eleventh Tennessee Cav- the 1st of October, 1862, to the 1st of November, 1864—evi- fficers and soldiers who saw and inspected his commission, of the performance of service by him under that commission, t, coupled with his imprisonment, no doubt gave color to of desertion which was made of record against him.

of these facts, your committee beg leave to recommend that of Mr. McKamey's petition be granted, and that the accom- ill for his relief be passed.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1661.

CONDEMNED CANNON, ETC.

APRIL 15, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HOUK, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 3020.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3020) donating condemned cannon and cannon-balls to the village of Albion, Orleans County, New York, report as follows:

That in Mount Albion Cemetery, connected with the village of Albion, in Orleans County, New York, there has been erected by citizens a monument in honor of the soldiers who enlisted from that county and lost their lives in the late war, and that without detriment to the Government four condemned cast-iron cannon and twenty cannon-balls can be delivered to the board of trustees of the village of Albion to be placed around the monument.

Your committee therefore report favorably on the bill authorizing such delivery provided the Department has them in its possession, and recommend its passage.

C

)ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 1662.

CONDEMNED CANNON, ETC.

5, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

)UK, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 3021.]

mmittee on Military Affairs, to whom was referred the bill (H. R.) donating condemned cannon and cannon-balls to the village of la, Livingston County, New York, reports as follows:

a proper use is to be made of the cannon and cannon-balls asked the board of trustees of the village of Nunda, in Livingston , New York, and that the same can be delivered without detri- o the Government.

committee, therefore, reports favorably on the bill providing for ivery, and recommends its passage, provided the Department has ı its possession.

O

CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 1663.

MANNISTER WORTS AND OTHERS.

APRIL 15, 1886.—Laid on the table and ordered to be printed.

OUK, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 3553.]

ommittee on Military Affairs, to which was referred the bill (H. R. 3) for the relief of Mannister Worts and others, reports as follows:

ıt the subject-matter of the bill is now pending in the district court ıe northern district of New York, suit having been recommended .e Solicitor of the Treasury on the 24th of October, 1882; that the ıtary of the Treasury has the power under section 3469 of the Re- Statutes to compromise the case, should the facts justify it, and it is a matter with which Congress should not interfere.

ur committee therefore reports the bill adversely, and recommends it lie on the table.

APRIL 15, 1880.—Laid on the table and ordered to be printed.

HOUK, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 3723.]

Committee on Military Affairs, to which was referred the bill (H. R. 23) directing the Secretary of War to amend the record of Cyril Greenwood, having considered the same, reports:

That as the committee has now ready to be reported a general bill which will cover the subject-matter of the bill for Mr. Greenwood's relief it should be discharged from the further consideration of this bill, and therefore reports it with the recommendation that it lie on the table.

O

[CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 1665.

MARSHALL N. MURPHY.

APRIL 15, 1886.—Laid on the table and ordered to be printed.

HOUK, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 3599.]

Committee on Military Affairs, to whom was referred House bill 3599, *report as follows:*

iat this soldier was enrolled April 18, 1861, to serve three months ompany A, Fourth Ohio Volunteers; that he re-enlisted in same pany and regiment June 5, 1861, to serve three years; that he was ent with his company until December 31, 1861; that from December 861, to April 30, 1862, he was absent. Part of that time, from Jan- 22, 1862, sick in the general hospital, at Cumberland, Md.; that oll for May and June, 1862, he is marked as "absent without leave : June 29, 1862;" that on a special muster-roll, dated August 18, , he is marked "absent, sick at hospital, Alexandria, Va.; June 29, , erroneously reported absent without leave on last muster;" that oll for July and August, 1862, he is marked "deserted from the com- : June 29, 1862, at Alexandria, Va.," and that he is so reported on nuster-out roll of company, dated June 21, 1864.

our committee in view of these facts report adversely on the bill for Murphy's relief, and recommend that it lie on the table.

C

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1666.

CHARLES W. FAUST.

APRIL 15, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. C. M. ANDERSON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 2704.]

The Committee on Military Affairs, to whom was referred House bill 2704, *submit the following report:*

That the report of this soldier's case by the War Department is made part hereof, and from the facts before your committee we are of opinion that he is entitled to the relief asked.

Your committee report favorable and ask that the bill do pass.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, March 9, 1886.

SIR: I have the honor to return herewith House bill 2704, Forty-ninth Congress, first session, directing the removal of the charge of desertion standing against the record of Charles W. Faust, late a private of Company G, Fourteenth United States Infantry, transmitted by the chairman of the House Committee on Military Affairs; and in compliance with instruction thereon to report as follows:

The records of this office show that Charles W. Faust was enlisted July 28, 1862, at Williamsport, Pa., for three years as a private in Company B, Second Battalion, Fourteenth United States Infantry. He is properly accounted for on all rolls to February 27, 1865, on which date he received a furlough to the 18th of March, 1865, inclusive. On the muster-roll dated April 30, 1865, he is reported absent sick, and on June 13, 1865, he is dropped as a deserter. In March, 1882, Faust having applied to this office for a discharge from the service he was informed that in accordance with the rules of the Department no action would be taken in his case until he had surrendered to the military authorities. He thereupon surrendered on December 4, 1882, at Milwaukee, Wis., and having been found unfit for service he was discharged January 5, 1883, to date June 13, 1865 (date of his desertion), at Jefferson Barracks, Mo. (to which post he had been forwarded), per Special Orders No. 303, of December 30, 1882, from this office.

In support of his original application Faust submitted the following sworn statement: That having been taken sick while on his way home on furlough he placed himself under treatment of one Dr. Benjamin, who certified to his inability to return to his command for thirty days after the expiration of his furlough, *i. e.*, before April 18, 1865; that Dr. Benjamin further told him that he need not return at all, as his time had been extended to the end of his term of service; that Major Brady, Fourteenth Infantry, wrote to him (Faust) that there were sick men enough in the regiment; that he need not come back, and that his discharge would be sent to him when his time should have expired; that, relying on this letter of Major Brady and on the statement of Dr. Benjamin and continuing sick and unable to travel, he remained at home, and was there when his regiment was mustered out.

With the exception of the certificate of Dr. Benjamin certifying to his inability to travel for a period of thirty days from March 18, 1865, no evidence has been presented

by Faust corroborating his statement. The regiment of this soldier being an organization of the Regular Army, was never mustered out, and is now in existence.

An application for the removal of the charge of desertion was denied by the Department April 7, 1884, on the ground that the charge appeared to have been made in accordance with the facts.

The provisions of the act of Congress approved July 5, 1884, entitled "An act relieving certain soldiers from the charge of desertion," do not cover this case.

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

J. C. KELTON,
Assistant Adjutant-General.

THE SECRETARY OF WAR.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1667.

JOHN F. S. HARDAWAY.

APRIL 15, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. C. M. ANDERSON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 3696.]

The Committee on Military Affairs, to whom was referred House bill 3696, *submit the following report:*

Your committee find that this man deserted one regiment and immediately enlisted in another, and served honorably until the close of the war. There are no reasons before your committee for this strange conduct, but it was not desertion to avoid service, as shown by his subsequent conduct by re-enlisting, and your committee think the charge only technical, and ask that the bill do pass.

The following is the military record in this case as shown by War Department:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, February 20, 1886.

SIR: I have the honor to return herewith House bill 3696, Forty-ninth Congress, first session, removing the charge of desertion from the record of John F. S. Hardaway, late of Company K, Second Tennessee Cavalry, transmitted by the chairman of the House Committee on Military Affairs, and in compliance with instructions thereon to report as follows:

John F. S. Hardaway was enrolled September 1, 1864, and mustered in September 12, 1864, to serve three years, in Company K, Second Tennessee Cavalry, and served therein until November 15, 1864, when he is reported "lost near Decatur, not knowing how," on company morning report for November 21, 1864, and on muster-out roll of company, dated July 6, 1865, "deserted November 21, 1864."

On November 20, 1864, he was enrolled and mustered in under the same name, to serve one year, in Company I, Fourth Tennessee Mounted Infantry, and served therein until mustered out with company, August 25, 1865.

Applications for removal of the charge of desertion, which have heretofore been presented to this office, have been returned to the applicant with the information that he, by his enlistment in the Fourth Tennessee Mounted Infantry, became a deserter from the Second Tennessee Cavalry by operation of law (22d, now 50th, Article of War), and that, consequently, the Department had no power to remove the charge.

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

J. C. KELTON,
Assistant Adjutant-General.

The SECRETARY OF WAR.

)ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 1668.

PHILIP TAYLOR.

5, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

M. ANDERSON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 4727.]

mmittee on Military Affairs, to whom was referred House bill 4727 submit the following report:

; the report furnished this committee from the Adjutant-Gen-)ffice most clearly shows that the charge of desertion against the y record of Philip Taylor should be removed. The records in the lepartment are as follows, to wit:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, February 26, 1886.

iave the honor to return herewith House bill 4727, Forty-ninth Congress, first authorizing removal of the charge of desertion against Philip Taylor, late of y B, One Hundred and Fifth Pennsylvania Volunteers, transmitted by the n of the House Committee on Military Affairs, and in compliance with in- ia thereon, to report as follows:

Taylor was enrolled September 11, 1861, and mustered in October 23, 1861, three years, in Company B, One Hundred and fifth Pennsylvania Volunteers, ed therein until May 3, 1863, when he was "wounded in action at Chancel- , Va., and sent to general hospital." He is reported on subsequent muster- company as "deserted September 21 (and October 10), 1863." On June 17, was admitted to Baptist Church General Hospital, Alexandria, Va., and was t therein until July 17, 1863, when he was returned to duty. On July 18, arrived at Camp Distribution, Alexandria, Va., and on July 24, 1863, he en- nd on August 18, 1863, was mustered in to serve six months, in Captain Hoff- ompany D, Second Maryland Cavalry, and served therein until February 6, en he was mustered out with company.

application for removal of the charge of desertion, heretofore filed in this office, iwore that he was wounded in right knee at Chancellorsville, Va., and was Baptist Church Hospital, at Alexandria, Va., and remained there about three that he was then sent to Convalescent Camp (Camp Distribution), where he d about three weeks; that he then went to Washington, D. C., on a pass, and ;t Captain Hoffman, of the Second Maryland Cavalry, who told him that he -red to pick up soldiers to do guard duty, in the emergency, as the rebels were for Pennsylvania; that he went with Captain Hoffman and did guard duty t six months, and was then discharged with the regiment (Second Maryland); that he at once enlisted in Captain Bruce's company, First Maryland Artil- l served therein until the war closed—[The name of Philip Taylor does not on any rolls of Capt. J. M. Bruce's Company A, Junior Artillery, Maryland ers, on file in this office]; that he was prevented from returning to the One and fifth Pennsylvania Volunteers by being forced into other service by Hoffman.

pplication referred to was denied by this office on the ground that this sol- his enlistment in the Second Maryland Cavalry without a discharge from the

One hundred and fifth Pennsylvania Volunteers, became a deserter from the latter organization by operation of law (twenty-second now fiftieth Article of War), and the Department was, consequently, powerless to remave the charge.

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

R. C. DRUM,
Adjutant-General.

The SECRETARY OF WAR.

Your committee therefore report the bill favorably and unanimously ask that the bill do pass.

O

CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 1669.

EMANUEL KLAUSER.

15, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

J. M. ANDERSON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 3887.]

e Committee on Military Affairs, to whom was referred House bill are of opinion that the report made in this case by the Military ittee of the Forty-eighth Congress states all the facts fully, and eport is hereby adopted and made part hereof, and your com- e report favorable on the bill and ask that it do pass.

report above referred to is as follows:

committee find all the facts fully set forth in House Report No. 617, Forty-seventh ss, first session, by General Henderson, from the Committee on Military Affairs, session of said Congress, and said report, hereto attached, is again adopted as ort of this committee; and in view of facts therein stated report back bill H. 258, and recommend that it do pass the House.

— —

ill in this case directs the Secretary of War to remove the charge of mutiny Emanuel Klauser, late a corporal in Company H, Fifty-fourth Regiment Illi- lunteers, and grant him an honorable discharge.

committee find that bills precisely similar to this were favorably reported both House and Senate in the Forty-fourth Congress; that such bill passed the House Congress, but no final action was had in the Senate. And a similar bill ap- have passed the Senate in the Forty-fifth Congress, and was sent to the House, final action was had in the House. And, again, a similar bill was favorably l to the Senate in the Forty-sixth Congress, and passed the Senate, and was ly reported from the Committee on Military Affairs of the House, but no final vas had in the House.

committee find all the facts fully set forth in Senate Report No. 49, made by mittee on Military Affairs at the second session of the Forty-sixth Congress, npany Senate bill 368, and which is as follows:

mittee on Military Affairs, to whom was referred the bill (S. 368) for the relief of Emanuel Klauser, beg leave to submit the following report:

precisely similar to S. 368 was introduced in the Forty-fifth Congress and re- your committee, and the following report was made thereon by Mr. Cockrell:

[Senate Report No. 572, Forty-fifth Congress, third session.]

CKRELL, from the Committee on Military Affairs, submitted the following report, to accompany bill S. 1540:

mittee on Military Affairs, to whom was referred the bill (S. 1540) for the relief of uel Klauser, late corporal of Company H, Fifty-fourth Regiment Illinois Volunteers, 'ully considered the same, and submit the following report:

cisely similar bill was pending in the Forty-fourth Congress, and was then re-

ferred to the Committee on Military Affairs, and the following report was made on January 30, 1877:

[Forty-fourth Congress, second session. Report No. 620.]

Mr. COCKRELL submitted the following report, to accompany bill H. R. 4248:

The Committee on Military Affairs, to whom was referred the bill (H. R. 4248) for the relief of Emanuel Klauser, late corporal of Company H, Fifty-fourth Regiment Illinois Volunteers, have duly considered the same, and submit the following report:

This bill directs the Secretary of War to remove the charge of mutiny against Emanuel Klauser, late corporal, &c., and grant him an honorable discharge. In the House the following report was made, to wit:

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 16, 1876.

The Military Committee, to whom was referred the petition of Emanuel Klauser, late corporal Company H, Fifty-fourth Regiment Illinois Infantry Volunteers, report the same back to the House, with a bill for the relief of said Emanuel Klauser, with the recommendation that it pass.

Your committee, upon a careful examination of all the facts in this case, find that the said Corporal Klauser served his country faithfully and honorably in the field from 1861 to the date of his trial by court-martial, on the 31st day of July, 1865, when he was found guilty of mutiny, at Pine Bluff, Ark.

Your committee also find that Corporal Klauser is highly indorsed by the late officers of his regiment and others as being a good soldier and of good moral character. The sworn statement of Henry Hart, late captain Company H, and H. M. Scarborough, late lieutenant-colonel Fifty-fourth Regiment Illinois Volunteers, show that Emanuel Klauser was a young man under twenty-one years of age, a good and faithful soldier, ever ready and willing to perform his duty as a soldier, and that in their opinion said Emanuel Klauser did not intend to do any act of mutiny in his said company or regiment; and in this connection your committee call attention to the sworn statement of said Emanuel Klauser; and the Judge-Advocate-General, in a report as to the men of Company H, Fifty-fourth Illinois Volunteers, tried by general court-martial, states that "while the incidents of the offense clearly establish the guilt of a willful disobedience of orders, there does not appear in the conduct of the prisoners the existence of that criminal animus which is necessary to complete the crime of mutiny."

The bill passed the House upon this report.

Your committee referred the bill to the Secretary of War for information and report, and received, through him, from the Adjutant-General, the following letters and inclosures, to wit:

ADJUTANT-GENERAL'S OFFICE,
Washington, D. C., January 23, 1877.

SIR: Herewith I return communication of January 17, 1877, addressed to you from Hon. F. M. Cockrell, United States Senate, together with act H. R. 4248 (referred by him), to change the record of, and grant an honorable discharge to, Emanuel Klauser, late corporal Company H, Fifty-fourth Illinois Infantry, and have the honor to invite your attention to a report in the case, dated March 6, 1874, from this office to the Secretary of War (copy inclosed), and his action thereon, set forth in his letter of March 11, 1874, to Lieut. Col. H. H. Scarborough *et al.*, a press copy of which is herewith.

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

E. D. TOWNSEND,
Adjutant-General.

The SECRETARY OF WAR.

The report therein referred to, dated March 6, 1874, is as follows:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, March 6, 1874.

Respectfully submitted to the Secretary of War.

Emanuel Klauser, late Company H, Fifty-fourth Illinois Volunteers, applies for removal of the charge of mutiny from his record, with a view to issue of an honorable discharge.

The man's application is indorsed by nearly a hundred late officers and soldiers of Illinois volunteers.

It appears from the records of this office that this man and five others of Company H, Fifty-fourth Illinois Volunteers, were tried by general court-martial for mutiny, violation of 44th Article of War, and conduct prejudicial to good order and military discipline. This man was found guilty of mutiny only. He was sentenced to be dis-

honorably discharged, from July 4, 1865, and to be confined in military prison at hard labor for and during the term of five years. Sentence approved and promulgated in General Orders No. 10, Headquarters United States forces at Pine Bluff, July 31, 1865.

The unexecuted portion of the sentence in case of this man and the five others mentioned above was remitted by the President upon a petition and a report of the Judge-Advocate-General. The order of the President was promulgated in Special Orders No. 521, of September 29, 1865, from this office.

It appears from the papers that this man and the others, tried for mutiny and found guilty except one, joined company at original organization in 1861, and re-enlisted as veterans January, 1864, served honorably until July 4, 1865, when the regiment being ordered out on parade to hear an oration, and these men believing their term had expired, refused to obey the order.

The Judge-Advocate-General, in his report of September 20, 1865, prior to the receipt of the record by him of the trial, stated that while the incidents of the offense clearly established the guilt of a willful disobedience of orders, there does not appear in the conduct of the prisoners the existence of that criminal animus which is necessary to complete the crime of mutiny; that a strong doubt of their intent to rebel against a lawful order or to combine in a violent resistance against the authority of their commanders is strengthened by the record of their long and honorable service and by the existence among them of a belief that they were entitled to be mustered out and discharged.

It is presumed that the proceedings of the court are now on file in the Judge-Advocate-General's Office.

Any favorable action in case of these six men will necessitate the setting aside the proceedings of the general court-martial in their case, in order to enable them to receive honorable discharges and pay in place of the dishonorable discharges furnished in accordance with their sentence.

E. D. TOWNSEND,
Adjutant-General.

The letter of the Secretary of War, dated March 11, 1874, therein referred to, is as follows:

WAR DEPARTMENT, *March* 11, 1874.

GENTLEMEN: Referring to your petition of the 13th ultimo, praying that an honorable discharge be granted Emanuel Klauser, late corporal Company H, Fifty-fourth Illinois Volunteers, I beg to inform you that the Judge-Advocate-General, in a report as to the men of Company H, Fifty-fourth Illinois Volunteers, tried by general court-martial, states that, "while the incidents of the offense clearly establish the guilt of a willful disobedience of orders, there does not appear in the conduct of the prisoners the existence of that criminal animus which is necessary to complete the crime of mutiny." Still, as the proceedings were regular and the sentence fully executed, the Executive is powerless to afford the relief desired.

Application should be made to Congress; and the papers are accordingly returned, in order that they may be so submitted if desired.

Very respectfully,

WM. W. BELKNAP,
Secretary of War.

Lieut. Col. H. M. SCARBOROUGH,
Capt. HENRY HART, and others,
Shelbyville, Shelby County, Illinois.

Emanuel Klauser was arraigned before a court-martial, charged with mutiny, a violation of the present twenty-second Article of War, and with failing to repair at the fixed time to the place of parade appointed by his commanding officer, a violation of the present thirty-third Article of War (then forty-fourth Article), and with conduct prejudicial to good order, &c., was tried in 1865 and found guilty of *mutiny only*, and acquitted of the other charges. His sentence was, "to be dishonorably discharged from July 4, 1865, and to be confined in military prison at hard labor for and during the term of five years." This sentence was approved by the commanding officer of the United States forces at Pine Bluff, Ark., July 31, 1865. The President, by Special Orders, No. 521, on September 29, 1865, remitted the then unexecuted portion of the sentence.

His regiment was ordered out *on parade to hear an oration* on July 4, 1865, at Pine Bluff, Ark., and out of this grew these charges, this trial and sentence. Emanuel Klauser was sick on July 4, 1865, was excused by his orderly sergeant from attending parade to *hear the oration*, and was consequently acquitted of this charge.

The Judge-Advocate-General admits that "there does not appear in the conduct of he prisoner the *existence of that criminal animus which is necessary to complete the crime*

of mutiny," but states that "*the incidents of the offense clearly establish the guilt of ful disobedience of orders.*" The court-martial, however, acquitted him of the ch disobedience of orders—refusal to attend the *parade* to hear *an oration*—and fou guilty of mutiny only, thus disagreeing with the Judge-Advocate-General's jud The proof of mutiny consisted of a conversation between this corporal and a ca on the evening of July 3, 1865, in relation to the contemplated parade on Jul the presence of these two persons only. What the *oration* was, or was to be, stated. The necessity of this oration is not shown.

Klauser had been a noble and faithful and obedient soldier, of high moral cha and for this alleged offense was punished with what seemed clearly to be a " and unusual punishment," and an "excessive fine imposed."

However loth your committee may be to interfere with the proceedings of c martial, yet they feel that this case peculiarly demands favorable action by Co and they therefore report back the bill as it passed the House, without amend and recommend that it do pass the Senate.

The bill in the Forty-fourth Congress passed the House and was favorably re in the Senate, placed on the Calendar, and no final action had.

Your committee have again duly considered this bill, and fully indorse the f ing report, and recommend that the bill be passed by the Senate.

Your committee further report that a petition for the relief of the applica presented in the House of Representatives in the Forty-fourth Congress, and a his relief was duly passed and sent to the Senate, and in the Senate was favora ported by your committee, but no final action was had; and in the Forty-fifth Co the bill similar to the present one was passed and sent to the House of Represent but no final action had.

Your committee have again given due consideration to this bill, and fully i the foregoing report, and again recommend the passage of the bill.

Your committee therefore adopt said Senate report, and make it a part of this report; and in view of the facts therein stated, report the bill H. R. 1982 bac recommend that it do pass the House.

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[CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
rt Session. } { No. 1670.

JOHN H. WALTERS.

IL 15, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

C. M. ANDERSON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 3214.]

Committee on Military Affairs, to whom was referred House bill 3214, *beg leave to submit the following report:*

he facts before the committee fail to show that the party for whose efit this bill was introduced deserted to avoid service. His subsent re-enlistment and service until the close of the war rebuts such rge, and your committee ask that the bill do pass.

he following is the military record in this soldier's case:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, February 26, 1886.

R: I have the honor to return herewith H. R. 3214, Forty-ninth Congress, first on, removing the charge of absence and desertion from the military record of n H. Walters, late of Company A, First Kentucky Cavalry, transmitted by the rman of the House Committee on Military Affairs, and in compliance with inctions thereon, to report as follows:

hn H. Walters was enrolled August 5, 1861, and mustered in October 28, 1861, to e three years, in Company A, First Kentucky Cavalry. On such muster-rolls of that pany as are on file from enrollment to August 31, 1862, he is reported as present luty or absent sick; on rolls from August 31, 1862, to December 31, 1862, "Absent out leave;" on rolls from December 31, 1862, to April 30, 1863, "Present." There no rolls or records of the company covering from April 30, 1863, to August 31, 1863, le. On roll for September and October, 1863, he is reported "Deserted," date not d, with remark, "Due U. S. one Sharps rifle, one Navy pistol, and one U. S. ". Dismissed U. S. service by order Major-General Burnside." (A careful search ne records of this office has failed to elicit any information relative to this latter ark.) On the only muster-rolls of company, viz, for January and February, July August, 1864, on file subsequent to October 31, 1863, his name is not borne, but nuster-out roll of company, dated December 31, 1864, he is reported "Deserted 18, 1863, at Somerset, Ky."

September 19, 1863, he enlisted, and on December 23, 1863, was mustered in, to one year, in Company H, Thirteenth Kentucky Cavalry, and on muster-roll of company for January and February, 1864, he is reported "Absent; transferred to command, the First Kentucky Cavalry;" for March and April, 1864, "Absent; by authorities to First Kentucky Cavalry." On all subsequent muster-rolls of pany he is borne as present, and he was mustered out with it January 10, 1865.

e following is a synopsis of evidence submitted to this office in 1883, with a view removal of the charge of desertion against this soldier:

alters testified that about July, 1863, when the company was on the march, he seized with an attack of measles, and at Albany, Clinton County, Tennessee, was d on his horse by his comrades and sent to his home, about 16 miles distant; he remained at home about 60 days, when, fearing to remain longer, lest he ld be shot by guerrillas, &c., he left his home, although not entirely recovered, proceeded to the Union lines, where he joined the Thirteenth Kentucky Cavalry, wn regiment not having returned from the South.

John Chapman, a former member of Company A, First Kentucky Cavalry, testified that when Walters was left in Clinton County, Tennessee, it was understood that he had the measles; that in March, 1864, he returned to the regiment at Mount Sterling, Ky., but was not allowed to stay with it, as he had been reported a deserter.

James F. Carnes, a former member of Company A, First Kentucky Cavalry, testified that while the regiment was on the march from Kentucky to Knoxville, Tenn., in 1863, Walters was given a written leave of absence, on account of sickness, to visit his home; that he did not return for several months, but finally rejoined the regiment at Mount Sterling, Ky., but finding that he was marked as a deserter he went into the Thirteenth Kentucky Cavalry; that he (deponent) marked Walters as a deserter on company rolls by order of Captain Wolford, although other men who were absent were merely reported as absent without leave.

The application referred to was denied by this office on the ground that the enlistment of this soldier in the Thirteenth Kentucky Cavalry without a discharge from the First Kentucky Cavalry constituted him a deserter from the latter organization by operation of law (22d, now 50th Article of War), and the Department was consequently powerless to remove the charge.

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

R. C. DRUM,
Adjutant-General.

The SECRETARY OF WAR.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1671.

ISAAC JOHNSON.

APRIL 15, 1886.—Laid on the table and ordered to be printed.

Mr. C. M. ANDERSON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 3480.]

The Committee on Military Affairs, to whom was referred House bill 3480, *beg leave to submit the following report:*

The record from the War Department in this soldier's case is as follows:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, February 17, 1886.

SIR: I have the honor to return herewith House bill 3480, Forty-ninth Congress, first session, authorizing the removal of the charge of desertion against Isaac Johnson, late of Companies B and I, Tenth Minnesota Volunteers, transmitted by the chairman of the House Committee on Military Affairs, and, in compliance with instructions therein, to report as follows:

Isaac Johnson was enrolled and mustered in August 14, 1862, to serve three years, in Company B, Tenth Minnesota Volunteers. He was transferred to the Third Minnesota Battery Light Artillery Volunteers May 1, 1863; retransferred to the Tenth Minnesota Volunteers and assigned to Company I in May, 1864, and served in the latter company until September 21, 1864, when he absented himself without leave, and was reported a deserter September 26, 1864. He never returned to his command, which was retained in service until August 19, 1865.

No application for removal of the charge of desertion against this soldier has ever been presented to this office.

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

R. C. DRUM,
Adjutant-General.

The Hon. SECRETARY OF WAR.

From this record your committee are at a loss to see how the relief sought can be granted without proof outside the record, which we do not have. Therefore your committee request that the bill do not pass, but lie on the table.

O

'H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
1st Session. } { No. 1672.

CHARLES E. MOLEN.

APRIL 15, 1886.—Laid on the table and ordered to be printed.

Mr. C. M. ANDERSON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 4065.]

The Committee on Military Affairs, to whom was referred House bill 4065, *beg leave to submit the following report:*

Your committee make the record in this case a part of this report, and it is as follows:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, February 25, 1886.

SIR: I have the honor to return herewith House bill 4065, Forty-ninth Congress, 1st session, directing the issue of an honorable discharge, to date June 4, 1864, to Charles E. Molen, late of Company H, Fourth Ohio Cavalry, transmitted by the chairman of the House Committee on Military Affairs, and, in compliance with instructions thereon, to report as follows:

Charles E. Molen was enrolled October 26, 1861, to serve three years, in Company H, Fourth Ohio Cavalry, and served therein until December 31, 1863. On January 1864, he was arraigned before a general court-martial, convened at Pulaski, Tenn., the following charge and specification, to wit: Charge, "Stealing;" specification, in this, that Charles Molen, a private of Company H, Fourth Ohio Volunteer Cavalry, in company with three other men, did enter the house of one Thomas G. Payne, citizen, and did forcibly seize and carry away with him, without the consent of the owner thereof, a large sum of money, viz: $5,000, more or less, in gold. This on or about the 8th day of January, 1864, in the county of Giles, State of Kentucky." To each charge and specification the accused pleaded "not guilty," but submitted no evidence in support of such plea. He was found guilty of both the charge and specification, and was sentenced "To be drummed through the command of Second Division Cavalry, under guard, with placard inscribed 'Thief' * * to forfeit all pay and allowances, now due or to become due him, and be confined * * * for the space of years."

The proceedings and findings of the court were approved and the penitentiary at Nashville, Tenn., designated as place of confinement, subject to the approval of the President, by Maj. Gen. George H. Thomas, commanding Department of the Cumberland, on February 29, 1864. The sentence was approved by the President April 21, 1864, and the proceedings, findings, and sentence of the court were promulgated in General Court Martial Orders, No. 151, War Department, Adjutant-General's Office, dated June 4, 1864. The prisoner was received at the military prison, Nashville, Tenn., July 9, 1864, and was an inmate of said prison and the penitentiary at that place until June 28, 1865, when, by Special Orders, No. 5, of that date, from headquarters Military Division of Tennessee, he was pardoned, the unexpired portion of his sentence remitted, and he was set at liberty. On July 5, 1865, he was mustered out and *honorably discharged* at Columbus, Ohio, by reason of expiration of term of service.

In November, 1864, an application for the release and honorable discharge of this prisoner was received at this office, accompanied by the following evidence, to wit:

James Lindsley, a former member of Company H, Fourth Ohio Cavalry, testified from personal knowledge that Molen and three others were detailed and put under the command of Corporal McSherry, to examine the premises of one Colonel Payne, near Pulaski, Tenn., for concealed arms; that said detail found sabers, a shotgun, a carbine, and upon its return the men were charged with stealing money from Colonel Payne; that a court-martial was organized for their trial, and upon the

testimony of McSherry they were convicted; that he is informed and believes, "that after conviction, but before sentence, the judge-advocate of the court visited the men in jail and proposed that if they would give the money to him, he would discharge them, and they agreed that if he would place their discharges in their hands, they would tell him where the money was; that the court would not allow the accused to show that Colonel Payne was a notorious leader of "bushwhackers" and a secret enemy of the United States, and that he is satisfied, from his knowledge of Colonel Payne, that such was the case; that he has been informed that Corporal McSherry gave orders to the men to take the money.

Columbus A. Carpenter, a former member of Company G, Sixty-sixth Illinois Volunteers, testified to the disloyal character of Colonel Payne.

Mason Crabill, a former member of Company H, Fourth Ohio Cavalry, after testifying to Payne's disloyalty, swore that a squad of soldiers, composed of Molen and three others, commanded by Corporal H. D. McSherry, was sent out in January, 1864, to search Payne's premises for arms; that it was notorious in camp that they found arms upon his premises and also a large amount of gold, say five or six thousand dollars; that the corporal and squad divided the money between them; that immediately thereafter Payne offered to Captain Gutwalt, of the Fourth Ohio Cavalry, $500 to recover the money; that Gutwalt by threatening Corporal McSherry got his share; that Captain Gutwalt was a member of the court which convicted the others; that these others were visited by members of the court who promised them their discharges provided they would give up the money; that Molen and one other gave up their money, but were not discharged; that another gave up $600 of his share, but the fourth refused to give up his share unless his comrades and himself were, in fact, discharged; that "it was generally believed that those who got the money from the boys either kept it or divided with the court."

J. W. King, late captain Company H, Fourth Ohio Cavalry, certified to Molen's high standing as a soldier and to Payne's notorious disloyalty; that so much of the money as was obtained from the soldiers was returned to Payne; that they were tried without the knowledge of their company officers, at a place but one mile distant from its camp, and urges remission of sentence on the ground of his (Molen's) good qualities as a soldier, and in the belief that he was influenced more by surrounding circumstances than from a desire to defraud the Government.

John H. Bellows, one of the participants in the theft, testified to the circumstances connected with it, fully admits the taking of the money, but says: "I am positive that Corporal H. D. McSherry ordered the squad to take the money; some of the court tried to get this money * * * they promised to do all they could if I would give them the money in their hands; there is some of the money in Giles County, Tennessee, yet."

The foregoing evidence having been referred to Maj. Gen. George H. Thomas, commanding Department of the Cumberland, for investigation and remark, that officer, under date of February 1, 1865, stated that "* * * There is nothing in the within statements that should tend in any degree to mitigate the sentence of the court, but everything to confirm the same, as it appears from these statements that the men were guilty as charged and properly sentenced to the penitentiary for robbery; * * *" and this opinion was fully concurred in by the Judge-Advocate-General, United States Army, upon a review of the foregoing evidence in connection with the evidence presented before the court-martial.

This office has repeatedly declined to reopen the case with a view to setting aside the findings and sentence of the court.

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

R. C. DRUM,
Adjutant-General.

The Hon. SECRETARY OF WAR.

From the facts embodied in the foregoing record it is evident that this soldier was properly convicted of the charge of stealing, and confesses it himself, and hopes to escape its consequences by attempting to blast and blacken the reputation of the officers composing the court-martial, and also to excuse the theft on an *ex parte* statement as to the disloyalty of the party robbed. This case was fully revised by General George H. Thomas, also the War Department, and fully approved. And your committee find no reason or excuse whatever to make the record speak a falsehood. If the sentence was wrong his imprisonment was wrong, and a very dangerous precedent would be established.

Your committee are unanimously of opinion that this bill should not pass, and ask that it do lie on the table.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1673.

CHARLES H. HAMMOND.

APRIL 15, 1886.—Laid on the table and ordered to be printed.

Mr. C. M. ANDERSON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 4822.]

The Committee on Military Affairs, to whom was referred House bill 4822, *beg leave to submit the following report:*

That the party for whose benefit this bill was introduced, in his application to remove the charge of desertion made in the War Department in 1884, admits the truth of the charge, and instead of returning to his regiment went to California and there remained until the close of the war. Your committee feel it is not in their power, if they so desired, to change the records in this man's case so that it would show a falsehood instead of the truth. There is no reason or proof in this case why this record so made by the party himself should be changed, and your committee ask that the bill do not pass.

Records from the War Department are as follows:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, February 24, 1886.

SIR: I have the honor to return herewith House bill 4822, Forty-ninth Congress, first session, removing the charge of desertion from the military record of Charles H. Hammond, late of Company F, One hundred and twenty-third Illinois Volunteers, transmitted by the chairman of the House Committee on Military Affairs, and in compliance with instructions thereon, to report as follows:

The name of *Charles H.* Hammond is not borne on any rolls or records of Company F, One hundred and twenty-third Illinois Volunteers, on file in this office, but the soldier referred to in the bill is believed to be identical with *Wesley* Hammond, who was enrolled August 1, 1862, and mustered in September 6, 1862, to serve three years, in Company F, One hundred and twenty-third Illinois Volunteers, and who served therein until November 23, 1862, when he was admitted to No. 12 general hospital, Louisville, Ky., "with insanity," and deserted December 9, 1862. There is no record that he ever returned to the hospital from which he deserted, or to his regiment.

The following is a synopsis of evidence heretofore filed in this office, with a view to securing a removal of the charge of desertion against this soldier, viz:

Applicant (as *Charles W.* Hammond) swore that soon after his enlistment he was taken sick and was sent to hospital at Woodsonville, Ky., thence to Mumfordsville, Ky., thence to Hospital No. 12, Louisville, Ky., "in an unconscious condition, with a severe attack of typhoid fever, and I do not recollect anything until I found myself at home in the winter of 1863"; that in the spring he wanted to stay at home until he was able to do something, and therefore got the certificates of five physicians in good standing (names of physicians given, two now dead) and sent them to his regiment [NOTE.—There are no medical certificates in the case of this soldier on file with company or regimental records]; that one of the doctors (Rains) advised him not to go South, as he would take the Southern fever and die, "and if I ever got over it I had better go West, and I went to Colorado and from there to California, and I am not stout and never have been, nor, I reckon, never will be again."

C. W. Hammond (brother of soldier) swore that, having heard of the sickness of his brother, he proceeded to Louisville, Ky., and found him in an unconscious condition, "or rather a maniac"; he made several attempts to get permission from the surgeon to take his brother home, but failing therein, and believing he would soon die if left there, he took him after night from the hospital (after procuring such necessary clothing as was needed) and brought him home. At that time, and for a long time afterwards, he was not responsible and did not know enough to desert.

S. S. Wilcox, now a physician, swore that in October, 1862, he was acting hospital steward at Woodsonville, Ky., and that Hammond was desperately sick with typhoid fever at that time and place, and from his knowledge of his condition he is of opinion that the charge of desertion was erroneously made.

James M. De Long, late sergeant Company F, One hundred and twenty-third Illinois Volunteers, swore that in March or April, 1863, medical certificates showing Hammond's physical disability to return were sent to him; that he took these certificates to the regimental surgeon, who said that Hammond had been reported a deserter. He gives the names and addresses of three of the physicians who signed the certificates, and says that when Hammond left the regiment he was not responsible for his acts, being in an unconscious condition.

Jonathan Biggs, late lieutenant-colonel One hundred and twenty-third Illinois Volunteers, testified as to the illness of Hammond while with the regiment, but that he has no personal knowledge of his physical inability to return subsequent to his leaving it.

The application for removal of the charge of desertion was, on June 27, 1884, denied by this office on the ground that the soldier, by his own acknowledgment that he did not return to military authority upon his convalescing sufficiently to do so, in the spring of 1864, established the truth of the charge, and consequently the Department had no power to remove it.

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

J. C. KELTON,
Assistant Adjutant-General.

The Hon. SECRETARY OF WAR.

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 1674.

CHARLES LOWTHER.

APRIL 15, 1886.—Laid on the table and ordered to be printed.

M. ANDERSON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 4676.]

mmittee on Military Affairs, to whom was referred House bill 4676, beg leave to submit the following report:

committee beg to make report from War Department in this 's case part of this report, which your committee think fully exitself, and your committee beg to report adversely and ask that l do not pass.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, March 5, 1886.

I have the honor to return herewith H. R. 4676, Forty-ninth Congress, first authorizing the removal of the charge of desertion of July 31, 1863, against Lowther, late of Company G, Sixty-first Pennsylvania Volunteers, transby the chairman of the House Committee on Military Affairs, and in complith instructions thereon to report as follows:

es Lowther was enrolled and mustered into service September 4, 1861, to serve ars, in Company G, Sixty-first Pennsylvania Volunteers, and served therein ay 3, 1863, when he received a gunshot flesh wound of left hand at Frederg, Va. He was treated in hospitals at Washington, D. C., and New York Harn May 8, 1863, to July 22, 1863, when he entered Satterlee General Hospital, lphia, Pa., and he deserted therefrom July 31, 1863. On September 5, 1863, he ested at Washington, D. C. ($10 reward paid), and was in Stone (military General Hospital, Washington, D. C., from September 8, 1863, to March 5, 1864. ned his command in March or April, 1864, and served until June 4, 1864, when again wounded (in side or back) and sent to hospital, and remained under nt until September 7, 1864, when he was mustered out of service by reason of ion of his term of enlistment.

llowing is a synopsis of evidence heretofore presented with a view to removal harge of desertion of July 31, 1863:

ptember 17, 1865, applicant in a letter to his attorney states that he "re- to the Satterlee Hospital, West Philadelphia, and * * * remained there a me, when I (he) left it. This was in August, 1863. On the 5th day of Sep- I (he) was arrested," &c.

pril 17, 1866, he testified that he was admitted into Satterlee Hospital "about of August, * * * where he was arrested about a week after as a deserter en to the provost marshal at Washington, D. C.," &c.

ugust 9, 1884, he testified that "about the last of July, 1863, he got a pass tterlee Hospital and went to Washington, D. C., and was put in Stone Genspital there."

fficers of the Sixty-first Pennsylvania Volunteers testify to the good charace soldier, and "verily believe" his statements to be true.

to the passage of the act of Congress, approved July 5, 1884, entitled "An the relief of certain soldiers from the charge of desertion," this office repeat-

edly denied applications for removal of the charge of desertion against this soldier, on the ground that it was not erroneously made; and since the passage of said act a similar application has been denied on the ground of his failure to return from his desertion voluntarily.

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

R. C. DRUM,
Adjutant-General.

The Hon. SECRETARY OF WAR.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1675.

WILLIAM C. JONES.

APRIL 15, 1886.—Laid on the table and ordered to be printed.

Mr. C. M. ANDERSON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 1909.]

The Committee on Military Affairs, to whom was referred House bill 1909, *beg leave to submit the following report:*

Your committee beg leave to make the report from the War Department part of this report, and your committee find from the facts therein that Jones did desert and refused to rejoin his regiment, and that the charge is correct; and your committee do not see how they can falsify the record by reporting that to be true which is not, and unanimously ask that the bill do lie on the table and do not pass.

The following is received in this case from the War Department:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, February 20, 1886.

SIR: I have the honor to return herewith House bill 1909, Forty-ninth Congress, first session, removing the charge of desertion against William C. Jones, late sergeant Company F, Seventy-eighth New York Volunteers, transmitted for information by the chairman of the House Committee on Military Affairs, and, in compliance with your instructions of the 2d instant on letter of transmittal, to report as follows:

William C. Jones was enrolled October 1, 1861, for three years, in Company I, One hundredth New York Volunteers, and is reported "Present" until February 28, 1862. On muster-roll for March and April, 1862, he is borne as "Absent"—date, place, and cause not stated. On muster-roll for May and June, 1862, "Deserted May 9, 1862, at Williamsburg, Va." He was discharged the service June 4, 1862, on surgeon's certificate of disability.

Johnathan D. Campbell was enrolled and mustered in January 13, 1862, at Liberty, N. Y., for three years, as sergeant Company F, Seventy-eighth New York Volunteers, and is reported "Present" on all muster-rolls to June 30, 1862. On muster-roll covering from June 30, 1862, to October 31, 1862, he is reported "Absent—taken prisoner at battle of Cedar Mountain, August 9, 1862; since paroled; now at Annapolis;" on roll for November and December, 1862, his name is not borne; for January and February, 1863, "Deserted"—date and place not given. His name is not borne on subsequent rolls of company.

Prisoners-of-war records show that William C. Jones, sergeant Company F, Seventy-eighth New York Volunteers, was captured August 9, 1862; confined at Richmond, Va., August 11, 1862, and paroled at Aiken's Landing, Va., September 13, 1862. There is no further record of him, and he is considered a deserter from September 13, 1862.

The name of William C. Jones is not borne on any records of Company F, Seventy-eighth New York Volunteers, or that of Jonathan D. Campbell on any records of Company I, One hundredth New York Volunteers, on file in this office, and there is no evidence with records of either organization of the alleged interchange.

On November 21, 1868, an application for an honorable discharge in the case of this man was referred by this office to the commanding general Department of the East, for his action. The following is a synopsis of the evidence presented at that time:

9, 1862, when he was taken prisoner at Cedar Mountain. Afte
to return to either regiment until the matter of his transfer wa
to Buffalo and reported to Captain Bottsford, of the Seventy
him to stay away until he had his rights, which advice was
tenant-Colonel Austin. He also wrote to the colonel of the S
captain of Company I, One hundredth, and in reply received
return to their respective regiments, but he did not obey eith
ered his transfer to the Seventy-eighth legal and binding, b
sergeant in the Seventy-eighth and merely a private in the O
not leave the country, but worked at his trade where he was k
subject to orders. He signed the pay-rolls of the One hundred
William C. Jones, "and I signed it once in the Shenandoah V
Campbell."

James P. Hoffman and Thomas C. Cannon certify under oath
the foregoing statement of Jones is true.

Daniel D. Nash, "formerly major One hundredth New York Vo
district attorney of Erie County," stated that Hoffman and C
ants) were among the best men of that regiment, and are high
that just such an unmilitary transaction as Jones recounts ab
have taken place; and can say that in my opinion the rema
regiment would be pleased to have Jones honorably discharge

H. C. Blanchard, late lieutenant-colonel Seventy-eighth N
stated "that William C. Jones, fourth sergeant of Company F
York Volunteers, answered to the name of Johnathan Campbe
Seventy-eighth Regiment, and was never a deserter from said
but discharged his duty honorably and faithfully."

G. A. Scroggs, "authorized by Secretary of War to raise and
N. Otis, late lieutenant-colonel One hundredth New York V
Cannon, late first sergeant, and Fred. Trautman, late memb
hundredth New York Volunteers, "most respectfully ask that
honorably discharged."

Upon the foregoing evidence the commanding general de
under date of January 19, 1869, issued Special Orders No. 13, Ex
Sergeant William C. Jones, Company F, Seventy-eighth New Yo
in said company and regiment under the alias of Jonathan D.
honorably discharged the service of the United States, to date
loss of all pay, bounty, and allowances."

In March, 1884, Hon. R. C. Parsons, of Cleveland, Ohio, in pr
stated that Jones is a local preacher of the Methodist Church
and honorable, and strongly urged favorable action.

Jones's declaration is mainly a repetition of his former one (1
greatly elaborated. The new points are as follows:

At the time of the transfer between himself and Campbel
ont transfer papers notwithstanding frequent efforts on h

lunteers, and did all in his power to return to that regiment. He asks
discharge, "dating back to the expiration of my parole July 7th 1863
I left Camp Parole."
es of Cleveland, Ohio, testify to the high standing of James Jones at
and postmaster, with several other prominent citizens of that place
and that an honorable discharge be granted to James
1—4. Hon. Mr. Parsons was informed that, without entering upon the
charges of desertion subsequent to the parole, it was apparent from the
that the charge of desertion subsequent to the parole was not sustained
Rebs and that the Department declined to [illegible] person
[illegible] General Department of the East [illegible]
[illegible] your request [illegible]

Assistant Adjutant General

[illegible] York

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1676.

THOMAS BOWLES.

APRIL 15, 1886.—Laid on the table and ordered to be printed.

Mr. C. M. ANDERSON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 3965.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3965) concerning the military record of Thomas Bowles, submit the following report:

That there is no evidence that the charge of desertion is not properly on the record, nor is there any evidence to explain his conduct, and the record in the War Department is made a part hereof, for which reasons your committee report that the relief asked be refused, and the bill lie on the table.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, February 19, 1886.

SIR: I have the honor to return herewith H. R. 3965, Forty-ninth Congress, first session, authorizing the removal of the charge of desertion against Thomas Bowles, late of Company I, Twenty-eighth Kentucky Volunteers, transmitted by the chairman of the House Committee on Military Affairs, and in compliance with instructions thereon, to report as follows:

Thomas Bowles was enrolled and mustered into service August 23, 1862, to serve 3 years as a recruit for Company I, Twenty-eighth Kentucky Volunteers; was captured and paroled at Mumfordsville, Ky., September 17, 1862, and on muster-roll of company, dated December 31, 1862, is reported "absent without leave," and on roll for January and February, 1863, "deserted January 20, 1863." He was apprehended April 1, 1864, and was under arrest until September 12, 1864, when he was restored to duty by the division commander with loss of all pay and allowances during his absence. On January 20, 1865, he was furloughed for 30 days from general hospital, Jeffersonville, Ind., and died at his home, whilst so absent, on February 5, 1865, of erysipelas.

There is no evidence now on file in this office having reference to the charge of desertion against this soldier, but on August 5, 1884, an application for removal of the same was returned to the applicant with the information that inasmuch as the soldier did not voluntarily return to his command the act of Congress approved July 5, 1884, entitled "An act to relieve certain soldiers from the charge of desertion," did not cover the case.

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

R. C. DRUM,
Adjutant-General.

The SECRETARY OF WAR.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1677.

JOHN WELLS.

APRIL 15, 1886.—Laid on the table and ordered to be printed.

Mr. C. M. ANDERSON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 3299.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3299) concerning the military record of John Wells, submit the following report:

Your committee beg leave to call attention to the following record from the War Department, as it shows in detail all the circumstances in this very singular case. It is as follows:

WAR DEPARTMENT,
ADJUTANT-GENERAL'S OFFICE,
Washington, February 20, 1886.

SIR: I have the honor to return herewith H. R. 3299, Forty-ninth Congress, first session, authorizing the removal of the charge of desertion from the military record of John Wells, late of Company B, Ninth Tennessee Cavalry, transmitted by the chairman of the House Committee on Military Affairs, and, in compliance with instructions thereon, to report as follows:

John Wells was enrolled August 3, 1863, and mustered in August 15, 1863, to serve three years, in Company B, Ninth Tennessee Cavalry. On muster-roll of that company from enrollment to February 29, 1864, he is reported, "Absent; left sick in Union county, Tennessee." On roll for March and April, 1864, "Deserted November 10, 1863, at Knoxville, Tenn." For May and June, 1864, "Present," with remark, "Returned from desertion May 16, 1864, at Gallatin, Tenn. Pay due from enlistment." There are no muster-rolls of company on file from June 30, 1864, to February 28, 1865, and the name of this soldier is not borne on rolls from February 28, 1865, to the date of muster-out of company, September 11, 1865.

In 1872 an application for an honorable discharge in the case of this soldier was presented to this office, accompanied by the following evidence:

Wells (the soldier in question) swore that about the middle of November, 1863, while on recruiting service in Claiborne County, Tennessee, he was captured by the enemy, held a short time, and was then recaptured by the Union forces near Morristown, Tenn. (there is no record of the alleged capture or recapture on file in this office); that he then returned to his company and continued with it until November, 1864, when he with some others, under the command of Lieut. Thomas S. Northern, were sent to Knoxville, Tenn., to draw rations; that while on that duty and at that place the entire party, while under the influence of liquor, became involved in a difficulty with the provost guard, and two or three of the latter were slightly wounded; that the detail then returned to their camp, and after remaining there two or three days he (Wells) was advised and directed by Lieutenant Northern, then in command of the company, to go to his home to avoid further trouble likely to arise from the aforesaid difficulty; that he in company with two others left the company and went home, and he never returned to it afterwards; that the charge of desertion against him was, in his opinion, erroneously made, because of his intoxicated condition at the time of the difficulty aforesaid; his ignorance (at that time) of the extent of the injuries inflicted upon the provost guard, and the fact that he would not have left his command if he had not the permission of his company commander.

Thomas S. Northern, late second lieutenant, Company B, Ninth Tennessee Cavalry, swore that Wells was permitted to go on recruiting service in September, 1863, and, as he (affiant) is informed and believes, was captured by the enemy and recaptured by the Union forces in the latter part of 1863, "after which time he continued with his command until some time in November, 1864"; he corroborates Wells in his statement as to the affray with the provost guard at Knoxville, adding that he (affiant), "believing that said soldiers would get into some difficulty, advised them to go to their homes, and, following his instructions, they did so, and said John Wells never returned to his command afterwards"; that he does not believe that Wells intended to desert, "but simply obeyed the instructions of his superior officer, on whom the blame should rest; that he (affiant) was in command of the company at the time. (The signature to this affidavit is *by mark*, whereas Lieutenant Northern signs the muster-in roll of the company, dated August 15, 1863, by sign manual.)

The foregoing evidence, having been referred to the commanding general, Department of the South, that officer, under date of April 12, 1872, returned the same to this office with the following remark, to wit: "The evidence shows that (Wells) deserted some time in November, 1864 (with the advice and connivance of his company commander), in order to escape the consequences of an affray with the provost guard of Knoxville, Tenn., in which he, with several of his comrades, had been engaged," and recommended his dishonorable discharge, which recommendation met the approval of this office, and the soldier was, accordingly, dishonorably discharged April 24, 1872, to date November 10, 1863.

In an application for removal of the charge of desertion, and for an honorable discharge, presented to this office in 1880, Wells swore that while on duty guarding prisoners from Cumberland Gap, Tenn., to Camp Nelson, Ky., he was taken sick near Rock Castle River, was relieved from duty, "and ordered back to Cumberland Gap, and to go home if I (he) could get there, by Second Lieut. Thomas Northern"; that he laid sick at his home "from October, 1863, until my (his) company was discharged from the service, not being physically able to report in person to any military post, the fever settling in my (his) eyes, causing the total loss of the left eye and injuring the right one-fourth."

Two former members of Company B, Ninth Tennessee Cavalry, swore that about September 12, 1863, while engaged in guarding prisoners from Cumberland Gap to Camp Nelson, Ky., Wells was taken sick, and was "permitted to go to a private house or home" by Colonel Parsons; that he "was legally permitted to go to his home in Claiborne County, and was not able to rejoin his company and regiment before it was mustered out of service."

This application was denied by this office July 13, 1880.

On April 17, 1884, Hon. C. C. Matson, M. C., forwarded to this office a letter addressed to him by Wells, in which he (Wells) stated that about October 1, 1863, while guarding prisoners from Cumberland Gap to Camp Dick Robinson, Ky., he was ordered home by his company commander, Lieut. Thomas Northern; that on his return to his company in May, 1864, the company was mustered for pay, but he received no pay on account of the charge of desertion against him, and has never received any since, "although I (he) served my (his) time out until the close of the war and was mustered out with an honorable discharge"; that from October 1, 1863, to May —, 1864, he was confined to his home, but communicated with the regiment by surgeon's certificate during that time.

On April 23, 1884, Hon. Mr Matson was informed that a careful review of the case led to the belief that the dishonorable discharge was properly issued to this soldier, and that no further action could be had in the premises.

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

J. C. KELTON,
Assistant Adjutant General.

The SECRETARY OF WAR.

Your committee find no excuse whatever for this soldier's conduct in deserting the service, unless his drunkenness, disorderly conduct, and serious affray at Knoxville with the provost guard are offered in mitigation of the charge.

Your committee ask that the bill do not pass, but lie on the table.

H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
1st Session. } { No. 1677½.

TELEGRAPH OPERATORS DURING THE WAR.

PRIL 15, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

R. VIELE, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 7886.]

The Committee on Military Affairs, to whom was referred House bill , after considering the same, report it back, and recommend that it lie on the table, and in lieu thereof recommend the passage of the ompanying substitute:

; is stated that during the war of the rebellion the military telegraph os, consisting of about 1,200 operators and a sufficient force of line , built and operated 15,389 miles of telegraph lines exclusively de-d to military purposes. In addition many lines of commercial com-ies were temporarily, from time to time, made use of by the Gov-nent. The service was creditably performed. The report of the retary of War and the commanding generals bear uniform testimony eir efficiency, intelligence, and patriotism. Their duties were purely tary, and were performed with the same exposure to the dangers of field and disease as fell to the lot of the ordinary officer and soldier. y constituted an integral and vitally essential part of the Army, and ight the system to a state of perfection never before equalled in tary science. Their duties required the service of persons of peculiar lligence, and its members were picked from among the great num-of operators on account of special prominence acquired in this mys-ous art. Their duties were almost continuous, unrelieved by the tements and relaxations of ordinary camp life. It is surprising so important an arm of the service should have been organized on vil basis, and its members only regarded as employés of the Quar-aster's Department.

he official record of its service is principally to to be found in the roll and occasional notice in general reports.

y the efforts of personal friends their history has been collected, and known that of the entire number 199 were either killed, died of ase, or were captured while in the line of duty. It is estimated more than 100 others suffered from the casualties of the service.

TH CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
1st Session. } { No. 1678.

AMENDMENT OF NAVAL APPROPRIATION ACT OF 1883.

RIL 15, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

R. BALLENTINE, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany H. R. 2257.]

he Committee on Naval Affairs, to whom was referred the bill (H. R. 2257) to prevent the retroactive operation of that portion of the naval appropriation act of August 5, 1882, limiting the number of graduates of the United States Naval Academy to be retained in the service (printed on page 285 of volume 22 of the United States Statutes at Large), having carefully considered the same, beg leave to report:

That upon examination the committee find that a number of the gradues of the United States Naval Academy, at Annapolis, Md., who have mpleted the four years' course at the Academy, and the two years' rvice at sea, prescribed by law, have been discharged under the prosions of said act.

Your committee are of the opinion that said law is retroactive in its eration, and worked great injustice to the cadets who have been ready discharged, and will work great injustice to all the cadets who id entered the service prior to the passage of said act of August 5, 82, for the following reasons, to wit:

That all the cadets, at the time of their entering said Academy, were quired to sign articles, agreeing to serve the Government for eight ars. It is to be noted in this connection that, before entering, the dets *were required* to sign said articles. It was not optional with them, it was one of the conditions on which they entered the service, the greement being, on the part of the cadets, that they should be retained r *at least eight* years if they faithfully complied with the rules and gulations of the service; and on the part of the Government that ey should not be sooner discharged, unless for good and sufficient use. This was an express contract, and was equally binding on both rties. It has been broken by the Government, for many of these oung men have been discharged at the end of *six* years *without cause*, id after a faithful performance of their part of the contract. If the overnment can so wantonly and so regardlessly break its contracts, is difficult to perceive how its citizens can be expected to support id have confidence in it.

There was also an *implied* contract on the part of the Government to nder their position a certain one, in consideration of their devoting eir lives and labor to their profession, and giving up all idea of aking a livelihood by other means. These young men also performed

their part of *this* contract faithfully, and were rewarded by being ignominiously discharged from the service. The Academy is no eleemosynary institution. The cadets were neither objects of charity nor were they pensioners on the Government. The Government itself set the work, which they performed faithfully. They entered the service as a profession and an honorable calling, to which they both intended and expected to devote the energies of a lifetime; and their parents sent them to the Academy for that purpose and with that understanding. It is hardly possible that any father could be so unwise as to send his son to the Academy for an education which, while probably the finest of its kind in the world, is so essentially technical that it not only does not prepare, but actually unfits a boy for civil pursuits. Their parents did not send them to the Academy for the education, but for the purpose of educating themselves for that, their chosen profession; and they entered with that understanding and aim. That the idea that a cadet who graduated at Annapolis was secured a position for life, or during good behavior, was not only accepted by the cadets themselves and their parents, but also those high in public life, is shown by the fact that the late President Garfield, in his address to the first class affected by the act of August 5, 1882 (but prior to its passage), at their graduating exercises at the end of their four years' course, on June 10, 1881, said:

* * * The world is open to you, and if naval service does not bring you success then you are lazy or hopelessly incompetent. Gentlemen, as I stand here I almost experience a feeling of envy when I think of the possible future before you. All of us on this stand have our characters set. There is no curiosity about our future: even the angels would hardly look down upon us. The very gods, if we lived in mythological times, would look down with interest upon you. You have so much to mold, shape, and build up. All your friends will follow you so long as you work for this end. *The profession to which you belong* has made this nation. A sailor was the first to give this land to you. * * *.

Following the remarks of the President, the late Secretary of the Navy, Hunt, spoke as follows:

* * * These diplomas are not mere pieces of parchment. They have a significance. They are not title deeds to sloth and indolence, but rather commissions for a performance of high duties and achieving great aims. *By them each of you becomes an officer in the United States Navy*, a position of dignity and the sentiment of a great nation of fifty millions of people. You are members of a select body of not over, perhaps, 1,000 in number. * * *.

That this is no new idea is strongly shown by the following letter, written by the Hon. Gideon Welles, in 1863, when Secretary of the Navy, to a candidate applying for admission to the Naval Academy:

* * * Should you, on examination, show a fair proficiency in the branches of knowledge there indicated, and comply with other conditions, *you will be received as a midshipman, and become thenceforward an officer of the Navy of the United States.* * * * *In admitting you to the Academy, it (the Government) secures to you an adequate provision*, in a most honorable calling, *for your future support, of which*, while you live, *nothing but misconduct or incapacity can deprive you.* * * *

In view of the foregoing opinions, it is evident that not only the Secretary of the Navy, but the Chief Executive of the nation, were also of the opinion that the position was one for life or during good behavior.

Your committee also find that the law under which these young gentlemen entered the service entitled them to promotion on the completion of their six years' course, according to section 1521 United States Revised Statutes, which reads as follows:

When cadet-midshipmen shall have passed successfully the graduating examination at the Academy they shall receive appointments as midshipmen, and shall take rank according to the order of their merit at graduation.

of the cadets to be affected by this bill complied with the pro-
of this section; but instead of "receiving appointments as mid-
n," they were discharged from the service.

iew of all the foregoing facts, we are of the opinion that a con-
xisted with these gentlemen which the Government of right ought
ll.

committee further report that in 1878 a similar act to that of
t 5, 1882, in relation to the cadets at the Military Academy at
Point, was passed by the House, but was amended in the Senate
ie 8, 1878, so as not to affect those cadets who had entered the
my prior to the passage of said act, which amendment was con-
in by the House. In view of this precedent, we see no reason
e act of August 5, 1882, should not be similarly modified as herein
nended.

as been said in opposition to this measure that the cases are not
l, as the course of studies at Annapolis better fits one for civil
n that at West Point. The reverse of this, however, is the case,
mparison of the curriculum of the Military Academy with that of
val Academy will show. The last two years of the course at the
Academy are given entirely to technical studies, and the addi-
two years at sea are given to the practical application of these
al subjects only, thus *further* unfitting the cadets for civil life.
connection we give a list of the subjects on which these young
ere examined at the expiration of their two years' course at sea,
ractical navigation, compass deviation, theory and practice of
y, French, Spanish, seamanship, and naval tactics, and, to a lim-
tent, practical marine engineering; and we would ask the mem-
the House if they have found any of the above subjects useful
ssary to them in their struggles in civil life, be their profession
t may. We have never found a knowledge of any of them essen-
our success. On the other hand, the graduate of West Point is
t an accomplished civil engineer, and, as such, can always find
erative employment.

committee further report that the annual Board of Visitors to
ited States Naval Academy in June, 1883, made the following
endation in their official report to the Secretary of the Navy:

commend that the act of August 5, 1882, be amended, as a similar act in rela-
he cadets at West Point has been, so as not to include those cadets who had
the service before the passage of said act.

JOHN G. HOWELL,
Rear-Admiral, United States Navy.
E. G. LAPHAM,
New York (United States Senate).
SAMUEL H. GREEN,
Massachusetts.
GEO. A. RITCHIE,
Pennsylvania.
EDWARD V. KINGSLEY,
New York.
JOHN W. DRUMMOND,
Illinois.
THOMAS UPDEGRAFF,
Iowa (House of Representatives).
ANSON G. McCOOK,
New York (House of Representatives).
R. Q. MILLS,
Texas (House of Representatives).
IRVIN McDOWELL,
Major-General, United States Army.

Also, that the annual Board of Visitors to the Academy in June, 1885, renewed the above recommendation in their report to the Secretary of the Navy, in the following language:

The attention of the Board having been called to the fact that the Board of Visitors in June, 1883, recommended that the act of August 5, 1882, be amended, as a similar act in relation to the cadets at West Point has been, so as not to include the cadets who had entered the service before the passage of said act: *Resolved*, That we concur in this recommendation, and respectfully renew the same for the consideration of Congress." (Hon. John R. Thomas and Hon. Benjamin LeFevre dissented, and asked leave to submit a minority report on this subject, which was granted, but which they did not do.)

ORLANDO M. POE,
United States Army.
JOHN R. THOMAS,
Illinois (House of Representatives).
BENJAMIN LE FEVRE,
Ohio (House of Representatives).
JNO. G. BALLENTINE,
Tennessee (House of Representatives).
W. G. SUMNER,
New Haven, Conn.
JNO. N. A. GRISWOLD,
New York, N. Y.
WILLIAM REED,
Baltimore, Md.
JAS. S. GRINNELL,
Greenfield, Mass.
A. M. CRAIG,
Galesburg, Ill.

Your committee are of the opinion that the above recommendations, made by two separate Boards of Visitors of the United States Naval Academy in their official report to the Secretary of the Navy, appointed by the President for the very purpose of investigating and reporting on the needs of the naval service, and composed of members of both branches of Congress, of officers of high rank in both the Army and Navy, of eminent members of the judiciary, and of *representatives of the people*, all men of careful judgment and wide experience, and who had carefully examined into the matter, are alone sufficient to show that a wrong has been done these young men which cannot be too speedily righted by Congress.

Your committee further report that, by three recent, separate, and *unanimous* decisions of the Court of Claims, the cadet-engineers of the classes of 1881 and 1882 are retained, and have never been out of the service; while the cadet-midshipmen who entered at the same time, by a mere technicality of the law, are discharged. Cadet-engineers are graduated after four years, while cadet-midshipmen, through the provisions of a like clause, are graduated only after a six-years' course. Cadet-engineers served during a cruise (two years) at sea, after finishing the four-years' course and receiving a diploma of graduation, before promotion, in the same manner as cadet-midshipmen; the difference being that the cadet-midshipmen were finally examined for promotion *at Annapolis*, while the cadet-engineers before were examined for promotion *at Philadelphia*. In the cases of the classes of 1881 and 1882, cadet-midshipmen and cadet-engineers entered the Academy together, pursued nearly the same studies for the same length of time, received their diplomas of graduation at the same time, went to sea for two years together, and finally returned to pass the same final examinations. Then, through a difference of wording of two clauses, intended to convey exactly the same idea, cadet-engineers are retained, while cadet-midshipmen are discharged. The court decided, on the application of

adet-engineers, that the good faith of the Government was involved, leclared those members of the engineer classes of 1881 and 1882 ffected by the act of August 5, 1882. We submit that these cadet- ipmen have equitably the same right to be retained in the service e cadet-engineers. And in addition to the above decision, the Court aims further affirmed, as a proposition of law that—

* * * *The provision of the act of August* 5, 1882, *for the discharge of surplus* . CADET GRADUATES *is prospective only, and do esnot apply to the classes of* 1881 *and*

is clearly indicates that the court is of the opinion that the provis- f the act of August 5, 1882, does not apply to the classes which completed their four-year's course in 1881 and 1882, had received diplomas of graduation, and were then serving their two years at rior to their final graduation in 1883 and 1884. The decision of Court of Claims having been appealed to the Supreme Court, that affirmed the decision, and the cadet-engineers of those two classes reinstated.

ur committee further find that the act of August 5, 1882, *was not even ded* to apply to the two classes which had completed the four-years' e at the Academy, and were then at sea, as is shown by the follow- etter written by Hon. George M. Robeson, the originator of the e in question:

PHILADELPHIA, PA., *November* 12, 1883.

: In reply to your letter of October 29, I state that at the last session of Con- I advocated the repeal of so much of the act of August 5, 1882, as affected the s of 1881 and 1882, then serving at sea. I do not think that the original bill ntended to affect these classes, and would again recommend that the classes of nd 1882 be reinstated to their former positions on the Naval Register.

Yours, very truly,

GEO. M. ROBESON.

ur committee furthermore report that, during the Forty seventh ress the bill herein proposed was introduced in the Senate, and d that body *unanimously*, and we believed that it failed to pass louse only from lack of time. Also that, in the Forty-eighth Con- , a similar bill was favorably acted upon by the Senate Naval nittee, and that a similar one was also reported favorably by this nittee. These bills were not acted upon owing to the press of leg- on, but these facts are mentioned to show the merits and the fa- ble consideration which the bill under discussion has received.

ur committee further find that all the classes of 1881–'83 and '84 were in actual service when the act of August 5, 1882, was d. Not only had they completed their four years' course at the emy and received their diplomas of graduation, but they were then ng at sea. Even if desirous of resigning after the passage of said heir absence from the United States made it almost impossible for to secure any position in civil life; and even if they could have so, the cost of returning to the United States would have been so that they were forced to remain in the service until the completion eir two years at sea. At that time they were discharged, after g devoted six years of their life to fitting themselves for a naval ssion alone, the six years during which all other young men are ing themselves to learning some business in civil life. At an aver- ge of twenty-two years they were forced, for no fault of their own, gin life again, totally unfitted for a life ashore, and with all their tions and inclinations for a naval life intensified and made a second e to them by six years devoted exclusively to that life.

The law was not operative when these young gentlemen entered the service, and five years later was made to affect them, and is thus retroactive, and, in effect, an ex post facto law.

The retroactive effect of the application of the act of August 5, 1882, on these cadets is entirely unprecedented in the legislation of European Governments. From inquiry at the French and German legations it has been ascertained that no such acts have ever been passed by either the French or German Government, and, as far as can be found out, the same is the case with all foreign Governments.

In the case of war, when large armies or navies are raised at comparatively short notice and with no previous educational training, or in the case of volunteers, both the officers and men are discharged after the necessity of their services is over. But in such cases they enter the service in full knowledge of such future discharge; consequently no injustice is done them. The difference between the two kinds of discharge is this: In the latter case such discharges were expected, no shadow of disgrace attaching to the same, while in the case of the cadets no explanation, however favorable it may be on the part of the Government or of the public, can take away from their discharges a certain degree of disgrace and stigma; for this reason, if for no other, that such discharges are unprecedented, and were not and could not have been expected, either by the cadets themselves or by the Government.

The number (98) to be reinstated, given above, includes all who would be entitled to return to the service by the passage of this bill. As a matter of fact, it is known that comparatively few of them would return to remain in the service. All, however, are equally interested in having a law passed permitting their reinstatement, as all desire to be relieved of the stigma inflicted by their arbitrary discharge. Of the very considerable number who would not avail themselves of the right to return, if this law is passed—thereby so largely reducing the cost to the Government and the delay to subsequent promotions—some for physical reasons (a naval life being an exposed one), some for family reasons, have lost their inclinations for a naval life, and, once relieved of the stigma now attached to their names as discharged naval officers, have determined to devote themselves to various pursuits of civil life.

It seems to be conceded that the Navy is about to be rehabilitated, and to be placed upon a footing approaching, at least, that of the other great maritime nations. One significant fact may be mentioned in this connection: The average number of officers of the British service performing duties performed by our ensigns (*exclusive of all those on staff duty*) now serving on board a typical modern man-of-war is *six*. The number of ensigns in all lines of duty on board one of our modern ships very rarely exceeds *two*, and in many cases there are none at all.

The effect of the bill under consideration on the later graduates of the Naval Academy would be to leave them exactly the same as though no dismissals had been made. These reinstatements, therefore, take away from these later grades no advantage except that which they obtained at the expense of these discharged cadets through the operation of the law of August 5, 1882.

In conclusion, your committee maintain that, as a matter of right, equity, and justice, the provisions of the act of August 5, 1882, should not have applied to these cadets, and we therefore recommend the adoption of this report, and the passage of the bill with the following amendments:

(1) Between the words "service" and "each," in line 5 insert "of."

(2) Between the words "those" and "who," in line 6 insert "cadets."
(3) In line 7, strike out the words "that" and "members," and insert, lieu of "members," the word "cadets."
(4) In line 8, strike out the word "the" where it first appears.
(5) In line 9, commencing with the word "return," strike out all the idue of said section, and insert "upon making application to the cretary of the Navy within sixty days after the passage of this act be tored to the service and take their places on the Naval Register, in same manner as if said act had not been passed: *Provided*, That thing herein contained shall be construed to make any change in the signment made under the provisions of the act approved August 5, 82, of graduates of the Naval Academy to the line and to the staff d Marine Corps: *And provided further*, That this act shall not apply those cadets who failed to pass the physical examination required at time of graduation."
(6) Add the following:
"SEC. 2. Officers restored under the provisions of this act shall not be titled to receive pay for the periods intervening between the date of eir discharge under the act of August 5, 1882, and their restoration as rein provided for, but in all other respects they shall be considered as ving been continuously in the naval service."

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1679.

REPEAL OF PRE-EMPTION, TIMBER-CULTURE, AND DESERT-LAND LAWS.

APRIL 15, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. COBB, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany bill H. R. 7887.]

The Committee on the Public Lands, to whom were referred sundry bills upon the subject of the pre-emption, homestead, timber-culture, and desert-land laws, have had the same under consideration, and report the accompanying bill as a substitute therefor.

Your committee have carefully considered the important questions contained in these several bills, as well as the laws they were intended to amend or repeal.

The subject of making laws for the government of the system by which the citizens of the United States may become the owners of the public domain by way of homesteads is an important duty, imposed upon the legislative department, which we duly appreciate.

The amount which each citizen shall be entitled to, and the manner in which the law shall be guarded to prevent peculation and fraud, are questions which were passed in review before your committee in framing the substitute. We believe it should be the policy of the Government to give to those of our citizens who are without homes such an amount of the public domain as will make them comfortable homesteads, where they enter upon it in good faith, intending to make it their homes and cultivate and live upon the same for a fixed period of time. And we believe that 160 acres should be the maximum as to agricultural lands.

Under the pre-emption, homestead, and timber-culture laws, as they now stand, one person may become the owner of 480 acres of the public domain—160 acres under each, to say nothing in regard to the desert-land act, which adds 640 acres more to this amount, making 1,020 acres of the public domain which one individual may acquire from the Government under the existing laws. This is too large an amount of land, in our opinion, for any one person to acquire in this manner.

We think that the policy of the Government should be to furnish as many of its citizens with comfortable homes as long in the future as possible. And 160 acres of agricultural land is sufficient. By giving them this amount it will not be many years until all of our public lands will be taken up.

The pre emption law was passed in 1841, the homestead in 1862, the timber culture act in 1873, and the desert-land law in 1877. When the homestead law was passed the pre-emption law should have been repealed; the timber-culture law should never have been passed, and the

desert-land law should never have been enacted without more safeguards put in it.

We have therefore provided in the substitute for the repeal of the pre-emption, timber-culture, and desert-land laws, and the amendment of the homestead law, the reasons for which will more fully appear further on.

REPEAL OF THE PRE-EMPTION LAW.

The first section of the substitute proposed provides for the repeal of the pre-emption law. When this law was first enacted it was regarded as a wise and beneficent measure; and for years it was faithfully executed. But this was a period in the history of the country when the spirit of speculation did not run so high as it does at the present day. Men then sought homes for themselves and families, and were content with a comfortable homestead, which 160 acres gave them. Not so now. This law enabled the poor man to enter upon and pre-empt 160 acres, and it was the only legal method by which unoffered public lands could be obtained, until after the passage of the homestead law. But when the homestead law was passed, as we have already said, the pre-emption law should have been repealed, as all the advantages of the latter are embraced in the former. The same land can be entered upon the same conditions and proofs and the payment of the same price under each law. We have, therefore, a dual system for the accomplishment of the same purpose, employing two sets of machinery, two agencies of adjustment, and a duplication of records, when only one should be required. If it is desired that the citizen should have more than 160 acres of land, to which he is entitled under each of these laws, you can increase the number of acres under the homestead act, thus leaving a simple system which we regard as much more easy of execution, and therefore the more preferable. But the most alarming circumstance connected with the execution of the pre-emption law is the peculation and fraud which have grown up in the past few years under its administration.

Whole townships of the public domain have been acquired under this law by capitalists who do not reside within hundreds of miles of the land, and never did. They have secured them through paid agents in their employ, who receive so much for their services when they make the proof necessary to entitle them to a patent from the Government, and assign their claims to their employers. This is done, of course, through perjury and subornation of perjury. For each one of these agents or claimants is required to make settlement on the pre-emption claim under the law, and he must make oath before the register or receiver of the land district in which the lands are situate, on which he claims to have settled for the purpose of pre-empting, and that he has never had the benefit of any right of pre-emption; that he has not settled upon and improved such land to sell the same on speculation, but in good faith, to appropriate it to his own exclusive use, and that he has not directly or indirectly made any agreement or contract in any way or manner with any person whatsoever by which the title which he might acquire from the Government of the United States should inure in whole or in part to the benefit of any person except himself. And yet it is well known that this oath is daily taken by parties who make it under contracts such as we have indicated above. They file with the register of the proper land district their declaration, make their proof, affidavit, and payment required by the law, and receive their title, and transfer the same to the parties with whom they made the contract before they attempted to make the pre-emption.

The Commissioner, in his annual report of 1883, speaking of this law, says:

In my last annual report I renewed the recommendation frequently made by my predecessors that the pre-emption law be repealed. Continued experience demonstrates the advisability and necessity of such repeal. The objection that much good has heretofore resulted from the pre-emption system, and that it should not be discontinued because abused, appears to us without good foundation under the changed conditions created by the homestead laws.

Therefore your committee are of the opinion that the pre-emption law should be repealed.

THE REPEAL OF THE TIMBER-CULTURE LAW.

The substitute provides for the repeal of this law. The Secretary, two years ago, in his annual report, has presented the reasons for the repeal of this law in a very clear and forcible manner; therefore we adopt what he said upon the subject, as follows:

In my last annual report I called attention to the abuses flowing from the operations of this act. Continued experience has demonstrated that these abuses are inherent in the law, and beyond the reach of administrative methods for their correction. Settlement on the land is not required. Even residence within the State or Territory in which the land is situated is not a condition to an entry. A mere entry of record holds the land for one year without the performance of any act of cultivation. The meager act of breaking 5 acres, which can be done at the close of the year as well as at the beginning, holds the land for the second year. Comparatively trivial acts hold it for a third year. During these periods relinquishments of the entries are sold to homestead or other settlers at such price as the land may command.

My information leads me to the conclusion that a majority of entries under the timber-culture act are made for speculative purposes, and not for the cultivation of timber. Compliance with law in these cases is a mere pretense and does not result in the production of timber. On the contrary, as one entry in a section exhausts the timber-culture right in that section, it follows that every fraudulent entry prevents a bona fide one on any portion of the section within which the fraudulent entry is made. My information is that no trees are to be seen over vast regions of country where timber-culture entries have been most numerous.

Again, under the operation of the pre-emption, homestead, and timber-culture laws any one person may enter 160 acres in each class of entry, making a total of 480 acres which may be taken by one person.

AMENDMENT OF THE HOMESTEAD LAW.

The third section of the substitute so amends section 2301 of the Revised Statutes as to require thirty calendar months to expire after the party files his pre-emption claim before he is entitled to his patent. And it also requires the proof of settlement and cultivation to be filed at least six months before application for patent can be made. Under the law as it now exists no time is fixed for making the proof, paying the entry money, and issuing the patent. Therefore it may be done at any time, thus opening the way wide for the commission of fraud. This amendment, it is believed, will certainly tend largely to prevent fraud, which is so greatly demanded, by giving the officers of the Government time to look into and determine the questions of fraud before final action is taken by issuing patents.

The fourth section of the substitute repeals the desert-land law.

This act was passed for the express purpose of reclaiming lands which in a natural state are barren and non-productive. It was thought that the homestead and pre-emption laws did not afford sufficient inducement to go upon this class of lands and reclaim them; that it required a greater quantity in the number of acres than these laws permitted. Therefore 640 acres was by this law given as an inducement to irrigation.

But your committee find that the expectations entertained as to the effect of this law have not been realized; that these lands have not been entered by the people for homes to any great extent, as was anticipated, but, on the contrary, these lands have been entered, and are now held under the pretense of complying with this law, by large cattle corporations and other corporations and wealthy capitalists for speculative purposes.

As proof of the above facts and the general operation of this law we give what the present Commissioner of the General Land Office says in his annual report:

The limitation of 640 acres as the amount that could be entered by one person has proved no obstacle to the acquisition by single persons and corporations of combined entries made in the individual names of large numbers of persons and held for speculative sale, the companies dominating the lands and levying tribute on settlers, by whom the whole cost of irrigation, if irrigation is required, is to be borne. Entries of this character and purpose are usually made in the names of persons living at remote distances from the land, and frequently in one month a single town or county in a distant State is given in the returns as the residence of from ten to twenty-five purported applicants, many of them women. Vast areas have been taken up in this manner by entries made in the interest of so-called "improvement companies."

Lands are also taken up in the same manner by consecutive entries, running through the whole course of valleys and streams, for the purpose of holding the agricultural portion and controlling the water supply upon which the back country for many miles is dependent. Original regulations required desert-land claimants to make final proof in person at the district land offices. In the case of John Chatterly, decided by the Department November 4, 1884 (11 Copp, 265), the reason of the rule and its correctness under the law were elaborately set forth and the regulation affirmed.

On December 1, 1884, departmental instructions were issued, apparently founded upon certain applications from Cheyenne, Wyo. (3 L. D., 246), permitting desert-land claimants to make their final affidavits outside of the land district and before other officers than registers and receivers. The effect of the modified rule was to enable land and cattle companies in Wyoming and elsewhere, operating under the desert-land act, to prove up claims in the names of parties living in distant States, in whose names such entries were made, for the benefit of the companies, in evasion of the restrictions of law.

The law requires desert-land claimants to make proof "of the reclamation" of the land, but by departmental decision and office instructions in February last it was held that actual reclamation is unnecessary (3 L. D., 385; 11 Copp, 371). My own views upon this point will be found under the head of the proper division report.

Another class of desert-land entries, aggregating immense areas in stock-raising territory, and perhaps comprising a majority of all entries under this act, are those procured for the purpose of holding and controlling land indefinitely without payment of taxes, with no intention of complying with law, and no expectation of making "proof" and payment during the statutory period, if ever. Scarcely a pretense of irrigation is made, but the land is held through the three years within which proof and payment are required by law, and as much longer as administrative indulgence may permit, when the entries are relinquished and the lands covered by other entries made in the same interest, but in different names. If in the mean time a contest is initiated or an investigation had the same proceedings are followed, responsibility for the first illegal entry evaded by its relinquishment, and the lands retained by new entries of the same character.

In this manner virtual leases are wrung from the Government for terms of years, free of tax or interest, at the trifling cost of 25 cents per acre for each term, which is paid at the beginning; and the repayment of even that sum is punctually demanded from the Government and obtained in many classes of cases.

The purpose of this act has conspicuously failed. The necessity for it is shown not to exist from the fact that the principal supply of water to actually arid lands, actually occupied or really prepared for occupation, is or can be furnished by water companies, independent of the desert-land act, or obtained by the settlers themselves free of corporate control.

The repeal of this act is, in my judgment, demanded by the most obvious considerations of a public policy looking to the protection of the public domain and the interests of honest settlement.

Section 5 of the substitute provides that hereafter no public lands not heretofore offered at public sale, including abandoned military or other reservations, and except isolated and disconnected fractional

racts authorized to be sold by section 2455 of the Revised Statutes, nd mineral and other lands, the sale of which at public auction has een authorized by acts of Congress of a special nature having local pplication, shall be sold at public sale or be subject to private entry.

The policy of adopting this section of the substitute is in the opinion f your committee sound. If the other provisions become the law this ill leave the public domain in a condition under the law so as to inrease the number of farms and homesteads, and check the increase of rge landed estates. The Commissioner of the General Land Office grees with this view, as shown by his last report, page 75, where he ays:

The policy of disposing of public lands as a means of raising revenue has long since en rejected by enlightened views of public economy. The policy of applying public nds so as to increase the number of farms and homesteads, diffusing instead of agregating land titles, and promoting general prosperity and the independence of agriultural labor, in place of creating baronial estates and reducing producers to deendence, has long been declared to be the policy of this Government, founded upon e good of the greatest number, inspired by patriotic impulses looking to the presvation of republican institutions, and enforced by the teachings of history and the essons of revolutions. The public opinion of the country that the public domain all be preserved for actual settlement has crystallized into an imperative demand at no more land shall be sold out of the reach of the people and into the hands of peculators or the grasp of monopoly. All general provisions of law authorizing cash les of public lands should, in my judgment, be abrogated, and the system of disosal only to actual inhabitants and cultivators be fully established and adequately rotected.

The sixth section amends section 2288 of the Revised Statutes. The rording of the amendment is sufficient to convince any one that it hould pass, and therefore no argument in its favor need be offered by our committee.

Your committee are aware that there will be objections to the repeal f the desert-land law unless some law is substituted in its stead. However this may be it is believed that the better method is to repeal the aw and stop the frauds which are being perpetrated under it, and if hought necessary that this Congress or some other in the near future hould pass some law to enable the Government to dispose of this lass of lands it can be done. But it should be done in a separate bill, arefully prepared, with all the safeguards to govern the subject that an be devised, so as to cause the distribution of this class of lands to he largest number possible of the people.

Your committee have reached the conclusions set forth in this report fter a careful consideration of the land system of the Government, and elieve that the passage of the substitute will greatly tend to protect he public domain from the frauds and peculations that have been eretofore perpetrated, and will preserve them for future settlement and omesteads by the poorer class of our citizens, who are unable to prore lands in any other way, and thereby tend to distribute the lands mong the greatest number of our people, a fact so desired by all good en, and which is so necessary to the future prosperity of our people, nd to the promotion of liberty.

BILL to repeal all laws providing for the pre-emption of the public lands, the laws allowing entries for timber-culture, the laws authorizing the sale of desert lands, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America n *Congress assembled*, That chapter four of title thirty-two, excepting sections twenty-wo hundred and seventy-five, twenty-two hundred and seventy-six, twenty-two undred and eighty-three, twenty-two hundred and eighty-six, and twenty-two hun-

dred and eighty-eight, and section twenty-two hundred and ninety-nine of the Revised Statutes of the United, and all other laws allowing pre-emption of the public lands of the United States, are hereby repealed: *Provided, however*, That this repeal shall not affect any valid rights heretofore accrued or accruing under said laws, but all bona fide claims lawfully initiated before the passage of this act may be perfected, upon due compliance with law, in the same manner, upon the same terms and conditions, and subject to the same limitation, forfeitures, and contests as if this act had not been passed: *And provided further*, That any person who has not heretofore had the benefit of the pre-emption law, and who has failed, from any cause, except by sale or disposal of his right thereto, to perfect title to a tract of land heretofore entered by him under the homestead laws, may make a second homestead entry in lieu of the pre-emption privilege hereby repealed.

SEC. 2. That an act entitled "An act to amend an act entitled 'An act to encourage the growth of timber on the Western prairies,'" approved June fourteenth, eighteen hundred and seventy-eight, be, and the same is hereby, repealed: *Provided, however*, That this repeal shall not affect any valid rights heretofore accrued or accruing under said laws, but all bona fide claims lawfully initiated before the passage of this act may be perfected, upon due compliance with law, in the same manner, upon the same terms and conditions, and subject to the same limitation, forfeitures, and contests as if this act had not been passed.

SEC. 3. That section twenty-three hundred and one of the Revised Statutes be amended so as to read as follows:

"SEC. 2301. Nothing in this chapter shall be so construed as to prevent any person who has availed himself of the benefits of section twenty-two hundred and eighty-nine from paying the minimum price for the quantity of land so entered at any time after the expiration of thirty calendar months from the date of such entry, and obtaining a patent therefor, the proofs of actual settlement and cultivation thereof to be filed at least six months prior and as preliminary to the application for the patent, and in the same manner and to the same effect as is provided and required in section three of this act as to final proofs and the issuance of patents."

SEC. 4. That an act entitled "An act to provide for the sale of desert lands in certain States and Territories," approved March third, eighteen hundred and seventy-seven, is hereby repealed: *Provided, however*, That this repeal shall not affect any valid rights heretofore accrued or accruing under said laws, but all bona fide claims lawfully initiated before the passage of this act may be perfected, upon due compliance with law, in the same manner, upon the same terms and conditions, and subject to the same limitation, forfeitures, and contests as if this act had not been passed.

SEC. 5. That hereafter no public lands of the United States, heretofore offered at public sale, including abandoned military or other reservations, and except isolated and disconnected fractional tracts authorized to be sold by section twenty-four hundred and fifty-five of the Revised Statutes, and mineral and other lands, the sale of which at public auction has been authorized by acts of Congres of a special nature having local application, shall be sold at public sale or be subject to private entry.

SEC. 6. That section twenty-two hundred and eighty-eight of the Revised Statutes be amended so as to read as follows:

"SEC. 2288. Any person who has already settled on the public lands, either by pre-emption or by virtue of the homestead law, or any amendments thereto, and any person who shall hereafter settle on the public lands by virtue of the homestead law, or any amendments thereto, shall have the right to transfer, by warranty against his own acts, any portion of his pre-emption or homestead for church, cemetery, or school purposes, or for the right of way of railroads, canals, or ditches for irrigation or drainage across such pre-emption or homestead; and the transfer for such public purposes shall in no way vitiate the right to complete and perfect the title to their pre-emptions or homesteads."

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1681.

LANDS IN RANDOLPH COUNTY, ILLINOIS.

APRIL 15, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PAYSON, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany bill H. R. 334.]

The Committee on the Public Lands, having had under consideration House bill 334, report the same back, with the recommendation that it pass, and adopt the report as to facts made to the Forty-seventh Congress, from the Committee on the Public Lands, on the subject, as follows:

Your committee, having had under consideration papers on the subject of granting to the county of Randolph, in the State of Illinois, certain public unsurveyed lands within said county, on certain conditions, beg leave to report:

An examination of this subject, as well as bills introduced in former Congresses having the same general objects, and the testimony and papers relating to the subject, discloses the fact that there are in Randolph county, Illinois, quite a number of small, unsurveyed tracts of public land lying in what is known as the Mississippi River bottom. These lands are subject to overflow and are, in every sense, "swamp and overflowed lands." Most of the lands along the Mississippi River in Randolph County were granted by charters from the French Government to purchasers or settlers, by metes and bounds, and little attention was paid to the description or lines of former grants. Settlers in selecting their lands chose those that were not subject to overflow; hence it occurred that quite a number of small pieces of land, of every imaginable shape, were left unsettled and unsold, and, being comparatively valueless, have never been surveyed by the Government. These intervening odd-shaped pieces of land have been the cause of protracted litigation, and are a fruitful source of contention between contiguous owners and non-resident land speculators and sharks.

The bill reported provides that said lands shall be surveyed by Randolph County, the surveys reported to the Commissioner of the General Land Office, and that such lands shall then be sold to Randolph County for the price of $1.25 per acre.

The Commissioner of the General Land Office recommends the passage of the bill, as he says that the lands are not of sufficient value to justify the Government in surveying them, and they should be disposed of in some way so as to subject them to taxation.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1682.

ALLOTMENT OF LANDS TO UNITED PEORIAS AND MIAMIES OF INDIAN TERRITORY, ETC.

APRIL 15, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. SKINNER, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill H. R. 7888.]

The Committee on Indian Affairs, to whom was referred the bill H. R. 739) to provide for the allotment of lands in severalty to the United Peorias and Miamies in Indian Territory, and for other purposes, having had the same under consideration, report back the accompanying substitute, and recommend that the said bill do lie on the table, and that the substitute do pass.

The United Peorias and Miamies own 50,301 acres of land in Indian Territory, where they reside, and the Miamies own land in the State of Kansas, where they resided prior to their removal to Indian Territory in 1873. All these Indians are civilized and self-sustaining, and are sufficiently educated to become citizens of the United States, and to hold their lands and other property in severalty, and they desire to so hold it.

The substitute provides for the allotment of their lands to them in severalty in Indian Territory, but to be held by the United States in trust for them, inalienable, and not subject to sale for taxes, or under decree of any court or otherwise for a period of twenty-five years, and for the sale of their lands in Kansas. The rights of all parties are properly guarded.

H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 1683.

LE OF THE RESERVATION OF THE OTOE AND MISSOURIA RIBES OF INDIANS IN THE STATES OF NEBRASKA AND ANSAS.

IL 15, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

PERKINS, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill H. R. 7087.]

ıe Committee on Indian Affairs, to whom was referred bill (H. R.) authorizing and directing the Secretary of the Interior to extend ime of payment of the purchase-money on the sale of the reserva- of the Otoe and Missouria tribe of Indians, in the States of Ne- ka and Kansas, after having carefully considered the provisions of ill and the necessity of the proposed legislation, recommend the age of the same.

ıe reservation was sold in the year 1884 to actual settlers, and in ıtities not to exceed 160 acres to any individual, and was made pay- in four installments, one-fourth being paid within ninety days from late of sale. The law provides that when the money is paid into the ed States Treasury the Indians are to received 5 per cent. interest he same, which amount is to be expended annually for the use of the ans. The land was sold to the highest bidder, and brought its full e, and by reason of improvements is an absolutely safe security he money. It was two years before the settlers could realize from cultivation of the land, and the very low price now paid for agri- ıral products, and there being no power to mortgage the land be- e of the title being in the Government, settlers would be required ıcrifice the land unless given an opportunity to save the same by xtension of time to make payments.

ıe passage of this bill would be an act of justice to the settlers save the Government from paying the interest which would be by the settlers during the extension, while the Indians would nothing. There can be no reasonable objection to the passage of ill.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1684.

ORGANIZATION OF THE TERRITORY OF OKLAHOMA.

APRIL 15, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. HILL, from the Committee on Territories, submitted the following

REPORT:

[To accompany bill H. R. 7217.]

The Committee on the Territories, to whom was referred the bill (H. R. 7217) to organize the Territory of Oklahoma, and for other purposes, have had the same under consideration, and report the same back and recommend its passage.

The first section of the bill organizes a Territory to be known as Oklahoma, and to be composed of all that part of the United States known as the Indian Territory and the public land strip west thereof and north of the Pan Handle of Texas. But the lands occupied by the five civilized tribes who hold them by patent from the United States are expressly excluded from the jurisdiction of the Territory, except for judicial purposes. The judicial purposes for which this region is included in the Territory are defined in the bill to be three courts, to be held by judges appointed by the President at such places as those judges may fix within the territory occupied by the five civilized tribes, and to have and exercise the same jurisdiction within those five civilized tribes that is now exercised by the United States district court for the western district of Arkansas, the district of Kansas, and the northern district of Texas. For no other purposes are the five civilized tribes placed within the jurisdiction of the Territory, unless they should hereafter signify in a legal way their desire to be incorporated within the Territory of Oklahoma. The other Indian tribes now located within said Territory by Departmental orders and special acts of Congress are included within the Territory for judicial purposes and such other purposes as may be consistent with our treaty obligations with each of these tribes. But it is expressly provided that nothing in the bill shall interfere with any right which any Indian tribes may now have under any treaties or agreements with the United States heretofore ratified.

It is conceded that the United States has the power to establish courts in said Territory. The lawless condition of the Indian Territory heretofore and the enormous expense entailed upon the courts of the United States held in the western district of Arkansas, and the district of Kansas and the northern district of Texas, imperatively demand that there shall be a change in the manner of administering justice in that Territory. It is now the refuge for ex-convicts and desperate characters from all the States, and the only law which prevails is that of might supported by the revolver and the rifle, except such laws as

are made by the five civilized tribes for their government within their tribal relations.

The second section of the bill authorizes the President to appoint, by and with the advice and consent of the Senate, a governor, secretary, a supreme court consisting of three judges, a marshal, and an attorney, and for the election of a Territorial legislature and a Delegate in Congress at such time as in the opinion of the President the public interest may require.

The third section of the bill extends over the whole Territory thus organized the Constitution and laws of the United States, and provides for the exercise of the judicial powers already referred to.

The fourth section opens the public land strip to settlement under the homestead laws of the United States only, reserving the sixteenth and thirty-sixth sections for school purposes.

The fifth section of the bill relates to the mode of disposing of the land ceded to the United States by the Creek and Seminole Indians by the treaties of 1866. By those treaties the United States purchased and paid for these lands commonly known as Oklahoma, declaring in the treaty that they were purchased for the purpose of settling thereon friendly Indians and freedmen. With this limitation only, the conveyance was one in fee simple on the part of the tribes, the United States purchasing with this declared purpose. The bill provides that, in case the commission authorized in the subsequent section of the bill should be of opinion that the Indians are entitled to further compensation for said lands by reason of the purpose of the United States being changed, an agreement may be made with said Indians to pay them an additional compensation therefor, not exceeding $1.25 per acre, less the amount heretofore paid and the cost of sale by the United States. The lands disposed of in this section number 1,887,800 acres. The public land strip heretofore mentioned contains 3,672,640 acres. The aggregate, therefore, of the lands to be opened to settlement under the provisions of this bill is 11,583,295 acres, a section of country larger in area than the three States of Massachusetts, Rhode Island, and New Jersey. The greater portion of this region is of the very best agricultural lands, and will furnish homes and comfortable incomes to half a million of people.

The sixth section of the bill provides the manner in which the Government of the United States may open to settlement to actual settlers that portion of the Indian Territory known as the Cherokee strip or outlet west of the ninety-sixth degree of longitude, except such portions as are now occupied by tribes of Indians by special acts of Congress. The unoccupied portion it is proposed to open to settlement embraces 6,022,855 acres. In view of the fact that the contract of purchase of this land was made coupled with a declaration in the treaty that it was to be used for the settlement of friendly Indians, it is deemed just that the commission appointed in a subsequent section of the bill should first make an agreement with the Cherokee Indians with a view to additional compensation for said lands by reason of the fact that they are to be used for the settlement of white settlers. It is further provided in the bill, the consent of the Indians first to be obtained, that the United States shall pay the Cherokee Indians $1.25 per acre for the land instead of 47.49 cents as now provided by appraisement fixed by the President of the United States under the act of 1872. The United States is to place this sum to the credit of the Cherokee Indians on the books of the Treasury of the United States as it may receive

payment for such land by actual settlers, as provided in the bill, less the amount already paid on account of said lands and the cost of sale.

It is not contemplated by any of the provisions of the bill to open to white settlement any other portions of the Indian Territory unless by consent of such Indians hereafter to be obtained by the commission authorized to be appointed by the bill. That such will be the result at an early day is more than probable, from the fact that the Indians in other parts of the Territory have assigned to them lands largely in excess to their present or future wants. For instance, the Cheyennes and Arapahoes, numbering 3,376, have assigned to them, for their use, 4,297,771 acres, or more than 5,000 acres to each family of four persons. Less than 1,000 acres of this land has been reduced to cultivation, and it is well known not to be useful for hunting purposes. The other Indian tribes occupy lands largely in excess of their present or future requirements, and it is believed that future agreements may be made and departmental orders issued which will reduce the limits of these reservations and open up other large areas in the near future to actual settlement by white people.

The seventh section of the bill authorizes the establishment of a land office in the Territory at such time as the President may deem it necessary and the appointment of the proper officers to conduct the same. It is provided that no person shall take more than 160 acres of land; that he shall occupy the same for a space of five years before acquiring perfect title thereto; shall actually cultivate the same, and that he shall not act as agent for other persons, but in good faith, in order to acquire a title for himself, and the payments therefor, at the rate of $1.25 per acre, except the public land strip, which may be taken for homesteads only, are to be made in installments, as the Secretary of the Interior may prescribe.

The eighth section provides for the appointment by the President, by and with the advice and consent of the Senate, of a commission of five persons, not more than three of whom shall be members of one political party, each to be entitled to a compensation of $3,000 a year, who shall appoint a secretary at a compensation of $1,800 a year. This commission is authorized to enter into agreements with the Indian tribes within the limits of the Territory with a view to carrying out the provisions of this act, to the settlement of Indians upon other reservations than those occupied by them now, to apportioning their lands in severalty, and to their education and civilization. Such agreements so entered into with any of the Indian tribes in said Territory are to be reported to Congress for its future action.

The tenth section of the bill provides as follows:

> That all leases of lands belonging to the United States or held in common by any of the Indian tribes within the Territory of Oklahoma, as organized by this act, including the Cherokee Strip west of the ninety-sixth degree of longitude, whether controlled by persons, corporations, or others, except such leases as are held for the purpose of cultivating the soil strictly for farming purposes, are hereby declared void and contrary to public policy; and it is hereby made the duty of the President, immediately after the passage of this act, to cause the lessees of said lands, or persons illegally occupying the same, to be removed from said lands.

This provision declares null and void and contrary to public policy all leases which may be entered into with any Indian tribe with cattle syndicates, corporations, or individuals for other than mere agricultural purposes within the limits of the Indian Territory.

Attention is called to the fact that during the past twenty years the lands heretofore mentioned, known as the Cherokee strip or outlet, and

lands known as Oklahoma proper have not been occupied lawfully, either by Indian tribes or by other persons, with the sanction of the United States. The declared policy of the Government is at this time not to settle friendly Indians upon those lands, and Congress has upon more than one occasion recognized this fact. This vast region, therefore, is now without legal occupancy of any kind. But the Cherokee tribe of Indians has entered into a lease for grazing purposes with a cattle syndicate known as the "Cherokee Strip Live Stock Association," which lease is to continue for five years from October 1, 1883, and by the terms of which that corporation agrees to pay $100,000 a year to those Indians for the use of such lands. It is well known that the corporation referred to has sublet these lands to more than one hundred firms and individuals engaged in the cattle business for the purpose of pasturing their cattle thereon, and that these sublessees pay the parent company sums largely in excess to the amount that that company pays to the Indians. It has therefore become a question to be determined by Congress whether the Cherokee Indians shall be permitted to lease these unoccupied lands without legal authority to cattle syndicates, to the exclusion of white settlers, or whether the United States will enter into further agreement with them with a view of opening said lands to bona fide settlers, and thus furnishing homes to our people.

It is claimed by some members of the committee that the leases made by the Cherokee tribe to the cattle company referred to are valid and cannot be abrogated by act of Congress. This position, in the opinion of your committee, is wholly untenable. It has been the settled policy of the Government from its foundation to the present time to exercise the right to regulate and control the sale or lease of Indian lands. As early as 1796 it was enacted that no nation or tribe of Indians within the boundaries of the United States should grant, sell, or lease or make any other conveyance of lands, or of any title or claim thereto, without the consent of the United States, made and entered into by some public treaty held under authority thereof. This act has remained in force from that time to the present, and was re-enacted in section 2116 of the Revised Statutes of the United States. There is no exception in the history of the Government to this declared policy. In no case has the United States recognized the authority of any Indian tribe or nation to sell, lease, or otherwise alienate or grant a claim to any portion of the lands occupied by them, whether such lands are held by patent in fee-simple or by Departmental orders. All treaties heretofore entered into between the United States and Indian tribes have been made and published while this law was in existence. All treaties so-called with Indian tribes, having been made during the existence of this provision now incorporated in the Revised Statutes, section 2116, are made subject to those provisions, and they are just as much a part of all such treaties as if they had been incorporated into the text thereof. This would be true if they were treaties with foreign and independent nations, for the treaty-making power, which consists of the President and the Senate, can not make a treaty with a foreign nation that contravenes an act of Congress, until Congress shall pass a law modifying its statutes in accordance with the treaties. But the undersigned are of the opinion that treaties made with Indian tribes are mere agreements entered into between the United States and such tribes, and are clearly and unquestionably subject to all the provisions of existing law. Whatever therefore may be the terms of any of the titles or previous treaties with any of the Indian tribes in regard to the lands that they occupy or

old, it still remains indisputable that all such titles are made subject
) the laws of the United States in force at the time.

But we are not left in doubt upon this subject or required to rest the
ase upon the settled policy of the United States. At least two At-
orneys-General of the United States have expressly held that the title
f the Cherokee Nation to the Cherokee land strip or outlet does not
uthorize that nation or tribe to sell any of their lands or lease them
)r grazing purposes. Attorney-General Devens, in the 16th Attor-
ey-General's Opinions, page 470, held that the Cherokee Nation itself
ould not settle one of its own tribe upon the Cherokee Strip, and if
uch tribe could not settle one of its own citizens thereon, it follows that
t could not authorize the settlement thereon of any white persons, or lease
he same to any person, which includes the right of occupancy. Attor-
ey-General Garland has, in a recent opinion, covered the whole subject.
n July last, the Secretary of the Interior submitted certain questions
o the law officer of the Government for his legal opinion thereon. At-
orney-General Garland answered under date of July 21, 1885, review-
ng all the authorities upon the subject, and delivering an opinion,
vhich is deemed by your committee to be conclusive upon this subject.
'hat opinion is as follows:

DEPARTMENT OF JUSTICE,
Washington, July 21, 1885.

SIR: By your letter of the 8th instant, inclosing a communication from the Com-
issioner of Indian Affairs of the 7th, the following questions are, at his suggestion,
ubmitted to me with request for an opinion thereon:

"Whether there is any law empowering the Interior Department to authorize In-
ans to enter into contract with any parties for the lease of Indian lands for grazing
urposes; and also whether the President or the Interior Department has any au-
ority to make a lease for grazing purposes of any part of any Indian reservation, or
ether the approval by the President or the Secretary of the Interior would render
y such lease made by Indians with other parties, lawful and valid."

These questions are propounded with reference to certain Indian reservations,
mely:

1. The Cheorokee lands in the Indian Territory west of ninety-sixth degree of lon-
tude, except such parts thereof as have heretofore been appropriated for and con-
yed to friendly tribes of Indians.

2. The Cheyenne and Arapaho Reservation in the Indian Territory.

3. The Kiowa and Comanche Reservation in the Indian Territory.

Our Government has ever claimed the right, and from a very early period its settled
)licy has been, to regulate and control the alienation or other disposition by Indians,
id especially by Indian nations or tribes, of their lands. This policy was originally
opted in view of their peculiar character and habits, which rendered them inca-
)le of sustaining any other relation with the whites than that of dependence and
pilage. There was no other way of dealing with them than that of keeping them
parate, subordinate, and dependent, with a guardian care thrown around them for
eir protection. (3 Kent Com., 381; Beecher v. Wetherby, 95 U. S., 517, where
)st of the cases on this subject are cited and discussed.)

Thus in 1783 the Congress of the Confederation, by a proclamation, prohibited "all
rsons from making settlements on lands inhabited or claimed by Indians, without
e limits or jurisdiction of any particular State, and from purchasing or receiving
y gift or cession of such lands or claims, without the express authority and direc-
)ns of the United States in Congress assembled," and declared "that every such pur-
ase or settlement, gift or cession, not having the authority aforesaid, is null and
id, and that no right or title will accrue in consequence of any such purchase, gift,
ssion, or settlement." By section 4. of the act of July 22, 1790, chapter 33, the Con-
ess of the United States enacted "that no sale of lands made by any Indians, or any
tion or tribe of Indians within the United States, shall be valid to any person or
rsons, or to any State, whether having the right of pre-emption to such lands or not,
less the same shall be made and duly executed at some public treaty, held under
e authority of the United States." A similar provision was again enacted in section
)f the act of March 1, 1793, chapter 19, which by its terms included any "purchase
grant of lands, or of any title or claim thereto, from any Indians or nation or tribe
Indians, within the bounds of the United States." The provision was further ex-
nded by section 12 of the act of May 19, 1796, chapter 30, so as to embrace any "pur-

chase, grant, *lease*, or other conveyance of lands, or of any title or claim thereto." As thus extended it was re-enacted by the act of March 3, 1799, chapter 46, section 12, and also by the act of March 30, 1802, chapter 30, section 12.

In the above legislation the provision in terms applied to purchases, grants, leases, &c., from individual Indians as well as from Indian tribes or nations; but by the twelfth section of the act of June 30, 1834, chapter 161, it was limited to such as emanate "from any Indian *nation* or *tribe* of Indians." And the provision of the act of 1834, just referred to, has been reproduced in section 2116, Revised Statutes, which is now in force.

The last-named section declares: "No purchase, grant, lease, or other conveyance of lands, or of any title or claim thereto, from any Indian nation or tribe of Indians, shall be of any validity in law or equity, unless the same be made by treaty or convention entered into pursuant to the Constitution."

This statutory provision is very general and comprehensive. Its operation does not depend upon the nature or extent of the title to the land which the tribe or nation may hold. Whether such title be a fee-simple, or a right of occupancy merely, is not material; in either case the statute applies. It is not, therefore, deemed necessary or important, in connection with the subject under consideration, to inquire into the particular right or title to the above-mentioned reservations held by the Indian tribes or nations respectively which claim them. Whatever the right or title may be, each of these tribes or nations is precluded, by the force and effect of the statute, from either alienating or leasing any part of its reservation, or imparting any interest or claim in and to the same, without the consent of the Government of the United States. A lease of the land for grazing purposes is as clearly within the statute as a lease for any other or for general purposes, and the duration of the term is immaterial. One who enters with cattle or other live stock upon an Indian reservation under a lease of that description, made in violation of the statute, is an intruder, and may be removed therefrom as such, notwithstanding his entry is with consent of the tribe. Such consent may exempt him from the penalty imposed by section 2117, Revised Statutes for taking his stock there, but it cannot validate the lease, or confer upon him any legal right whatsoever to remain upon the land; and to this extent and no further was the decision of Judge Brewer in United States *v.* Hunter, 21 Fed. Rep., 615.

But the present inquiry in substance is (1) whether the Department of the Interior can authorize these Indians to make leases of their lands for grazing purposes, or whether the approval of such leases by the President or the Secretary of the Interior would make them lawful and valid; (2) whether the President or the Department of the Interior has authority to lease for such purposes any part of an Indian reservation.

I submit that the power of the Department to authorize such leases to be made, or that of the President or the Secretary to approve or to make the same, if it exists at all, must rest upon some *law*, and therefore be derived from either a treaty or statutory provision. I am not aware of any treaty provision, applicable to the particular reservations in question, that confers such powers. The Revised Statutes contain provisions regulating contracts or agreements with Indians, and prescribing how they shall be executed and approved (see section 2103); but those provisions do not include contracts of the character described in section 2116, hereinbefore mentioned. No general power appears to be conferred by statute upon either the President or Secretary, or any other officer of the Government to make, authorize, or approve leases of lands held by Indian tribes; and the absence of such power was doubtless one of the main considerations which led to the adoption of the act of February 19, 1875, chapter 90, "to authorize the Seneca Nation of New York Indians to lease lands within the Cattaraugus and Allegany Reservations, and to confirm existing leases." The act just cited is, moreover, significant as showing that, in the view of Congress, Indian tribes cannot lease their reservations without the authority of some law of the United States.

In my opinion, therefore, each of the questions proposed in your letter should be answered in the negative, and I so answer them.

I am, sir, very respectfully,

A. H. GARLAND,
Attorney-General.

The SECRETARY OF THE INTERIOR.

In view of the foregoing, your committee are of the opinion that the leases mentioned in the bill are null and void, as well as contrary to public policy, and should be so declared by Congress. The point made that a lease for grazing purposes is not a lease of land in contemplation of section 2116 of the Revised Statutes, but a simple right to pasture the land, is a mere legal subtlety, a distinction without a difference. A

lease is a mere right to occupy and use land, and conveys no other title whatever, and such are the cattle leases mentioned in the bill. A copy of the principal lease in question is hereunto attached and made a part of this report, and marked Exhibit B. It will be seen that it is an ordinary lease of lands, and differs in no respect from other farm leases.

The only other point made in opposition to this bill is that it establishes a Territorial government in the Indian Territory. A careful reading of the bill will show that this point is not well taken. No Territorial government is proposed to be established over the five civilized tribes, or any portion of land occupied by them, unless they should hereafter signify their desire to become incorporated in the Territorial government, and that action rests entirely upon their own will or volition. The only provisions of the bill which operate upon the five civilized tribes are those which establish a court of the United States, having the jurisdiction that is already exercised by United States courts, which courts are to be held within the limits of the Territory hereafter instead of without them, and the right to do this is conceded to Congress in the treaties of 1866. For no other purpose and in no other way are the five civilized tribes affected by the provisions of this bill, unless it be that the region is hereafter to be called Oklahoma instead of the Indian Territory.

In view of the foregoing, your committee are of the opinion that it is the imperative duty of Congress to make speedy provision for the opening of the unoccupied lands in said Territory, as is provided in this bill, and for the establishment of such a government over that portion of the Territory as will insure law and order. Its passage will open up in the immediate future a vast region of fertile and healthy country to be occupied as homes for actual settlers. From all over the country numerous petitions have been received by your committee from people in all parts thereof, praying for the opening up and settlement of this country. Thousands of people are now watching anxiously the action of Congress upon this bill, hoping thereby to secure themselves homes.

There is but one other provision in the bill to which attention should be called, and that is the provision declaring forfeited all land grants that may have been granted heretofore by Congress in aid of the construction of railroads within the limits of the Indian Territory. Out of abundant caution, and for fear some grants may be revived by the provisions of this bill, your committee has thought it prudent to incorporate a section declaring all such grants, if any, forfeited to the United States, repealing all laws heretofore passed making such grants, and prohibting the Territorial legislature or any Indian tribe hereafter from making a donation of land to aid in the construction of any railroad now organized or hereafter to be organized, or on account of any railroad already constructed.

The bill has been carefully considered, and every provision inserted which may be necessary to guard the interests and treaty rights of the Indians. At the same time provision is made for opening up to actual *bona fide* settlers a vast region of country now unoccupied by Indians or required for their use in the future; but which has been appropriated, in violation of law, to the exclusive use of cattle syndicates and desperadoes from all parts of the country.

Your committee recommend that the bill be amended, as indicated by the accompanying amendments, and that as amended it be passed.

EXHIBIT B.

THE CHEROKEE LEASE TO THE GATTLE SYNDICATE.

[See Senate Ex. Doc. No. 17, Forty-eighth Congress, second session.]

EXECUTIVE DEPARTMENT, CHEROKEE NATION,
Tahlequah, June 19, 1884.

I, John L. Adair, assistant executive secretary, hereby certify that the transcripts hereunto attached are correct copies of the original papers now on file in this department, the lease of the Cherokee lands west of the Arkansas River, various powers of attorney, authorizing the signing of certain names thereto, and a resolution of the Cherokee Strip Live Stock Association confirming the action of attorneys.

Witness my hand and seal of the Cherokee Nation, this the day and year first above written.

[SEAL.]

JOHN L. ADAIR,
Assistant Executive Secretary.

This indenture, made the fifth day of July, in the year of our Lord one thousand eight hundred and eighty-three, by and between Dennis W. Bushyhead, principal chief of the Cherokee Nation, for and on behalf of said Cherokee Nation, party of the first part, and E. M. Hewins, J. W. Hamilton, A. J. Day, S. Tuttle, M. H. Bennett, Ben. S. Miller, A. Drumm, E. W. Payne, and Charles H. Eldred, directors in trust for and on behalf of the Cherokee Strip Live Stock Association, a corporation organized and existing under and by virtue of the laws of the State of Kansas, for themselves, as directors in trust and assigns, parties of the second part.

Witnesseth, That the said party of the first part, for and in consideration of the rents, covenants, and agreements hereinafter mentioned, reserved, and contained on the part and on behalf of the party of the second part, and their successors in trust and assigns, to be well and faithfully kept and performed, doth, by authority of law in him vested as principal chief, by and through an act of the national council, which said is entitled "An act to amend an act to tax stock grazing upon Cherokee lands west of the ninety-sixth meridian," approved in special session May 19, A. D. 1883, which said act is especially referred to and made part of these presents, does by these presents lease for grazing purposes only unto the aforesaid E. M. Hewins, J. W. Hamilton, A. J. Day, S. Tuttle, M. H. Bennett, Ben. S. Miller, A. Drumm, E. W. Payne, and Charles H. Eldred, directors in trust as aforesaid, their successors and assigns, parties of the second part, all and singular, the unoccupied lands of and belonging to the Cherokee Nation, being and lying west of the ninety-sixth "meridian" and west of the Arkansas River, not including any portion occupied, sold, and conveyed to the Pawnees, Poncas, Nez Percés, Otoes, Missourias, Osages, and Kansas Indians, or the Salines, set apart to be leased separately under act of Congress, approved August 7, A. D. 1882, as hereinafter set forth; the said portion herein leased for grazing purposes containing six million (6,000,000) of acres, more or less, and lying east of the one hundredth meridian, and the said hereinbefore named parties of the second part, their successors and assigns, shall, for the purpose herein set forth, have and hold the above mentioned and described premises from and after the first day of October, one thousand eight hundred and eighty-three (1883), for and during the term and period of five years thence next ensuing from said date, subject to the qualifications hereinafter provided for, and upon yielding and paying for the same the amounts of money as hereinafter provided for; and the said E. M. Hewins, J. W. Hamilton, A. J. Day, S. Tuttle, M. H. Bennett, Ben. S. Miller, A. Drumm, E. W. Payne, and Charles H. Eldred, directors in trust as aforesaid, hereby covenant and agree, on behalf of themselves, as such directors in trust for said Cherokee Strip Live Stock Association, their successors in trust and assigns, and not otherwise, in consideration hereof, and of the leasing aforesaid, to pay, on the order of the principal chief aforesaid, into the treasury of the Cherokee Nation at Tahlequah, Indian Territory, yearly, and for each and every one of said five years, the annual sum of one hundred thousand dollars ($100,000.00) lawful money of the United States, the same to be paid in two equal semi-annual payments, to be made and so paid in advance, to wit: On the first day of October and the first day of April in each and every year during the said term. Provided always, and it is further covenanted and agreed between the said parties hereto that if the said semi-annual payment in advance, or any part thereof, shall remain unpaid after the expiration of thirty days after the date the same becomes due as herein agreed to be paid; or if default shall be made in any of the covenants hereinbefore or hereinafter set forth, or as contained and required by the act of the national council approved May 19, A. D. 1883, as aforesaid, on the part and in behalf of the said parties of the second part, then and from thenceforth, it may be lawful, and is agreed, that said principal chief, or his suc-

ɔessors in office, may dec'are the lease to be forfeited and annulled, and the said party ›f the first part may enter into and resume possession of the premises herein leased.

And it is further agreed, in accordance with the act of said national council, that n case the lands hereinbefore described, or any part of them included in the terms ›f this lease, shall be disposed of under present existing laws, or laws hereinafter to ɔe passed by the Congress of the United States, by the said Cherokee Nation, that ›n the party of the first part giving six months' notice thereof to the party of the econd part, that then, and in that event, the terms and conditions of this lease and he lease thereof shall terminate on the expiration of the said six months from the late of said notice, to all or to any portion of said tract of unoccupied Cherokee land hus sold or disposed of, and the parties to whom said lands or any portion of them hould then be disposed of or sold to may enter into and take possession of the same; ›ut then, and in that event, the said party of the second part, their successors and ssigns, shall not be chargeable with rent on the lands so sold, but shall be allowed a rebate on all subsequent payments made on account of this lease at the rate of one and two-thirds (1⅔) cents per acre per annum ‹ n the lands so sold or disposed of.

Further, it shall be the privilege of said party of the second part, their successors or assigns, to erect on said lands such fences, corrals, and other improvements as may be necessary and proper and convenient for the carrying on of their business and for utilizing said lands for the purposes for which they are leased. And in case this lease shall be terminated as to all or any part of said lands by the disposal of the same as heretofore provided and set out, the said party of the second part shall have the right to remove all of said improvements, fences, and corrals, except such portions thereof as may be made from the timber or other property of the Cherokee Nation, or tiı ber for which has been obtained from the aforesaid tract. It shall further be the privilege of said party of the second part, their successors and assigns, to cut from the territory herein leased such timber as may be necessary for the purpose of building the fences, corrals, and improvements here before authorized to be erected on said leased premises, ınd to cut from said lands such timber as may be necessary for fire wood and fuel, but ıot otherwise, and to commit no waste thereon.

And the said party of the second part doth further covenant and agree with the aid Dennis W. Bushyhead as aforesaid, and as parts and conditions of this lease or ontract, well and truly and without deduction or delay, to make all payments as equired in the foregoing, in the manner limited and prescribed; and in case of any ailure as aforesaid, the said party of the second part agree that they will peaceably ırrender the premises herein leased, and all improvements or erections thereon; and ıe said party of the second part, their successors and assigns, further agree and obgate themselves, and this is one of the conditions of this lease, to make no permaent improvements (the improvement, the right to make which is hereinbefore granted, eing considered temporary improvements) on the aforesaid premises or leased tract, nd only such temporary improvements as are authorized by the act of the national ›uncil approved May 19, 1883, hereinbefore referred to; and on the expiration of ıe lease or its being declared forfeited by default in the payments, as hereinbefore rovided, then, and in either event, all improvements, structures, or erections thereon ıall be and become the property of the Cherokee Nation; and said nation shall have ɔssession of the same, and all and singular of such erections and improvements shall ɔsolutely revert to and become the property of the Cherokee Nation, party of the rst part.

And the *second* party of the second part further covenants and agrees with the said arty of the first part, as one of the conditions of this lease, that they will cut no mber for removal from said lands, or take or remove any material or property being art of the premises so leased; or remove or ship material therefrom; and that they ill use all due diligence to prevent the cutting or removing of any timber or other aterial therefrom; and that they will faithfully observe the intercourse laws of the nited States; that they will obstruct no mail or stage line, and that they will not ıterfere with the salines, located or to be located, under the provisions of the act f Congress, before mentioned, approved August 7, 1882. And it is further agreed etween the parties of the first part and the second part that the grounds excepted nd reserved from, and not included in, the terms of this lease, necessary for the manfacture of salt at the said salines, may and shall not exceed in the aggregate for said ılines, and all of them, 100,000 acres, with a right of way to and from said salines, ıch as may be required properly to work them; and the said party of the second art do hereby obligate themselves, for themselves as directors in trust aforesaid, ıeir successors and assigns, *will* and truly to observe and faithfully execute all nd singular of the foregoing agreements and covenants, which are declared to e part of the agreement, in consideration of which this lease is granted. And the ıid party of the first part, principal chief of the Cherokee Nation, in accordance ith the act of the national council, as aforesaid, and on condition of the faithful ayment of the sum of money as hereinbefore stipulated, in the manner and with the ›nditions hereinbefore prescribed, and as the further condition that the said party

of the second part will well and truly fulfill all of the conditions, covenants, and agreements herein set forth, doth hereby covenant and agree by these presents that the said E. M. Hewins, J. W. Hamilton, A. J. Day, S. Tuttle, M. H. Bennett, Ben. S. Miller, A. Drumm, E. W. Payne, and Chas. H. Eldred, directors in trust for the Cherokee Strip Live Stock Association, their successors in trust, and assigns, shall and may at all times during the said term, subject to the conditions as aforesaid, peaceably hold and enjoy all the privileges of lease on the said premises, free, clear, and harmless from any let or hindrance whatsoever, together with all the privileges and rights of said party of the first part, in reference to the same, according to law and treaty stipulation.

In testimony whereof the said party of the first part, the said D. W. Bushyhead, principal chief, has signed his name as such principal chief, and caused the seal of the Cherokee Nation to be affixed to these presents, and the said parties of the second part, the said E. N. Hewins, J. W. Hamilton, A. J. Day, S. Tuttle, M. H. Bennett, Ben. S. Miller, A. Drumm, and E. W. Payne, directors in trust, have caused these presents to be signed on their behalf by Chas. H. Eldred, their true and lawful attorney in fact, evidence of his authority being attached to the lease retained by the party of the first part, and the said Chas. H. Eldred, director in trust, signing himself.

Done in duplicate, at Muscogee, Indian Territory, this the seventh day of July, in the year of our Lord one thousand eight hundred and eighty-three.

D. W. BUSHYHEAD, [SEAL.]
Principal Chief.
E. M. HEWENS, [SEAL.]
By CHAS. H. ELDRED,
Attorney in Fact.

Signed and sealed in the presence of—
J. G. VOSE.
EDWIN E. WILSON.
JNO. F. LYONS.

J. W. HAMILTON, [SEAL.]
By CHAS. H. ELDRED,
Attorney in Fact.
A. J. DAY, [SEAL.]
By CHAS. H. ELDRED,
Attorney in Fact.
S. TUTTLE, [SEAL.]
By CHAS. H. ELDRED,
Attorney in Fact.
M. H. BENNETT, [SEAL.]
By CHAS. H. ELDRED,
Attorney in Fact.
BEN. S. MILLER, [SEAL.]
By CHAS. H. ELDRED,
Attorney in Fact.
A. DRUMM, [SEAL.]
By CHAS. H. ELDRED,
Attorney in Fact.
E. W. PAYNE, [SEAL.]
By CHAS. H. ELDRED,
Attorney in Fact.
CHAS. H. ELDRED. [SEAL.]

Resolved, That the action of Charles H. Eldred, acting under separate and individual power of attorney from the members of this board, in signing and executing on behalf of the board of directors and the association, the lease of the Cherokee Strip made between the principal chief of the Cherokee Nation and the board of directors be, and the same is hereby, confirmed, fully ratified, and adopted as the act and deed of the board of directors, acting for and on behalf of the Cherokee Strip Live Stock Association, and the secretary is directed to forward a copy of this resolution, duly certified and sealed, to Chief Bushyhead, to be by him attached to the original lease in his possession.

Attest,
[SEAL.]

JOHN A. BLAIR,
Sec'y C. S. L. S. Asso.

CALDWELL, KANS., *July* 10, 1883.

VIEWS OF THE MINORITY.

Mr. BARNES, from the Committee on Territories, submitted the following report as the views of the minority in opposition to the passage of the bill:

The undersigned members of the Committee on Territories have had before them several bills, referred by the House, which they have considered in connection with other propositions discussed in the committee, all having one common object, the organization of a new Territory, to be called the Territory of Oklahoma.

The proposed Territory, these different measures provide, should embrace what is now known as "The Public Land Strip," together with either the whole of what is now designated, though never so organized as a political division, as the Indian Territory, or at least so much thereof as does not lie within the districts inhabited as well as owned by the five civilized tribes, the Cherokees, the Creeks, the Seminoles, and the Choctaws, and Chickasaws. The Public Land Strip covers an area of 3,673,600 acres. The Indian Territory has an area of 41,098,398 acres. The area of the country inhabited by the five tribes has an extent of 20,446,590 acres, and there are in the Indian Territory outside of that portion of it so inhabited 20,651,808 acres. The Territory of Oklahoma would have under one proposition an area of 44,771,998 acres, and under the other would embrace 24,325,408 acres. There are twenty-seven tribes dwelling in the Indian Territory. The civilized tribes have a population of about sixty-five thousand, and the remaining tribes a population of about fifteen thousand.

In extent, the country is quite sufficient for the establishment of a separate Territorial government; its population is wholly unfitted for the exercise of the duties of citizenship. What are the rights and duties of the Government with respect to it?

The United States acquired title to all the land embraced in the Indian Territory by the treaty with France, 1803, and they extinguished the Indian title of occupancy thereto, by treaty with the Osages, December 30, 1825 (7 Stats., p. 240). On the 26th of March, 1804, Congress passed an act (2 Stats., p. 283) authorizing the President to stipulate, with any Indian tribe owning land on the east side of the Mississippi River, and residing thereon, for an exchange of lands, the property of the United States on the west side of that river.

By virtue of treaties thereafter made, the emigration of the Cherokees and other tribes commenced, and by 1825 fully one-third of the Cherokee Nation had settled in new homes now situate in the present State of Arkansas. The United States, on the 6th of May, 1828, declaring it to be the wish of the Government to secure a permanent home for the Cherokee Nation, as well those residing in Arkansas, as those residing east of the Mississippi River—a home that shall never, in all future time, be embarrassed by having extended around it the lines, or placed over

it the jurisdiction of a Territory or State, nor be pressed upon by the extension in any way of any of the limits of any existing Territory or State, declare by treaty of that date (see Revision of Treaties, p. 56, *et seq.*) that the United States "agree to possess to the Cherokees, and to guarantee it to them forever, and that guarantee is hereby solemnly pledged of seven millions of acres therein described, together with a perpetual outlet west, and a free and unmolested use of all the country lying west of the western boundary of the previously described limits, and as far west as the sovereignty of the United States and their right to the soil extend."

The Senate ratified this treaty, subject to a proviso that the northern boundary of the Cherokee outlet should not extend north of 36° north latitude, or interfere with the lands assigned, or to be assigned, west of the Mississippi River to the Creek Indians, who have emigrated, or may emigrate from Georgia or Alabama, under provisions of any treaty heretofore concluded with them, or with lands heretofore ceded or assigned to any tribe or tribes of Indians by any treaty then in force (Revision of Indian Treaties, p. 61).

It subsequently appeared that the Creeks in fact had selected, under a treaty made with them on the 24th of January, 1826 (*Ibid.*, p. 101), a part of the country described in the boundaries of that assigned the Cherokees under said treaty of May 6, 1828. A new treaty was therefore entered into with the Cherokees (Revision of Treaties, p. 61), on the 14th of February, 1833, by virtue of which the United States agreed to possess the Cherokees, and to guarantee it to them forever; and that guarantee was declared thereby to be pledged, of other seven millions of acres of land as in the first article of said treaty described, together with a public guarantee to the Cherokee Nation of a perpetual outlet west and a free and unmolested use of all the country lying west of the western boundary of said 7,000,000 acres, as far west as the sovereignty of the United States and their right of soil extend, with a single proviso, that if the saline or salt plain on the great western prairie shall fall within said limits prescribed for said outlet, the right is reserved to the United States to permit other tribes of red men to get salt on said plain, in common with the Cherokees. And in this article it was added that letters patent shall be issued by the United States, as soon as practicable, for the land hereby guaranteed. It was further declared that this treaty of February 14, 1833 (*Ibid.*, p. 64), is merely supplementary to the treaty of May 6, 1828, and is not to vary the rights of the parties any further than said treaty of 1828 is inconsistent with that of 1833, and that is only so far as the territory described in the one is inconsistent with the territory described in the other.

The territory as now owned and occupied by the Cherokees or tribes located thereon, together with what is known as the Cherokee strip or outlet west, is substantially the same with that described in said treaty of 1833. So much thereof as was in the present limits of Kansas was subsequently ceded, and became a part of that State. Under its terms, as generally construed and understood, the 100th degree of west longitude became its western boundary, that being as far west as it was considered the sovereignty of the United States then extended.

Prior to this treaty, Congress, by the act of May 28, 1830 (4 Stat., p. 411), made provision for an exchange of lands with the Indians residing in any of the States or Territories, and for their removal west of the river Mississippi; and by the third section of said act the President was authorized solemnly to assure the tribe or nation with whom such exchange might be made that the United States would forever secure

and guarantee to them and their heirs or successors the country so exchanged with them, and, if they preferred it, the United States will cause a patent or grant to be made and executed to them for the same; provided, always, that such lands shall revert to the United States, if the Indians become extinct or abandon the same. This proviso is not to be found either in the treaty of May 6, 1828, or in the treaty supplementary thereto of February 14, 1833.

n the 29th of December, 1835, a treaty was concluded at New Echota, in the State of Georgia, between the United States and the people of the Cherokee tribe of Indians. (Revision of Treaties, p. 65.) This treaty provided for the removal of the Cherokees then east of the Mississippi to the lands which had been ceded the nation, on the west side of the Mississippi, as recited in the foregoing mentioned treaties, and for a further conveyance by patent in fee simple to the said Indians and their descendants of an additional tract, estimated to contain 800,000 acres (which said tract of 800,000 acres was subsequently, by treaty of 1866, reconveyed to the United States); and by the third article of said treaty the United States agreed that the lands ceded by treaty of February 14, 1833, including the outlet and the said 800,000 acres ceded by this treaty, shall all be included in one patent, according to the provisions of the act of May 28, 1830, hereinbefore recited.

The United States again, by the fifth article of this treaty, covenanted and agreed that the lands so ceded to the Cherokee Nation shall in no future time, without their consent, be included within the territorial limits or jurisdiction of any State or Territory. These lands having been surveyed, a patent was duly executed bearing date December 31, 1838, by the United States to the said Cherokee Nation of the said tracts of land, containing in the whole 14,374,135$\frac{14}{100}$ acres, in which it is recited that the United States, in execution of the agreements and stipulations contained in the said several treaties, have given and granted, and by these presents do give and grant, unto the said Cherokee Nation the said described land, to have and to hold the same, together with all the rights, privileges, and appurtenances thereto belonging to the said Cherokee Nation forever, subject to the right by other red men to get salt on the salt plain before referred to, and to such reservations in behalf of the United States as to military posts, &c., as before mentioned in the articles recited in said patent, and subject also to the condition provided in the ac tof Congress of the 28th of May, 1830, that the lands hereby granted shall revert to the United States if the said Cherokee Nation becomes extinct or abandons the same. [For patent see Senate Ex. Doc. 124, Forty-sixth Congress, second session.]

The inquiry at once suggests itself, what was the character of the estate acquired under this patent? It has been gravely argued that an Indian tribe can hold no other than a mere possessory title—a title by occupancy—such a title as the Indian held when the discoverer first planted his foot on the soil. But this is no longer an open question, for the Supreme Court of the United States have held in Holden *v.* Joy, 17 Wallace, p. 211, that the Indian tribes are capable of taking, as owners in fee-simple, lands by purchase, when the United States in form and for a valuable and adequate consideration so sell them to them. That they were capable of acquiring a fee-simple title then there can be no doubt. Did they in fact acquire it? It was argued in the same case that the title conveyed under this patent was not a fee-simple, because qualified by the condition "that the lands hereby granted shall revert to the United States if the said Cherokee Nation

becomes extinct or abandons the same." We have already seen that this condition was taken from the act of Congress of May 28, 1830, and that it has no place either in the treaty of May 6, 1828, nor in the treaty supplementary thereto of February 14, 1833. And in speaking of this condition, the Supreme Court say:

> Strong doubts are entertained whether that (this) condition in the patent is valid, as it was not authorized by the treaty under which it was issued. By the treaty, the United States covenanted and agreed to convey the lands in fee-simple title, and it may well be held that if that condition reduces the estate conveyed to less than a fee, it is void; but it is not necessary to decide that point.

Here is an intimation almost as strong as a decision itself of what the court would have decided had it have become necessary to pass on the point. Relying on this case and citing it, Attorney-General Devens held, in 16 Opinions, 430—

> The effect of the conveyance by the United States to the Cherokee Nation of this tract of land [he is referring to the 800,000-acre tract, but, it will be borne in mind, it is included in the same patent with the other tracts] upon the purchase made by them under the treaty of 1835 was to vest in the tribe a fee-simple title to said tract. This tribe did not hold this tract of land by the ordinary Indian title, which is one of occupancy only, which may be continued indefinitely. In such case the fee simple to the land is in the United States. The effect of this sale was to separate distinctly the tract from the public lands of the United States and vest it in private ownership.

But since the decision in Holden *v.* Joy, decided in 1872, there has been an express decision on this very point in the case of the United States *v.* Reese in the United States court of the western district of Arkansas, rendered 1879. In this case, Judge Parker, after quoting the granting and habendum clauses of the patent, asks what kind of a title do these several treaties and this law of 1830 give the Cherokees to their lands? "If it was not for the treaty of 1835 (which it will be recollected recites act of 1830), the treaty of 1833 is board enough in its terms to convey a fee-simple title. This treaty is subsequent in date to act of 1830, which contains the clause that the lands should revert to United States, if the Indians become extinct or abandon the same. There is no limitation to the title conveyed by the United States under the treaty of 1833. If such treaty is inconsistent with the law of 1830, it repealed so much of it as was inconsistent." And, again, referring to treaty of 1835, he says: "If the lands had been already ceded by treaty of 1833 (and which cession was recognized by second article of treaty of 1835), then the agreement by the United States by the third article of the treaty of 1835 to give them a patent of these lands, according to act of May 28, 1830, was a mere *nudum pactum*."

The conclusion is irresistible from the language of the treaties, and in the light of these decisions, that, however other Indians may hold their lands, the Cherokees hold all their lands by an ***absolute fee-simple title.*** This is not ***strictly*** true of any other of the civilized tribes.

The Creeks ceded their country east of the Mississippi by treaty of April 4, 1832 (see Revision of Treaties, p. 101), and by the fourteenth article of said treaty a country west of the Mississippi was guaranteed to them; and in said article it was provided that no State nor Territory should ever pass laws for their government, but that they should be allowed to govern themselves, so far as may be compatible with the general jurisdiction Congress may think proper to exercise over them; and as soon as their boundaries were ascertained the United States were to execute to them a patent conformable to the act of May 28, 1830.

By the fourth article, treaty of 1833 (Stat., p. 417), the Seminoles were provided with a home in the Creek country, and were to be received as a

uent part of the Creek Nation. On the 7th of August, 1856 (Revis· Treaties, p. 104), a treaty was made by which distinct tracts of y were assigned to Creeks and Seminoles. The United States ıteed to each tribe that they should hold their respective tracts same title and tenure as are provided for in treaties of 1832 and nd agreeable to letters patent issued to Creek Nation August 11, ınd the guarantee was again renewed that no State or Territory ever pass laws for the government of either of these tribes, and) portion of either tract should ever be included within any Ter· or State, nor shall either or any part of either ever be erected into itory, without the full and free consent of the legislative authority tribe owning the same.

Choctaws ceded, by treaty of September 15, 1830, 7th Stat., 333, ir lands east of the Mississippi, and by the 2d article thereof it ovided that the United States would convey a tract of country ı described, being a part of the Indian Territory west of the Mis· i, to them and their descendants, to inure to them while they xist as a nation and live on it. The fourth article provided that t of the land should ever be embraced in a State and Territory. ıickasaws were subsequently located on the same land, and the ibes not being able to agree, as distinct parties they entered into ty with the United States, June 22, 1855, 11 Stat., 611, under distinct districts were assigned each tribe.

ıtent was issued to the Choctaws for this land March 23, 1842. be found on p. 5 and 6, Senate Ex. Doc., 124, Forty-sixth Con· second session. The patent to the Creeks, which includes the)f the Seminoles, and the patent to the Choctaws, which includes ıd of the Chickasaws, properly contained a condition limiting the them as long as they existed as a nation, or continued to reside land, for the condition was conformable to the treaties into which ıtered. But the condition is inserted in the patent to the Chero· vithout warrant of authority, and is therefore void.

whole of the Indian Territory was held by a fee-simple title from nited States, the Cherokees holding their lands *by an absolute ple title*, the Creeks with the Seminoles, and the Choctaws with ickasaws, their respective districts by a *qualified* fee. Has this been changed?

he treaty of June 11, 1855, already referred to, the Choctaws and saws leased all their land west of 98° to the United States for anent settlement of the Wichitas and other tribes. No period of as fixed for the lease, and the settlement provided for these tribes be permanent in its nature.

s been said that the rights guaranteed under these treaties were ed by the participation of these tribes in the war, on the side of nfederate States. Without investigating whether there was any

Revision of Treaties, p. 285, article 5. Seminole treaty, *ibid.*, p. 810, a general amnesty and reciting previous revocation of a treaty made with so called Confederate States. Preamble and article 1, Creek treaty, *ibid.*, p. 114, a general amnesty and reciting a previous revocation of treaty with so-called Confederate States. Preamble and article 1 Cherokee treaty, *ibid.*, p. 85, revocation of treaty with so called Confederate States and general amnesty. See articles 1, 2, 3, and 4.)

It is apparent, then, that there never was any exercise of power abrogating these treaties, and any implied abrogation is clearly rebutted by the full condonation of any offense which could have caused such abrogation by the foregoing recited provisions in the treaties of 1866. But more than this, the United States, in the treaties of 1866, reaffirmed and reassumed all obligations of the former treaties not inconsistent with said treaties. (See articles 10 and 45, Choctaw and Chickasaw treaty; article 9, Seminole treaty; article 12, Creek treaty; article 31, Cherokee treaty.) Now, the guarantee against a territorial government provided for in former treaties is not merely preserved by this reaffirmance and reassumption, but it is rendered, if possible, still more secure by the creation of a general council, composed of delegates from these Indian tribes, with legislative powers utterly inconsistent with the existence within the same limits of a territorial legislature, as is proposed to be organized.

We come now to notice the cession of lands made by these tribes to the United States. We have seen by the treaty of June 11, 1855, the Choctaws and Chickasaws leased to the United States (see art. 9) all that portion of their common territory west of 98°.

By article 3 of the treaty of 1866 the Choctaws and Chickasaws cede to the United States this leased district. Nothing is said in this article as to the purposes for which the cession is made, and it would seem that the United States acquired by this cession a right to make such use of this territory as it may deem proper. This territory embraces the districts marked on the map as Nos. 22, 23, and 24, being so much of the Cheyenne and Arapahoe reservation as is south of the Canadian River, and the reservations for the Wichitas, Kiowas, Cosmanches, and Apaches. The title to district No. 25, we are informed, is in dispute between Texas and the United States, and the adjustment of boundary lines now the subject-matter of investigation.

The Creeks, by article 3, treaty of 1866, ceded the west half of their entire domain. The article reads:

"In compliance with the desire of the United States to locate other Indians and freedmen thereon, the Creeks hereby cede and convey to the United States, to be sold to and used as homes for such other civilized Indians as the United States may choose to settle thereon, the west half of their entire domain;" and for said western half, estimated to contain 3,250,560 acres, the United States agreed to pay the sum of 30 cents per acre.

The Seminoles ceded their entire domain. The article of their treaty, article 3, reads: "In compliance with the desire of the United States to locate other Indians and freedmen thereon, the Seminoles cede and convey to the United States their entire domain;" being that acquired from the Creeks under the treaty of 1856, estimated at 2,169,080 acres, for which the United States agreed to pay 15 cents per acre. The United States sold to the Seminoles 200,000 acres of the tract ceded by the Creeks, and being that on which they are now located. The tract so ceded by the Creeks and Seminoles, and now held by the United States under said treaties, embraces districts numbered on the map 16, 17, 18,

and 19, occupied by the Iowas, Sacs and Foxes, Kickapoos, and Pottawatomies, respectively; districts 15, 20, and 21, commonly designated as Oklahoma; and so much of district 22 as is north of the Canadian River, and being a part of the Cheyenne and Arapahoe reservation, together with so much of district 11, occupied by the Pawnees, as is south of the southern line of the Cherokee strip, extended.

The area so held by the United States, according to the estimates in the treaties, should embrace 5,219,640 acres, all of which the undersigned believe has been paid for. We do not propose to enter into a legal argument for the purpose of deciding whether the settlement by the United States, on the lands so ceded, of persons other than Indians and freedmen, as mentioned in the articles of cession, would be such a breach of the condition as would constitute a defeat of the conveyance. It is sufficient to say that such a settlement was not contemplated at the time by either of the parties to the contract.

The Indian view of such a settlement is most aptly described in the testimony of an Indian, Pleasant Porter, on page 226 of the Report of the Indian Commission, recently submitted to the House (Report No. 1076):

> The location of citizens of the United States upon any portion of it would be an infringement of the bond. * * * The Indians would regard it as the beginning of the end. * * * They (the Indians) have a remaining equity in it—a right to have a properly specified object carried out—and the Government has promised to do that.

We believe this to be an honest and a just view of the question, and we unhesitatingly say the Government cannot afford to violate its promise to these people.

The sixteenth article of the treaty of 1866 with the Cherokees is as follows:

> The United States may settle friendly Indians in any part of the Cherokee country west of 96°, to be taken in a compact form in quantity not exceeding one hundred and sixty acres for each member of each of said tribes thus to be settled; the boundaries of each of said districts to be distinctly marked, and the land conveyed in fee-simple to each of said tribes to be held in common or by their members in severalty, as the United States may decide.
>
> Said lands thus disposed of to be paid for to the Cherokee Nation at such price as may be agreed on between said parties in interest, subject to the approval of the President; and if they should not agree, then the price to be fixed by the President.
>
> The Cherokee Nation to retain the right of possession of and jurisdiction over all of said country west of 96° of longitude until thus sold and occupied, after which their jurisdiction and right of possession to terminate forever as to each of said districts thus sold and occupied.

Jurisdiction over and right of possession in this land remains in the Cherokee Nation—and it so continues—until the lands are disposed of in the manner mentioned in this article, and when so disposed of the United States can settle thereon none but friendly Indians. (See Secretary Kirkwood's letter, February 28, 1882, House Ex. Doc. 89, Forty-seventh Congress, first session; Judge Parker's decision in case of Rogers, western district of Arkansas.)

The Cherokees may not *settle* thereon nor allow others to make *permanent settlement* thereon. This is the extent of Attorney-General Devens's opinion, volume 16, page 470; but in that very opinion he admits that *the possession of and jurisdiction over* this strip continues in the Cherokees until disposed of.

It has been urged, however, that the Cherokees have waived their right to jurisdiction over and possession in these lands by accepting payments in part compensation of the same.

No payment made on account of these lands could be construed into

[illegible] waiver, unless so distinctly understood by the Cherokee Nation [illegible] United States at the time. But, in fact, no such payments have ever been made. No appraisement even of the lands has ever been made in accordance with the treaty, for under the treaty the price was only to be fixed by the President when the Cherokees and the Indians proposing to purchase could not agree.

Nevertheless Congress by act of 29th of May, 1872, 17th Stat., 190, authorized the President and Secretary of Interior to make an appraisement of Cherokee lands west of 96°, and west of land of Osage Indians. This was an act authorizing the President to appraise lands which did not belong to the Government. This act failed for want of an appropriation; and Congress by act of July 31, 1876, 19 Stat., 120, made an appropriation to carry it into effect. Commissioners were appointed, who, in appraising, estimated the value at one-half the sum which they said they would have fixed had it been intended for white settlers. Mr. Schurz, Secretary of the Interior, says in his report to the President, June 21, 1879 (see House Ex. Doc. 54, Forty-seventh Congress, second session, p. 32), the Cherokees object to this appraisement as unreasonable and unjust. The President, June 23, 1879 (see House Ex. Doc. 89, Forty-seventh Congress, first session, p. 31), appraised the lands west of 96°, set apart to the Pawnees under act of April 10, 1876, 19 Stat., 29, embracing an area of 230,014.04 acres, at 70 cents per acre, and all other lands embraced under the so-called cession under article 16 of the treaty of 1866, embracing an area of 6,344,562.01 acres, at 47.49 cents per acre.

January 11, 1882 (*ibid*), W. A. Phillips, as agent of the Cherokees, and Daniel H. Ross and R. W. Wolfe, as Cherokee delegates, claimed that the amount, according to this valuation, was due, with interest thereon from July 1, 1879. Treaties had then been made with other tribes by which the lands constituting the Cherokee strip were to be assigned them. This claim, however, was rejected by Secretary Kirkwood, as appears from his letter of February 28, 1882 (*ibid*), in which he stands on the letter of the sixteenth article of the treaty, and he says that while it had been contemplated to settle the Cheyennes and Arapahoes, the Kiowas and Comanches, on the Cherokee strip, no such settlement had in fact been made. He admits, however, that the Cherokees have an equitable claim against the United States, because the United States in settling tribes of friendly Indians had located them on the eastern and more valuable portion of the lands, and that the less valuable may remain for many years or forever unoccupied if the United States shall continue to pay for lands only as they are occupied.

The following year, January 18, 1883 (see Ex. Doc. No. 54, Forty-seventh Congress, second session, House Representatives), Secretary Teller addressed a letter to the President, which was by him communicated to Congress, stating that he had received communications from Hon. W. A. Phillips, a special agent of the Cherokees, and Messrs. Wolfe and Ross, as their delegates, "presenting separate propositions for the payment of moneys claimed to be due the Cherokees for lands *already taken* by the United States for the settlement of friendly Indians thereon, under the provision of the sixteenth article of the treaty of 1866, and for the sale of the remainder of the lands not yet so occupied to the United States." "For all of the lands so taken, and upon which friendly Indians have been settled, viz, 551,732.44 acres, the charge of $1.25 per acre is made, amounting to $689,665.55, against which credits for sums already appropriated and placed to the credit of the Cherokee Nation on account of such lands are given, amounting in all to $348,389.46; leaving a balance of $341,276.09."

s was a distinct repudiation of the appraisement made. As to solute purchase of all the lands—the other lands—the delegates heir counsel say, "We are prepared to meet any fair proposi- r the disposal of west of 96°, or for all west of the 98°, or west of dian settlements." Secretary Teller recommended the purchase entire tract by the Government, at the valuation which had been l on it by the President, less the amount already paid.

this time there had been settled by friendly Indians 551,732.44 valued at the appraisement of the President for 230,014.04 acres, ents per acre, $161,009.82, and the balance, 321,718.40, at 47.49 $152,783.91, making a total of $313,793.73; and there had been nder act of June 16, 1880 (21 Stats., 248), $300,000; under act of 3, 1881 (21 Stats., 422), $48,389.46, making $348,389.46. (See issioner Price's letter to Secretary of Interior, December 30, 1884, eighth Congress, second session, Senate Ex. Doc. No. 19.)

, these being the facts at the time, with Secretary Teller's recom- tion for an absolute purchase, and with Secretary Kirkwood's as to the equity of the Cherokee claim for a sum larger for lands y settled than the appraisement of the President, what did Con- lo?

propriated on March 3, 1883 (22 Stats., 624), out of the funds due appraisement for Cherokee lands west of the Arkansas River, the $300,000. Now, this is what Congress did. And for what was propriation made? The answer is found in the proviso annexed to propriation: "*Provided*, That the Cherokee Nation shall execute ances, satisfactory to the Secretary of the Interior, to the United in trust only for the benefit of the Pawnees, Poncas, Nez Perces, Missourias, and Osages, *now occupying* said tract, as they re- ely occupy the same, before the payment of said sum of money." are the facts. They do not support the assertion that there has ny payment on account of lands which have not been occupied. se who are seeking to open the lands to white settlement have attention to the fact that under act of March 3, 1871, 16 Stat., is no longer the policy of the Government to make treaties with dians. But this very act provides that it shall not be so con- as to invalidate or impair any existing treaty. They then as- that we had on the statute books a statute prohibiting the set- t of any other Indian tribes on it; but when we examine the act— t of February 13, 1879, 20 Stat., 313—we find the prohibition s only to the Apaches and other Indians of New Mexico.

e is nothing, then, either to prevent faithful adherence to the treat- to the continuation of the policy marked out by statesmen of a pre- generation, of making further settlements of Indians within this ory. As late as 1870, Mr. Cox, then Secretary of the Interior, in a

Nor do we find any release from these obligations presented in the bill reported to the House from this committee (No. 7217) and then recommitted to us, after being printed, for our consideration.

The bill proposes to organize a Territory, and obtain the consent of the Indians after its passage. If that consent cannot be obtained, then the Territory still remains constituted alone of the Public land strip. Anticipating that this question would be before the present Congress, representatives from the five tribes met in general council at Eufaula, in the Indian Territory, last June, and resolved that said tribes were opposed to any action on the part of the General Government involving the establishment of a Territory of the United States within the limits of the Indian Territory. The resolutions of the general council were ratified and confirmed by the separate legislative assemblies of each of the tribes. Their delegates have appeared before this committee during the past winter, and appealing to the solemn sanction of the treaties made with them by our fathers, have protested against the proposed establishment of this territorial government.

The passage of a bill organizing a territorial government, under such circumstances, over a weak and defenseless people, with a condition requiring their assent before the bill should become operative, would evince on the part of a powerful government like that of the United States such a predetermination to create the proposed government as would deprive these people of all freedom of volition in the matter. It would be a miserable perversion of terms to call an assent thus obtained free and voluntary.

But this bill does more. It proposes in plain terms to confiscate the lands of these Indians, unless they consent to the organization of this Territory.

There can be no mistake in the meaning of the tenth section. The proposition to declare void the leases therein contained is intended to render useless to the Indians the lands on which they now permit cattle to graze, and more especially the Cherokee land strip. Thus rendered valueless, and with no other purchaser but the United States, it is expected that the Indian will be forced to consent.

Such is not the kind of consent contemplated by the treaties.

We are told, however, that those leases are void under existing law, and we are asked if we will sustain the lease made to a great monopoly like the Cherokee Strip Live Stock Association. We are not the advocates of monopolies, nor cattle associations, nor specially of the Cherokee Strip Live Stock Association. We are simply considering whether the proposed Territory of Oklahoma can be properly and lawfully organized, and in the course of that consideration we propose to inquire whether it would be legal or proper to declare that or any other so-called lease void.

This contract, usually called the Cherokee strip lease. was made between the Cherokee Nation and the Cherokee Strip Live Stock Association, a corporation created under the laws of Kansas, in pursuance of an act of the national council of the Cherokee Nation passed in *special* session May 19, 1883. It bears date July 25, 1883, became operative 1st of October, 1883, and terminates on the 1st of October, 1888. Under the terms of the contract the lessees are to hold the lands described, being the lands generally known as the Cherokee strip, containing 6,000,000 acres, more or less, *for grazing purposes only*, for and in consideration of $100,000, to be paid annually, as provided in the contract; the contract to terminate as to any lands which shall be disposed of under any existing or future act of Congress, or of the Cherokee Na-

tion; the structures allowed to be only such as may be necessary for *carrying on the grazing business;* the only timber cut such as may be necessary for such structures, or for fuel, and no improvements of a *permanent* character to be permitted. This contract in its essence is only a license to pasture cattle on the land described, and to do whatever is necessary for the protection of the cattle while so grazing. (For the law, see p. 152, Senate Ex. Doc. No. 17, Forty-eighth Congress, 2d session.)

This contract was made under these circumstances: John Tufts, Indian agent, writes from Union Agency, March 1, 1883, to Hon. H. Price, Commissioner of Indian Affairs (see p. 148, Senate Ex Doc., Forty-eighth Congress, first session), that he had visited the Cherokee strip, and finds there a large number of catttle, estimated at 300,000; that on about 200,000 of these the owners paid to the Chrokees a grazing tax of about $41,000 in 1882, and that about 100,000 belong to citizens of Kansas, who turn them loose on their lands and pay no tax. He recommends that the fencing of the ranges be allowed, to prevent the destruction of timber. "Much of the valuable timber," he writes "has been taken from the Cimarron River, a distance of 60 miles from the Kansas line. Unless the wholesale destruction of this timber is stopped, it is safe to state that all timber on these lands will be destroyed within three years." "After full review of the subject, the Secretary of the Interior, March 16, 1883 (*Ibid.*, p. 152), decided to permit no more fencing, and that those constructed would not be permitted to remain, except on satisfactory arrangements with Cherokee national authorities." (*Ibid.*, p. 153.)

Commissioner Price writes Tufts, Indian agent, March 21, 1883, informing him of the Secretary's decision, and informs him that on the day previous he had an interview with Chief Bushyhead (of the Cherokee Nation) in which he promised to call an early session of the national council to consider the subject, and report the result to this office. Price, Commissioner, June 28, 1883 (*Ibid.*, p. 155), writes Chief Bushyhead, referring to interview of March 20, and says three months have passed, and his office is without any official information as to the result of the deliberations of the national council on the subject, and he requests information to be furnished within next twenty days. Bushyhead replies, July 8, 1883 (*Ibid.*, p. 156), inclosing copy of act passed at special session in May, authorizing and directing him to execute a lease to the Cherokee Strip Live-Stock Association. This lease, in accordance with the act, was executed the 25th of July afterwards. No objections appear ever to have been made by any Department of the Government, although made, as is clearly seen, with its full knowledge. The Department of the Interior, through Acting Secretary Joslyn, July 30, 1884, thus announces the position of the Department (see p. 165, Senate Ex. Doc. No. 17, Forty-eighth Congress, second sesion): "The Department neither recognizes nor disaffirms leases from the Cherokee national authorities for grazing priveleges. Parties occupying under such leases are not included in the Department request for the removal of intruders."

It might be questionable—independent of legal right—whether it would be quite just to set aside by a mere stroke of the pen a contract made under such circumstances. But let us examine existing laws. The right to pasture cattle on the Indian lands, with the consent of the Indians, says Secretary Teller in his letter, January 3, 1885 (Forty-eighth Congress, Second session, Senate Ex. Doc. No. 17), has never been doubted until lately.

It is now said that such a license is violative of section 2116 of the Revised Statutes.

That section reads:

No purchase, grant, lease or other conveyance of lands, or of any title or claim thereto, from any Indian nation or tribe of Indians, shall be of any validity in law or equity unless the same be made by treaty or convention entered into pursuant to the Constitution.

This language is broad in itself, but it is not broad enough to embrace any instrument which in itself does not convey land, or an interest in land, or a title or a claim to land. Beyond that in its very terms it does not go. It does not render invalid an instrument, by whatever name it may be called, which merely conveys a certain limited use in the land, whether that use be in grass which naturally grows on the land, or in the products which through the labor of man may have been produced from its soil. But this section must be construed in conjunction with section 2117, which reads as follows:

Every person who drives or otherwise conveys any stock or horses, mules, or cattle to range and feed on any lands belonging to any Indian tribe, without the consent of such tribe, is liable to a penalty of one dollar for each animal of such stock.

When these two sections are read together, is it not apparent to any mind that the first section refers to a conveyance of land, or some interest therein, or a title or claim to land, and the second refers to a certain special use of the land? Says Judge Brewer, in the case of The United States *v.* Hunter, 21 Federal Reporter, p. 617, quoting this last-mentioned section:

This implies that an Indian tribe may consent to the use of their lands for grazing purposes—

Thereby expressing an opinion on the section, but recalling that the construction of the section was not before him for decision, adding cautiously—

or, *at least*, if it does consent, no penalty attaches.

And then proceeding, he says—

If the tribe may so consent, it may express such consent in writing, and for at least any brief and reasonable time.

But the Supreme Court of the United States, in United States *v.* Cook, 19th Wall, 503, speaking of the use which the Indian, who has only the ordinary Indian title of occupation, may make of his land, say:

The right of use and occupation by the Indians is unlimited. They may exercise it at their discretion. If the lands are desirable for purposes of cultivation, they may be cleared of their timber to such an extent as may be reasonable under the circumstances. The timber so cut may be sold. * * * Any cutting beyond this would be waste, and such timber could not be sold. The timber while standing is a part of the realty, and it can only be sold as the land could be. * * * When rightfully severed, as for purpose of cultivation, its severance is only a legitimate use of the land, * * * and it can be sold. [The court is preserving throughout the distinction between a sale of land and a sale of the use of it.] The court subsequently states the doctrine more broadly, thus: "These are familiar principles in this country, and well settled, as applicable to tenants for life and remainder-men. But a tenant for life has all the rights of occupancy in the lands of the remainder-man. The Indians have the same rights in the lands of their reservations. What a tenant for life may do upon the lands of a remainder-man the Indians may do upon their reservations, but no more."

Now, if under this decision, a decision made with sections 2116 and 2117 in full force, a tenant for life could grant the right of pasturage—and this cannot be doubted—and an Indian with only a right of occupancy, like a tenant for life, can make such a grant, most assuredly any

one of the civilized tribes having either an absolute or a qualified fee, with the enjoyment of property guaranteed to it by solemn treaty, can dispose of the grass growing on its soil in its unlimited discretion.

It may well be doubted whether section 2116 of the Revised Statutes would of itself be applicable to Indians, like the Five Tribes, holding lands either by absolute or qualified fee-simple titles. This section is taken from the Indian intercourse act of 1830. At that time no Indian tribe in the United States had a fee-simple title to land.

The title of the Cherokees to all their lands is an absolute, unqualified fee, and they have all the rights and privileges appurtenant to an estate of that character. Whatever restrictions exist in reference to those rights and privileges are only such as are imposed by treaty. The only restriction imposed by the treaty of 1866, 16th article, is as to the Cherokee strip, and as to that, the simple concession is to the United States of the right to *settle friendly Indians* thereon in accordance with the terms of said article. But even in this very concession their right and title to this strip is recognized by the stipulation that the land on which the United States *may settle the friendly Indians* is to be paid for *at a price to be agreed on* between the Cherokees and the friendly Indians, subject to the approval of the President, and it is expressly provided in said stipulation that as to said lands, until so sold and occupied, the right of possession in and jurisdiction over remains in the Cherokees. Subject to this right of settlement of friendly Indians, the fee simple title of the Cherokees remains unimpaired, and nowhere in this or any other treaty can there be found any recognition, says Secretary Teller, "of any right in the United States to control this or any other Cherokee property, or prevent the nation from having the full and absolute control of the products of their lands."

As has been well said by Secretary Teller in his report, Forty-eighth Congress, second session, Senate Ex. Doc. No. 17, page 3:

"The Cherokees have a fee-simple title to their lands, and they do not recognize the right of the Department to interfere in the management of their affairs with reference thereto." And again, speaking of the Cherokee strip, on page 5: "The land is theirs, and they have an undoubted right to use it in any way that a white man would use it, with the same character of title, and an attempt to deprive the nation of the right would be in direct conflict with the treaty, as well as the plain words of the patent. They are quite capable of determining, without the aid of the Indian Department or Congress, what is to their advantage or disadvantage, and the Government cannot interfere with their rightful use and occupation of their lands, which are rightfully theirs, as the public domain is that of the United States, subject only to the provisions of article 16 of the treaty of 1866, which, at most, *is only a contract to sell* certain portions of the land; but, until the Government *settles* friendly Indians thereon and *pays* for the land, the right of possession and occupancy is especially reserved."

This letter of Secretary Teller still controls the Department of the Interior, for Commissioner of Indian Affairs Atkins, in his letter of July 10, 1885, in the Faucett case, thus expresses himself in regard to it: "The opinion of the Department as to the title by which the Cherokee Nation holds its lands is a matter of official record in Department letter of January 3, 1885," and "under the general power of supervision of Indian affairs, vested by law in the Secretary of the Interior, the views of the Department as thus expressed must, until reversed or modified by competent authority, be held to govern this Office."

Such we consider to be the true character of the title by which the Cherokees hold this land. And now, having thus given a true history, as we believe, of the relations between these people and the Government, we cannot, in view of that history, and with our convictions con-

cerning the law and our treaty obligations, give our assent to a measure which seeks to secure the consent of the Indians to the proposed organization of the Territory by rendering a large part of their lands valueless unless such consent be given. A consent so obtained would not be "the full and free consent" expressed through their legislative assemblies, without which our treaties with them declared that no portion nor any part of their land should ever be placed under the government of any State or Territory. National honor forbids a departure from these treaty obligations to a dependent people.

If the policy of settling Indians on the lands is to be continued, let it be firmly adhered to. If it is to be abandoned, then let us seek by open and fair negotiation, as suggested in the majority report of the Committee on Expenditures for Indians, submitted through its chairman, Judge Holman, to the House on the 16th of last month, to concentrate the Indians now in the western part of the Indian Territory on more eastern portions thereof, and open up the western part thus rendered vacant to white settlement. As the bill presented by that committee contemplates the appointment of a commission which could appropriately enter upon the discharge of the duties of such a negotiation, we do not recommend the appointment of a special commission for this purpose; but until the free consent of these tribes is secured through this or similar means, a due regard for the solemn obligations into which we have entered with these people will prevent our giving our support to this bill, and we therefore recommend that it do not pass.

GEO. T. BARNES.
BINGER HERMANN.
W. H. PERRY.
CHARLES S. BAKER.
C. E. BOYLE.

ADDITIONAL VIEWS OF MR. CHARLES S. BAKER.

The undersigned concurs generally in the foregoing minority report, both in its statements of facts and conclusions, and begs leave respectfully to add the following observations:

The proposed Territory, if created under the bill in question, must be in direct violation of existing treaty covenants with the five civilized Indian tribes named, embracing a population of about 65,000 persons. Those tribes have their churches, both Protestant and Catholic, their schools and a college; they maintain charitable organizations and have regular tribal governments and courts; they enact their own laws and have in operation proper tribunals for the maintainance of law and enforcement of order. Their title, derived by patent from the United States, is as stated, an absolute title in fee, in giving which the Government recognized the right of the grantees to own and control as absolutely as any other person.

The legality of the leases to the cattle corporations is a question which in my judgment, should be passed upon by competent legal tribunals. The policy of the Government should not be based upon acts in disregard of our sacred treaty obligations with those tribes.

It has been the settled policy of the Government to preserve the Indian Territory from intrusion in any form, and in order to carry out such policy with any degree of success it should be firmly adhered to. The condition provided in the bill, making its taking effect dependent upon a future consent by these tribes, would be more likely to result through a coercive policy than through the voluntary and free exercise by them of their uninfluenced will.

The majority report by the Committee on Expenditures for Indians submitted, as is stated, through the Hon. Mr. Holman, on the 16th day of March, a proposition to create a commission to take into consideration the whole question at issue, and a report from such a commission should precede any legislation involving changes in the rights, relations, or status of the several tribes interested. While the undersigned favors generally the creation of territorial governments, and would be glad to favor such for the Indian Territory whenever it may be done, with due regard for the rights guaranteed by our Government to the Indian tribes interested, and without violating national honor, it seems to him that the commission contemplated by the bill above referred to should give the subject their action and consideration prior to any action by Congress as contemplated by the bill now under consideration by the committee. The vast extent of Government lands available for settlement in the several existing States and Territories would seem to render any haste unnecessary for the purpose of affording additional public lands. The existing civil and criminal tribunals can be maintained as at present until such a commission can be enabled to report and due consideration and action taken by Congress.

In the meantime all the legal rights of parties in interest, with the

legal status of the Indian tribes under existing treaties and land pate may be made the subject of due judical inquiry.

The proposed repeal of railroad-land grants can be, as I would adv effected by direct act for such purpose, as this Congress has alre properly done in the cases of other companies, due regard being had vested rights in proper cases.

Respectfully submitted.

CHAS. S. BAKE

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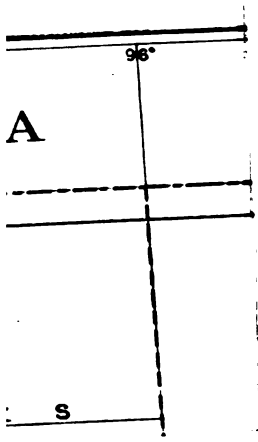
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TH CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
1st Session. } { No. 1685.

PENAL COLONY IN ALASKA.

APRIL 15, 1886.—Laid on the table and ordered to be printed.

r. BAKER, from the Committee on the Territories, submitted the following

REPORT:

[To accompany memorial of New Jersey legislature.]

Your committee respectfully report said resolution to the House with e recommendation that it lie on the table.

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)ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 1686.

CTION OF A PUBLIC BUILDING AT NEWBURG, N. Y.

, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

LKINS, from the Committee on Public Buildings and Grounds submitted the following

REPORT:

[To accompany bill H. R. 7889.]

nmittee on Public Buildings and Grounds, to whom was referred the H. R. 1569) providing for the erection of a public building at New- N. Y., having had the same under consideration, respectfully report llows:

city of Newburg is situated on the west bank of the Hudson about 60 miles from the city of New York, and contains a popu- of over 20,000. But this does not include the residents of the s, who number probably 50,000 more.

a very early day Newburg has been an important business t being here that the products of a very extensive back country tide-water. The construction of railroads, affording direct com- tion with the lakes and with all the New England States, has uted its influence in making the city a commercial center of great e.

number of manufacturing establishments is very large, and, at- by the favorable shipping facilities, is rapidly and constantly ing. Cotton-mills, woolen-mills, paper-mills, foundries, breweries, rds, machine-shops, and factories of various kinds are numerous, ploy thousands of operatives.

e national banks and one savings bank are required to accomo- ie financial wants of the people.

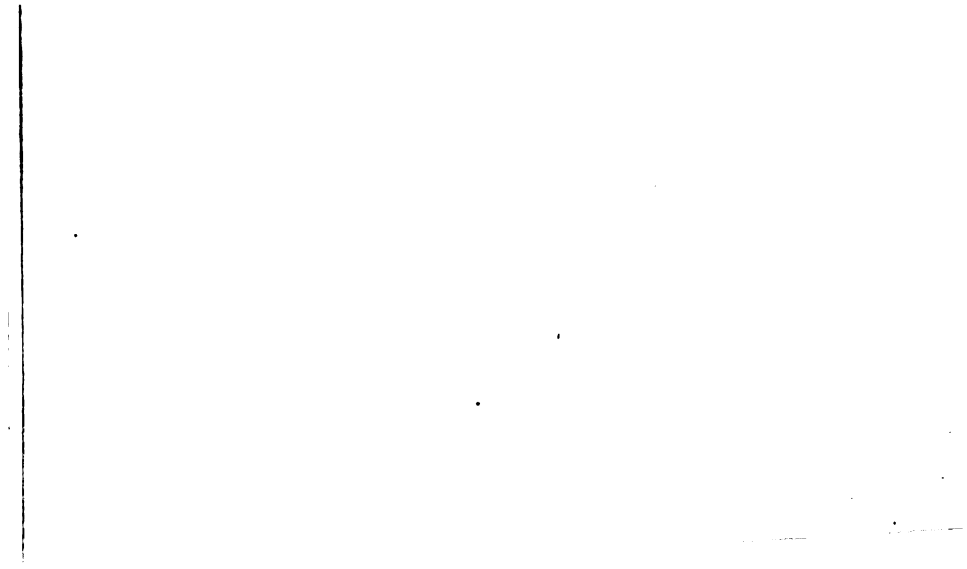
post-office at present is located on the basement floor of a pri- ilding. The room is dark, damp, and unwholesome, and entirely uate to the wants of the service, and has no proper protection ; fire. In fact the city contains no building suitable to the pur- The business of the office is rapidly increasing. Newburg is a livery office.

total receipts for the last year were $24,165.99, and will be con- ly larger for the current year. The total amount of money-order ss done was $77,018.97.

the present inadequate and insecure accommodations the Gov- it is now paying $1,580 per annum.

committee further report, that the office of the deputy internal e collector is located at Newburg, and there is annually col- here about $100,000.

committee recommend the passage of the substitute bill here- lieu of H. R. No. 1569.



49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1687.

PUBLIC BUILDING AT AKRON, OHIO.

APRIL 15, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. WILKINS, from the Committee on Public Buildings and Grounds, submitted the following

REPORT:

[To accompany bill H. R. 7890.]

The Committee on Public Buildings and Grounds, to whom was referred the bill (H. R. 5734) providing for the erection of a public building at Akron, Ohio, submit the following report:

The city of Akron is one of the most active and enterprising in the northern part of Ohio. It has now a population of over 25,000, and is growing rapidly. It is a great business center. Its industrial enterprises are of the most substantial character, and are widely known. Its manufactures and products are found in all the cities of the Union. It has more than 200 manufacturing establishments, where agricultural implements, mowers, reapers, and separators, machinery, knives, sewer-pipe, varnishes, straw board, oatmeal, flour, rubber goods, staves, engines, boilers, pottery, leather, lumber, carriages, merchant and bar iron, shafting, cutlery, fire-brick, iron roofing, drain-tile, galvanized iron, farm wagons, cabinet-ware, furniture, upholstery, cigars, plated goods, harness, pipes, files, brooms, paper boxes, paper, currycombs, linoleum, cooperage, pumps, cars, stoneware, &c., are made. The capital invested in the various industries is about $9,000,000; the annual product is about $13,000,000, and the combined industries give employment to about 6,000 people.

The following official figures from the Post-Office Department will show the extent of the postal business in the city for the past fiscal year:

Nature of business.	Number.	Amount.
Gross postal receipts during fiscal year ended June 30, 1885	.....	$31,055 81
Net postal receipts	.....	18,539 61
Amount of postage collected on second-class matter	.....	760 32
Total number of registered letters and parcels mailed	2,013	.....
Domestic money-orders issued	5,395	63,494 41
Domestic money-orders paid	5,752	88,784 69
International money-orders issued	623	8,305 42
International money-orders paid	146	3,370 08
Postal notes issued	4,282	8,721 00
Postal notes paid	3,508	7,606 40

Free-delivery statistics.

POST-OFFICE DEPARTMENT,
OFFICE OF THE FIRST ASSISTANT POSTMASTER-GENERAL,
FREE-DELIVERY DIVISION,
Washington, D. C., March 16, 1886.

SIR: In answer to your request of this date, I have the honor to submit the following free-delivery statistics of the Akron, Ohio, post-office for the fiscal years ending June, 1883, 1884, and 1885, respectively:

	1883.	1884.	1885.
Daily delivery trips	4	4	4
Daily collection trips	6	7	5
Total pieces delivered	1,359,135	1,673,034	1,714,823
Total pieces collected	752,210	937,423	1,006,476
Total pieces handled	2,111,345	2,610,457	2,721,299

Very respectfully,

A. E. STEVENSON,
First Assistant Postmaster-General.

Hon. WM. MCKINLEY, Jr., M. C.,
Ebbitt House.

The Government pays annually a rental for the office of $1,380, the accommodations for which are deemed wholly insufficient. The committee believe the Government ought to erect a public building at this city commensurate with its importance, suitable to the necessities of the Government, and ample for the accommodation of the people, and unanimously recommend the passage of the accompanying substitute for H. R. 5734.

PUBLIC BUILDING AT SEDALIA, MO.

—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

from the Committee on Public Buildings and Grounds, submitted the following

REPORT:

[To accompany bill H. R. 7891.]

ee on Public Buildings and Grounds, to whom was referred House bill No. 1376, beg leave to report:

ity of Sedalia, Mo., had, at the date of its last municipal pulation numbering 17,018, and which is now estimated at l to be 20,000; that it is almost the exact geographical cenate, being the county seat of Pettis County, which contains ı of about 40,000, and has a property list of $10,000,000; that lf has an assessment roll of nearly $4,000,000; that it is one important railroad centers in said State, being the focal railroad connections and the point of intersection of the Mis- with the Missouri, Kansas and Texas Railway; that it is headquarters of said six lines of railway, the seat of their l principal manufacturing and repair shops, in which are out 1,000 men, and that in the entire service of said railways it about 3,000 men are employed; that said city is distant ouis 189 miles, from Kansas City 100 miles, from Hannibal ıd Springfield 130 miles, and is the commercial center for l populous area of country, having seventeen wholesale se sales amounted in 1884 to $2,300,000; a thriving manuısiness, and all the elements of general prosperity, including ads, gas-works, electric lights, telephone system, and Holly , the latter alone costing $150,000; that it has nine large ls, employing over 50 teachers; 2 seminaries, 1 university, 5 banks, 4 daily newspapers, a new court-house, costing, iiture, $125,000; a free mail delivery with 6 carriers, and a usiness employing 14 persons as clerks and other assistants, etted to the Government in the last ten years $123,529.02, ast four years $53,879.02; total number of pieces of mail in said office in 1883 was 1,506,450, and in 1884 1,700,000; 's sold in 1883, about $95,000, and amount of money-orders year, $105,416; number registered letters handled in 1883, iber handled in 1884, 77,890. Said city has the office of the ctor of internal revenue for the subdistrict, a board of pension

examiners, and the office of the United States commissioner for district. The post-office accommodations are grossly inadequate to demands. The amount provided for in the bill is less than the receipts of the office for the last four years, and is entirely reasonable

In view of the foregoing facts, your committee are of the opinion that a public building should be erected at Sedalia, and therefore recommend the passage of a substitute for said bill, which is herewith submitted.

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ɪᴇss, } HOUSE OF REPRESENTATIVES. { ʀᴇᴘᴏʀᴛ
m. } { No. 1689.

PUBLIC BUILDING, HELENA, MONT.

—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

r, from the Committee on Public Buildings and Grounds, submitted the following

REPORT:

[To accompany bill H. R. 2885.]

ee on Public Buildings and Grounds, to whom was referred . R. 2885) for the erection of a public building at Helena, ing had the same under consideration, make the following re-

ittee have carefully examined the bill, and believe that the the Government demand that a public building should be Helena, Mont., for the convenience and accommodation of e, internal-revenue office, the United States marshal's of- States court, governor and secretary, Government tele- United States surveyor-general, United States paymaster, er, district commander, and other Government officers at t.

ial information your committee is advised that the Govern- t annually on account of rent at Helena, Mont., the sum of llows:

lding	$900 00
ue collector's office	300 00
court-rooms, marshal's office, and jury-rooms	650 00
secretary's office and legislative halls	1,100 00
legraph office	360 00
surveyor-general	720 00
paymaster	440 00
quartermaster	275 00
ander	300 00
Subsistence Department	140 00
lic animals	300 00
	5,485 00

the capital of the Territory, and has a population of about le. It is the headquarters of the military district of Mon- e officers above named are required to keep their offices at Your committee are of the opinion that the sum of $80,000 ble sum for the purposes asked, and can well be expended ernment for that purpose. The respective offices of the , located at Helena, are scattered about different portions

of the city, without reference to convenience or the safety of public records.

The amount of internal revenue collected in the district of Montana for the fiscal year ending June 30, 1885, was	$91,064 75
The gross receipts of the post-office at Helena for the same fiscal year were	19,738 26
The net revenue	11,283 04

It is believed by your committee that a suitable building, sufficient for the accommodation of all Government offices located at Helena, can be erected for the appropriation asked, including an eligible site therefor.

Your committee, therefore, unanimously recommend the passage of the bill.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1690.

IMPROVEMENT OF PUBLIC BUILDING AT PETERSBURG, VA.

APRIL 15, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. T. D. JOHNSTON, from the Committee on Public Buildings and Grounds, submitted the following

REPORT:

[To accompany bill S. 480.]

The Committee on Public Buildings and Grounds, to whom was referred Senate bill No. 480, having had the same under consideration, respectfully submit the following report:

The site for the custom-house at Petersburg, Va., was purchased February 5, 1855, and the cost of the construction of the building was $84,664.38.

It was completed in 1859, and to the present time $21,385.52 has been expended thereon in repairs and alterations. The building is used for the business of the post-office and internal revenue of the Government. The internal-revenue receipts at Petersburg from January 1, 1881, to November 30, 1885, were $3,197,616.29, and the exports of manufactured tobacco from that city during the past four years have been greater than from any city in the United States, averaging about 4,000,000 pounds per year.

The gross receipts from the post-office from July 1, 1881, to June 30, 1885, were $77,495.17. The money-order business amounts to $100,000 a year; an average of 4,000 letters and packages are registered at this office yearly, and 2,145,952 pieces of mail matter were handled in the office during the last year. The money-order and registered-letter de-departments are located in a space only 5 by 7 feet, and not more than three persons have room to remain inside of this place at a time; other customers have frequently to remain outside, exposed to the cold and rain. The mailing department measures 9 by 15 feet, and in this small space is the distributing-case, containing 230 boxes, mail-racks, stamping-tables, mail-bags containing mail matter constantly leaving and coming to the office, and the post-office officials cramped so much that it is almost a mattter of impossibility to properly handle and distribute the large mail at such an important office, where so much business is done. The building has none of the modern improvements; it is in every respect inconvenient, and is cold and uncomfortable in the winter season. It is proposed to heat the same by a suitable heating apparatus, alter and enlarge the building so as the public business may be more conveniently attended to, and also to improve the same upon plans and specifications to be approved by the Secretary of the Treasury.

Your committee therefore recommend the passage of the bill.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1691.

INVESTIGATION OF BOOKS AND ACCOUNTS OF PACIFIC RAILROADS.

APRIL 15, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. RICHARDSON, from the Committee on Pacific Railroads, submitted the following

REPORT:

[To accompany Mis. Doc. No. 225.]

The Committee on Pacific Railroads have considered the preamble and resolution offered by Mr. Henley, of California, in the House on March 8, 1886, and which were on that day referred to the committee. The committee are unanimously of the opinion that an examination should be made into the workings and financial management of the Pacific railroads that have received aid from the Government in bonds or lands, to ascertain whether they have observed all the obligations imposed upon them by the laws under which they received such aid, or which have been since passed in reference thereto.

In view of the vast interest the Government has in these railroads, and its liability for them, it is of the utmost importance that Congress shall know whether or not said obligations have been and are being disregarded by said companies. It is, by the committee, deemed important that the system of keeping the books and accounts of the roads be also investigated. The committee have reasons to believe that their books are not so kept as to show properly their net earnings. It is important to ascertain if there have been diversions of the earnings of said aided roads to less productive unaided branches, or any other wrongful or improper purpose, and if so, to what extent; and also whether or not there have been discriminations in rates in favor of unaided as against aided roads. Your committee are of opinion that considerable money is due to the United States from said railroads on account of mistaken or erroneous reports, settlements, or accounts made and rendered by them. Further, it is believed that proceeds of the trust funds or lands loaned or granted them have been diverted from their lawful use. To the end that an investigation may be had covering these alleged evils and irregularities, your committee are of opinion that the Secretary of the Interior should be clothed with power and have the necessary funds provided him with which to make such examination. They are of the opinion that such an investigation can be more satisfactorily made by experts and competent persons selected by that official, to whom they will report, and under whose direction they will proceed and operate, than by any other mode. They do not hesitate to say they believe that this method of making such examination is preferable to an investigation by a committee composed of the members of this House, as contemplated in the resolution of Mr. Henley, referred to above. They

think the compensation to be allowed the persons thus employed should be at the rate of $3,000 per annum, and that in addition thereto their board and traveling expenses should be allowed. Your committee cannot state accurately the time necessary for this investigation; but it will probably cover six or eight months. They consider it wise to leave it in the discretion of the Secretary of the Interior as to when their services shall be dispensed with.

In this connection the committee beg leave to refer to the letter of the Secretary of the Interior, dated January 23, 1886, addressed to the President of the Senate, being Ex. Doc. No. 39. From that letter it will be seen the Department cannot, with its present force, make the contemplated investigation, by reason of the pressure already upon its employés. Its clerical force is not now sufficient, and the Secretary askes for an increase therein, that thereby "the financial interests of the Government may be subserved, and a better understanding arrived at between bonded and land-grant railroads and their relations and responsibility to the Government." That letter is a follows:

DEPARTMENT OF THE INLERIOR,
Washington, January 23, 1886.

SIR: Under the requirements of the law creating the office of Commissioner of Railroads, and the duties devolved upon that office and the Secretary of the Interior, I beg leave to represent that, in order to a proper compliance therewith, an increase of the force in that office is absolutely necessary, and that with an adequate force the financial interests of the Government would be subserved and a better understanding arrived at between bonded and land-grant railroads and their relations and responsibility to the Government.

It has been found impracticable with the present force to secure the information necessary to such relation and understanding, and to procure and prepare concise and specific reports, the present force being barely sufficient for the current business of the office.

It is not deemed advisable that specific grades and salaries should be appropriated for, as in the case of the permanent force of most offices of the Government, but that a bulk appropriation should be made of from $15,000 to $20,000, for the employment of appropriate force in various and specific lines of investigation, at such times and at such rates as might be deemed best.

If such an appropriation be made, it should be made available as soon as practicable, to the end that the service desired may be utilized during the current year's business.

Very respectfully,

L. Q. C. LAMAR,
Secretary.

THE PRESIDENT OF THE SENATE PRO TEMPORE.

The committee do not believe that the sum mentioned and asked for by the Secretary of the Interior will be sufficient, or it may not be, for the purpose indicated by him and the objects set forth herein. They therefore recommend that the sum of $30,000 be appropriated or set apart for the purposes contemplated. The resolution of Mr. Henley contemplates only an investigation of the affairs and conduct of the Union Pacific Railroad and its branches, but the committee think this investigation should extend to all the Pacific roads which have received aid in any way from the Government. They therefore recommend that said resolution, being Mis. Doc. No. 142, be laid upon the table, and as a substitute therefor they offer the resolution herewith reported, and recommend its adoption.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1692.

LOUISA C. BEEZELEY.

APRIL 15, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MATSON, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 576.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 576) for the relief of Louisa C. Beezeley, have had the same under consideration, and beg leave to submit the following report:

The claimant is the widow of Nathaniel Beezeley, late farrier of Company B, Second Indiana Cavalry, who died June 20, 1875, of disease of liver and bladder. Her claim has been rejected by the Pension Office on the ground that, in the opinion of the medical officers of that Bureau, the fatal disease originated after discharge.

The records of the War Department show that Beezeley enlisted in the above-named organization September 20, 1861; served until March 25, 1862, when sent to hospital at Franklin, Tenn., and was discharged at Nashville, Tenn., July 17, 1862, upon surgeon's certificate of disability, setting forth "old age" as cause for discharge.

There is ample and conclusive proof, both medical and lay, as to the soldier's soundness at time of his enlistment. The records of the War Department furnish no information whatever as to the nature of the disease for which the soldier was treated from March 25, 1862, until discharge. Comrades John C. Goe and Wilferd H. Miner testify that Beezeley's duties as farrier were of a very laborious character, exposing him much to the inclement winter weather day and night, and in consequence of same became sick and was sent to the hospital.

Dr. William H. Wishard testifies that he was consulted by the soldier shortly after discharge. Was then much broken down in health, a wreck of his former self, but cannot now recall the exact character of his disability.

Dr. R. N. Todd testifies that he prescribed for the soldier after his discharge from the service, but having no memoranda of the treatment cannot make any definite statement as to dates or nature of disease.

Alfred C. Woods and W. A. Woods testify that soldier upon his return from service and continuously thereafter suffered from what the physicians called "gastralgia."

Dr. J. H. Ledlie states that he was acquainted with the soldier during the last six years of his life. Suffered from chronic cystitis and disease of liver, producing dropsy. Attended him in his last illness and knows that he died of ascites, the result of organic disease of liver.

The claimant is over seventy years of age, and without any income whatever, is dependent upon the charity of friends for support. Her witnesses are persons of the highest integrity, while her own worth is certified to by the Governor of the State of Indiana, ex-Senator McDonald, and other prominent men of that State.

Your committee are fully of opinion that the evidence clearly shows that the soldier, although advanced in years, was in every respect physically able to perform his duties, that by reason of exposure in the service his health became impaired, and that from date of his discharge until his death he was a constant sufferer from a complication of diseases reasonably chargeable to his military service, which finally caused his death.

Your committee therefore report favorably on the bill and ask that it do pass.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1693.

JOHN McGOWAN.

APRIL 15, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. LOVERING, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4032.]

The Committee on Invalid Pensions, to whom was referred the bill H. R. 4032, submit the following report:

John McGowan enlisted in Company K, Twenty-seventh Massachusetts Regiment, September 13, 1861; re-enlisting in the field as a veteran January 1, 1864; taken prisoner March 8, 1865, at Kinston, N. C.; paroled and mustered out of service March 28, 1865. He filed a declaration for pension September 24, 1878, alleging fever and ague, stricture of urethra, and stoppage of water, which has continued at intervals since 1864. His claim was rejected because "no degree of disability from causes alleged entitling to a rating."

Claimant testifies that while in rifle-pits before Petersburg, Va., the first symptoms being passage of blood in an attempt to urinate; that he was then treated by Dr. Fisk, regimental surgeon, and constantly thereafter treated by him until he was taken prisoner; that since discharge the same disease has recurred every one or two months, and that he has been under constant treatment and medical advice; that he has also suffered from fever and ague every year since discharge.

James Dow, of Chicopee, Mass., and John Carlon, of Holyoke, Mass., both testify to his being a sound and robust man prior to enlistment.

Dr. D. B. N. Fisk, regimental surgeon, testifies:

Claimant was in good health at time of entry into service, and that he examined and accepted him for re-enlistment as a veteran on December 29, 1863, at Norfolk, Va. He further testifies that while in charge of said regiment, Twenty-seventh, and at different times during summer of 1864 he treated claimant for some disease of the urinary organ, the exact nature of which he has forgotten; that claimant had frequent retention of urine, demanding catheterization, and that he was for a long time unfit for duty in consequence of said disease.

William L. Hitchcock and Samuel D. Stoddard, of Chicopee, testify to continuance of claimant's diseases since service, being intimately acquainted with him; that his attacks are of the same general character, causing him to lose from three to four months in each year.

Dr. Ramson Shepard, of Brookfield, Mass., testifies that he treated claimant in 1867 for ague and retention of urine, that he continued to treat him for about five years, and that during all that time he was too feeble to perform a man's labor.

Dr. F. F. Parker, Chicopee, Mass., testifies, May, 1879:

First attended claimant in 1877; he was suffering from neuralgia of face, also severe pain at neck of bladder, tenderness and pain about the pubes, difficult u tion, with pains, which increased by walking or standing for any length of t Since this attack has been called some six different times; that he was not at time nor since obliged to use catheter, but that about six weeks ago Dr. Samu Smith, a United States medical examiner, passed the catheter causing claimant g pain and hemorrhage, which has aggravated the symptoms ever since; that clai has not been able to do a full day's work of ordinary labor since affiant knew that since his treatment of claimant he has suffered more or less from ague p neuralgic pains, caused by malaria, which was in his system, and that he has tr for this, as well as for stricture of urethra.

The medical examining board at Springfield, 1881, say:

No history of injury to urethra; no evidence of stricture. The board believe, ever, that the man probably has Bright's disease, perhaps connected with ser Gives history of intermittent fever in Army, and dumb ague of late years. The attribute the man's complaints to condition of urinary organs, and would rate th abilities three-fourths total, equal $6.

After a careful consideration of all the evidence in this case, the points of which are herein given, your committee are of opinion that soldier's disabilities clearly entitle him to be placed upon the pension. They therefore report back the accompanying bill, and recommen passage.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1694.

NELSON MONROE.

APRIL 15, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. LOVERING, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6088.]

The Committee on Invalid Pensions, to whom was referred House bill 6088, *submit the following report:*

Nelson Monroe was first sergeant of Company H, One hundred and fifty-seventh Pennsylvania Volunteers. He is borne upon the pension-roll (certificate 35,110) at the rate of $30 per month, for paralysis of left side, bladder, and rectum, the result of typhoid fever contracted in the service and line of duty.

Dr. James Cummisky, examining surgeon, Philadelphia, in 1869, finds:

Claimant suffering from complete paralysis of left lower limb and partial paralysis of left upper limb, result of typhoid fever. He is necessarily obliged to use crutches in moving about. The lower limb possesses no power whatever, and it were better for him if it were amputated, as it is very much in the way. The left arm and hand has some power, though not sufficient to depend upon for manual labor.

The Boston board of examining surgeons, 1883, find:

Paralysis, as above described, and also hemorrhoids, consequent upon same disease, which bleed to such an extent that he is obliged to wear a diaper all the time. We find them large and protruding, bleeding, and ulcerated.

Dr. Wilson Jewell, examining surgeon, Philadelphia, says:

His disease was lingering and finally terminating in paralysis of left side, as also of the bladder and rectum. Not likely to recover. He is unable to pursue any business.

Claimant has also varicose veins of right leg, which, together with his paralysis of left side, disables him in such a degree that, while in a measure he is able to attend to himself, renders him entirely disabled to earn anything for the support of himself and his family; and, while he is not in that state of complete helplessness requiring the constant care and attendance of another person which would entitle him to $50 per month, your committee feel that he is entitled to an increase upon the amount now received by him. They therefore recommend the passage of the accompanying bill with the following amendment:

Strike out the word "fifty," in the fifth line of the bill, and substitute therefor the word "forty."

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1695.

CHARLES SCHULER.

APRIL 15, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. O'HARA, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7298.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7298) for the relief of Charles Schuler, have had the same under consideration, and submit the following report:

The claimant enlisted in Company K, Fourth Minnesota Infantry Volnteers, December 1, 1861. He alleges that while in the service of the nited States and in the line of duty, at Vicksburg, Miss., July, 1863, e contracted disease of the stomach and liver and brain, and also amps in the legs and arms.

Examining surgeon's report shows that the examination reveals the llowing facts:

Enlargement of the liver and induration extending below margin of the ribs on ght side and overlapping the stomach; sensitive to the touch; the skin of face yelw; abdomen flat and dark brown color; over right side harsh and dry enlargeent of the spleen, which is apparently about 6 inches in longest diameter and 4 ches transverse; freely movable; claims that it changes in bulk, sometimes smaller. ien when severe pains ensue in the liver it enlarges. The condition of the liver d spleen is no doubt the result of malarial fever; has had, evidently, congestion of e brain; his intellect is much impaired at times; difficult to comprehend ordinary nversation; dullness of hearing, so as to require loud conversation in order to make m understand; pupils closely contracted. From the condition and history of the aimant it is my opinion the disability was incurred in the service and not aggrated by vicious habits. Soldier is entitled to three-fourths rating.

E. H. LEWIS,
Examining Surgeon.

Claimant's physical condition is such that he is unable to furnish stimony other than that of Michael Engler and John Karcher, who stify to soldier's soundness prior to enlistment, and of Henry Kraus, ho testifies that soldier was a well and sound man until he took sick July, A. D. 1863, at Vicksburg, Miss. He was taken sick at Vicksrg in the month of July, 1863, after the surrender, and was taken to ie general hospital. When I visited him he was not expected to live. Said Engler and Karcher further testify to the continuance of disbility of soldier from date of discharge to the present time.

Hon. H. B. Strait knows claimant to be a physical wreck and a paur.

Your committee are of the opinion that this is a meritorious case, and iat a man who served his country faithfully and well should not be lowed to depend on the cold charity of the world for subsistence, therere recommend the passage of the bill.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1696.

RANDOLPH SEAMAN.

APRIL 15, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. O'HARA, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7300.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7300) for the relief of Randolph Seaman, have had the same under consideration, and submit the following report:

The claimant enlisted as a private in Company H, Sixth Minnesota Volunteers, July 10, 1862; was discharged August 19, 1865. In claimant's application for a pension he alleges disability caused by affection of back from lifting in taking care of the sick in hospital, resulting in permanent weakness and disability.

Claim rejected on the ground that there is no record of the alleged lame back, and claimant is unable to furnish medical or other satisfactory evidence while in the service or since his discharge.

Record in Surgeon-General's Office shows soldier sick at Fort Snelling April 24, 1865. No further record of soldier's treatment found. There are no records of the regiment on file, nor of Forest City, Minn. Records of Fort Ripley, Minn., are incomplete. This office had no record of Fort Kingston, Minn.

Claimant states that he is unable to furnish medical testimony showing soundness prior to enlistment, as he was sound and healthy, and did not require the service of any physician at that time.

Daniel H. Crego, Oleo Olson, and Andrew J. Lockin all testify that they knew claimant prior to his enlistment and he was at his enlistment a sound, healthy man.

W. N. Hammond, of Rochester, Minn., testifies—

That he had known claimant since 1858; that he worked for him ironing wagons and general blacksmith work, from about that time to his enlistment in 1862; that he was sound at enlistment and entirely free from any disease or disability.

Herman Hayner also corroborates the above testimony. William Brown, first lieutenant of soldier's company, testifies—

That claimant contracted an affection of the back caused by lifting and taking care of the sick in hospital, causing permanent weakness and disability. He was at that time acting as ward-master; knows these facts from being present at time and place mentioned.

Daniel H. Crego, comrade, testifies in substance to the same state of facts as Lieutenant Brown.

Claimant states that while in service and after his discharge he was treated by Dr. Potter, surgeon; that Dr. Potter is dead.

Adelbert Mason testifies—

That he has been personally and intimately acquainted with claimant for eleven years; has worked with him in blacksmith shop at Rochester, Minn., for ten years; that since he has known him, claimant has suffered from lame back.

C. Williamson testifies—

That ever since claimant was discharged from the service in August, 1865, has been his associate and knows that during all the time he has been afflicted with lameness in his back to such an extent as to disable him from manual labor; that he has frequently seen him trying to work and has worked with him and knows above facts from personal knowledge.

William W. Beck's testimony corroborates that of Williamson.

The examiner of the Pension Office rates him one-half disabled for manual labor.

While there is a lack of medical testimony as to soldier's disability during the service, we think that his statement, uncontradicted, that he was treated while in and after the service by Dr. Potter, who is now dead, is sufficient to account for the want of this class of testimony.

The testimony of Lieutenant Brown of claimant's company and that of other comrades we think clearly establishes claimant's allegation that he contracted the disability for which he claims a pension while in the service and in the line of duty.

Your committee therefore recommend the passage of the bill.

9TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1697.

CALLIE WEST.

APRIL 15, 1886—Committed to the Committee of the Whole House and ordered to be printed.

Mr. O'HARA, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7222.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7222) granting a pension to Callie West, have had the same under consideration, and submit the following report:

The claimant is the widow of Burris C. West, sergeant Company G, Sixty-sixth Regiment Illinois Infantry, who enlisted October 3, 1861, discharged September 2, 1864, and died January 8, 1883.

Claim rejected by the Pension Office on the ground that there is no evidence of origin of fatal disease, and claimant's declared inability to furnish the same.

The Surgeon-General's report shows soldier treated in hospital April 1, 1864, for cold, and continued to April 15, 1864.

A. W. Porter and A. D. Carson testify as to soldier's enfeebled condition shortly after his discharge and his complaining of great pain caused by being afflicted with piles contracted while in the service of the United States.

Dr. J. C. Sparks testifies:

I have been acquainted with Burris C. West, since his childhood and believe him to have been a sound man when he went into the Army. After the close of the war he remained South, at or near Green Hill, Ala. He came North in the spring of 1882 for medical treatment; was suffering from disease of the rectum, and was under my treatment during the last four months of his life. He died January 14, 1883, of malignant ulceration of the rectum.

The Adjutant-General reports soldier as—

Sergeant of Company F, First Western Sharpshooters, from the 3d day of October, 1861, to February, 1862. Designation changed to Company G, Fourteenth Missouri Volunteers, Western Sharpshooters, to December 31, 1862. Designation changed to Company G, Sixty-sixth Illinois Volunteers, April 30, 1864. Mustered out September 1864.

The above record shows a long, faithful, and arduous service, and one likely to have caused piles, from the aggravated form of which soldier died.

Your committee are of the opinion that the widow is entitled to a pension, and therefore recommend the passage of the bill.

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CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 1698.

ISAAC N. HAWKINS.

15, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

'HARA, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7519.]

ommittee on Invalid Pensions, to whom was referred the bill (H. R.) to increase the pension of Isaac N. Hawkins, have had the same unconsideration and submit the following report:

soldier is at present receiving a pension of $24 per month. to the fact that the rules established by law do not provide for such as this, he asks an increase.

following from the Ross County Register and the Medical and cal History of the War of the Rebellion, with cut of soldier's arm, ve an accurate and extended description of soldier's condition:

[From the Ross County Register, Chillicothe, Ohio, of June 21, 1879.]

Captain Hawkins, who is now awaiting confirmation as postmaster, is one of the worst used-up ex-soldiers, physically, that there is in this city. He was shot on three different occasions, but having indomitable pluck, he would not take advantage of his wounds to get out of the service. Recovering sufficiently from his first injuries, he rejoined his regiment, when he received his last and most terrible wound. A musket ball entered his right shoulder and passed down into (*through*) his body, being afterward taken out from beneath the shoulder blade. After his discharge and return home, he suffered a hundred deaths with his wound, * * * and while he can move the fingers of his hand, the arm is almost as useless as though he had it not. * * * *

[The Medical and Surgical History of the War of the Rebellion, Surg. Vol. II, page 523, reports case 1496 Lieutenant Hawkins, of Seventy-third Ohio.]

Wounded at Bull Run, August 30, 1862, right arm; at Lookout Valley, October 29, 1863, left ankle; in front of Atlanta, August 5, 1864, right shoulder, the ball going through the body, the head and two inches of the arm bone, humerus, was taken out.

Dr. Hudson, of New York, reports, in 1870, wound healed, but arm useless for lack of leverage, the functions of the hand and fore-arm were, however, normal.

The committee unanimously believe that his pension ought to be increased, and recommend that the word "forty" in line 5 of the bill be stricken out and the word "thirty-six" be inserted in lieu thereof, and that so amended the bill do pass.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1699.

MRS. MARGARET COLBATH.

APRIL 15, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SAWYER, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1585.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1585) for the relief of Mrs. Margaret Colbath, having considered the same, submit the following report:

The soldier, John D. Colbath, husband of claimant, was pensioned for ouble hernia—the origin of such injury in service being clearly estabshed—and drew pension up to the date of his death, June 5, 1881.

The widow filed claim as such, which was "rejected on the ground that oldier's death was not due to the hernia for which he was pensioned," nd the record shows that her claim was "rejected June 29, 1885, solely n action of the medical referee."

Dr. H. G. Chamberlain testifies December 19, 1881, that soldier was uffering from double hernia, and first treated him May 20, 1880.

In August following found him with a high fever and considerable inflammation bout the abdominal ring on left side, and complaining of numbness of lower extremies; was called to see him at various times until he died, and found him gradually sing the power of motion, and believe him to have been a constant sufferer from said ıptures.

On March 7, 1885, he further testifies (being then a resident of Harıonsburg, Pa.):

There was every indication that the inflammation extended to the peritonea and also) the bladder. This would produce the numbness or paralysis in his lower extremies of which he complained. The inflammation continued, the paralysis extended pwards, and he gradually lost the power of motion. Hence I consider the prime ıuse of said Colbath's death was the hernias.

In a later affidavit, dated Harmonsburg, Pa., May 28, 1885, Dr. Chamerlain continues:

There was general inflammation of the whole abdominal viscera, including the bladır. In regard to gangrene I claim there was a general mortification, as he turned lack immediately after death.

Dr. Chamberlain is vouched for as a reputable and creditable person, nd entitled to credit and belief as a witness.

Your committee, after carefully reviewing the evidence in this case, ecommend that the claimant be granted the relief asked for and that he bill do pass.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1700.

SARAH A. VAUGHN.

APRIL 15, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

MR. SAWYER, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1592.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1592) for the relief of Sarah A. Vaughn, having considered the same, submit the following report:

Sarah A. Vaughn claimed pension as the dependent mother of her son, Delos A. Graves, late of the Seventeenth Independent Battery Light Artillery, New York Volunteers, who enlisted August 27, 1862, was discharged August 5, 1864, "because of confirmed phthisis pulmonalis, contracted in the service; unfit for the Veteran Reserve Corps; disability total," and "died of said disease July 15, 1865."

The mother's claim was rejected on the ground that she at "time of soldier's death and for years afterward had sufficient means and a husband, who would have taken care of her had she permitted him to do so."

The claimant was a widow when she married Mr. Vaughn. The evidence shows that soldier contributed to his mother's support with money and groceries, and that at one time she owned property, real and personal, valued at from $2,000 to $3,000, which appears to have dwindled away, so that, according to the records at the county clerk's office, she is now possessed of real estate for which the purchase price is fixed at $1,100, and upon which there is an undischarged mortgage of $800. Upon this property she realizes a rental of $1.50 per week, and has no other source of income.

She is now seventy-two years of age, and separated from her husband because of lack of support. He was a Methodist minister, and at time of separation she testifies he was in receipt of a salary amounting to $250 per year.

The member of the committee to whom this case was referred was personally acquainted with the claimant while she was the wife and widow of Ralph H. Jackson (her former husband) and at the time of her marriage to her present husband, Rev. John W. Vaughn. He knows that soon after her marriage with Vaughn they separated and have not since lived together, and that Mr. Vaughn is and has been for many years a poor man, dependent upon his small salary as a minister for his support. He also knows that Mr. Vaughn is now about eighty years of age and mainly living upon his yearly allowance as a superannuated minister.

Your committee, believing that the contributions of the son at or about the time of his death establishes dependence at that period; that the property she possessed did not afford a sufficient income for her support, necessitating such use of the principal as caused it to dwindle to its present small proportions, and that she is now dependent and aged, therefore recommend that the claimant be granted the relief asked for, and that the bill do pass.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1701.

SAMANTHA A. SMITH.

APRIL 15, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6452.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6452) granting a pension to Samantha A. Smith, submit the following report:

From the evidence submitted your committee find that claimant is the widow of Lewis Y. Smith, corporal of Company C, Sixteenth Indiana Volunteers, who enlisted August 6, 1862, and was discharged June 30, 1865. No application was made by the soldier, though the records show that he received a gunshot wound in both hips at the battle of Arkansas Post, January 11, 1863, from the effects of which he remained in hospital till the following August. He died in 1879 from pneumonia, but it is claimed that the fatal disease would not have resulted in death had it not been for his debilitated condition, resulting from an abscess, which it is asserted was the result of the wound.

A large amount of evidence has been submitted, and the case seems to have been so evenly balanced as to cause considerable hesitation on the part of the Pension Department as to its final action.

Dr. William Street, a physician of nearly forty years' practice, testifies—

That he was the family physician of soldier from 1868 up to the time of his death. That soldier died of pneumonia after a sickness of eight days. That when he was taken with the latter disease he was just recovering from an abscess caused by an injury to hip, and but for his debilitated condition from said abscess his chances for recovery would have been greatly increased.

Dr. Street has been for many years the examining surgeon of the Pension Department.

Dr. J. H. Baxter, who was called in consultation, corroborates the above, and says he thinks there was some blood poisoning. That it was remarked that soldier would have died in a short time if he had not been taken with pneumonia. The special examiner who investigated the case says:

Drs. Street and Baxter are both perfectly reliable men, and I have no doubt in my mind as to the justice of the claim.

Just what effect each disease had in producing the fatal result can never be known, but the benefit of the doubt in this case certainly ought to be given to the widow, for the soldier waived all claim to a pension, which he could have drawn for fourteen years, during all which time he suffered from the severe wounds received in battle.

Your committee recommend the passage of the bill.

GRESS, } HOUSE OF REPRESENTATIVES. { REPORT
sion. } { No. 1702.

MRS. SARAH CASTEEL.

86.—Committed to the Committee of the Whole House and ordered to be printed.

ILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6795.]

ittee on Invalid Pensions, to whom was referred the bill (H. R. r the relief of Sarah Casteel, have had the same under consider- nd beg leave to submit the following report:

ch 12, 1870, the claimant filed her application for pension as of Abraham Casteel, late private Company F, Twelfth Mis- e Militia, who, as she alleged, died October 6, 1862, of disease l in the service.

anying this application she filed the affidavits of Drs. H. J. l James. R. McCormick.

mer testifies that he was called upon in October, 1862, to treat husband for subacute peritonitis, and that he continued until October 6, 1862, when the soldier died of said disease.

Cormick testified that he commenced treating the soldier about s before his death for carbuncle of nape of neck, and continued therefor until October 6, 1862, when he died.

e 24, 1871, Drs. Smith and McCormick filed a joint affidavit, rth that they are informed of discrepancies existing in their re- ffidavits as to cause of soldier's death, and in order to recon- liscrepancy, now jointly declare that they are firmly of opin- he cause of soldier's death originated and was caused by a in the spine, superinduced by peritonitis, attributable to the of unhealthy pus from the carbuncle—peritonitis being the cause of death.

t-General reports soldier enrolled April 11, 1862, and dis- ugust 1, 1862, by reason of disability, "cause, camp duty." ate of disability or any other information on file.

Whyback testified, February 12, 1870, that soldier was in th at time of enlistment, and that about March 25, 1862, from in the service, he contracted carbuncle of back.

th again testified in November, 1875, that he treated the sol- rbuncle, while in the Fourth (Sixth) Missouri State Militia, he same resulted in peritonitis.

utant-general of Missouri reports that claimant's husband Company B, Sixth Missouri State Militia, from September 28, ebruary 25, 1862.

D. B. Casteel, son of claimant, testifies that his father was taken sick June [illegible] and sent home. Could walk about the house, but grew worse, and died October 6, 1862.

[illegible] October, 1884, testifies that upon the return home of her husband the doctor applied a blister to small of back. The blister was large and would not heal, and about July 11 it took form of a carbuncle. There were two, one on small of back, 4 or 5 inches in diameter, and the other above, about half of that size. Soldier became paralyzed in [illegible] minutes about the last of July, having no use whatever of the lower part of his body, necessitating injections to move the latter. Went once [illegible] seven days without a passage.

Sarah E. Groom testifies that she assisted in the care of the soldier from about June 1, 1862, until his death. Dr. McCormick, under date of December 7, 1883, testifies that the carbuncle was large, involving [illegible] inches. The spine was affected and paralysis of lower extremities showed itself a few days before death; cannot now say whether soldier's condition was depending upon blood poison. The soldier was in the service for nearly a year, was sick when he was discharged, and died two months after, having continued to grow worse during that time.

Your committee recommend the passage of the bill.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1703.

MARTIN J. REYNOLDS.

APRIL 15, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6453.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6453) granting a pension to Martin J. Reynolds, submit the following report:

The claimant in this case was a private in Company K, Third Iowa Cavalry, enlisting October 19, 1861, and serving until August 9, 1865. He claims a pension for sunstroke and results. This claim is rejected on the ground that the result, impaired vision, is not satisfactorily shown to be the result of the sunstroke. The incurrence of the sunstroke in line of duty is satisfactorily proven by Lieut. S. S. Ward and comrades Edwin Beckwith and Hiram Reynolds. That he has been partially disabled from the effects of it is clearly established by the affidavits of some six or eight neighbors. The examining board at Parsons, Kans., report, October 22, 1884—

> The man has a dull, heavy expression of countenance; his eyelids are badly granulated; pupils contracted; can't see newspaper print at all with right eye; can see the head lines of this certificate; the sight of left eye is but little affected. We are of the opinion that there is not sufficient local disease in right eye to cause the amount of blindness that we find, nor are there any apparent reasons why the left is not as good as the right. We therefore are of the opinion that there is some central leison that causes this difference in power of vision, and such a lesion may be caused by sunstroke. He is, in our opinion, entitled to a three-fourths rating for the disability caused by sunstroke.

Accepting the judgment of the examining board to be correct, your committee recommend the passage of the bill.

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ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 1704.

SAMUEL ROBBINS.

5, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

ORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6650.]

mmittee on Pensions, to whom was referred the bill (H. R. 6650) nting a pension to Samuel Robbins, submit the following report:

papers on file in this case show that claimant enlisted December , in Company A, Twelfth M. S. M. Cavalry, and was discharged ability February 14, 1863. In 1871 he applied for a pension, g gunshot wound in the shoulder, received in March, 1862. The ce in this case is very clear and strong, and abundantly estab- the following state of facts: About the 12th of March, 1862, nt applied for and received a furlough to go to his home, a few listant, to see his wife, who was then very sick, and who died after. While at home, and before the expiration of his furlough ebel soldiers came to the house for the purpose of capturing or him. He attempted to escape and was shot down. The Depart- ejected his claim for a pension on the ground that he was not in e of duty.

r committee, believing that he was performing a sacred duty in g and caring for his dying wife, and that he was shot down be- ne espoused the cause of his country, recommend the passage of l.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1705.

JOHN H. WESTERHOUSE.

APRIL 15, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6721.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6721) granting a pension to John H. Westerhouse, late of Company F, First Regiment Potomac Home Brigade, Thirteenth Maryland Volunteers, submit the following report:

The papers on file in this case show that claimant enlisted August 23, 1861, and was discharged May 29, 1865. In April, 1880, he applied for a pension, alleging that at Gettysburg, July 3, 1863, he incurred injury to his ankle, and that he also contracted lung disease in the service. The case was rejected on the ground of no record and no evidence of treatment in service or at discharge. Claimant assigns as a reason for his inability to furnish evidence of surgeon that there were so many wounded that he did not receive the care of that officer. Comrades John H. Clark, Lewis Mannahan, William D. Knepper all testify as to injury to ankle at battle of Gettysburg, and that at time of discharge he was suffering from hemorrhage of the lungs. Dr. H. M. Laney testifies to treating claimant upon his return from the Army for disease of lungs; found him spitting blood. James H. C. Burner, F. Eichelberger, and W. D. Knepper testify as to his disease of lungs from time of discharge, and that he has been lame since the war. Dr. H. M. Laney also adds:

> His case is a just one, and he is deserving of a pension. I knew him, before he entered the Army, as a stout, rugged boy, and when he returned he was used up for all time, as I supposed.

Dr. Thomas M. Huffman testifies to treating him for lung disease from 1871 to 1876. Dr. Cyrus A. Loose testifies to treating him for hemorrhage of the lungs from 1878 to 1882. The examining board of surgeons at Emporia, Kans., in 1883, after describing his disabilities, rate him one-half disabled. The case has three times been submitted for admission, but has been rejected by board of review, on account of no record and no medical treatment.

The case is an unusually strong one; careful inquiry has been made as to credibility of the witnesses, and all are vouched for as truthful and reliable.

Your committee recommend the passage of the bill.

CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
t Session. } { No. 1706.

MARY S. WOODSON.

15, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7073.]

Committee on Invalid Pensions, to whom was referred the bill (H. R. 73) granting a pension to Mary S. Woodson, submit the following ort:

e find that claimant is the widow of Henry B. Woodson, a private mpany E, Twenty-sixth Regiment of Missouri Volunteers. The er enlisted September 23, 1861, and was discharged October 30, upon surgeon's certificate of disability, which stated that he was ly unfit for duty of any kind on account of valvular disease of the . The hospital records show that he was treated in July, 1862, unshot wound and rheumatism. The evidence submitted shows he disease of heart continued after his discharge so as to unfit him anual labor; that the family were very poor and unable to employ sician. About the 24th of March, 1874, the soldier left his home d a farm to rent, and was never heard of after that. Claimant les that some time afterwards she learned that a skeleton of a man found near Sullivan, Mo., on an unfrequented road. Two com- testify to the incurrence of heart disease in the service. He was arged after twenty-five months' service for valvular disease of the of an aggravated form, being totally unfit for duty. Several bors testify to his feeble condition up to and at the time of his pearance. The only reasonable conclusion is that the soldier died e road of heart disease, alone and uncared for. The widow is in destitute circumstances.

ur committee realize that under existing laws the Pension Office rant no relief, but, believing it to be a meritorious case, they rec- nd the passage of the bill.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1707.

JAMES D. COTTON.

PRIL 15, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6117.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6117) granting a pension to James D. Cotton, submit the following report:

The claimant is the father of Thomas J. Cotton, late a private in Company H, Twenty-first Missouri Volunteers, who was killed in battle April 6, 1862, at Pittsburgh Landing, Tenn. There is some evidence to show that the soldier, who was eighteen years old when killed, had prior to enlistment worked for his father, who was a blacksmith of small means. The assessment rolls show that he was taxed on a valuation of $200. In 1868 he bought (and now owns) a small farm, which is assessed at $350. He is now 65 years of age, and unable to perform manual labor. The soldier's mother died a few days after his birth. The Pension Department, in investigating the case, ascertained that the son did not contribute to his father's support at the time of his death, and could not therefore allow the claim.

Your committee recommend the passage of the bill.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1708.

JAMES WATSON.

APRIL 15, 1886.—Laid on the table and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6802.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6802) restoring to the pension-roll James Watson, submit the following report:

Claimant was allowed a pension for chronic diarrhea, rheumatism, and vetrigo, result of sunstroke, at rate of $2 per month, from July, 1865, until June 20, 1881, when he was dropped from the roll on the ground that the disability had ceased. The board of examining surgeons report that they find no disability. The passage of this bill would confer no benefit to the soldier if there is no disability. If he can show that the disability now exists the Pension Department will promptly restore him to the rolls.

Your committee, therefore, report adversely, and ask that the bill lie on the table.

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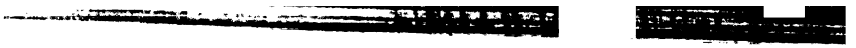

)ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 1709.

MICHAEL WETZEL.

APRIL 15, 1886.—Laid on the table and ordered to be printed.

)RRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6805.]

mmittee on Invalid Pensions, to whom was referred the bill (H. R. to increase the pension of Michael Wetzel, submit the following re-

reful examination of this case fails to disclose any reason why this)uld pass. Claimant is receiving $30 per month for the loss of rm above the elbow at the middle third. This is precisely the)at all of his comrades are receiving who are suffering the same lty.

committee therefore report adversely, and ask that the bill lie table.

rH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1710.

CHARLES H. WALFORD.

APRIL 15, 1886.—Laid on the table and ordered to be printed.

MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6497.]

e Committee on Invalid Pensions, to whom was referred the bill (H. R. 6497) granting a pension to Charles H. Walford, submit the following report:

Claimant asks to be put on the pension-roll for injury to hip, the result of typhoid fever contracted in 1861 in the military service. The amining board of surgeons at Lincoln, Nebr., reported July 1, 1885: No apparent difference in appearance of hips or limbs; no disability rceptible." The passage of this bill would confer no benefit on the ldier, as he would receive pension only for disabilities reported by an amining board to exist.

Your committee therefore report adversely, and ask that the bill lie the table.

O

[H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
1st Session. } { No. 1711.

ARCHIBALD MATHEWS.

APRIL 15, 1886.—Laid on the table and ordered to be printed.

MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7085.]

Committee on Invalid Pensions, to whom was referred the bill (H. R. 085) granting a pension to Archibald Mathews, submit the follow- ng report:

laimant was granted a pension at the rate of $2 per month from June, 6, until February 20, 1884, when he was dropped from the roll by the nsion Department for the reason that the disability had ceased, as wn by the report of the examining board of surgeons at Omaha. applied November 3, 1885, for restoration, and was ordered for ex- ination before the board at Nebraska City, who reported under date December 23, 1885, that they found no disability. The passage of s bill will afford claimant no relief. The Pension Department will tore him to the pension roll upon proof that the disability actually sts. Six surgeons selected for their ability have reported that they unable to discover any disability. The Pension Department will be verned by the reports of its examining boards whether this bill be- nes a law or not, and under the provisions of this bill he could ly receive pension for disabilities shown to exist by some board of aminers.

Your committee therefore report adversely and ask that the bill lie the table.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1712.

ANTIONETTE BIRNEY.

APRIL 15, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SWOPE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7156.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7156) granting an increase of pension to Antionette Birney, widow of Maj. Gen. David B. Birney, having had the same under consideration, respectfully report:

This bill proposes to increase the pension of Antionette Birney, widow of Maj. Gen. David B. Birney, from $30 to $50 a month. Your committee has rigidly adhered to the rule, which they have prescribed, not to increase the pensions of widows of officers below the rank of general officers to the amount asked for in this bill, but they have recommended in many instances the increase of the pensions of the widows of general officers to the amount indicated in this bill.

They do not consider it necessary to specify the military services of General Birney. They are well known, and have become no unimportant part of the history of his country. His widow is represented to be in impoverished circumstances. Your committee, therefore, in view of this fact and the meritorious services of her deceased husband, report favorably, and recommend the passage of the bill.

A record of the military career of General Birney is hereto appended.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, April 1, 1886.

Statement of the military service of David Bell Birney, late of the United States Army, compiled from the records of this office:

He entered the service as lieutenant-colonel Twenty-third Pennsylvania Infantry, April 21, 1861, and served with his regiment in General Patterson's column, on the Upper Potomac, until honorably mustered out, July 31, 1861.

He re-entered the service as colonel of the Twenty-third Pennsylvania Infantry (3 years regiment), August 31, 1861; was appointed brigadier-general, United States Volunteers, February 17, 1862, and major-general, United States Volunteers, May 20, 1863.

He commanded his regiment in the Army of the Potomac to February, 1862; the Second Brigade, First Division, Third Corps, to September 1, 1862; the First Division, Third Corps, to October 17, 1862; the Second Brigade, First Division, Third Corps, to November 16, 1862; the First Division, Third Corps, to March 26, 1864; the Third Division, Second Corps, to July 23, 1864; and the Tenth Army Corps to October 10, 1864. He was on sick-leave from the latter date until he died, at Philadelphia, Pa., October 18, 1864.

R. C. DRUM,
Adjutant-General.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1713.

MARY A. THOMAS.

APRIL 15, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SWOPE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6747.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6747) granting a pension to Mary A. Thomas, respectfully report:

Your committee attach hereto the petition of Miss Mary A. Thomas, late Volunteer Army nurse. It sets forth the nature and character of the service rendered much more graphically than your committee could hope to do.

All the points are substantiated by testimony of the highest character, so that there can remain no doubt as to the entire accuracy of her statement.

Robert F. Weir, M. D., late assistant surgeon United States Army, states:

During the war I was in charge of the United States Army general hospital, Frederick, Md, from 1862 to 1865. For eighteen months of the time Miss Mary A. Thomas was the superintendent of the nursing department as a volunteer Army nurse, and as such brought it to the highest degree of efficiency. This, with other points, secured the official commendation of the hospital by the Surgeon-General. The faithfulness and intelligence of Miss Thomas continued at the disposal of the soldiers until 1864, when she was compelled to retire from duty. Her deterioration of health was the result, in my opinion, of the mental and physical strain passed through in those trying times.

R. M. Murray, Surgeon-General United States Army, states:

In regard to the services rendered by Miss Mary A. Thomas as Army nurse during the late war, the records of the United States Army general hospital, at Frederick, Md., show that she was employed in that hospital as nurse. Robert F. Weir, M. D., of New York City, late assistant surgeon, United States Army, was in charge of the said hospital in 1861–1865. He was one of our ablest and most judicious medical officers, and his statement can be implicitly relied upon. I believe that the services of Miss Thomas were in the highest degree admirable, and should commend her to special consideration. I unite in recommending that she receive the pension for which she has applied.

The following is her petition:

To the honorable the Committee of Invalid Pensions, House of Representatives:

I, your petitioner, respectfully beg leave to present the following facts as the basis for a claim to a pension as Army nurse and superintendent of nurses:

In the summer of 1862, and during the eighteen ensuing months, I had the honor of serving as a volunteer nurse and superintendent of nurses in the "United States Army general hospital," located at Frederick City, Md. In proof whereof I submit Exhibit A, the affidavit of Dr. Robert F. Weir, of New York City, residing at No. 37 West Thirty-third street, late surgeon of the United States Army, in charge of the aforesaid hospital.

The invasion of Maryland by General Robert E. Lee, in September, 1862, brought us between the two conflicting armies; then followed the battle of Antietam, at the distance of 20 miles only from Frederick, and my services were required immediately at the front. No one save an eye-witness to such scenes can realize the magnitude of the labor involved, or the amount of courage demanded. Even that born genius of battle, the great Napoleon, was unnerved by the ghastly sights displayed on the field of a freshly-fought battle; what then, was the spectacle for a timid woman? The roar of the cannon, the smoke, the confusion, the frantic encounter of warring squadrons, these constituted but the opening scene in the bloody drama, and required but brief space for enactment. The tragic horrors of the fray remained to be fully developed in the wards of our hospital. Days then counted for months and months for years in the expenditure of moral force and the sacrifice of physical strength. To serve by day and by night, to assist frequently at surgical operations whose very memory makes me shudder; afterwards, with indescribable anxiety, to watch those patients, for then the embers of life burned low and the slightest want of vigilance would be attended with fatal consequences—such were, in part, the duties devolving upon me as Army nurse, and as superintendent of all the other nurses there engaged.

Another great battle, that of Gettysburg, was fought in the summer of 1863, and our hospital was again in the very midst of war and tumult. Over the rocky roads of those hilly regions, day after day, came the long line of Army ambulances bringing the wounded direct from the field of battle. Our hospital was capacious, the barracks numbered from the letter A to the letter P inclusive, but all were soon filled to overflowing, and tents had to be pitched for the emergency. Some of those heroes died shortly afterwards; the majority lingered to endure long martyrdoms of pain; but not one of those pathetic death-beds was left solitary. It was a comfort to those poor dying soldiers to confide to a sympathetic ear their fond farewells to friends far away in the North or the East, the West or the South, and it was made a sacred duty to transmit by letter, when possible, those touching messages. Defenders of the old stripes and stars, soldiers of the South, all received the tender cares needed in their sad condition.

And here, perhaps, I may be pardoned for saying that, being by birth a Maryland woman, I had near relatives and dear friends in the hostile camp. Consequently, when the hospital came to change hands, as it did between the interval of General Lee's entrance and exit from Frederick, followed in two days by General Burnside's army, my allegiance to the Union cost me somewhat severely in respect to natural sympathies.

The above details are given as a mere sketch of the circumstances of time and place connected with my services. Having the entire superintendence of the nursing department of a large military hospital my responsibility was great and my duties most arduous. I served as a volunteer, and with no expectation of ever applying for a pension. Now, however, my health is feeble. (See Exhibit B, the affidavit of Dr. Samuel R. Skillern, of Philadelphia, and Exhibit C, affidavit of Dr. G. Latimer, District of Columbia.) I am wholly dependent upon my own efforts for support. Therefore I now appeal to your honorable committee for a pension of $50 per month. The precedent of giving $25 has been established in some well-known cases, as, for example, in those of Miss Harriet P. Dame, of New Hampshire, and Mrs. Mary M. Husband, of Philadelphia, whose names, and others, are on the statute book; but I have asked for $50 per month because of the wider field of service, the heavier responsibility, and greater tax upon mind and body, inseparable from the post assigned me, that of superintendent of nurses. Many widows of superior officers are given pensions of $50 per month, not for personal service rendered, but because of their deceased husbands; and, in like manner, the widows of lesser officers and subalterns are pensioned in a decreasing ratio. I appeal to the fair judgment of your honorable committee whether my services do not merit to be considered with similar discrimination.

Very respectfully,

MARY A. THOMAS,
Late Volunteer Army Nurse.

WASHINGTON, D. C., *March* 9, 1886.

Your committee, in view of the high character of Miss Thomas and the service rendered, together with her ill-health and straitened circumstances, report the bill favorably and recommend its passage.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1714.

REBECCA ALLEN.

APRIL 15, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SWOPE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5645.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5645) granting a pension to Rebecca Allen, respectfully report:

John E. Allen, husband of claimant, was a landsman on the United States steamer Atlanta. He enlisted August 19, 1864, and was discharged June 22, 1865.

His widow claims a pension because the sailor went into the service healthy and strong, and therein contracted the disease which later caused his death. The Pension Office rejected the claim on the ground that there is no record of fatal disease, and claimant is unable to furnish competent evidence to establish origin of same in the service and in line of duty.

The marriage of claimant to sailor is clearly established, also that she has never remarried. The records of the office of the Surgeon-General, United States Navy, do not afford any evidence in this case, since the data of the Atlanta are not on file for the time stated. This claim rests upon the fact as to whether sailor contracted his fatal disease in the service.

Your committee hereafter quote the evidence on file as to sailor's prior soundness, his condition in service, and after discharge up to the time of his death.

Dr. John W. Steele, Freedom, Md., swears that he knew sailor very well before enlistment, and knew that he was a sound, healthy man, and free from any disability.

James G. Berrett, Freedom, Md., and Thomas Edwards, Baltimore, Md., virtually corroborate Dr. Steele. The Department marks the standing of these three gentlemen as good.

James O'Connor, shipmate, swears that he knew sailor very well, always sleeping within a few feet of him and conversing daily with him. When he first saw Allen (the sailor) he seemed well and hearty and free from disease, but before he was discharged Allen was suffering from a dry cough, and continued to cough in this manner until affiant left the boat. The special examiner says that O'Connor's reputation is bad.

Alfred Lowery substantially testifies to the same as above, and in addition says he could not write, and he used to get Allen to write all his letters home, and in this way he knew that Allen contracted a cold

of consumption, June 3, 1875.

This is another of the ever-recurring cases in which it is quite im sible to state with any degree of certainty how much the soldier's s ice contributed to the development of the fatal disease. The evid shows that his health was apparently good when he entered the serv that it remained so until he contracted a severe cold, which termin in tubercular disease, from which he died. It would be idle to atte to trace the majority of cases of this disease back to their beginn and it is specially difficult to follow the symptoms of this insidious ease in the case of a soldier, away from his home and friends, and fro those who, having special interest in his case, would be likely to no and remember its minutiæ. Recognizing this fact, your committee h felt justified in making a liberal allowance in favor of the soldier, in not requiring the strict proof demanded very justly by the Pen Department.

In this case they believe that it is probable the soldier incurred fatal disease in the service, and, regarding his widow's claim favora they recommend the passage of the bill.

C

TH CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
1st Session. } { No. 1715.

NANCY R. BROWN.

IL 15, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

SWOPE, from the Committee on Invalid Pensions, submitted the following

REPORT

[To accompany bill H. R. 1997.]

Committee on Invalid Pensions, to whom was referred the bill (H. R. 1997) granting a pension to Nancy R. Brown, respectfully report:

Iancy R. Brown, widow, is the mother of Robert M. Brown, late a itenant of Company K, One hundred and forty-fifth Pennsylvania lunteers, who was killed at the battle of Fredericksburg, Va., De- ıber 13, 1862.

Robert M. Brown was mustered into rank September 12, 1862, and is orted present at all roll-calls up to the time of his death.

The mother bases her claim for pension upon the fact that soldier s her support, as her husband was an invalid and unable to support

The Pension Office rejected her claim upon the ground of non-de- ıdence. Quite a number of witnesses testify as to the property and ources of claimant's husband, John S. Brown, the father of soldier, l the evidence all goes to show that her husband owned considera- e real estate in Erie, Pa., but received no income from any of it, and l to pay the taxes on the same, and was finally bankrupt. G. D. ce, brother, April 7, 1882, certifies by verified transcript "of pro- lings against the claimant at the May term of the court of common as, 1878, judgment for debt, interests and costs $6,968.90, and sale the sheriff of all property described by the preceding witness."

oseph Blenner testifies "that he was associated with John S. Brown, lier's father, in oil operations, as a co-partner from 1863 or 1864 to 7 or 1868. The income of the parties interested therein during these rs was nothing and worse than nothing. The operations in oil ved a loss." The above evidence is corroborated by two other wit- ses.

he evidence in regard to the son's having rendered support to his her is very full indeed, and the purport of it is that soldier did con- ute to the support of his mother before he enlisted, and the com- y had received no pay up to the time of soldier's death. Your com- tee deem it unnecessary to quote more than the two following affi- its, as the rest are similar.

eorge Demand, Erie, Pa., testifies—

ıe soldier was in the office of the Philadelphia and Erie Railroad Company, and nk he paid his wages to his mother, as on one occasion she said she would pay ı small sum which the soldier's father owed me when the wages of the soldier ıld be paid him; she expected money from h m then.

Mary Ackerman "resided in claimant's family and knows that the soldier was in the habit of giving his mother a large share of his earnings to use in keeping up the expenses of the family."

H. G. Wanren, Erie, Pa., "knows that the soldier contributed to the support of his mother's family by purchasing groceries and provisions."

Your committee believe from the above testimony, and much more of the same character, which it is not necessary to detail, that this mother was dependent upon her son to a considerable extent, and that he did contribute to her support. They therefore recommend the passage of the bill as amended by striking out all after the word volunteers in line 7, and inserting in line 4, after "pension-roll," "subject to the provisions and limitations of the pension laws."

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1716.

ELIZA E. BERRY.

APRIL 15, 1886.—Laid on the table and ordered to be printed.

Mr. SWOPE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5753.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5753) granting a pension to Eliza E. Berry, respectfully report:

In response to the call for papers in this case, the Commissioner of Pensions says:

I have the honor to inform you that the records of this office fail to exhibit any evidence that claim for pension has ever been filed in behalf of the widow of Samuel E. Berry, Twenty-sixth United States Colored Troops.

It is the opinion of your committee that the claimant should apply for relief to the Department before coming to Congress. They therefore report adversely and ask that the bill do lie upon the table.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1717.

SAMUEL E. BRYANT.

APRIL 15, 1886.—Laid on the table and ordered to be printed.

Mr. SWOPE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 2126.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2126) granting a pension to Samuel E. Bryant, having had the same under consideration, find:

That there is no evidence on file in the Pension Office to show that aim for pension has ever been filed in behalf of Samuel E. Bryant, ompany C, Sixth Pennsylvania Reserves.

Your committee think that the soldier should apply to the Depart- ıent before coming to Congress for relief, and they therefore ask that ıe bill do lie on the table.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1718.

JOHN STURGIS.

APRIL 15, 1886.—Laid on the table and ordered to be printed.

Mr. Z. TAYLOR, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5318.]

The Committee on Pensions, to whom was referred House bill 5318, report that John Sturgis, for whose relief said bill was introduced, supplies the only kind of proof, which, if offered by any one else, would be scarcely sufficient to justify us in recommending the bill for passage. We therefore recommend that the bill do not pass.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1719.

ARNOLD CAREY.

APRIL 15, 1886.—Laid on the table and ordered to be printed.

Mr. Z. TAYLOR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5666.]

The Committee on Pensions, to whom was referred House bill 5666, having had the same under consideration, report:

The bill proposes to grant a pension to the son of a soldier of the Revolutionary war. There is no sufficient proof on file to show that the father was in the Revolutionary war, and if there had been we know of no reason why the son of a Revolutionary soldier should be pensioned, and we recommend that the bill do not pass.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1720.

DISABLED PERSONS IN NAVY AND MARINE CORPS.

APRIL 15, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ELDRIDGE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4702.]

The Committee on Pensions, to whom was referred House bill 4702, beg leave to recommend that the same do pass.

The Revised Statutes, section 4756, provides that persons who, from age or infirmity, are disabled from sea service, but who have served as enlisted persons in the Navy or Marine Corps for the period of twenty years, &c., shall be entitled to half pay, to be paid out of the naval pension fund, in lieu of having a home in the Naval Asylum.

There are many men, after the term of their enlistment expires, under the law appointed "petty officers," and continue their service; but this section does not allow the time which these men serve under these appointments to be computed in the "twenty years' service."

The Navy Department, under order of January 15, 1878, directed that these appointments should be discontinued, and that the men should be enlisted, so as to receive the benefits of this law.

Many instances exist where men have served as "enlisted men" and under appointment as "petty officers" for the twenty years, but are not entitled to the benefits of the statutes, because the whole service of twenty years was not as an enlisted man.

This bill simply amends the law, so that when one has served the twenty years as an enlisted man, or petty officer by appointment, or a sufficient time, a part of the one and part of the other service shall both be counted in making up the twenty years.

This bill was first referred to the Committee on Invalid Pensions, and afterwards referred to this committee. While the same was with the Committee on Invalid Pensions the chairman received the following letter from the Secretary of the Navy, in which it will be seen the bill has his "heartiest commendation."

The letter is hereto appended.

NAVY DEPARTMENT,
Washington, April 6, 1886.

SIR: I have the honor to invite your attention to House bill No. 4702 and to recommend it to the favorable consideration of the Committee on Invalid Pensions of the House of Representatives.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1721.

WILLIAM H. DEERY.

APRIL 15, 1886.—Laid on the table and ordered to be printed.

Mr. LANDES, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 2592.]

The Committee on Pensions, to whom was referred the bill (H. R. 2592) for the relief of William H. Deery, report:

That claimant was a soldier in the Mexican war, and was discharged rom the service at Pittsburgh, Pa., in August, 1848; June 19, 1878, ongress passed an act granting him a pension. This bill provides for rrears from the date of discharge to date of special act granting the ension. As it is not in conformity with the general practice of Con-ress to grant arrears your committee recommend that the bill do not ass.

C

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1722.

HENRY H. SIBLEY.

PRIL 15, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. TRIGG, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 2485.]

The Committee on Claims, to whom was referred the bill (H. R. 2485) for the relief of H. H. Sibley, beg leave to report:

That the claimant, H. H. Sibley, on the 14th day of April, 1856, in-'ented a certain conical tent, since popularly known as the "Sibley 'ent," for which letters patent were issued to him. On the 18th day of 'ebruary, 1858, the United States, through the War Department, made contract with said Sibley, who was then an officer in the United States ırmy, for the manufacture and use of said tent. Under this contract he United States was authorized to make and use as many of the tents s it might require by paying the sum of $5 for each tent, the contract ɔ continue until the 1st day of January, 1859, and longer, unless the Jnited States were notified to the contrary.

On the 16th day of April, 1858, Sibley assigned to one W. W. Burns, nother officer in the Army of the United States, "the one-half interest ı all the benefits and net profits arising from and belonging to the in-'ention," from and after February 22, 1856.

Soon after the inauguration of the late civil war, said Sibley, who ad been a citizen of the State of Louisiana, determined to cast his lot 'ith the South, and on the 9th day of May, 1861, resigned his commis-ion in the United States Army, and shortly following entered the Con-derate army. Burns cast his fortunes with and served in the Army f the Union.

After this action upon the part of Sibley one half of the royalty on ıch tent made or procured by the Government was paid to Burns, nder the contract with Sibley, until December 26, 1861, when further ayment to him was prohibited by order of the Secretary of War. The overnment, however, continued to manufacture and use the tents as efore. After the close of the war, on the 8th day of October, 1866, urns instituted suit in the Court of Claims to recover one half of the yalty due him by virtue of the contract with Sibley. He recovered dgment for the amount of his claim, which was afterwards, upon peal to the Supreme Court of the United States, affirmed. (See Burns United States, 12 Wallace, 246.) In this case the facts are fully t forth and are undisputed, and Sibley's contracts with the Govern-ent and Burns are adjudged valid and binding; and by virtue of said ntracts Burns recovered his judgment.

Burns has been paid the full amount of this judgment; Sibley, the in-

ventor of the tent, has never received one cent of this recovery, nor any portion of the one-half of the royalty of $5 which was held back by the Government and never paid to any one.

No action was ever taken by the United States at any time which concluded Sibley's rights in the premises. After the commencement of the war, and Sibley's departure for the South, Burns, it seems, asserted his rights under the contract with the Government for the $5 royalty, and it appears by an order of the War Department, made on the 22nd of August, 1861, his right to one-half the royalty was conceded, the order stating—

That the other half of the royalty formerly paid Sibley *should be withheld as well as that which would be due him*, for that in consequence of the defection of that officer it was considered that all his right and title thereunto had reverted to the Government.

Why this was *considered* is not known, for, as before stated, no proceeding, judicial or otherwise, seems ever to have been taken which forfeited Sibley's rights. The mere fact of his *defection* certainly did not cause his rights to revert without some proceeding had in accordance with law to accomplish that purpose, and, as before stated, no such action was ever taken. On the 26th day of December, 1861, another order was made by the War Department, declaring that "no further payments will be made to Maj. W. W. Burns on account of royalty on Sibley tents." The Supreme Court, in the Burns case, before cited, held that neither of these orders affected Burns's right to a recovery of one-half of the royalty, and it will not be pretended that they disposed of Sibley's rights.

Sibley was pardoned upon the usual conditions on the 16th day of August, 1867, which conditions were complied with on the 26th day of August, 1867, as appears by the papers hereto appended as part of this report.

This, as is now conceded, in view of the decisions of the Supreme Court on that subject, restored Sibley to his rights as a citizen, and enabled him to institute his suit for recovery in the Court of Claims. In the unsettled condition of affairs which followed the war he presumed, however—as he shows by his affidavit hereto annexed, and in fact as did many learned lawyers—that he was barred from proceeding in the Court of Claims by the act of March 3, 1863, which required it to appear—

That the claimant has at all times borne true allegiance to the Government of the United States, and has not in any way voluntarily aided, abetted, or given encouragement to rebellion against said Government.

And it was not until the decision of the case of Armstrong *v.* The United States, by the Supreme Court, at the December term, 1871 (13th Wallace, page 154), that Sibley (or other pardoned persons) knew certainly he could sue in the Court of Claims to recover upon a contract made with the United States before the war. In that case the court says:

The President's proclamation of December 25, 1868, granting unconditionally and without reservation to all and every person who directly or indirectly participated in the rebellion a full pardon and amnesty for the offense of treason against the United States, with restoration of all rights, privileges, and immunities under the Constitution and laws which have been made in pursuance thereof, granted pardon unconditionally and without reserve, and enables persons otherwise entitled to recover from the United States to recover, though no proof be made, as was required by that act, that the claimant never gave aid or comfort to the rebellion.—*December term*, 1871, *of the United States Supreme Court.*

... When the Supreme Court, in Padelford's case (9th Wallace, 542), ... case (13th Wallace, 138), and Pargoud's case (13th Wallace,

158), have repeatedly affirmed and reaffirmed the effect of a pardon, and since the President's general amnesty of the 25th of December, 1868, and by reason of it, no person can be required to show unbroken loyalty to the Union during the war as a condition precedent of suing in the Court of Claims. This result was reached by a line of decisions in the Supreme Court where first the conclusion as to the effect of a pardon was declared by a majority of one only; yet in the period of four years, to wit, in Pargoud's case, in 1871, it was unanimously agreed to as being the law of that court, and so of this land, that a pardoned person need not prove loyalty to sue in the courts; but, in the mean time, Sibley was barred of his right of action in the Court of Claims by efflux of time.

The Supreme Court, in deciding Burns's case, said—

That Sibley is denied his right of action in the Court of Claims by reason of his disloyalty.

That decision was rendered before Armstrong's case, and apparently is a contradiction, and yet upon a moment's reflection it will be seen that it is not. The Supreme Court in Burns's case only dealt with the record before it, and the case as presented at the time the suit was filed, the 8th of October, 1866. At that time universal amnesty had not been proclaimed, nor was Sibley any party before the court. Nor was it shown to the court that Sibley had been pardoned at the time Burns's suit was brought, and, as a matter of fact, he had not been. Sibley was not pardoned until the 26th of August, 1867.

As before shown, pending this uncertainty, when Sibley believed he did not have the right to proceed in the Court of Claims, his right to recover was barred by the statute of limitations, and the question as presented by the bill which your committee has had under consideration is, Shall the Government, against whom time does not run, thus settle the just claim of one of her citizens? Your committee are of opinion that the bar should be removed and the claimant allowed as he asks to go into the Court of Claims and have his case heard upon its merits. This has always been done in favor of meritorious claimants; and there is no valid reason that can be urged against its removal in this case. It is in violation of the spirit, if not the letter, of the decisions of the Supreme Court, to say that he shall be barred because during the war he fought with the South, and yet but for this no question would be made against him. It is not the case of the capture of property upon the *theater of war* or otherwise, nor is it a case of confiscation. During the war the Government of the United States passed four acts touching confiscation. They are found in the 12th Statutes at Large.

The first was passed July 13, 1861. Ch. 3, sec. 5, page 259, the only section applying to confiscation, provided that all commercial intercourse between the United States and the Confederate States should be unlawful and forfeited *all goods* and *chattels*, wares and merchandise *coming from* said States or section into, and *all proceeding to said States* by *land* or *water*. This forfeited not absolutely, but proceedings through the courts were necessary to condemn and confiscate property thus forfeited. (*Vide* sec. 9.)

The second act was passed on the 6th of August, 1861, and is chapter 60 of the 12th Statutes at Large. That act provided for seizure and confiscation of all property used or intended to be used in aid of the rebellion. By this act both seizure and condemnation by a court were made necessary to insure and enforce confiscation. (*Vide* secs. 1 and 2 of that act.)

It is clear from reading these sections that the seizure (if seizure it

ventor ugust 22, 1861, was not authorized
any por roperty did not come in after that
by the (the tents made by the Government
No a ed in aid of the Confederacy.
conclu 95, page 589, 12 Statutes at Large, and
the wa he fifth section of that act it was made
his rig o *seize* any estate and property, money,
and it y person in certain classes named, in
of A ave been included. By the seventh section
order *courts* was made necessary to enforce the
Tha was made under this act, and of course no
all th recended.
consi March 3, 1863, but has no bearing on this
W Statutes at Large. It relates entirely to
cee andoned in any State or Territory designated
feit ellion against the United States. There never
ca a *seizure* (if such the action before mentioned
wi ase, and under the acts of July 13, 1861, and
ti nings were necessary, *seizure by the military* and
w in a country where the courts were open as they
w f Columbia. See Mulligan's case, 4th Wallace,
t
n ve military operations where war really prevails, there is a
o substitute for the civil authorities thus overthrown, to preserve
r and society, and no power is left but the military, it is allowed
ne until the laws can have their free course. Necessity creates
duration, for if the government is continued after the courts
ress usurpation of power. *Martial rule can never exist where the*
proper and unobstructed exercise of their jurisdiction.

not declared in the District of Columbia until Sep-
there was no seizure or pretense of seizure at or after
appears that the Government during the war never
's *property.* It is not pretended that any steps were
proceedings through the courts after the order by the
ent of August 22, 1861, to condemn and so to confiscate
the United States owed Sibley for the use of his patent.
been a foreign enemy, that is to say, if the United
en at war with England, or France, or Germany, or any
and he had been a citizen of that power, and in arms
United States, under the authority of Vattel, this debt
ave been confiscated, but the payment of his claim would
en suspended during the war and his rights revived with
ion of it. And this view is sustained by the decision in
Brown *vs.* the United States, reported in 8th Cranch, 123.
ustice Marshall says:

rsal practice of forbearing to seize and confiscate debts and credits; the
niversally received that the right to them revives on the restoration of
seem to prove that war is not an absolute confiscation of this property,
confers the right of confiscation. *The proposition that a declaration of war*
itself enact a confiscation of the property within the territory of the belligerent
be entirely free from doubt; the power of confiscating enemy's property is in the
and the legislature has not yet declared its will to confiscate property
within our territory at the declaration of war.

ame opinion the theory that the executive may seize and the
mn property of an enemy found inside the territory of the
a part of the *jus belli*, is unequivocally repudiated and
his was during the war of 1812 (decided in 1814), while

iemy were invading our soil, in which it is distinctly stated that oes not confiscate but only gives the right of the legislative branch Government to confiscate an alien enemy's property found inside belligerent's lines when war is declared. Here the distinction be drawn and kept in mind in the consideration of this case be- the right of the belligerent to capture on land, and *without adju- on*, to confiscate whatever is found of a movable character on hos- il, and which may be used by the enemy in carrying on the war, ebts and credits and other property left by the enemy in the cou- the belligerent on the breaking out of the war.

proposition is clear, both on the authority of Vattel and Chief e Marshall, that debts and credits, and even property of a differ- iaracter, can be confiscated when left by the enemy in the belliger- s country on the breaking out of the war by legislation only. l says that such an attempt would be universally reprobated for ason that international law recognizing such a course, *i. e.*, not to cate debts, but only to suspend payment during the war, any de- re therefrom would tend to hurt the subjects of the sovereign so ting more than the other course could ever possibly help, and in stance, says Vattel, *does the state ever touch what the state itself owes subjects of the public enemy.* (Vattel, p. 323).

tel's Law of Nations, foot note 284:

he general law of nations the right to debts and choses in action is not forfeited y of reprisal or otherwise at the breaking out of the war, but the remedy or o enforce payment is suspended during the war and revives again on the return e.

conclusion, your committee are of opinion that Sibley should have ring of his case in the Court of Claims on its merits, and that ar of the statute of limitation should be removed. The United s has derived great benefit from his most useful invention. The d States alone manufactured tents under the contract with him g the war. Sibley declined to deal with the Confederate States, own by the papers hereunto annexed.

ur committee recommend that said bill be amended by inserting the words "Sibley tent," in the seventh line, the words "on its s."

th this amendment, your committee recommend that said bill do

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nry H. Sibley, now residing at Fredericksburg, Virginia, depose and say that ie original inventor of the Sibley tent, patent being dated April 22, 1856; that vernment of the United States contracted with me, through the War Depart- or its use in February, 1858; that I have never received the one-half of the due me on the same, such as was paid W. W. Burns (to whom, after I secured ent, I assigned a one-half interest) by a judgment of the Court of Claims of ited States, rendered at its December term, 1868, which judgment was affirmed Supreme Court in 1870; that I was not directly or indirectly interested in that nt or in any way benefited by it; that I was pardoned by President Johnson participation in the war of the rebellion on the 16th day of August, 1867, and ly accepted the said pardon, with all the conditions attached, on the 26th day ust, 1867, and since that time have been in all respects a dutiful and loyal cit- the United States; that I did not bring suit in the Court of Claims to recover as due me on account of my contract with the Government for the use of the tent because between the date of my pardon and the 25th day of December, nd for many years afterwards, I believed, and was so legally advised, that I ohibited from so doing by the act of March 3, 1863, prescribing unbroken loy- the indispensable condition upon which a suit could be maintained in the States Court of Claims. From the 25th day of December, 1869, until Novem-

ber, 1873, I was out of the United States and in the employ of the Egyptian Government, having entered that service, though retaining my American citizenship, because of my poverty and because I could get no employment in this country wherewith to support myself and family. I have been applying to several Congresses for relief and have never neglected or abandoned my claim against the Government for the use of my invention, known as the Sibley tent. My claim is a just one, is founded upon an express contract with the Government, through the War Department, and for the proof of the contract, as well as the amount due me, I rely upon the records of the War Department of the United States.

Given under my hand this 25th day of January, A. D., 1886.

H. H. SIBLEY.

STATE OF VIRGINIA,
City of Fredericksburg, ss:

I hereby certify that the above paper was subscribed and sworn to before me, A. B. Botts, a notary public of the said corporation, by Henry H. Sibley, the day and year aforesaid.

Witness my hand and notarial seal, this 25th day of January, 1886.

A. B. BOTTS, N. P.

UNITED STATES OF AMERICA:

WAR DEPARTMENT,
Washington City, April 1, 1886.

Pursuant to section 882 of the Revised Statutes, I hereby certify that it appears from the records of the office of the Secretary of War that the annexed copy of a paper is a true copy.

JOHN TWEEDALE,
Chief Clerk.

Be it known that John Tweedale, who signed the foregoing certificate, is the Chief Clerk of the War Department, and that to his attestation as such full faith and credit are and ought to be given.

In witness whereof I have hereunto set my hand and caused the seal of the War Department to be affixed, on this 1st day of April, one thousand eight hundred and eighty-six.

[SEAL.]

WM. C. ENDICOTT,
Secretary of War.

NEW ORLEANS, LA., *July* 16, 1861.

SIR: I beg leave to notify you, for the information of the Government and the States, that I have not nor shall I take out letters patent in the Confederate States for the Sibley tent patented in the United States in 1856.

I have the honor to be, very respectfully, your obedient servant,

H. H. SIBLEY.

The Hon. L. P. WALKER,
Secretary of War, Richmond, Va.

No. 1311.

UNITED STATES OF AMERICA,
Department of State:

To all to whom these presents shall come, greeting:

I certify that the documents hereto annexed are true copies from the records and files of this Department.

In testimony whereof I, Thomas F. Bayard, Secretary of State of the United States, have hereunto subscribed my name and caused the seal of the Department of State to be affixed.

Done at the city of Washington, this 15th day of April, A. D. 1886, and of the independence of the United States of America the one hundredth and tenth.

[SEAL.]

T. F. BAYARD.

Andrew Johnson, President of the United States of America, to all to whom these presents shall come, greeting:

Whereas H. H. Sibley, of Louisiana, by taking part in the late rebellion against the Government of the United States, has made himself liable to heavy pains and penalties; and

Whereas the circumstances of his case render him a proper object of executive clemency:

Now, therefore, be it known that I, Andrew Johnson, President of the United States of America, in consideration of the premises, divers other good and sufficient reasons me thereunto moving, do hereby grant to the said H. H. Sibley a full pardon and amnesty for all offenses by him committed arising from participation, direct or implied, in the said rebellion, conditioned as follows:

1st. This pardon to be of no effect until the said H. H. Sibley shall take the oath prescribed in the proclamation of the President dated May 29, 1865.

2d. To be void and of no effect if the said H. H. Sibley shall hereafter, at any time, acquire any property whatever in slaves or make use of slave labor.

3d. That the said H. H. Sibley first pay all costs which may have accrued in any proceedings instituted or pending against his person or property before the date of the acceptance of this warrant.

4th. That the said H. H. Sibley shall not, by virtue of this warrant, claim any property or the proceeds of any property that has been sold by the order, judgment, or decree of a court under the confiscation laws of the United States.

5th. That the said H. H. Sibley shall notify the Secretary of State, in writing, that he has received and accepted the foregoing pardon.

In testimony whereof I have hereunto signed my name and caused the seal of the United States to be affixed.

Done at the city of Washington this sixteenth day of August, anno Domini eighteen hundred and sixty-seven, and of the Independence of the United States the ninety-second.

[SEAL] ANDREW JOHNSON.

By the President:

WILLIAM H. SEWARD,
Secretary of State.

CITY OF NEW YORK, *August* 26, 1867.

SIR: I have the honor to acknowledge the receipt of the President's warrant of pardon, bearing date August 16, 1867, and hereby signify my acceptance of the same, with all the conditions therein specified.

I am, sir, your obedient servant,

H. H. SIBLEY.

Hon. WILLIAM H. SEWARD,
Secretary of State.

VIEWS OF MR. WARNER.

I do not concur in above report.

WM. WARNER.

VIEWS OF THE MINORITY.

The minority of the Committee on Claims desire to present to the House the reasons which prevent them from concurring in the report of the majority upon the bill (H. R. 2485) for the relief of H. H. Sibley.

As stated in the report of the majority, Sibley received, April 14, 1856, letters patent of the United States for an improvement in tents. His improved tent soon became known as the "Sibley tent." February 18, 1858, Sibley, who was then an officer in the United States Army, made a contract with the Government through the War Department, then presided over by John B. Floyd, by which the Government was to pay Sibley $5 for each and every tent made or used by the Government under this patent. Two months after, Sibley assigned one-half his interest in this contract to Major Burns, also in the Government service. On the breaking out of the rebellion, Sibley threw up his commission in the United States Army and entered the Confederate service.

Burns remained loyal. August 16, 1867, Sibley was pardoned. Burns brought suit for his share of the royalty, and recovered the amount. Sibley took no steps to collect his. He now claims that his failure to do so was owing to the belief that he could not do so under the law. We are willing to believe that he then felt that he had no moral right to demand anything. But, however this may be, the claim is now urged with great pertinacity.

The claim is urged as a matter of strict law. The ready reply is, if the law warrants it, why any need of further legislation? The rejoinder is, the statute of limitation intervened and can be pleaded by the Government in a suit brought in the Court of Claims upon this contract, and legislation is needed to secure a waiver by the Government of this defense. This is true, and it at once removes this case from the domain of "strict law" and remands it to that of equity.

What is equity here? What reasons exist why the Government should insist upon its legal rights in the matter?

(1) The contract was, to say the least, a very favorable one for Sibley. No charge of improper influences has been made, but certainly great favoritism can be reasonably inferred from the terms of the contract. The invention was not one requiring great expenditure of time and money to perfect by experiment. It was made by a paid officer of the Government, whose whole time belonged to the Government, and whose labors were presumably for its benefit. It is true that the policy has prevailed of allowing Government officials to receive compensation for their inventions, perfected in Government time and with Government money; yet the courts have adopted a contrary course as regards employer and employé in private life.

(2) At the time the contract was made it is fair to presume, yea, the conclusion is almost irresistible, that it was not within the thought of the parties that the enormous use afterward made of these tents was probable or possible. The royalty of $5 per tent was a large one, even

for a limited use. In the hundred thousand afterward, in fact, used it became enormous.

(3) No man should profit by his own wrong. This principle is fundamental. Sibley decided deliberately to join in a warfare upon the Government, the effect of which necessarily increased the use by the Government of war material. He now asks the Government to pay him a royalty upon the very tents which sheltered the soldiers of the Government he was fighting to destroy. We are not ready yet to pay a premium to active treason, and this brings us to—

(4) We hear much about the era of peace and good feeling. We rejoice in everything that tends to bring the two sections closer together in a union of thought, feeling, and action, and deprecate the introduction of bills like this, the consideration of which necessarily involves matters directly and intimately connected with that unhappy strife. If such bills are introduced the questions of loyalty and disloyalty, of faithfulness or faithlessness to a sworn trust—in fact, all those questions which have in the past been most potent in preventing the progress of true reconciliation must be reopened. Such claims, if made, must be examined, and such examination, to be thorough, must embrace all these facts. In the interests of true fraternal feeling we protest against these causes of irritation being projected here.

Whatever the original contract may have been, whether proper in its inception or not, whether made or not in full prophetical view of all the subsequent results, we recognize the fact that it was a contract. Under it the Government could have been held to its terms to the strictest letter. As a matter of pure law, the Government was powerless. Now the conditions are changed, and as a matter of pure law the Government has a legal defense. We do not think that the Government is called upon, in view of all the facts, to give up this defense. Sibley was paid his royalty up to the time he entered the Confederate service. That which has accumulated since amounts to about a quarter of a million of dollars, and the enactment of this bill into law will, beyond question, open the Treasury of the Government to him to that extent.

JAMES BUCHANAN.
GEO. W. FLEEGER.
J. H. GALLINGER.
WM. M. SPRINGER.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1723.

ADIS ISRAEL HEBREW CONGREGATION, WASHINGTON, D. C.

APRIL 15, 1886.—Laid on the table and ordered to be printed.

Mr. BARBOUR, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany bill H. R. 407.]

The Committee on the District of Columbia, to whom was referred the bill (H. R. 407) for the relief of the Adis Israel Hebrew congregation, respectfully report:

That they have had the same under consideration, and, upon an investigation of the facts made at their instance by the Commissioners of the District, they find that the assessment from which relief is asked was a lien on the property at the time it was bought, and that since it has been dedicated to use as church property it is exempt under existing law.

They therefore report the bill to the House, with the recommendation that it do not pass.

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 1724.

G MEN'S CHRISTIAN ASSOCIATION OF WASHINGTON, D. C.

APRIL 15, 1886.—Laid on the table and ordered to be printed.

RBOUR, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany bill H. R. 2194.]

nmittee on the District of Columbia, to whom was referred the bill . 2194) *to exempt the property of the Young Men's Christian Asion of Washington, D. C., from taxation, respectfully report:*

r existing law in the District, it may be stated generally that y held and used for religious or charitable uses is exempt from n. The Commissioners of the District report that—

operty owned and occupied by the Young Men's Christian Association does within the purview of any existing law, and can therefore be exempted pecial legislation. [And] portions of the property * * * for which exis asked are rented, and the association is in receipt of revenue therefrom.

committee therefore report the bill back with the recommenthat it do not pass.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1725.

LOUISVILLE AND PORTLAND CANAL BASIN.

APRIL 15, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. BROWN, from the Committee on Public Buildings and Grounds, submitted the following

REPORT:

[To accompany bill H. R. 7892.]

The Committee on Public Buildings and Grounds to whom was referred House bill 4927, respectfully report that the facts upon which the said bill is based are sufficiently set forth in the letter of the Chief of Engineers, of March 3, 1886, and the letter of the local engineer in charge, dated February 10, 1885. These letters are printed as part of this report. Acting upon their suggestions, the committee report herewith a substitute for said bill, and recommend its passage.

WAR DEPARTMENT,
Washington City, March 8, 1886.

SIR: In reply to your request of the 16th ultimo for the views of this Department upon House bill 4927, Forty-ninth Congress, first session, authorizing the use, upon certain conditions, of the Louisville and Portland Canal Basin, I have the honor to transmit herewith a communication of the 3d instant from the Chief of Engineers and accompanying report upon the subject by Lieut. Col. William E. Merrill, Corps of Engineers, who recommends the striking out of that part of the bill relating to the payment by the United States of compensation or damages, and the substitution of a new section for section 2 of the present bill, together with certain other alterations of the bill indicated in the report.

I concur in the views and recommendations of Colonel Merrill and the Chief of Engineers.

Very respectfully, your obedient servant,

WM. C. ENDICOTT,
Secretary of War.

Hon. C. P. SNYDER,
Of the Committee on Public Buildings and Grounds,
House of Representatives.

OFFICE OF THE CHIEF OF ENGINEERS,
UNITED STATES ARMY,
Washington, D. C., March 3, 1886.

SIR: I have the honor to acknowledge the receipt, by reference to this office, of the letter of the Hon. C. P. Snyder, of the Committee on Public Buildings and Grounds of the House of Representatives, dated the 16th ultimo, inclosing for views of the War Department House bill 4927, a bill "authorizing the use of the Louisville and Portland Canal Basin upon certain conditions," and to state that it was referred to Lieut. Col. W. E. Merrill, Corps of Engineers, who reports thereon as follows under date February 23, 1886:

"Respectfully returned to the Chief of Engineers.

"I would recommend that in line 17, page 2, the words 'two hundred and fifty' be inserted in the blank space, and that the whole of section 2 be stricken out.

"I have always maintained that Byrne & Speed have obtained possession of the property in question without consideration, and that they are merely tenants at will of the United States. Under these circumstances I cannot see any justice in requiring the United States to pay a large sum, or any sum whatever, in the event of its being found necessary to remove them from the tract which, in my opinion, they now occupy without legal authorization. I think, however, that it would be but just to guarantee them six months' notice in case they should be required to vacate the premises.

"A similar bill was introduced into the last Congress, upon which I made a like report.

"I would therefore recommend a new section 2, to read:

"'SEC. 2. That when, in the opinion of the Secretary of War, the public interest requires the vacation of the Government land now occupied by the firm of Byrne & Speed, the Secretary of War shall give to the said Byrne & Speed, their assignees or grantees, at least six months' notice to vacate the premises in question, and thereupon the aforesaid premises shall be vacated within such time, and no claim for damages or costs of any description shall lie against the United States.'

"In this connection I would refer to previous reports from this office." * * *

I beg also to inclose a copy of a report of Colonel Merrill on a bill of the same purport (H. R. 7891, 48th Cong., 2d sess.) introduced in the last Congress.

His views and recommendations are concurred in by this office.

The letter of the Hon. C. P. Snyder is herewith respectfully returned.

Very respectfully, your obedient servant,

JOHN NEWTON,
Chief of Engineers, Brig. and Brt. Maj. Gen.

HON. WILLIAM C. ENDICOTT,
Secretary of War.

UNITED STATES ENGINEER OFFICE,
Cincinnati, Ohio, February 10, 1885.

GENERAL: As directed by your indorsement of February 6, 1885, on a copy of bill H. R. 7891, Forty-eighth Congress, second session, I have the honor to submit the following report:

A complete history of the establishment of the Byrne & Speed elevator on ground belonging to the Louisville and Portland Canal Company will be found in my letter of January 8, 1884, which is accompanied by copies of the documents on which the elevator company justified their occupation of canal ground, together with a plat of the ground itself. The result of that letter was a direction from the honorable Attorney-General of the United States to the United States district attorney of Kentucky to bring a suit of ejectment against the elevator company.

It was distinctly stated in my letter that I had no intention to compel the removal of the elevator, which I believe to be a public benefit, but that I wished to put an end to what was, practically, a perpetual lease without rental, and to place the elevator company in what I considered its proper status, as a tenant of the United States.

The fact that this bill has been introduced at the instance of the company, is proof that it is willing to accept this position of tenant, and therefore it is not necessary to dwell further on this point.

The apparent objects of the bill are to protect the company from sudden ejectment, and to compel the United States to pay for its improvements, together with damages, in case of ejectment.

I think that the first named object is a reasonable one, and I would recommend six months' notice before ejectment; but I cannot see why the United States should bind itself to pay for the improvements, or to pay damages. The elevator was built for private profit, and I understand that it has not failed of its object. In my judgment the company is a trespasser on Government ground, and ought to be well content if it be permitted to occupy the ground as long as such occupation is not injurious to the public interest. As far as I can foresee, there is no likelihood that the United States will ever have occasion to dispossess the company, and the enlargement of the head of the canal, now in progress, will give such ample facilities to commerce at this point as to make dispossession still more unlikely in the future. The elevator has been of no benefit to the United States, nor is it probable that the Government would ever find use for it. With these views I feel obliged to recommend that all that part of the bill which relates to compensation or damages be stricken out.

The annual value of so much of the canal property as is occupied by the elevator company, based on the actual rentals of similar property in the neighborhood, is estimated at $382. Under the circumstances, however, I would recommend that the

ıual rental be fixed at $250, as similar reductions were granted to the two cement npanies, which occupy canal ground on the north side of the canal.

have therefore to recommend the following changes in bill H. R. 7891: Line 17 insert words "two hundred and fifty"; lines 23 and 33, omit all after the word "thereon," in line 23, to and inclusive of the word "grantees," in line 33; line 35, after rithin," insert "six months," and omit "days"; line 36, omit "payment" and in- t "notice."

Respectfully, your obedient servant,

WM. E. MERRILL,
Lieutenant-Colonel of Engineers.

Brig. Gen. JOHN NORTON,
Chief of Engineers, Washington, D. C.

CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
t Session. } { No. 1726.

OUNG WOMEN'S CHRISTIAN HOME, WASHINGTON, D. C.

PRIL 15, 1886.—Committed to the Committee of the Whole House and ordered to to be printed.

Mr. GAY, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany bill H. R. 7083.]

The Committee on the District of Columbia beg leave to report back to the House the accompanying bill 7083, and as no appropriation is asked from Congress, they recommend that said bill do pass.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1727.

MONUMENT TO ULYSSES S. GRANT.

APRIL 15, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. STAHLNECKER, from the Joint Committee on the Library, submitted the following

REPORT:

[To accompany bill S. 1564.]

The Joint Committee on the Library, to whom was referred the bill S. 1564) for the erection of a monument to the late Ulysses S. Grant, begs leave to report that the committee have examined the same and unanimously recommend its passage.

O

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 1728.

SAMUEL NOBLE.

, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

TES, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany bill H. R. 7893.]

mmittee on the Judiciary, to whom was referred the petition of el Noble, have had the same under consideration, and make the folg report:

acts in this case, which have been "judicially ascertained" or by the evidence submitted, are substantially as follows:
he claimant at and prior to the 6th day of January, 1865, was a of Rome, in the State of Georgia, and on the said day he entered contract with the United States to deliver to the authorized of the United States, on or before the 1st day of January, 1886, bales of cotton, and he was authorized by the said contract to eliveries under it at Fernandina, Pensacola, Port Royal; Mobile, ille, Ala.; Jackson, Miss.; Savannah, Brunswick; Chattanooga, and New Orleans. The said contract was made by H. A. Ris- supervising special agent of the Treasury Department, author- purchase products of the Confederate States," and was made he authority of the eighth section of an act of Congress approved 1864 (13 Stats. at Large, 375).
e time the said contract was signed by the said Treasury agent claimant, President Lincoln indorsed thereon the following ve order, to wit:

EXECUTIVE MANSION,
January 6, 1865.

horized agent of the Treasury Department having, with the approval of the of the Treasury, contracted for the cotton above mentioned, and the party greed to sell and deliver the same to such agent, it is ordered that the cotton, n compliance with and for the fulfillment of said contract, and being trans- said agent, or under his direction, shall be free from seizure and detention fficer of the Government, and commandants of military departments, dis- sts, and detachments, naval stations, flotillas, gunboats, and fleets will ob- order, and give the said Noble, his agents, transports, and means of trans-, free and unobstructed passage for the purpose of getting said cotton, or of it, through the lines, other than blockade lines, and safe conduct within while the same is moving in compliance with regulations of the Secretary reasury, and for fulfillment of said contract with the agent of the Govern-

ABRAHAM LINCOLN.

The regulations of the Treasury Department, which were intended to make such order for safe conduct as that above quoted effective, issued September 24, 1864, provided in the fifth section as follows:

> Generals commanding military districts and officers commanding fleets, flotillas, and gunboats will give safe conduct to persons and products, and all persons hindering or preventing such safe conduct to persons or property shall be deemed guilty of a military offence and punished accordingly.

(2) That the military authorities of the United States, refusing to respect or obey the said executive order, seized or burned all the cotton which the claimant owned previous to the date of said contract, or purchased subsequent to said date, for the purpose of delivering the same to the agent of the United States under the said contract, *but no claim for compensation for any cotton burned by the military authorities in violation of said executive order is made by the claimant.*

(3) The United States seized and took from the claimant, at Savannah, Ga., subsequent to its capture by the United States on the 24th of December, 1864, *eight hundred and two bales of cotton.* The cotton so seized included that which the claimant purchased and owned, previous to the date of said contract, as well as a part of that which was purchased subsequent to that date.

(4) The claimant did not institute his suit in the Court of Claims, under the abandoned and captured property act, within *two* years after the suppression of the rebellion, as required by said act; but he did, on the 15th day of June, 1870, institute his suit in that court, for a violation of the said contract made with the Treasury agent. The claimant in that suit abandoned all claim for *damages* resulting from the destruction of his cotton by the United States troops, as well as for damages resulting from a loss of profit, occasioned by the breach of said contract by the United States; but the claimant sought in that suit to recover the proceeds of so much of his cotton as the United States had seized and sold in violation of the terms of said contract, which proceeds were paid into the United States Treasury.

(5) The Court of Claims, upon the hearing of the said cause dismissed the claimant's petition upon the ground that the contract between the claimant and the Treasury agent was void, because that agent did not make the contract as prescribed in the Treasury regulations which had been adopted to carry into effect the eighth section of the act of July 2, 1864. The findings of fact and the opinion of the court are reported in 11 Court of Claims Reports, pp. 608 to 624.

The Court of Claims, in its opinion, advised the claimant that his remedy was not upon the *contract* made with Risley, but was to be found in the provisions of the *third* section of the abandoned and captured property act. The language of the court which stated this conclusion was as follows:

> The claimant seems to have mistaken both his rights and his remedy. As stated, his contract was, by its own terms, liable to be terminated by the capture of the property before it was *in transitu*, to Risley, and in point of fact it was so terminated. *He was then without recourse against the Government except in such manner as the Government should by law authorize. Such recourse was provided in the act of March 12, 1863, which authorized him within two years after the suppression of the rebellion to prefer his claim in this court for the proceeds of his property. He failed to avail himself of that right, and we are therefore without jurisdiction to afford him relief.*

It is to be borne in mind, that the claimant by his petition seeks nothing from the United States except the restoration to him of the *net proceeds* of the sale of the cotton, which the United States has paid into its Treasury. The United States has never asserted the right to

retain the proceeds of cotton *which belonged to a loyal citizen*, even where such proceeds came into the possession of the United States in the execution of the provisions of the abandoned and captured property act. The claimant was thoroughly loyal to the United States during the entire period of the rebellion. He left his home in the State of Georgia to avoid conscription into the Confederate service. He came within the Union lines at Nashville, Tenn., about the last of December, 1863. He there took and subscribed the oath of amnesty prescribed in the proclamation of President Lincoln of the 8th of December, 1863. He remained within the Union lines until Rome, in the State of Georgia, which was his home and place of residence, was captured by the United States troops under command of General Sherman in July, 1864. He kept and faithfully observed that oath, and voluntarily gave no aid or comfort to the late rebellion. It is clear, therefore, for these reasons, and independent of any obligations growing out of the contract made by the Treasury agent with the claimant, that the proceeds of the claimant's cotton paid into the Treasury belong to *him* and not to the United States.

The proceeds of the cotton of loyal citizens, the Supreme Court declared, constitute a *trust fund*, which the United States holds as *trustee* for the benefit of any loyal citizen who may show his right to such proceeds, and the Government, holding the proceeds of the owner's property for his benefit, having been fully reimbursed for all expenses incurred in the character of *trustee*, loses nothing by a judgment which simply awards to the owner what is his own. (United States *v.* Anderson, 9 Wall., 58; United States *v.* Padelford, 9 *ibid.*, 531; United States *v.* Hein, 13 *ibid.*, 128.)

The facts of this case justify Congress in providing for the restoration to the claimant of the proceeds of the cotton which he owned, and which were paid into the Treasury. The Court of Claims, upon the facts found by it, would have awarded him such proceeds had he invoked its jurisdiction and instituted his suit under the provisions of the act of March 12, 1863, instead of bringing suit upon his contract with Risley. The Government should never be unjust to its citizens, and it ought not to be willing to keep from its citizens that which it ought not in equity and good conscience to retain. The condition upon which the United States promised to return to its citizens the proceeds of cotton captured by the military forces was, that the person claiming such proceeds should "prove to the satisfaction of the Court of Claims that he never gave aid or comfort to the late rebellion." This proof the claimant did not make in the Court of Claims, although he averred the fact in his petition. He did not make that proof because the Supreme Court had decided that after the issuance by President Johnson of the proclamation of amnesty, dated December 25, 1868, such proof was no longer necessary. (Armstrong *v.* The United States, 13 Wall., 154; Pargoud *v.* same, 13 *ibid.*, 156.)

Congress has not yet, although twenty years have elapsed, deemed it wise to dispense with this requirement in respect to those persons who claimed the proceeds of cotton which had been captured previous to the 30th day of June, 1865. That requirement should no longer be invoked. This claimant, however, is entirely willing that his right to recover the proceeds of his cotton which was seized and sold by the United States shall be made to depend upon his ability to prove the fact that he did not *voluntarily* give aid or comfort to the late rebellion. The Court of Claims has already found that the military authorities of the United States seized at Savannah, in the winter of 1864 and 1865, cotton be-

longing to the claimant, which aggregated in quantity *eight hundred and two bales*, of which *four hundred and twenty-seven bales* were sea island, and *three hundred and seventy-five bales* were upland cotton; and that the whole quantity seized "was by the United States mingled with other captured cotton, and the mass transported to New York, and there sold, and the net proceeds thereof paid into the Treasury."

This case has been pending before the different Houses of Congress for about ten years, but no action has been had thereon which has produced any benefit to the claimant. The delay and inaction seem to be of unusual hardship, and the claim entirely meritorious, not only by reason of the personal loyalty of the claimant, but by reason of the fact that he entered upon the fulfillment of a contract with the United States, which he had a right to assume was valid and binding upon the United States, because the President had given him an order for safe conduct out of the Union lines and into the lines of the Confederate authorities for the purpose of fulfilling the terms of that contract on his part. The claimant had a right to assume that this order for safe conduct would protect him and the property which he was to deliver under the said contract from seizure and practical confiscation by those authorities to whom his order for safe conduct was directed.

The only other question to be considered is whether the claimant was guilty of *laches* by his failure to bring his suit in the Court of Claims under the abandoned and captured property act. It is very clear that until the decision in Lane's case (8 Wall., 185) the claimant had the right to assume that this remedy was upon his contract and not under the abandoned and captured property act. The Court of Claims had so decided both in Lane's case (2 Court of Claims, 184) and in Burnside's case (3 Court of Claims, 367). It was the settled law of that court, until the decision of the Supreme Court in Lane's case, that a claimant having such a contract as that which the claimant made with Risley could maintain in the Court of Claims an action upon such contract, and that his rights under it were *ex contractu* and not *statutory*. The claimant under that decision had *six years* in which to institute his suit in the Court of Claims, because that was the limitation prescribed in the tenth section of the act of Congress approved March 3, 1863, now section 1063 of the Revised Statutes. The claimant's cause of action accrued when the United States in March, 1865, seized the cotton which the claimant supposed was protected by President Lincoln's order for safe conduct to him, and the property which he sought to appropriate to the purposes of the contract made with him by the Treasury agent. The claimant was not required to assume or to act upon the assumption that the decision of the Court of Claims, which recognized the validity of such contracts, would be reversed in the Supreme Court. The decision of the Supreme Court in Lane's case was not made until the 29th day of November, 1869. The right of the claimant to proceed under the statutory remedy provided by the third section of the act of March 12, 1863. *expired on the 20th of August*, 1868. (United States *v.* Anderson, 9 Wall., 58; Haycraft *v.* United States, 22 Wall., 81.) The claimant could not then change his remedy, because the statutory right as well as the remedy for its enforcement had been lost by the expiration of the "two years after the suppression of the rebellion," within which time the statutory right was required to be asserted by the institution of a suit in the Court of Claims. It was not laches in any known legal sense for the claimant to abide by the decision of the Court of Claims in regard to his rights under his contract. He was not required, in order to escape the accusation of negligence, to institute his suit in the Court

Claims previous to the decision of the Supreme Court in Lane's
e, and when that decision was made the claimant had lost his statu-
r remedy just as completely as he lost his remedy *ex contractu* by
decision of the Court of Claims. The claimant ought not to be
ied relief, therefore, on the ground of *laches*. He accepted the de-
ons of the court appointed to determine his rights as conclusive,
when they were reversed, the claimant was without any remedy ex-
t such as Congress should provide.
We therefore recommend the passage of the bill herewith reported,
oving or suspending the statute of limitations, and allowing the
tioner, Samuel Noble, to prosecute his claim before the Court of
ms.

H. Rep. 1728——2

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REP'T 1728, Part 2.

SAMUEL NOBLE.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SENEY, from the Committee on the Judiciary, submitted the following as the

VIEWS OF THE MINORITY:

[To accompany bill H. R. 7893.]

The minority of the Committee on the Judiciary, to whom was referred the petition of Samuel Noble, submit the following views:

It appears that Samuel Noble in 1865, and for ten years prior thereto, was a citizen of Rome, in the State of Georgia, and was loyal to the Government of the United States.

It further appears that in December, 1864, he came to Washington with letters of introduction and commendation to President Lincoln. After an interview with the President, H. A. Risley, special agent of the Treasury Department, was directed by the President to enter into a contract with him (Noble), as authorized by the eighth section of the act of Congress, approved July 2, 1864, regulating commercial intercourse between loyal and insurrectionary States and to provide for the collection of captured and abandoned property, &c. (13 Statutes, 375); that in pursuance of such directions, Risley, acting for and on behalf of the United States, on the 6th day of January, 1865, entered into a contract with Noble, wherein Mr. Noble undertook and agreed to deliver to Risley, as agent of the United States, on or before January 1, 1866, 250,000 bales of cotton, which was to be delivered at Fernandina, Pensacola, Port Royal, Mobile, Huntsville, Jackson, Savannah, Brunswick, Chattanooga, and New Orleans, and which was to be forwarded to the city of New York and there sold, and out of the proceeds of sale, after paying all expenses, costs, charges, and Government dues, one-fourth thereof was to be retained by Risley, for the United States, and the remaining three-fourths to be paid to Noble.

That on the 6th day of January, 1865, President Lincoln, at the request of Risley, issued and indorsed upon the contract the following order for the safe-conduct and protection of Noble, in the execution of the contract, viz:

EXECUTIVE MANSION,
January, 6, 1865.

An authorized agent of the Treasury Department having, with the approval of the Secretary of the Treasury, contracted for the cotton above mentioned, and the party having agreed to sell and deliver the same to such agent, it is ordered that the cotton moving in compliance with and for the fulfillment of said contract, and being transported to said agent, or under his direction, shall be free from seizure and detention by any officer of the Government; and commandants of military departments, districts, posts, and detachments, naval stations, flotillas, gunboats, and fleets will observe this order and give the said Noble, his agents, transports, and means of transporta-

tion, free and unobstructed passage for the purpose of getting said cotton, or any part of it, through the lines, other than blockade lines, and safe conduct within our lines, while the same is moving in compliance with regulations of the Secretary, and for the fulfillment of said contract with the agent of the Government.

ABRAHAM LINCOLN.

Mr. Noble, at the time he made the contract, owned 256 bales of upland cotton and 162 bales of sea-island cotton, which was stored in warehouses in the city of Savannah, Ga., and after making the contract he purchased 265 bales of sea-island cotton and 119 bales of upland cotton, which was also stored in Savannah.

That all of the cotton so purchased and owned by Noble, amounting to 802 bales, being 427 bales of sea-island and 375 bales of upland cotton, was seized by the United States civil and military officers subsequent to the capture of Savannah in December, 1864; and that after such seizure the said cotton was shipped to Simeon Draper, United States cotton agent in the city of New York, by whom it was received and sold; *and the net proceeds thereof* have been paid into the Treasury of the United States to the credit of the fund derived from the sales of abandoned or captured property under the provisions of the act of March 12, 1863.

We understand the proceeds of this cotton to be as follows: For the 418 bales on hand at the time the contract was made, $82,434.76, and for the 365 bales purchased after the contract was made, $62,488.09. So that the total proceeds of the cotton received at the Treasury is $144,922.85.

We are not informed as to the precise time this cotton was seized by the United States forces, nor the precise time it was sold and the proceeds covered into the United States Treasury.

From the best information we have it is safe to state that both the seizures and sale were made in 1865. Then, in 1865, Noble was in condition to demand relief. The act of March 12, 1863 (12 Statutes, 820), authorized him to commence a suit in the Court of Claims to recover the proceeds of the cotton. This suit, by the terms of the act, he was obliged to bring within two years after the suppression of the rebellion. In contemplation of law the rebellion was suppressed August 20, 1866, so that Noble's right to sue in the Court of Claims expired by limitation in August, 1868.

Why he did not seek the proceeds of his property in the Court of Claims we are not informed. This neglect is not explained.

In less than two years after his right to sue for the proceeds of the cotton in the Court of Claims was barred by law, he brought a suit in that court against the United States to recover $309,795.67 damages for an alleged breach of the contract. This suit was brought June 15, 1870, and the breach assigned was the forcible and unlawful seizure of the cotton, and other wrongs done, which prevented his performance of the contract.

This suit the Court of Claims, in 1875, dismissed, holding the contract void, because it did not conform to the regulations prescribed by the Treasury Department to carry into effect the eighth section of the act of July 2, 1864. The case is reported in Court of Claims Report, vol. 11, page 608.

Thus it will be seen that Noble neglected to sue for the proceeds of his cotton under the captured and abandoned property act, and was defeated in his suit upon his contract when he sought to recover damages in a sum more than double the proceeds of his property.

The matter now before the committee arises upon the petition of Noble *asking* Congress for relief. He asks for the introduction and passage

of a bill authorizing him to bring a suit against the United States in the Court of Claims to recover the proceeds ($144,922.15) of the cotton now in the Treasury.

The policy of the Government with respect to claims of this character was fixed more than twenty years ago. In 1863, Congress, we have stated, made laws for the collection of abandoned and captured property within the insurrectionary districts, and for covering the proceeds, upon sale, into the United States Treasury.

At the same time provision was made to secure to the owners of such property their rights.

Under these laws a person claiming to have been the owner of abandoned or captured property was authorized to prefer his claim to the proceeds thereof, in the Court of Claims, at any time within two years after the suppression of the rebellion.

We are not aware that there has been any change in this legislation since it was made in 1863. The general law upon the subject remains as it was enacted twenty years ago. Whether or not Congress has by special act authorized a particular owner of captured or abandoned property to assert his claim to the proceeds covered into the Treasury, in the Court of Claims or elsewhere, at a period later than two years after the rebellion was suppressed, we are not informed.

In the absence of such information it is to be presumed that Congress has adhered to the policy adopted in 1863. With this policy we are content. The public interests demanded no change. If it is to be changed the change should be made by a general law.

Special legislation with respect to claims of this character should be discouraged. In the judgment of the minority of the committee this settled policy of the Government should not be disturbed by either special or general legislation.

We know of no reason why the two years' limitation in the act of March 3, 1863, should be modified or repealed.

To authorize, by a special act of Congress, Mr. Noble to sue for the proceeds of his cotton eighteen years after he knew of its seizure and sale by the Government would be, for obvious reasons, unwise. After he knew of its seizure and sale he had the right under the general law of March 3, 1863, to sue and make good his claim to the proceeds of his property. This right existed for two years from and after August, 1866. For some unexplained reason he did not avail himself of his legal rights within the time limited by law. Now they are barred, and this bar he would have Congress remove.

For aught that appears, Noble thought that a suit under the abandoned or captured property act to recover the proceeds of his cotton would not sufficiently reimburse him for the loss he had sustained. That he sought more than the proceeds of his cotton is apparent from the fact that shortly after his right to sue for the proceeds was barred he brought suit upon his contract.

In this suit he, in effect, sued for the 418 bales of cotton he had on hand when he made the contract for the 365 bales he subsequently purchased, and for the 249,198 bales that he neither delivered, purchased, or owned. The damages claimed in this suit was $309,795.67, more than double the sum for which the cotton was sold.

If Noble elected between his claim upon his contract for damages, amounting to $309,795.67 and his claim under the act referred to for the proceeds of the cotton, amounting to $144,922.85, we think he ought to be concluded by his election and make no further complaint.

GEO. E. SENEY.

CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 1729.

AMENDING INTERNAL REVENUE LAWS.

15, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

ENNETT, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany bill H. R. 7894.]

Committee on the Judiciary, to whom was referred House bill have considered the same, and recommend the accompanying bill ubstitute therefor, and that said bill as amended by the substi- lo pass.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1730.

SARAH ANN WILLIAMS.

APRIL 16, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HAYNES, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6919.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6919) granting a pension to Sarah Ann Williams, submit the following report:

This claimant was mother of Kneeland Badger, sergeant Company K, Fourth Vermont Regiment, who was killed at the battle of the Wilderness. She was a widow from 1849 to 1867, when she remarried. In 1881 she was granted a pension as dependent mother of said soldier, commencing with the date of his death and ending February 20, 1867, the date of her remarriage. She was informed by the Department that her remarriage deprived her of restoration, and now comes to Congress with the following petition:

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

Your petitioner, Sarah Ann Williams, a resident of Northfield, in county of Washington, State of Vermont, whose maiden name was Sarah Ann Fisk, respectfully showeth that she was born in Williamstown, State of Vermont. She was married to Robert Badger in 1838, by whom she was the mother of four children, only one of whom is now surviving, the youngest daughter.

Her husband, said Robert Badger, died in 1849, leaving her with all four children for her to support and maintain. The oldest son, Kneeland Badger, upon whom she depended for her maintenance and support, enlisted in the service of the United States Government as a private in Company K, Fourth Regiment Vermont Volunteers. At the expiration of his first term of service he re-enlisted as a member of the same company, then for the first time visiting his home on a furlough.

At the battle of the Wilderness he was severely wounded, and was again furloughed to come home during convalescence; in the mean time was promoted as second sergeant; he was engaged at the battle of Cedar Creek on the 19th of October, 1864, being then in command of his company, when he was instantly killed by a solid shot; he was about to be promoted as a commissioned officer. Your petitioner further shows that during the full time of his enlistment she received his extra State pay of $7 per month besides receiving from him other money which he regularly sent her.

In 1867 she intermarried with one A. S. Williams, then and now a resident of Northfield. In 1879 your petitioner became incapacitated for hard labor; she applied for a pension. In 1881 she received $224, it being $8 per month for the time she remained a widow after her son's death.

Your petitioner further showeth that said Williams is eighty-four years of age, wholly unable through the infirmities of age to do any manual labor, and is possessed of very limited means of support. She also says that her only resources of support are from the little property possessed by said Williams and from the labor of her own hands; with the infirmities of increasing age she finds herself limited in her comforts to such an extent as to admonish her that other provisions must be made for her com-

fort and blessings; that she has a just and honest claim upon the Government for such comfort and support, and, fully recognizing the beneficence of the Government in similar cases, she respectfully asks that a special act for her relief may be speedily enacted, and in duty bound will ever pray.

SARAH ANN WILLIAMS.

Dated at Northfield, Vt., this 13th day of February, 1886.

This petition is indorsed by some thirty persons, who certify that they are personally acquainted with claimant, and know her to be in need of the aid she asks for. It is also supported by several independent affidavits.

From the evidence on file we glean that claimant's present husband is now eighty-five years of age, and while suffering no special disabilities except the infirmities incident to old age, is incapable of earning his own subsistence. Their property consists of a house and about 2 acres of land, a cow, and household furniture, the value of which, less liens and incumbrances, is $700 or $800. The records of the town clerk show that the tax upon the homestead has been $7.05, and upon personal property approximately the same sum. Under such conditions we think this woman, whose son was shot dead in battle, should have continued to her the Government aid in her declining years.

The committee recommend that the bill be amended by striking out the word "soldier" in line 7, and inserting the word "sergeant," and that, as so amended, the bill do pass.

C

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1731.

STORER E. STILES.

APRIL 16, 1886.—Laid on the table and ordered to be printed.

Mr. HAYNES, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6503.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6503) granting a pension to Storer E. Stiles, submit the following report:

The adjudication of this claim in the Pension Office renders further consideration of this bill unnecessary.

We therefore report it back to the House and ask that it lie upon the table.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT. No. 1732

ANN COWAN.

APRIL 16, 1886.—Laid on the table and ordered to be printed.

Mr. HAYNES, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7333.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7333) for the relief of Ann Cowan, submit the following report:

This committee is informed by the Commissioner of Pensions that the records of his office fail to exhibit any evidence that claim for pension has ever been filed in behalf of the widow of Michael Cowan, Captain Bayler's detachment, Ordnance Department. Neither has any evidence been filed with this committee in support of the bill.

The committee therefore ask to be discharged from its further consideration.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1733.

WILLIAM H. STARR.

APRIL 16, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6718.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6718) granting a pension to William H. Starr, submit the following report:

Claimant was a member of Company D, Eighth Illinois Infantry, and led his application for pension on October 10, 1882, alleging injury to rum of left ear by concussion at Shiloh, Tenn., and injury to back aused by explosion of a shell at Vicksburg, Miss., in May, 1863.

The Pension Office calls for the testimony of an officer as to incurnce, and surgeon as to treatment for deafness of left ear, which claimnt says he is unable to obtain. He has filed affidavits of two comrades s to incurrence, showing that immediately after the battle of Shiloh laimant complained of deafness in his left ear. One of the witnesses, . M. Honey, in a letter to the Commissioner of Pensions, in reply to iquiries of the Commissioner, says:

I never heard his hearing called in question until after the battle of Shiloh. From iat time until my discharge (in August, I think, 1864), I always understood Starr ɔt his hearing injured there. * * * I got my information this way: First, Starr lways claimed after the battle that his hearing was injured there. Second, I was ırred until my nose bled, and am deaf in one ear when I have a cold, fever, or take ıedicine, and cannot distinguish the direction of sound when I hear it. Third, we ere to the right a little, and were in front of some heavy guns there, and the firing as terrific. They opened the battery very sudden, and we were jarred and shook p generally. I was there, and I know Starr was, too.

Daniel N. Osborn, another comrade, corroborates the above. Both of hese witnesses are vouched for as reliable men. Claimant cannot furish medical evidence of treatment, as required, never having been reated; he was examined by Dr. Edmonson, at Denver, Col., who could ɔt give any treatment beneficial to his ear.

Several acquaintances and neighbors testify to claimant's soundness ɪrior to his enlistment, and that he is now deaf in his left ear, and has ɔeen since his discharge. The board of medical examiners at Wichita, Kans., report on July 16, 1884:

We find left ear-drum gone, with resulting total deafness, as shown by failure to ear tick of watch or loud conversation on closing right ear.

The evidence seems to establish that claimant was free from deafness ıp to the battle of Shiloh, and that he has been deaf in his left ear ever ince.

Your committee therefore recommend the passage of the bill.

O

)ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 1734.

ELANDER M. MOONEYHAN.

3, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

)RRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6801.]

mmittee on Invalid Pensions, to whom was referred the bill (H. R.) granting a pension to Elander M. Mooneyhan, submit the following t:

evidence in this case establishes beyond question the following Claimant's husband enlisted in Company I, Twenty-fourth Mis- Volunteers, August 11, 1861. On the 20th of August, 1861, he :cted first lieutenant of that company, and immediately took com- drilling them until October 10, 1861, when he was taken sick yphoid fever, and died October 23, 1861. On the next day the ny was regularly mustered into service. The widow's claim was d on the ground that the soldier had not been mustered into serv- 'hat he served two months and incurred the disease from which l is clearly proven. The rule of this committee has been to rate is according to rank from time of muster under a commission. s soldier at time of death held no commission, your committee iend that the bill be amended by striking out the words "late utenant," and that the bill as amended be passed.

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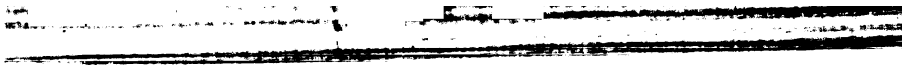

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1735.

RICHARD HONIGAN.

APRIL 16, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6120.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6120) for the relief of Richard Honigan, submit the following report:

The claimant, who served in Company G, Sixty-third New York Volunteers, from September, 1861, to September, 1864, is receiving a pension of $4 per month for gunshot wound in the right groin, and now asks an additional pension for rupture of right side received while on a retreat after the battle at Ream's Station, Va., in August, 1864. Claimant testifies that he received the rupture as stated in his application; that from ignorance and diffidence he concealed it from his comrades, and as it gave him no pain he was not treated for it by the surgeon of his regiment. Many of the prominent citizens of Saint Joseph, Mo., speak in the highest terms of the integrity and truthfulness of claimant. It is shown that he was sound and free from hernia at time of enlistment by several reliable witnesses; that the disability existed at time of discharge, and has continued ever since, is proven by the affidavits of Dennis Curtin, G. Heckenlible, Patrick Coleman, and Dr. Thomas H. Doyle. The examining board at Saint Joseph, Mo., report:

> There is a femoral hernia on right side and just above the entrance of the ball. The protuberance is as large as a small hen's egg.

The claim was rejected in the Pension Office on account of the soldier's inability to prove incurrence in the service, there being no record of it and no medical treatment. The fact that he was free from the disability at the time of enlistment, that it existed soon after discharge, and claimant's evidence of its incurrence, supported by the strong indorsement of his personal character by many prominent men in the city where he has lived since discharge, renders it reasonably certain that the injury was received in service.

Your committee therefore recommend the passage of the bill, with an amendment striking out the words, "to date from his discharge from the service of the United States," in lines 8 and 9.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1736.

STOKELEY D. DAGLEY.

APRIL 16, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6655.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6655) granting a pension to Stokeley D. Dagley, submit the following report:

The claimant in this case was a private in Capt. J. W. Younger's Clay County Missouri Militia, enlisting May, 1864, and discharged February, 1865. The files in the Third Auditor's Office show that he was paid for five months and twenty-one days of service. His application for a pension was rejected on the ground that he served in the State militia, and the law requires that claims of this kind must be proven before July 4, 1874. The evidence in the case shows that claimant contracted chronic diarrhea while in the service, and was discharged upon a surgeon's certificate of disability for that reason.

Dr. W. C. James, whose credibility is highly indorsed by the Hon. A. M. Dockery, of this House, testifies that he treated him for chronic diarrhea while in service and after his return, and that he is now permanently disabled from the same cause.

Isaac Brooks testifies that he has not been free from the disease since discharge.

Dr. Samuel Sheetz testifies that he has treated him since 1872, and that he has suffered continuously since that time. The examining board at Saint Joseph, Mo., August 6, 1884, report him totally disabled; that he is 5 feet 5 inches in height and weighs 112 pounds. Under existing laws the Pension Department cannot allow this claim because the soldier was in a State organization. He did the same service, fought in the same battles, endured the same hardships, and suffered from the same disease, under the command of the same officers, and received the same pay as those who were mustered into the volunteer service from that State.

Believing that he ought to be placed on the same pension-rolls, your committee recommend the passage of the bill.

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1737.

CHARLES M. HAMILTON.

APRIL 16, 1886.—Laid on the table and ordered to be printed.

. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7309.]

e Committee on Invalid Pensions, to whom was referred the bill (H. R. 309) granting a pension to Charles M. Hamilton, submit the following eport:

The claimant, who was a member of Company B, Eighty-eighth Ohio lunteers, asks to be put on the pension-rolls, alleging that at Camp ase, Ohio, he was assaulted by parties unknown to him, fracturing skull, from the effects of which he is greatly disabled. The examin- board of surgeons at Chilicothe, Mo., report, December, 1882:

'e do not find any evidence of injury to the head; no disability.

Your committee therefore report adversely, and ask that the bill lie the table.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1738.

WILLIAM D. ACUFF.

APRIL 16, 1886.—Laid on the table and ordered to be printed.

r. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6798.]

he Committee on Invalid Pensions, to whom was referred the bill (H. R. 6798) granting a pension to William D. Acuff, submit the following report:

Claimant, who was a member of Company C, Seventh Regiment of . E. M., filed a declaration for pension in February, 1880, alleging sease of the liver contracted while in the military service. He was amined by two examining boards of surgeons, once in 1883 and once 1884. Both boards report that they find no disability from the alleged use.

Your committee therefore report adversely and ask that the bill lie the table.

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CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 1739.

DANIEL F. MACK.

APRIL 16, 1886.—Laid on the table and ordered to be printed.

IORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6447.]

ommittee on Invalid Pensions, to whom was referred the bill (H. R.) granting a pension to Daniel F. Mack, submit the following report:

imant, who was a private in Company D, Fifty-first Ohio, filed a :ation for a pension, alleging disease of heart, kidneys, bowels, natism, and chronic diarrhea. The examining board of surgeons ncordia, Kans., March, 1885, report:

ind no physical or rational signs of rheumatism, diarrhea, typhoid pneumonia, gia, disease of heart, bowels, and kidneys; no rating.

ır committee therefore report adversely, and ask that the bill lie e table.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1740.

MARGARET MADDEN.

APRIL 16, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PINDAR, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4143.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4143) for the relief of Margaret Madden, submit the following report:

This bill was reported favorably in the first session of the Forty-eighth Congress, which report is hereto annexed, and after examination of the evidence this committee adopt it as their report, and recommend that the bill do pass, with the following amendment: Strike out from said bill all after the word "volunteers," in line 9.

Christopher Madden was a private in Company B, Eighty-fourth Regiment New York Volunteers, and received a gunshot wound of the leg which shattered the bone. This fact, and his condition, were clearly proven, and he was granted a pension of $8 per month. He died on the 10th day of August, 1866, at Brooklyn, N. Y., and the certificate of the board of health alleges that he died of cholera.

Soon after his death the widow, Margaret Madden, the petitioner, entered her claim for pension, but it was rejected on the ground that the cause of death, cholera, was not due to wounds received in the service.

Only one witness is brought forward to prove the contrary, that witness being the physician who attended the soldier from the time of his discharge from the Army till his death, and he swears positively that the wounds received were without question the cause of death. The following are the affidavits referred to:

Dr. Charles T. Chase testifies—

"That he is a practicing physician and surgeon, and resides in the city of Brooklyn, N. Y. That he was well acquainted with Christopher Madden, late a private in Company B of the Eighty-fourth Regiment of New York Volunteers, for the twenty years next preceding his death, and was his family physician for many years. That he attended and treated him from the time he returned home after his discharge from the Army to the time of his death; that he was suffering from a gunshot wound in the left leg just below the knee-joint; the tibia bone was badly shattered and splintered, which resulted in necrosis of that bone; there was great suppuration and a constant discharge, and occasional discharge of pieces of dead bone up to the time of his death. His health and system were destroyed by long continued pain and the discharge from the wounded leg. He died in Brooklyn on the 10th day of August, 1866. His death resulted from a loss of vital power and a gradual breaking down of the whole system, caused by the long continued suffering and pain, produced by the wound in his leg."

In another affidavit made by the same physician, in addition to the statement substantially as the foregoing, he says—

"There can be no doubt as to the death of deceased having been hastened by constant and continued discharge of matter and pieces of bone from the leg, the tendency of which was to undermine the constitution and waste the vital powers of life."

Again, the same affiant says—

"That the death resulted from 'necrosis of bones of leg,' caused by gunshot wound received during the late war, and not from cholera or any other cause than that above stated, and that it is impossible for him, deponent, to understand how the information could have been given to the board of health that death was the result of cholera. The mistake might possibly have originated from the fact that cholera was quite prevalent at the time of said Christopher Madden's death."

This physician is of reputable character, and has practiced for many years. He seems to be very positive as to his facts and conclusions. Evidently there was a mistake made as to the cause of Madden's death. The evidence of cholera coming so directly from an official source probably influenced the Pension Office adversely to the widow's claim. Your committee, however, think the attending physician, who had cared for the patient for years, ought to be the judge, and believe him competent to decide.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1741.

CATHARINE S. TODD.

APRIL 16, 1886.—Laid on the table and ordered to be printed.

Mr. PINDAR, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4166.]

The Committee on Invalid Pensions, to whom was referred House bill 4166, *beg leave to submit the following report:*

Claimant is now receiving a pension of $20 per month as widow of Capt. J. S. Todd, the rate fixed by law. Your committee see no reason why an increase should be granted, and report the bill adversely, and ask that the bill lie on the table.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1742.

ROBERT GRAY.

APRIL 16, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CONGER, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 620.]

The Committee on Invalid Pensions, to whom was referred House bill 620, *have had the same under consideration, and beg leave to report:*

The military history of claimant is as follows: Enlisted in Company A, Thirteenth West Virginia Volunteers, August 15, 1862, and was discharged June 22, 1865. He was captured at Cedar Creek, Va., October 19, 1864, and was confined a prisoner in Richmond, Va., and Saulsbury, N. C., until he escaped therefrom, April 17, 1865. Claimant alleges that while in prison he contracted chronic diarrhea, followed by congestion of the liver, and for this disability filed his application for pension; which was rejected "on the ground that disability was contracted since the service."

The evidence in this case is very voluminous, six special examinations having been made in four different States.

Three of these examiners find merit in the case and recommend its admission, and three find no merit and recommend rejection. The adverse testimony seems to come principally from one locality in West Virginia, and is apparently modeled after the captain's testimony, who says that soldier was in habit of drinking, and was trying to get out of the fight when captured, and was quite well when he returned from prison. But it is also in evidence that this captain and soldier had frequent quarrels while in the service. Several comrades testify that soldier was poor and emaciated when he returned from prison, and did not recover while he remained in the service. The evidence of continuance of ill health, and final breaking down, is well established. And all the examinations except in the one neighborhood in West Virginia show the good character and standing of the claimant, and a numerously signed petition of his present neighbors clearly proves his present helpless condition and the merit of his claim.

Your committee, after a careful review of all the evidence in the case, are convinced that claimant entered the Confederate prison in good health, came out diseased, is now old, disabled, and in sore distress, and believe that his long service, his six months' imprisonment, and his present disabled condition, clearly entitle him to the relief asked.

Your committee therefore recommend the passage of the bill.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1743.

HENRY BOLLMAN.

APRIL 16, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CONGER, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 3366.]

The Committee on Invalid Pensions, to whom was referred House bill 3366, *beg leave to submit the following report:*

That Henry Bollman enlisted September 1, 1862, in Company L, Fourteenth Pennsylvania Cavalry, and was discharged May 31, 1865. On February 8, 1876, he filed his declaration for pension, alleging that about June 15, 1864, while on a forced march near Lynchburg, Va., he contracted rheumatism, piles, and varicose veins of left leg.

His claim was rejected by the Pension Department because of no record of alleged disability and claimant being unable to furnish medical or other competent evidence of incurrence in the service of the United States.

Claimant swears that while on the Lynchburg raid in June, 1864, with General Hunter, his horse gave out, and he, with other dismounted men, were marched as infantry, and that while on the retreat the severe marching caused his leg to burst, but he continued with his regiment until discharged in 1865, his disability being such that it did not interfere materially with his riding on horseback; never went to hospital on account of it; swears also that the physician who treated him while home on furlough, and immediately after the service, is dead.

Proof of prior soundness is made by affidavits of neighbors, A. J. Patterson and W. M. Young, who testify to an acquaintance of four years immediately preceding enlistment, and that he was a sound, healthy, able-bodied man, free from rheumatism, piles, or varicose veins.

Comrades Daniel Kepple and George W. Keep, in joint affidavit, testify:

> We were comrades with Henry Bollman, Company L, Fourteenth Pennsylvania Volunteers, from the month of April, 1864, up to date of his discharge. We know that prior to June, 1864, he was a man of good, sound physical health; that we were with him on the Lynchburg raid when his leg gave way and he became unable to march.

William Smith, also a comrade, testifies that he marched, fought, and starved with claimant on the Hunter raid, and knows that he was disabled by bursting veins of left leg from ankle to knee, and that he helped him often to bathe and bandage his leg, and knows that he suffered greatly therefrom. Comrades A. J. Bollman and William C. Hines testify to same facts. Medical testimony is furnished of treat-

ment from 1867 to present time. Official medical examination November 13, 1879, is as follows: '

I find a large sloughing ulcer on left leg. The wound is large, and continually sloughs, as the applicant claims. From the various cicatrices found on the leg, I am of the opinion it is of long standing. The entire limb up to the groin presents the peculiar sacculated and knotty appearance, elongated and tortuous; the worst case I ever saw. These varicose veins or ulcers cause much discomfort and annoyance by pain, fullness and weakness of the afflicted part, aggravated by exercise and the erect posture. Disability very marked, and should be rated at half total, as the applicant is justly deserving the same.

E. J. DICKINSON, M. D.,
Examining Surgeon.

Your committee believe the claim is fully established, is meritorious, and therefore the passage of the bill is recommended.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1744.

SARAH BROOKS.

APRIL 16, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SWOPE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 3645.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3645) granting a pension to Sarah Brooks, mother of William Brooks, jr., deceased, late a private in Company D, Sixty-first Regiment Pennsylvania Volunteers, respectfully report:

William Brooks, jr., enlisted August 18, 1861, and died in service June 29, 1864.

The mother claims a pension on account of dependence upon soldier for support.

The Pension Office rejected the claim on the ground that the claimant was not dependent on nor supported by the soldier prior to and at time of his death, it appearing in evidence that her husband was then fully able to and did comfortably support her.

The records as to soldier's death in the service are clear, and leave no room for doubt. There is quite a mass of evidence in this case, and such only will be quoted as has direct reference to the point to be settled, that is, as to the dependence of the mother upon the soldier.

James R. James and Thomas D. Bevan, whom the special examiner marks as the most respectable citizens of the place, testify as to the father's condition:

Since 1852 his physical condition has been such (from the effects of injuries in the coal mines previously) that he has not been able to and has not performed a day of sound labor since they knew him.

As to the husband's property and other resources, the same witnesses testify:

The husband's income, aside from what could be raised upon a very ordinary farm, was nothing. It was a hard struggle for the husband and wife to make a very ordinary living, and they could not have done that had not their sons assisted as necessity required.

As to the support rendered by the soldier, the same gentlemen again testify:

That the soldier was the one who had always been steadily at home, prior to enlistment, and had been very attentive and faithful in caring for his parents and the younger hildren; it was a great privation for them to spare him; that most, if not all, of oldier's earnings in the Army were sent home for the support of the family, but the xact times and amounts we cannot state, so long a time has elapsed since.

The other evidence on file is merely corroborative of the above and to the same effect. The committee quoted fully from the evidence of Messrs. James and Bevan, owing to their excellent standing in the community.

The board of examining surgeons, in their certificate, report as the result of their examination of the father of soldier that "he is and has been physically incapacitated for the support of himself and family."

There seems to be no doubt but that the soldier did contribute materially to the support of his parents and the family, and it is equally certain that they have not been physically able to earn a living since his death; that they are poor and in want.

Your committee, for these reasons, report the bill favorably and ask that it do pass.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1745.

ISAIAH W. BUNKER.

APRIL 16, 1886.—Laid on the table and ordered to be printed.

Mr. SWOPE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 2092.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2092) granting an increase of pension to Isaiah W. Bunker, respectfully report:

They find that the said Isaiah W. Bunker, for whose relief this bill was introduced, died November 18, 1884, in the hospital of the National Home for Disabled Volunteer Soldiers at Milwaukee, Wis., as is shown by Henry Hoeflinger, in charge of the pension department of the said Home.

Your committee therefore ask that this bill do lie on the table.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1746.

HENRY BERRY.

APRIL 16, 1886.—Laid on the table and ordered to be printed.

Mr. SWOPE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6244.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6244) granting a pension to Henry Berry, respectfully report:

Henry Berry enlisted July 2, 1863, and was discharged January 21, 864.

He claims a pension on account of malarial poisoning contracted at)ld Town, Md., about July 6, 1864. The Pension Office rejected his laim on the ground that there was no disability in a pensionable de- ree, from the cause alleged, since date of filing.

B. F. Conkle, M. D., testifies:

He has known claimant well since June 5, 1880; has been his physician since then; as treated him frequently since then. On his first visit he found him a broken- wn man constitutionally, and claimant has not been able to labor enough to sup- rt his family as he should for the past four years, and a considerable part of the ne is unable to do labor of any kind on account of physical disability.

There is no other evidence on file except the report of the board of camining surgeons, of Pittsburgh, Pa., Drs. Wishart, Wilson, and hillips, which is as follows:

There are no physical signs or rational symptoms indicative of malarial poison. he tongue is clean, skin soft and clear, hands and face tanned by exposure. No rophy or enlargement of the liver or spleen, and no disturbance of the nervous sys- m. His body is fairly well nourished, and he presents the appearance of one in od health. In our opinion he is not disabled for earning his subsistence by manual bor, and he is entitled to no rating for the disability caused by malarial poison.

Your committee fail to see anything in this case which would entitle laimant to the receipt of a pension. They therefore report adversely, nd ask that this bill do lie on the table.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1747.

JOHN W. BLAKE.

APRIL 16, 1886.—Laid on the table and ordered to be printed.

Mr. SWOPE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4711.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4711) granting a pension to John W. Blake, respectfully report:

John W. Blake enlisted in Company F, Third Pennsylvania Heavy Artillery, on the 22d of February, 1864, and was discharged November 9, 1865.

The basis of claim for pension is, that while in the aforesaid service and in line of duty, on or about May 29, 1865, at Williamsburg, Va., he was stricken with chills and fever, which continued from date of contraction until discharge.

The Pension Office rejected the claim "on the ground that there is no record of the alleged disability, and claimant has failed to furnish, and evidently is unable to furnish, any evidence of medical treatment for the same in the service or since discharge. The evidence filed is not competent to establish the claim."

The claimant alleges that he was treated at Chesapeake General Hospital, also at Camp Cadwallader Hospital.

The Adjutant-General reports that there is on file no record of disability as alleged.

The surgeon, United States Army, by order of the Surgeon-General, states:

That soldier was, November 6, 1865, in General Hospital, Fort Monroe, Va., with malæmia, and was returned to duty November 9, 1865. He entered post hospital, Camp Cadwallader November 10, 1865, with intermittent fever. No further record of treatment in this case found.

The evidence in this case is very meager and usually not sworn to.

The only testimony as to soldier's prior soundness is his own declaration to that effect.

Again, claimant does not furnish any evidence of either officers or comrades as to the contraction of alleged disabilities in the service.

As to his condition since service, Frederick Hyle and E. K. Baldinge certify that the claimant is troubled a great deal with deafness. Has been rapidly increasing. They have known claimant for about twelve years.

There is no sworn testimony or other evidence of any kind showing condition since discharge.

The Altoona board of examining surgeons, Drs. Smith, Fry, and Findley, certify:

In our opinion said John W. Blake is not incapacitated for obtaining his subsistence by manual labor from loss of hearing of right ear, caused by fever and ague. It is our belief that the said disability did really originate in the service in line of duty, and the disability is of indefinite duration. There is no marked loss of hearing in right ear evidenced at this examination.

It thus appears that the soldier's treatment in hospital was of very short duration, and that his attack of fever and ague was not aggravated nor long continued. The *sequalæ* were slight, nor is the alleged trivial deafness of one ear traceable to the service in the Army. Nor, if it could be traced to such a source, is it of such a character as to interfere with his ability to gain a support by manual labor.

Your committee therefore do not regard this claim favorably, and recommend that the bill lie on the table.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1748.

HENRIETTA HARMAN.

APRIL 16, 1886.—Laid on the table and ordered to be printed.

Mr. SWOPE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6374.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6374) for the relief of Henrietta Harman, respectfully report:

Charles W. Harman enlisted April 11, 1861, and was discharged July 11, 1861, and died July 21, 1878. This claimant's service was of the briefest, and yet, during the three months that he was in the Army, stationed at Washington, and during the warm weather, it is claimed that he contracted pulmonary disease, from which he died seventeen years afterwards. This case impresses your committee very unfavorably in every respect.

"Dr." Boyd, who is one of claimant's witnesses, it seems is the proprietor of a small grocery establishment. Another witness, Mrs. Henry Boyd, who testifies positively to the soldier's condition at discharge, was just nine years old at that time, and the other evidence produced in this claim seems to be all of the same character.

Your committee does not think proper to characterize this claim as it deserves. It is just one of the kind which, if inadvertently allowed, either by the Pension Department or by this committee, would tend to bring the whole pension system into disrepute. We unhesitatingly report adversely to this claim, and recommend that the bill lie on the table.

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TO PLACE THE NAME OF JAMES MADISON PRUITT ON THE PENSION-ROLL.

APRIL 16, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. O'HARA, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5051.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5051) to place the name of James Madison Pruitt on the pension roll, have had the same under consideration and submit the following report:

This claim was rejected in the Pension Office on the ground that the claimant was not in the United States military service. Claimant alleged that he was taken prisoner at Limestone Cove, Carter County, East Tennessee, on the 19th day of November, 1863, and within fifteen minutes after was shot through the body by the enemy; that he volunteered, enlisted, and was sworn into the service of the United States by J. Q. A. Bryan, a recruiting officer of the United States Army, on the 9th day of November, 1863, in Wilkes County, North Carolina, and on the same day he, with fifty other recruits, under command of said J. Q. A. Bryan, started through the lines for Nashville, Tenn. On the 19th of November, 1863, at Limestone Cove, Carter County, East Tennessee, while on the line of march, they were unexpectedly attacked by Witcher's Cavalry, some four hundred strong, and soldier, with eight others, was captured by said cavalry, and while a prisoner, in fifteen minutes after capture, was shot through the body and left for dead.

J. Q. A. Bryan, late captain Company H, Tenth Tennessee Volunteer Cavalry, testifies that on the 9th day of November, 1863, he enlisted and swore into the service of the United States Jacob M. Pruitt, of Trap Hill, Wilkes County, North Carolina; that he was present at the time said Pruitt was taken prisoner and shot.

The above testimony is corroborated by L. C. Brooks, sergeant Company H, Tenth Tennessee Volunteers.

Dr. David Bell testified (June 14, 1880) that said Jacob M. Pruitt was shot at or near his residence by a rebel force under command of Colonel Witcher, and affiant further states that he treated said Pruitt for wound, the ball having entered his body on the left side of spinal column, passing out through the stomach about one-half of an inch above the navel. Claimant was wounded November 19, 1863.

Dr. Simon York testified that said Jacob M. Pruitt was a sound man before he entered the service of the United States.

A member of the committee well acquainted with Captain Bryan knows him to be a man of high social standing and a staunch Union man during the late war.

Your committee are of the opinion that soldier received the gunshot wound for which he claims a pension while in the service and in the line of duty; therefore recommend the passage of the bill after striking out the word "James" in the title and in line 6 of said bill, and insert in lieu thereof the word "Jacob."

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H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 1750.

GEORGE CHAMBERS.

APRIL 16, 1886.—Laid on the table and ordered to be printed.

O'HARA, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6103.]

he Committee on Invalid Pensions, to whom was referred the bill R. 6103) granting a pension to George Chambers, have had the same er consideration, and recommend that said bill lie on the table and committee be discharged from its further consideration.

O

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1751.

JARED D. WHEELOCK.

APRIL 16, 1886.—Laid on the table and ordered to be printed.

. O'HARA, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1263.]

The Committee on Invalid Pensions, to whom was referred the bill . R. 1263) granting a pension to Jared D. Wheelock, have had the ne under consideration and recommend that the bill lie on the table d the committee be discharged from further consideration thereof.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1752.

LEVI JONES.

APRIL 16, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. JAMES W. REID, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4629.]

The Committee on War Claims, to whom was referred the bill (H. R. 4629) for the relief of Levi Jones, submit the following report:

The claimant, Levi Jones, organized Company B, Second North Carolina Mounted Infantry, and was appointed first lieutenant thereof by General Burnside on the 7th day of October, 1863, and took charge of said company at once, received and receipted for all the necessary stores and equipages for said company as its commandant. He was kept on the front, and participated in the fights at Warm Springs and at Watkins' Ford in the months of October and November, 1863, in command of said company. During the siege of Knoxville he was on outpost duty all the while, and did not go into winter quarters. There was no mustering officer present on the front and he was not mustered as first lieutenant. On the 1st of May, 1864, Company B was changed to Company H, Second North Carolina Mounted Infantry, and the said Levi Jones was appointed first lieutenant of said Company H. He presented himself to the mustering officer to be mustered, but the said officer refused to muster him, on the order of General Burnside. He did good and faithful service as an officer under proper military appointment, and received no pay for it from October 7, 1863, to May 1, 1864.

Your committee therefore recommend the passage of said bill.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1753.

HEIRS OF THOMAS BLACK.

APRIL 16, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PERRY, from the Committee on War Claims, submited the following

REPORT:

[To accompany bill H. R. 2214.]

The Committee on War Claims, to whom was referred the bill (H. R. 2214) for the relief of the heirs of Thomas Black, having considered the same and accompanying papers, submit the following report:

Under the act of March 3, 1871, this claim was filed by Thomas Black, a native of Maine, who had moved to South Carolina prior to the late war, and had acquired property on Edisto Island, in that State. When the claim was filed Mr. Black was old and infirm, and died September 25, 1877, leaving three daughters, and leaving no personal property to be administered, as all the parties were very poor at the time of his death.

According to law, the commissioners could not receive testimony after March 10, 1879. Owing to the death of Mr. Black and the poverty of his three daughters, there was no administration until May 13, 1879, and the testimony was then taken and filed with the commissioners May 17, 1879, but the commissioners did not consider or act upon the testimony, on the ground that it was filed too late, and they had no jurisdiction to act upon it. There was no adverse action on the claim itself.

The first question then is, should the claim be now considered, if otherwise meritorious, notwithstanding the proof was filed two months and seven days too late for the commission to exercise jurisdiction? It appears that the death of this old man, poor and infirm, and the leaving in poverty three daughters, sufficiently accounts for the delay, since there was no person competent to press the claim until May 13, 1879, and the testimony was filed in four days after administration granted; and especially should the United States be lenient in the case of this claim, when it is so clearly and conclusively shown that Thomas Black was one of the few in the South who remained at all times loyal to the Union during the war.

This brings us to consider the proof of his loyalty. This should be clearly established, for there is a presumption that one who resided in the Confederate lines during the war was not loyal to the Union, although there were several loyal men who were so resident at Charleston, S. C., and who were well known to be such. Among them, as appears from the testimony, was James L. Petigru, esq., the ablest lawyer of his day in the State; and the loyalty of Thomas Black, an humble citizen, is

fully established by the testimony of Hon. Charles Macbeth, mayor of Charleston during the war, and of Hon. James B. Campbell, a prominent citizen of Charleston, who was elected to the United States Senate by the first South Carolina legislature which convened after the war had ended, and by other reliable witnesses. Mr. Black was arrested and confined by order of General Ripley, commanding the Confederate forces in and near Charleston, on account of his adherence to the cause of the Union, and with difficulty obtained his release from imprisonment, as he would not declare adherence to the Confederate cause. On this point of loyalty there does not seem to be any room for doubt from the evidence. The claim arises as follows: Mr. Black's home was on Edisto Island, and the Confederate forces ordered him to leave the island, which was about to fall into the hands of the United States forces. He was thus compelled to go to Charleston, but returned to the island to look after his property, when he was taken by armed negro troops on board the United States gunboat Penguin, whence he was released through the kind offices of Captain Boutelle, then of the United States Navy, and now of the Coast Survey, who states that he was released without parole and unconditionally, the only instance of the kind that he remembers to have occurred.

The soldiers who landed at Edisto Island, after occupying it, tore down the houses on Mr. Black's plantation in order to use the lumber for Government purposes, and also took for the Government use a large barge, a pile-driver, a cart and harness, and the provision crop of Mr. Black. These articles, with some others taken, were for the convenience and use of the Army.

The barge was a 14-oared boat, 45 feet long, and was worth $375, and the pile-driver $275, according to the testimony of Charles Deignan, an expert of forty years' experience in ship and boat building.

Your committee therefore recommend that the bill do pass, with the following amendment as to the amount: Strike out in line 3 and 4 "four thousand six hundred and seventeen dollars and sixty cents," and insert instead thereof "three thousand one hundred and seventy-seven dollars."

C

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1754.

JESSE H. STRICKLAND.

APRIL 16, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. KLEINER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 1623.]

The Committee on War Claims, to whom was referred the bill (H. R. 1623) for the relief of Jesse H. Strickland, having carefully considered the same and accompanying papers, submit the following report:

Mr. Strickland presented his claim to the War Department, and a letter dated July 17, 1882, from William E. Chandler, Acting Secretary of War, says:

The Department is in receipt of the statement dated the 5th ultimo, left by you, from Jesse H. Strickland, of Brooklyn, N. Y., who sets forth that in January, 1863, he was authorized by the President to recruit, organize, and equip a regiment of cavalry, to be composed of Tennessee and other refugees who were willing to enter the military service of the United States; that he raised the regiment which was designated the Eighth Tennessee Cavalry, and rendered service as its commanding officer and was recognized as such commanding officer, but that he was never mustered into service, and that his frequent appeals for muster in as colonel have been refused.

He now renews his claim for recognition as colonel.

In reply I beg to inform you that this case has received due consideration. No acts are presented to affect the decision of the Department of March 23, 1869, which were not before the Department and considered at the time that decision was rendered.

The request of Mr. Strickland for muster in must therefore be refused.

The decision of March 23, 1869, in this case was as follows:

"The regulations of this Department prohibit the muster into service of a colonel prior to the completion of the regiment for which he has been commissioned."

The records show that the Eighth Tennessee Cavalry was not completed and mustered in until February 29, 1864.

The request of Mr. Strickland therefore cannot be granted.

J. C. Kelton, Assistant Adjutant-General, in a letter dated March 9, 1886, addressed to the honorable Secretary of War, says:

January 30, 1863, Mr. J. H. Strickland was authorized to raise a regiment of cavalry and near East Tennessee. June 30, 1863, four companies (A, B, C, D) were mustered in for the organization (then termed Fifth Tennessee Cavalry, subsequently Eighth Tennessee Cavalry), and on August 14, 1863, an additional company was mustered in.

September 24 and October 15, 1863, Mr. Strickland applied for muster in as colonel, but, pending action on the same, his authority to recruit was revoked by Special Orders 468, paragraph 5, dated October 19, 1863, from this office. December 14, 1863, however, the Secretary of War directed rescission of the special orders referred to, "leaving the question of muster into service to be determined by the rules of the Department," but it does not appear that action was had thereon.

The first and only roll upon which his name appears is the field and staff roll of the

incomplete Eighth Tennessee Cavalry, dated October 31, 1863, and on that he ported absent.

About February, 1864, the regiment was completed by the consolidation witl the Tenth Tennessee Cavalry, and on April 1, 1864, S. K. N. Patton was mustere service as its colonel.

From the foregoing it will be seen that a vacancy for colonel did not exist i for the Eighth Tennessee Cavalry until February, 1864, and that S. K. N. Patto mustered in as colonel of the regiment to fill an original vacancy.

It is proper to add that claims for recognition heretofore presented were d March 29 and April 10, 1861, by letters from this office, and by the Secretary of July 17, 1882.

Your committee, in view of the foregoing statement of facts, dc think such a case is made as justifies a reversal of the decision o Secretary of War, and therefore, under the rules of the committe turn the bill with the recommendation that it do not pass.

JESSE H. STRICKLAND.

APRIL 23, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SMALLS, from the Committee on War Claims, submitted the following as the

VIEWS OF THE MINORITY:

[To accompany bill H. R. 1623.]

The undersigned members of the Committee on War Claims, dissenting from the report made by the majority in the case of Jesse H. Strickland (H. R. 1623), submit the following as the views of the minority:

The claimant, Jesse H. Strickland, some time in the month of January, 1863, applied to President Lincoln, in person, for authority to recruit a regiment of cavalry out of refugees from the State of Tennessee. Such authority was granted, as stated by claimant, by a letter from the Adjutant-General's Office, United States Army, dated January 10, 1863. This letter is not before the committee, the claimant informing the committee that he has lost or mislaid same. Immediately on its receipt, Mr. Strickland left Washington for the execution of the duty assigned him. The particular regiment authorized to be recruited was the Eighth Tennessee Cavalry. He began at once to recruit men, and for that purpose proceeded to the Ohio River, in the vicinity of Cincinnati and Louisville, Ky.

Mr. Strickland, while performing said recruiting service, was prostrated by an attack of intermittent fever, in September, 1863, and was confined during all of said sickness in hospital at convalescent camp at Camp Nelson, Kentucky. As soon as he had sufficiently recovered to be fit for ordinary duty, he was placed in command of the convalescent camp, as shown by the following letter:

CONVALESCENT CAMP,
Camp Nelson, Kentucky, December 28, 1863.

SIR: Inclosed please find receipts and invoices for clothing on hand in convalescent camp on my arrival, October 21, 1863. Sign invoices and return the same to me to enable me to render my returns for the month of October, 1863.

I am, sir, very respectfully,

F. A. STITZER,
Lt. and A. A. Q. M.

Colonel STRICKLAND.

Mr. Strickland continued in command of said camp until some time in January, 1864, when he was regularly relieved. He at once proceeded to Nashville and recruited a number of men for the said regiment, which was at the time in the neighborhood of Knoxville. While at

Nashville his military standing was recognized, as shown by the following letter:

STATE OF TENNESSEE, EXECUTIVE DEPARTMENT,
Nashville, February 2, 1864.

SIR: Complaint having been made to me that you forcibly demanded the keys of a private residence in Nashville and notified the party in possession to deliver the same to you, you will please call at my office at the earliest moment practicable in regard to the same.

I am, respectfully,

ANDREW JOHNSON,
Military Governor.

Colonel STRICKLAND,
Of East Tennessee Cavalry.

Francis W. Strickland, first lieutenant of said regiment, in an affidavit, says:

I was appointed by Col. Jesse H. Strickland, in May, 1863, first lieutenant of the Eighth Regiment of Tennessee Cavalry Volunteers, then being recruited and organized and in camp at Camp Nelson, Kentucky.

I reported for duty at Camp Nelson in May, 1863, and was mustered in on Colonel Strickland's letter of appointment, as were all the other officers of the command, and his orders were obeyed as colonel commanding Eighth Regiment, and he was recognized by the general commanding post, S. S. Fry, and others.

The demands for troops in the field being urgent, Andrew Johnson, as military governor of the State, consolidated with the Eighth Tennessee Cavalry some two hundred men recruited by S. K. N. Patton, who was mustered in as colonel of the said regiment.

By the exigency of the public service, and the misfortune of sickness, Mr. Strickland was thus thrown out and lost all the results of his expenditures of time, labor, and money.

While recruiting his regiment, and while in command of the convalescent camp, he was recognized and obeyed as a colonel.

The bill under consideration asks that he now be recognized as colonel of said regiment.

It is the opinion of the minority that said bill should pass.

T. J. CAMPBELL.
ROBERT SMALLS.
J. D. RICHARDSON.

49TH CONGRESS, 1st Session. HOUSE OF REPRESENTATIVES. REPORT No. 1755.

WASHINGTON T. OTEY.

APRIL 16, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. NEECE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4882.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4882) granting a pension to Washington T. Otey, submit the following report:

Claimant was enrolled in Company F, Sixty-second Illinois Volunteers, on the 15th day of December, 1861, and served until March 6, 1866, when he was mustered out with the rank of sergeant.

On September 27, 1864, claimant states while at Pine Bluff, Ark., he was ordered by Lieut. Col. Stephen W. Meeker to take an insane soldier and report with him to General F. Steele at Little Rock, Ark., which he did. General Steele ordered claimant to take one more insane soldier with two guards and proceed to Washington, D. C., and place said insane soldiers in Government Asylum. While proceeding to Washington and when opposite Hickman, Ky., on board boat, about 11 o'clock on the night of September 29, 1864, one of the insane soldiers asked for a drink of water, and on going to get insane soldier a drink said soldier caught claimant's foot, causing him to stumble and fall head first to the bottom of stairway, causing injury to his back, from which he has never recovered.

No person witnessed the accident excepting the two insane soldiers. The other two guards were asleep at the time of the accident, and as they were German and unable to understand English, claimant was not able to make them understand the nature of his mishap. His injury, however, was not at the time sufficiently serious to prevent his fulfilling his mission and returning to his regiment.

Claimant's back continues to be a source of great distress to him, and at the present time he is frequently prostrated for weeks at a time, unable, without assistance, to turn himself in his bed.

His claim for pension was rejected on the ground that there was no record of alleged injury to back, and claimant's admitted inability to prove the origin of the same in the line of duty.

The evidence in the case indicates clearly that, just before claimant parted from his regiment to go to Washington with the insane soldiers, he was sound and free from disability, and that immediately upon his return his injury was made known to several comrades.

John York, a comrade, testifies that he was well acquainted with claimant, and that when he returned from Washington he was disabled

the insane soldiers catching his foot and throwing him down a stairway. He habit of putting his hands on his back and hip as though in pain. I remembe when he came back he complained of his back and attended sick call. Know t was disabled from the performance of his duty.

Jacob Johnson testifies that he knew claimant to be sound and at enlistment. Knew him to be suffering from and disabled by trouble with his back at the date of his discharge from the ser For two months following said discharge he was unable to turn hi in bed without assistance. Has seen claimant since then as oft once a month, and he always complained of his back, and a good tion of the time he has been entirely disabled for manual labor.

Medical examinations of recent date show that claimant is disa in a pensionable degree.

Your committee recommend the passage of the bill.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1756.

CERTAIN OFFICERS OF THE VOLUNTEER ARMY.

APRIL 16, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. LAIRD, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 7895.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 1427) for the relief of certain officers of the volunteer forces, having carefully consider the same, respectfully report:

Your committee find that veteran enlistments and bounties were authorized by general order of the War Department, June 25, 1863 (No. 191), and the various extensions thereof. Paragraph 3 of that order is as follows:

> Every volunteer enlisted and mustered into the service as a veteran, under this order, shall be entitled to receive from the United States one month's pay in advance and a bounty and premium of four hundred and two dollars.

On the promotion of a veteran his bounty ceased, and not only did the Government stop the payment of the unpaid installments of bounty, but deducted from his first pay as an officer $25, being one-half of the last installment of bounty paid him before his promotion, and which he had fully earned.

Your committee have not found any satisfactory authority for this summary invasion of what would seem the unquestionable rights of this class of men.

The denial of all bounty to veterans after promotion rests upon the construction of General Order No. 191 and the act of July 28, 1866, to equalize bounties, made by the Secretary of War, which is as follows:

> The provisions of this act [order] excludes from its benefits the following classes:
>
> * * * * * * * *
>
> Those discharged during enlistment by way of *favor* or *punishment*.

It is a strange confusion of justice when excess of valor receives the same reward as excess of ignominy. Had the contract of enlistment been forfeited to the disadvantage of Government instead of to its advantage, or had the veteran lost his rights by any manner of dishonorable conduct, we could submit; but when the Government for its own advantage ends his employment as a soldier to avail itself of his services as an officer, we do not believe it to be sound law or common justice that he should be the sufferer. All the promotions of this class were for long service and gallantry, and were generally made in the last year of the war, many in the last two or three months of the service, and, consequently, many of them at an actual financial loss to the promoted.

The committee find that the Departments did not pay the bounty of

$100 to men promoted from the ranks in non-veteran organizations where discharge for promotion took place prior to the expiration of two years from date of enlistment.

In the judgment of the committee a hardship amounting to injustice has been done to another class of soldiers, all of whom presumably deserve well of their country, namely, that class described by the Secretary of War in his circular of September 16, 1866, as—

> Those honorably discharged on account of disability contracted in the service, but not occasioned by wounds received "in line of duty," who shall not have previously served two or three years, respectively, at the time of discharge.

It is difficult to understand why such a rule should have been made by the War Department. Your committee find no authority of law for it and much less any authority of justice. If this class of men were honorably discharged, that is, without fault of their own, and for disabilities, it would seem that the obligation of the Government to make good this contract was as much completed, so far as these men were concerned, as it could be by the performance of their full term of service.

Your committee submit the accompanying substitute for House bill 1427, which they recommend do pass.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1757.

CONSTRUCTION OF PUBLIC BUILDINGS.

APRIL 16, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. DIBBLE, from the Committee on Public Buildings and Grounds, submitted the following

REPORT:

[To accompany bill H. R. 6873.]

The Committee on Public Buildings and Grounds, to which was referred the bill (H. R. 6873) relating to the construction of public buildings, respectfully submits the following report:

This bill provides that no plan shall be prepared for any public building until after purchase of site, but simply estimates for such building on the basis of sufficient accommodations for the public building, and which shall not exceed the prescribed limit of cost, after the site shall have been paid for. That the approaches shall be included in the limit of cost of site and building.

The bill further provides that the roadways surrounding or adjacent to public buildings outside of the District of Columbia shall not be paved or repaved at Government expense.

Your committee recommends the passage of the bill with the following amendment:

In line 6, of first section, after the words "paid for," insert the following words: "Nor shall any site be purchased until estimates for the erection of a building which will furnish sufficient accommodations for the transaction of the public business, and which shall not exceed in cost the balance of the sum herein limited after the site shall have been purchased and paid for, shall have been approved by the Secretary of the Treasury."

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1758.

WASHINGTON NATIONAL MONUMENT.

APRIL 16, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. DIBBLE, from the Committee on Public Buildings and Grounds, submitted the following

REPORT:

[To accompany bill H. R. 5097.]

The Committee on Public Buildings and Grounds, to which was referred the bill (H. R. 5097) to regulate the use of the grounds of the Washington National Monument, known as public reservation No. 3, in the city of Washington, District of Columbia, submits the following report:

This bill has been carefully prepared and presented by the Washington National Monument Association, with a view to specific legislation for the protection of the Washington National Monument and other property of the Government within its surrounding grounds from relic hunters, pillagers, and disturbers of the peace, and from processions and assemblages not permitted upon the grounds by proper authority.

As the United States Fish Commission has the use of a part of the said grounds, an amendment is proposed by the committee to section 9, imposing duties upon persons who are there employed by the Government under the United States Fish Commission, as well as those employed at the Monument or upon its surrounding grounds.

The committee therefore recommends the passage of the bill, with the following amendment:

In section 9, line 4, after the words "number three," insert the following words: "Including persons there employed under the United States Fish Commission."

O

TH CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
1st Session. } { No. 1759.

)TICE TO TERMINATE THE CONVENTION OF JUNE 3 1875, WITH THE KING OF THE HAWAIIAN ISLANDS.

RIL 20, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

r. MILLS, from the Committee on Ways and Means, submitted the following

REPORT:

[To accompany H. Res. 74.]

e Committee on Ways and Means, to whom was referred House joint esolution No. 74, to give notice to terminate the convention of June 3, 1875, with His Majesty the King of the Hawaiian Islands, beg leave to eport as follows:

The treaty mentioned in the joint resolution was ratified by act of Congress approved August 15, 1876, and went into effect September 9, 1876. ıe object sought to be obtained by our Government in the negotiation the treaty was to secure closer commercial and political relations with e Government of the Hawaiian Islands. It has been in force more an eight years, and a comparison of the present with the past will ıow whether the advantages anticipated have resulted from it.

In 1873 the value of our imports from them amounted to $1,275,061 ıd the value of our exports to them amounted to $631,103. For the ars 1874 and 1875 our trade was about the same in amount and in proırtion of imports to exports. Of the entire trade our imports were 67 r cent. and exports 33 per cent. For the six years preceding the treaty r trade with the Hawaiian Islands amounted to $11,300,000, of which ,300,000 was the value of imports from them and $4,000,000 the value our exports to them. Of the whole trade for that period, 65 per cent. ıs the import and 35 per cent. the export trade. For the nine years ım 1877 to 1885, inclusive, our trade with the islands amounted to 1,100,000, of which amount $51,300,000 represented the value of imrts from them, and the sum of $22,800,000 represented the value of r exports to them. The imports were 69 per cent. of the whole trade d the exports were 31 per cent.

It is apparent from this statement that our side of the trade has not own so fast as was anticipated by the friends of the measure when it ıs before Congress for adoption. Instead of increasing relatively ıter than imports it has relatively decreased, and for the last fiscal ar, ending June 30, 1885, it is still worse. Of the entire trade for at year, 76 per cent. represented our imports from them and 24 per nt. our exports to them.

It was claimed for the treaty when it was pending before Congress 1876 that it would greatly stimulate our exports of lumber, food oducts, and manufactures, but these predictions do not seem to have en fully realized. During the last fiscal year we imported from the ıwaiian Islands articles amounting to $8,857,497, of which the value sugar was $8,207,198, while for the same year we exported to them ·icles amounting in value to $2,709,573. Instead of finding a market · our exports equal to our imports, we only have 24 per cent. of the

trade while they have 76 per cent. The balance of this trade we pay in money to the planters on the islands, some of whom reside in the United States, some in England, and some in Germany.

The aggregate of our exports to the islands seems to have touched its highest point in 1883, and since that time our export trade has been falling off. The exports of animals and manufactures of iron and steel reached their highest point in 1882, while manufactures of cotton goods and hemp reached their highest point in 1883, provisions and lumber in 1884, and breadstuffs in 1885.

It was also claimed that our people on the Pacific slope would get their sugar cheaper under the provisions of the treaty than they were getting it from the East. At the time of the negotiation of the treaty, and for several years prior to that time, the price of standard granulated sugar was substantially the same in New York and San Francisco, but since that time, instead of being cheaper in San Francisco, it has been higher every year there than in New York, notwithstanding the New York sugar was charged with duty and the San Francisco sugar was admitted free of duty by the treaty.

It must be evident that we have gained nothing commercially by the treaty. The articles which they import from us now they will continue to import whether the treaty is abrogated or continued. They import them from us because no other country can supply them as cheaply, and they must have them. They cannot obtain their lumber or breadstuffs, or iron and steel, or cotton and woolen goods as cheaply in England or other European countries as they can here. These articles they must continue to import from us, and to pay for them they must continue to export to us their sugar, rice, wool, and hides.

If they should make the articles we send them subject to the duty paid by the same articles imported from other countries, which is equivalent to about 10 per cent.—that is, far below a prohibitory point, and that would constitute no impediment to our exports—it would only be a legal tax imposed upon their home consumer. They cannot afford to put a prohibitory duty on articles so necessary to them and which they cannot produce at home, and cannot procure so advantageously from any other country. With a moderate duty imposed upon our exports, they would continue to increase just as fast as their wants demanded them, and their pecuniary abilities enable them to purchase and consume them. The bounty given by our Government out of the public treasury to the Hawaiian planters has stimulated very greatly the growth of population and wealth in the islands, and it has correspondingly enhanced the growth of our export trade. But when we see by the returns that we have remitted revenue amounting to more than $23,000,000 since the treaty went into effect, while our exports for the same time amount to little over $22,000,000, it would seem that we had paid rather dearly for our bargain. The sum that we have paid would have purchased our entire exports, and is equivalent to a gift to the people of the Hawaiian Islands of that sum. This large bounty has gone into the pockets of the owners of the estates on the islands, while our people have been compelled to pay higher for their free sugar on the Pacific slope than their kinsmen have had to pay for their dutiable sugar on the Atlantic seaboard.

Your committee have more readily joined in the recommendation from the fact that the adoption of this resolution does not prevent the administration from negotiating for such modification of the existing treaty as will more nearly equalize the benefits to be derived by the two Governments from their commercial relations. They, therefore, report the joint resolution back to the House and recommend its passage.

COMMERCE WITH THE HAWAIIAN ISLANDS.*

[From Quarterly Report of Bureau of Statistics for three months ending December 31, 1885.]

The Hawaiian or Sandwich Islands consist of a group of fifteen islands in the North Pacific, mostly between latitude 19° 22′ 20″ north and longitude 155° 16′ 0″ west. These islands are separated from each other by channels of the deep sea, varying, at nearest points, from 7 to 61 miles. The nearest land is the coast of California. Only eight of the group are inhabited.

Islands.	Size.	Elevation.	Area.
	Miles.	*Feet.*	*Sq. miles.*
Hawaii	92 by 72	13,805	4,210
Maui	54 by 25	10,032	760
Oahu	36 by 21	4,060	600
Kauai	31 by 28	4,800	590
Molokai	35 by 7	3,500	270
Lavai	20 by 9	3,000	150
Kahoolawe	12 by 5	800	97
Niihau	20 by 5	1,400	63

Honolulu, the capital, is situated on the island of Oahu, and is the important entrepôt for trade between commercial nations. The census of December 27, 1884, shows the population of Honolulu as 19,569, of whom 5,225 were Chinese.

The following table shows the distances between the port of Honolulu and the other principal ports of the Pacific Ocean:

From Honolulu to—	Distance.
	Nautical miles.
San Francisco	2,100
Sidney	4,100
Auckland	4,000
Yokohama	3,700
Hong-Kong	4,800
Valparaiso	5,500
Callao	4,700
Panama	4,200
Tahiti	2,400
Puget Sound	2,600

* The data contained in the introductory remarks have been derived from the Official Census of the Hawaiian Islands, and from publications entitled, "The sugar producing capacity of the Hawaiian Islands" and "The Hawaiian exhibit at the World's Exhibition at New Orleans, 1885," which have been procured through the kindness of Mr J. Mott Smith, formerly connected with the Hawaiian legation. The commercial data contained in the tabular statements were obtained from the official customs returns of the United States and the Hawaiian Islands.

The general census shows the following results for the Kingdom:

	Census of 1884.			Census of 1878.
	Males.	Females.	Total.	Total.
By nativities:				
Natives	21,504	18,510	40,014	44,088
Natives, both parents foreigners	1,068	972	2,040	
Half caste	2,119	2,099	4,218	3,420
Chinese	17,068	871	17,939	5,916
Americans	1,198	868	2,066	1,776
British	822	460	1,282	883
German	1,039	561	1,600	772
French	125	67	192	81
Portuguese	5,239	4,138	9,377	496
Japanese	98	18	116	1,613
Norwegian	262	100	362	
Polynesian	667	289	956	
Other foreigners	330	86	416	
Total	51,539	29,039	80,578	57,995
By occupations:				
Mechanics	.....	.....	3,919	.....
Agriculturists	.....	.....	10,968	.....
Contract laborers	.....	.....	12,351	.....
Other occupations	.....	.....	12,303	.....
Freeholders	.....	.....	5,729	.....
Religion. { Protestants	.....	.....	29,685	.....
Religion. { Catholics	.....	.....	20,072	.....
Able to read and write	.....	.....	39,016	.....

The lands which are suitable for the cultivation of such staple crops a sugar-cane, coffee, rice, fruits, &c., are limited to a rather narrow marginal ring bordering upon the sea and surrounding the mountainous interior of each larger island. But only a very small proportion of this marginal ring is cultivable.

The cultivation of sugar-cane forms one of the chief employments of labor and capital. There are upon the group sixty plantations with mills, and twenty-seven planters who grow cane for sale to the mills or, as is the rule, have it made into sugar on shares. The capital so employed is estimated to be nearly $20,000,000. Small farmers can do well by taking lands in the vicinity of the mills, and cultivating cane to be sold to the mills.

The following table will show, as nearly as can be estimated, the total acreage of the islands, the extent of the lands available for cane, and the amount which can be cropped annually, and the yield of sugar.

Table showing the areas of sugar land and productions, present and possible, in the Hawaiian Islands.

Name of island.	Cane land.		Annually cropped.		Annual yield of sugar.	
	Present.	Possible.	Present.	Possible.	Present.	Possible.
	Acres.	*Acres.*	*Acres.*	*Acres.*	*Tons.*	*Tons.*
Hawaii	30,000	40,000	12,000	18,000	29,000	40,000
Maui	12,000	14,000	6,000	7,500	15,500	25,000
Oahu	3,000	3,500	1,500	2,000	3,000	4,000
Kauai	10,000	15,000	4,000	6,500	9,500	15,000
Total	55,000	72,500	23,500	34,000	57,000	84,000

Rice has also become one of the leading agricultural products. It can be easily grown and gives a fair yield per acre—from 2,000 to 3,000

pounds. The growing of bananas, which requires but small outlay of money or lands, is increasing rapidly.

The islands have no exports of manufactured goods. There is considerable employment of the handicrafts to meet home demand. There is in Honolulu a marine ship railway, which can take up ships of 2,000 tons. The Honolulu Iron Works comprise a large machine-shop and foundry, with capacity for making sugar machinery, steam-engines, boilers, and other iron-work. There is also in Honolulu a large and well-fitted rice hulling and cleaning factory; also a barrel and keg factory, a factory for planing and general wood-work, and three ice factories.

Labor is in great demand; wages for farm hands per month of twenty-six working days, range from $14 to $26. The legal day's work is ten hours. In the towns the day's wages of mechanics and artisans range from $2.50 to $4. The Board of Immigration expends every year some $200,000, placed with it by the legislature, in assisting immigrants to come in and locate.

Inter-island communication is carried on by a fleet of 13 steamers and 35 schooners and sloops. The Kinaw, the largest of these steamers, is 868 tons and is well fitted for passengers. There is a railroad of 20 miles along the north coast of Hawaii and another of 12 miles on the coast of Maui.

Honolulu is connected with San Francisco by the steamers of the Oceanic Steamship Company. These steamers (the Alameda and Mariposa) leave both ports on the 1st and 15th of the month. They are new steamers, of 3,000 tons each, and are fitted up with the latest improvements.

According to the collector-general's report for 1878 the number of vessels then under the Hawaiian flag was 55, comprising 5 barks, 3 brigs, 5 steamers, 37 schooners, and 3 sloops, representing a total tonnage of 7,948.9 tons; the fleet under the same flag in 1884 appears in the custom-house returns as follows: total vessels, 53, of which 3 barks, 2 brigs, 33 schooners, 12 steamers, and 3 sloops, of a total tonnage of 9,826 tons. This fleet gives employment to over 700 men as sailors and in other capacities on the vessels, and to many others as ship carpenters, stevedores, &c.

The Hawaiian treaty (act of Congress, August 15, 1876, which went into effect September 9, 1876) provides that "the following articles, being the growth and manufacture or produce of the Hawaiian Islands, to wit: Arrowroot; castor-oil; bananas; nuts; vegetables, dried and undried, preserved and unpreserved; hides and skins, undressed; rice; pulu; seeds; plants; shrubs or trees; muscovado, brown, and all other unrefined sugar, meaning hereby the grades of sugar heretofore commonly imported from the Hawaiian Islands and now known in the markets of San Francisco and Portland as 'Sandwich Island sugar'; sirups of sugar-cane, melada and molasses; tallow—shall be introduced into the United States free of duty so long as the said convention shall remain in force."

Of the above-named articles, the following are free of duty when imported from all countries: plants, tropical and semi-tropical, for the purpose of propagation or cultivation; hides and skins, undressed; seeds: anise, and anise-star, canary, cardamom, caraway and coriander, cumin, fenugreek, and fennel, forest tree, mustard, brown or white, sugar-beet, and sugar-cane.

The treaty further provides that "the following articles, being the growth, manufacture, or produce of the United States of America, shall be introduced into the Hawaiian Islands free of duty: Agricultural im-

dressed; hoop-iron, and rivets, nails, spikes and bolts, tacks, brad sprigs; ice; iron and steel and manufactures thereof; leather; lum and timber of all kinds, round, hewed, sawed, and unmanufactured whole or in part; doors, sashes, and blinds; machinery of all kir engines and parts thereof; oats and hay; paper, stationery, and boo and all manufactures of paper or of paper and wood; petroleum all oils for lubricating or illuminating purposes; plants, shrubs, tr and seeds; rice; sugar, refined or unrefined; salt; soap; shooks, sta and headings; wool and manufactures of wool, other than ready-m clothing; wagons and carts for the purposes of agriculture or of di age; wood and manufactures of wood, or of wood and metal exc furniture either upholstered or carved, and carriages; textile ma factures made of combination of wool, cotton, silk or linen, or of two or more of them other than when ready-made clothing; harn and all manufactures of leather; starch; and tobacco, whether in l or manufactured."

Of the foregoing articles the following are admitted into the Hawai Islands free of duty from all countries: animals, coal, copper sheath and all descriptions of sheathing metal, pig iron, plate iron of one-eig of one inch in thickness and upwards, books printed in the Hawai language, and plants and seeds not for sale.

Hawaiian Islands, during the years ending June 30, from 1871 to 1885, inclusive.

IMPORTS OF MERCHANDISE.

[Abbreviation: n. e. s., not elsewhere specified.]

ARTICLES.	1871.		1872.		1873.		1874.		1875.	
	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.
Free of duty.										
		Dollars.		*Dollars.*		*Dollars.*		*Dollars.*		*Dollars.*
Articles, the produce or manufacture of the United States, brought back, n. e. s				4,554		22,843		7,090		4,419
Coffee lbs.					125,162	20,369	144,764	28,062	91,176	18,598
Cotton, unmanufactured lbs.	7,596	2,727			14,730	4,085	3,770	966	220	56
Furs and fur skins, undressed				1,927						42
Hides and skins, other than fur skins				40,996		105,880		101,434		93,519
Household and personal effects and wearing apparel, old and in use, of persons arriving from foreign countries		3,874		665		2,420		3,791		1,662
Oils:										
Whale or fish, not of American fisheries galls.					8,128	3,967	10,338	4,493	26,564	13,614
Vegetable, fixed or expressed galls.									16,847	7,191
All other free articles		25,841		4,474		27,211		30,982		29,670
TOTAL FREE OF DUTY		32,442		52,636		186,775		176,818		168,771
Dutiable.										
Rice lbs.	599,320	15,654	1,018,196	35,840	1,697,401	62,574	1,067,785	40,110	1,588,232	60,131
Coffee lbs.	188,874	24,484	15,829	2,454						
Fruits of all kinds, including nuts		4,540		9,104		4,999		3,004		8,941
Hides and skins, other than furs		64,268		86,952		10,105				
Oils, whale and fish, not of American fisheries galls.	8,209	5,181	1,987	1,785	26,081	11,445	29,414	10,655	35,437	11,998
Salt lbs.	1,674,080	4,572	322,500	923	717,110	1,692	1,357,765	3,375	746,582	2,089
Sugar and molasses:										
Sugar, brown lbs.	15,018,469	935,909	15,357,784	923,441	15,743,146	934,824	13,575,674	740,786	17,888,000	938,676
Molasses galls.	127,888	18,270	135,853	21,398	65,217	10,512	117,541	17,197	63,578	8,961
Melada and sirup of sugar-cane lbs.			2,400	30	62,224	1,914	7,200	261	21,360	742

No. 37.—QUANTITIES AND VALUES OF MERCHANDISE IMPORTED FROM, AND OF FOREIGN AND DOMESTIC MERCHANDISE EXPORTED TO, THE HAWAIIAN ISLANDS, &c.—Continued.

IMPORTS OF MERCHANDISE—Continued.

ARTICLES.	1871.		1872.		1873.		1874.		1875.	
	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.
Dutiable—Continued.										
		Dollars.		*Dollars.*		*Dollars.*		*Dollars.*		*Dollars.*
Wool, unmanufactured ..... lbs..	133,084	14,242	593,412	110,428	194,207	38,715	132,785	21,488	217,990	24,769
All other dutiable articles	.....	23,682	.....	35,842	.....	11,506	.....	3,258	.....	2,113
TOTAL DUTIABLE	.....	1,110,802	.....	1,228,197	.....	1,088,286	.....	840,134	.....	1,058,420
TOTAL VALUE OF IMPORTS OF MERCHANDISE	.....	1,143,244	.....	1,280,833	.....	1,275,061	.....	1,016,952	.....	1,227,191

EXPORTED TO THE HAWAIIAN ISLANDS, &c.—Continued.

IMPORTS OF MERCHANDISE—Continued.

ARTICLES.	1876.		1877.		1878.		1879.		1880.	
	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.
Free of duty.										
		Dollars.		*Dollars.*		*Dollars.*		*Dollars.*		*Dollars.*
Articles, the produce or manufacture of the United States, brought back, n. e. s		3,859		7,497		6,594		25,219		11,150
Coffee.....lbs.	142,615	29,947	170,379	33,062	150,194	26,577	72,794	11,935	77,923	12,834
Cotton, unmanufactured.....lbs.										
Furs and fur skins, undressed		11,055								
Hides and skins, other than fur skins		71,996		50,861		78,920		92,003		68,171
Household and personal effects and wearing apparel, old and in use, of persons arriving from foreign countries		2,523		2,799		1,117		467		6,922
Oils:										
Whale or fish, not of American fisheries.....galls.										
Vegetable, fixed or expressed.....galls.			7,900	4,319	3,519	1,420	2,223	684		
Articles admitted free under reciprocity treaty with Hawaiian Islands:										
Fruits and nuts				14,098		15,156		16,068		13,384
Rice.....lbs.			3,034,405	128,088	6,063,514	209,042	5,553,676	270,781	5,062,646	294,186
Sugar, brown.....lbs.			30,624,162	2,108,470	30,367,329	2,274,430	41,606,674	2,807,675	61,556,708	4,135,531
Molasses.....galls.			138,862	23,615	87,535	14,449	94,772	14,493	111,950	19,835
Tallow.....lbs.			39,825	2,632	113,690	7,469	2,868	208		
All other articles				451		1,708		3,213		1,527
Total				2,277,354		2,522,254		3,112,438		4,464,463
All other free articles		72,691		9,474		4,746		1,242		2,378
TOTAL FREE OF DUTY		192,071		2,385,366		2,641,628		3,243,988		4,565,918
Dutiable.										
Rice.....lbs.	2,074,506	77,576	836,389	30,012						
Fruits of all kinds, including nuts		15,710		3,877		159		1,069		1,069
Oils, whale and fish, not of American fisheries.....galls.	52,596	20,344	2,609	1,070	8,052	7,382				
Salt.....lbs.					527,026	1,817			92,606	436

No. 37.—QUANTITIES AND VALUES OF MERCHANDISE IMPORTED FROM, AND OF FOREIGN AND DOMESTIC MERCHANDISE EXPORTED TO, THE HAWAIIAN ISLANDS, &c.—Continued.

IMPORTS OF MERCHANDISE—Continued.

ARTICLES.	1876.		1877.		1878.		1879		1880.	
	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.
Dutiable—Continued.										
		Dollars.		*Dollars.*		*Dollars.*	*Dollars.*	*Dollars.*		*Dollars.*
Sugar and molasses:										
Sugar, brown.....lbs..	20, 978, 374	1, 051, 987	1, 849, 987	98, 424	.....	.....	.....	.....	.....	.....
Sugar, refined.....lbs..	128	11	293, 395	26, 640	66, 588	5, 920	.....	.....	.....	.....
Molasses.....galls..	67, 256	9, 075	6, 736	1, 006	.....	.....	.....	.....	.....	.....
Melada and sirup of sugar-cane.....lbs..	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Wool, unmanufactured .....lbs..	15, 498	1, 992	950	227	207, 820	21, 153	125, 530	12, 498	295, 031	35, 026
All other dutiable articles.....	.....	7, 915	.....	3, 713	.....	771	.....	383	.....	3, 995
TOTAL DUTIABLE.....	.....	1, 184, 610	.....	164, 969	.....	37, 202	.....	13, 950	.....	40, 526
TOTAL VALUE OF IMPORTS OF MERCHANDISE	.....	1, 376, 681	.....	2, 550, 335	.....	2, 678, 830	.....	3, 257, 938	.....	4, 606, 444

EXPORTED TO, THE HAWAIIAN ISLANDS, &c.—Continued.

IMPORTS OF MERCHANDISE—Continued.

ARTICLES.	1881.		1882.		1883.		1884.		1885.	
	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.
Free of duty.										
		Dollars.		*Dollars.*		*Dollars.*		*Dollars.*		*Dollars.*
Articles, the produce or manufacture of the United States, brought back, n. e. s		19,545		27,555		25,787		18,884		17,634
Coffee lbs.	30,375	4,676	3,008	479	15,959	2,447	950	137	3,786	708
Furs and fur skins, undressed		718								
Hides and skins, other than fur skins		113,840		102,039		119,394		113,624		103,150
Household and personal effects and wearing apparel, old and in use, of persons arriving from foreign countries		2,160		4,963		11,682		9,294		9,861
Articles admitted free under reciprocity treaty with Hawaiian Islands:										
Fruits and nuts		20,600		26,763		37,987		58,101		61,645
Rice lbs.	6,984,406	389,017	10,135,678	499,825	12,926,951	610,324	12,378,433	558,476	8,291,360	404,478
Sugar, brown lbs.	76,907,247	4,927,021	106,181,858	6,918,083	114,132,670	7,340,033	125,158,677	7,108,292	169,652,603	8,198,164
Molasses galls.	198,987	35,037	152,708	25,257	238,773	37,493	163,347	22,963	71,649	9,054
Tallow lbs.	28,083	1,402	90,436	5,522	67,944	3,999				
All other articles				3		12		485		240
Total		5,373,077		7,475,453		8,029,848		7,748,317		8,673,581
All other free articles		3,721		11,201		6,779		9,744		12,133
TOTAL FREE OF DUTY		5,517,737		7,621,690		8,195,937		7,900,000		8,817,067
Dutiable.										
Fruits of all kinds, including nuts		2,582		673		1,537		69		81
Oils, whale and fish, not of American fisheries galls.	14,662	4,133	600	251						
Salt lbs.			963	5					1,000	20
Wool, unmanufactured lbs.	67,907	6,970	152,885	22,651	142,016	20,182	194,471	16,831	498	80
All other dutiable articles		1,578		1,024		20,805		9,065		a 40,249
TOTAL DUTIABLE		15,263		24,604		42,524		25,965		40,430
TOTAL VALUE OF IMPORTS OF MERCHANDISE		5,533,000		7,646,294		8,238,461		7,925,965		8,857,497

a Spirits, $16,854; opium, $15,012.

No. 37.—QUANTITIES AND VALUES OF MERCHANDISE IMPORTED FROM, AND OF FOREIGN AND DOMESTIC MERCHANDISE EXPORTED TO, THE HAWAIIAN ISLANDS, &c.—Continued.

EXPORTS OF FOREIGN MERCHANDISE.

ARTICLES.	1871.		1872.		1873.		1874.		1875.	
	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.
Free of duty.		*Dollars.*		*Dollars.*		*Dollars.*		*Dollars.*		*Dollars.*
Coffee.....lbs.							131	36		
Tea.....lbs.					15,634	6,173	4,338	1,786	10,910	3,914
All other free articles								84		
TOTAL FREE OF DUTY						6,173		1,906		3,914
Dutiable.										
Breadstuffs		521		268		904		22		
Chemicals, drugs, dyes, and medicines, n. e. s.		1,564		1,453		976		1,549		1,439
Clothing (except of silk, and except hosiery, &c., of cotton or wool)		1,084		1,206		74		572		
Copper, manufactures of		1,855		379		34		214		1,831
Cordage, rope, and twine, of all kinds.....lbs.	12,937	1,266	15,739	1,765					2,535	275
Cotton, manufactures of		4,532		3,152		7,421		1,448		4,465
Fancy goods		2,179		5,024		2,389		3,430		2,844
Fish, not of American fisheries		98		733		362		324		336
Flax, manufactures of		1,911		404				29		411
Fruits of all kinds, including nuts		570		598		634		455		859
Glass and glassware		171		486		1,045		209		224
India-rubber and gutta-percha, manufactures of				1,227				360		113
Iron and steel, and manufactures of		910		4,481		3,215		669		4,022
Jute, and other grasses, manufactures of		671		236		1,375		1,229		5,153
Oils, vegetable, fixed, n. e. s.....galls.	448	308	2,448	1,637	2,400	1,367	150	117	200	150
Opium, and extract of.....lbs.	333	3,111	146	2,656						
Paper, and manufactures of		55		435		941		71		
Provisions		1,793		972		1,886		2,714		6 145
Rice.....lbs.			14,175	398	62,167	1,899				
Silk, manufactures of		4,752				136		95		
Soda, and salts of.....lbs.	255	8			15,094	636	8,796	356	46,219	1,481
Tea.....lbs.	5,291	1,708	12,789	3,644						
Tobacco, manufactures of:									1,200	1,308
Cigars.....lbs.	124	165	4,914	5,595	700	721	2,972	5,254		293
All other		359		430						

Spirits and cordials in casks	proof gals.	36	60	110	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Spirits and cordials in bottles	doz.	368	1,148	56	246	137	276	60	72	37	452			
Wine in casks	gals.	2,243	1,252	2,626	745	1,477	670	2,730	1,115	1,351	605			
Wine in bottles	doz.	453	736	284	833	110	266	219	437	101	996			
Wool, manufactures of			5,545		2,251		2,501				2,689			
All other dutiable articles			5,398		1,941		6,471		3,701					
TOTAL DUTIABLE			43,730		43,469		36,915		24,442		36,276			
TOTAL VALUE OF EXPORTS OF FOREIGN MERCHANDISE			43,730		43,469		43,088		26,948		40,190			

No. 37.—QUANTITIES AND VALUES OF MERCHANDISE IMPORTED FROM, AND OF FOREIGN AND DOMESTIC MERCHANDISE EXPORTED TO, THE HAWAIIAN ISLANDS, &c.—Continued.

EXPORTS OF FOREIGN MERCHANDISE—Continued.

ARTICLES.	1876.		1877.		1878.		1879.		1880.	
	Quantities.	Values.	Quantities.	Values.	Quantities.	s .	Quantities.	Values.	Quantities.	Values.
Free of duty.		*Dollars.*		*Dollars.*		*Dollars.*		*Dollars.*		*Dollars.*
Coffee.....lbs.			4,563	872	480	85	854	142		
Tea.....lbs.	9,517	3,718	4,712	2,088	25,784	7,040	31,648	5,648	17,452	5,549
All other free articles		25		268		313		106		2,231
TOTAL FREE OF DUTY		3,743		3,228		7,438		5,896		7,780
Dutiable.										
Breadstuffs						412		1,359		368
Chemicals, drugs, dyes, and medicines, n. e. s		2,872		1,082		857		2,620		1,872
Clothing (except of silk, and except hosiery, &c., of cotton or wool)		233		7,617		154		2,328		
Copper, manufactures of				1,302		271		130		12
Cordage, rope, and twine, of all kinds.....lbs.	505	54	3,547	489	15,920	2,253	6,774	833		
Cotton, manufactures of		2,124		3,555		1,399		1,418		1,953
Fancy goods		1,978		747		1,371		1,065		2,101
Fish, not of American fisheries		103		95		4,385		8,132		3,262
Flax, manufactures of		769		305		379		30		60
Fruits of all kinds, including nuts		846		445		349		1,454		812
Glass and glassware		2,442		614		653		897		448
India-rubber and gutta-percha, manufactures of						274				
Iron and steel, and manufactures of		799		2,648		3,776		2,784		2,723
Jute, and other grasses, manufactures of		5,979		18,694		100		14,556		18,228
Oils, vegetable, fixed, n. e. s.....galls.	3,000	1,498	300	194	4,290	2,567	4,180	2,218	10,610	5,573
Paper, and manufactures of		159		394		285		981		199
Provisions		2,882		1,732		4,508		4,011		4,207
Rice.....lbs.			519,341	16,924	36,733	962	190,508	4,932	1,244,662	30,065
Silk, manufactures of		159		9,881		709		2,294		785
Soda, and salts of.....lbs.			5,877	177			6,814	177	3,900	130
Sugar, brown.....lbs.			1,205,870	77,278	2,024	90			750	38
Tobacco, manufactures of:										
Cigars.....lbs.	2,660	3,303	1,818	1,878	2,315	2,453	4,349	4,197	2,308	3,018
All other		138		2,179		293		393		1,332

Spirits and cordials in casks	proof gals.	41	47	2,331	797	5,798	5,145	46	1,425	1,519			
Spirits and cordials in bottles	doz.	10	47	101	187	75	145						
Wine in casks	gals.	2,780	915	3,128	1,005	3,051	1,080	4,133	1,163	696		2,425	
Wine in bottles	doz.	192	730	147	478	71	726	201	2,611			465	
Wool, manufactures of			1,592		3,369		1,463		12,530			9,899	
All other dutiable articles			11,988		6,212		9,784						
TOTAL DUTIABLE			41,652		160,292		45,215		80,844			92,884	
TOTAL VALUE OF EXPORTS OF FOREIGN MERCHANDISE			45,396		163,520		52,653		84,740			100,064	

No. 37.—QUANTITIES AND VALUES OF MERCHANDISE IMPORTED FROM, AND OF FOREIGN AND DOMESTIC MERCHANDISE EXPORTED TO, THE HAWAIIAN ISLANDS, &c.—Continued.

EXPORTS OF FOREIGN MERCHANDISE—Continued.

ARTICLES.	1881.		1882.		1883.		1884.		1885.	
	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.
Free of duty.		*Dollars.*		*Dollars.*		*Dollars.*		*Dollars.*		*Dollars.*
Coffee.....lbs.	240	40	17,951	1,742	92,148	9,657	26,875	2,917	55,673	5,794
Tea.....lbs.	21,181	7,385	48,194	11,057	20,611	6,336	26,394	6,774	24,258	6,195
All other free articles	.....	9,923	.....	43	.....	488	.....	886	.....	235
TOTAL FREE OF DUTY	.....	17,348	.....	12,842	.....	16,481	.....	10,577	.....	12,224
Dutiable.										
Breadstuffs	.....	688	.....	.....	.....	.....	.....	.....	.....	.....
Chemicals, drugs, dyes, and medicines, n. e. s	.....	1,975	.....	3,817	.....	768	.....	2,483	.....	1,178
Clothing (except of silk, and except hosiery, &c., of cotton or wool)	.....	.....	.....	237	.....	502	.....	167	.....	.....
Copper, manufactures of	.....	.....	.....	.....	.....	1,606	.....	180	.....	359
Cordage, rope, and twine, of all kinds.....lbs	888	98	.....	.....	.....	.....	.....	.....	.....	.....
Cotton, manufactures of	.....	6,465	.....	2,593	.....	734	.....	3,548	.....	2,627
Fancy goods	.....	836	.....	653	.....	1,029	.....	544	.....	797
Fish, not of American fisheries	.....	5,740	.....	8,081	.....	6,565	.....	5,166	.....	3,091
Flax, manufactures of	.....	202	.....	531	.....	117	.....	a6,756	.....	a26,185
Fruits of all kinds, including nuts	.....	1,628	.....	1,373	.....	1,073	.....	466	.....	347
Glass and glassware	.....	479	.....	218	.....	1,235	.....	62	.....	610
Iron and steel, and manufactures of	.....	2,157	.....	1,285	.....	3,766	.....	20,216	.....	1,094
Jute, and other grasses, manufactures of	.....	23,061	.....	14,964	.....	14,348	.....	(b)	.....	(b)
Oils, vegetable fixed, n. e. s	1,000	477	9,660	4,172	7,930	3,377	6,850	3,439	15,501	7,447
Paper, and manufactures of	.....	.....	.....	884	.....	2,836	.....	717	.....	478
Provisions	.....	1,589	.....	3,477	.....	2,611	.....	2,463	.....	721
Rice.....lbs.	86,308	1,818	20,701	542	33,270	676	8,441	161	120,281	2,467
Silk, manufactures of	.....	442	.....	203	.....	4,717	.....	7	.....	563
Soda, and salts of.....lbs.	23,972	623	5,958	152	19,542	353	6,325	139	7,042	138
Sugar, brown	.....	.....	2,258	113	.....	.....	.....	.....	2,162	83
Tobacco, manufactures of:										
Cigars.....lbs.	3,642	4,259	11,633	9,353	14,190	10,799	9,068	6,229	5,540	3,722
All other	.....	117	.....	539	.....	576	.....	102	.....	501
Wines, spirits, and cordials:										
Spirits and cordials in casks.....proof galls	250	122	1,187	891	978	846	a3,423	1,859	a3,199	2,853
Spirits and cordials in bottles.....doz	1,270	2,818	1,216	2,045	1,044	1,498				

Wine in casks	galls.	1,482	545	1,193	819	2,700	1,851	[illegible]	[illegible]	[illegible]	4,[illegible]
Wine in bottles	doz.	333	2,124	87	796	204	2,784	309	2,434	300	3,518
Wool, manufactures of			1,935		801		1,874		2,261		2,949
All other dutiable articles			5,943		7,522		10,303		7,116		
TOTAL DUTIABLE			66,141		65,761		76,124		66,752		66,125
TOTAL VALUE OF EXPORTS OF FOREIGN MERCHANDISE			83,489		78,603		92,605		77,329		78,349

a Including jute and other grasses, &c. *b* Included under flax manufactures. *c* Proof gallons.

No. 37.—QUANTITIES AND VALUES OF MERCHANDISE IMPORTED FROM, AND OF FOREIGN AND DOMESTIC MERCHANDISE EXPORTED TO, THE HAWAIIAN ISLANDS, &c.—Continued.

EXPORTS OF DOMESTIC MERCHANDISE.

ARTICLES.	1871.		1872.		1873.		1874.		1875.	
	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.
		Dollars.		*Dollars.*		*Dollars.*		*Dollars.*		*Dollars.*
Agricultural implements		1,158		2,628		4,443		1,840		2,438
Animals		180		1,100		260		1,223		2,570
Beer, ale, and porter		482		921		403		219		188
Billiard tables and apparatus		2,802		2,170		76				57
Books, pamphlets, maps, and other publications		6,365		9,288		7,806		4,627		6,951
Bread and breadstuffs:										
Bread and biscuit lbs.	375,973	19,029	184,845	11,158	175,642	8,971	269,103	13,580	349,012	16,265
Oats bush.	14,496	7,516	13,876	8,074	10,210	5,834	11,906	6,049	8,314	4,071
Wheat bush.	1,356	1,563	430	558	1,207	1,294	7,345	8,857	574	466
Wheat flour bbls.	11,804	70,113	8,106	50,120	8,325	42,977	11,650	68,102	9,905	47,701
All other breadstuffs, and preparations of, used as food		7,616		6,575		5,939		8,150		3,936
Carriages, carts, and parts of		4,087		4,336		3,171		956		1,188
Coal tons.	259	3,013	417	2,901	1,046	7,567	868	4,240	3,043	19,494
Copper, and manufactures of		2,199		1,653		2,488		308		1,381
Cotton manufactures		51,300		16,800		30,383		28,000		23,621
Drugs, chemicals, and medicines, n. e. s		13,044		11,012		20,822		10,553		11,482
Fancy articles, n. e. s		9,309		7,514		4,864		6,833		14,745
Fruits		11,084		9,449		5,355		14,813		9,826
Glass and glassware		5,985		3,018		4,622		1,584		5,102
Jewelry and manufactures of gold and silver		2,015				4,212		2,640		1,728
Hats, caps, and bonnets		28,663		23,128		14,369		22,679		17,891
Hay tons	163	2,512	251	4,736	112	2,270	94	1,985	121	1,994
Hemp manufactures		23,427		5,146		7,025		2,439		1,788
India-rubber manufactures		3,122		1,715		2,773		1,616		3,587
Iron and steel, and manufactures of		90,710		83,525		74,527		44,498		61,422
Leather, and manufactures of:										
Boots and shoes pairs	22,918	33,917	19,931	30,882	9,559	19,659	14,240	25,567	13,961	25,751
All other		12,565		12,150		12,471		9,362		9,960
Lime and cement bbls.	2,175	4,415	4,156	8,290	2,000	3,813	1,914	4,056	4,495	9,863
Matches		6,735		1,896		6,044		6,419		16,369
Musical instruments		3,837		1,807		860		1,550		3,682
Oils:										
Mineral galls.	38,410	15,335 227	28,880	11,187 513	66,314	26,516	61,093	17,219 89	43,740	10,745 335

Potatoes ..... bush..	10,235	9,391	12,915	7,217	5,873	4,354	10,404	7,474	6,734	6,120
All other	.....	7,845	.....	4,007	.....	5,201	.....	9,233	.....	9,992
Quicksilver ..... lbs..	21,875	17,160	.....	.....	18,993	16,918	.....	.....	.....	.....
Spirits, from grain ..... galls..	3,923	8,427	3,981	8,776	4,172	9,811	5,292	11,728	5,863	14,984
Sugar, refined ..... lbs..	1,300	157	5,012	661	15,466	1,645	38,208	3,664	10,478	1,095
Tobacco, manufactures of:										
Cigars ..... M..	212	4,021	10	265	.....	.....	5	125	.....	.....
All other manufactures of	.....	13,391	.....	18,571	.....	18,944	.....	15,320	.....	13,884
Varnish ..... galls..	510	1,079	70	153	348	694	.....	.....	80	108
Wearing-apparel	.....	57,837	.....	38,570	.....	26,133	.....	36,893	.....	50,137
Wine ..... galls..	1,060	1,961	1,247	1,777	1,636	2,633	1,054	1,354	651	1,078
Wood and manufactures of:										
Boards, clapboards, deals, planks, joists, and scantling, M feet..	5,440	55,194	4,811	51,563	2,447	26,454	3,546	34,331	2,869	29,121
Shingles ..... M..	4,849	10,239	3,771	8,618	3,459	7,915	4,316	7,514	4,916	9,236
Shooks, staves, and headings	.....	46,816	.....	17,190	.....	45,067	.....	25,642	.....	33,607
Hogsheads and barrels, empty ..... No..	1,984	2,177	200	439	988	1,360	500	575	.....	.....
Household furniture	.....	17,915	.....	16,759	.....	14,591	.....	5,824	.....	6,319
All other, n. e. s	.....	19,111	.....	17,518	.....	40,216	.....	16,573	.....	16,382
Wool, manufactures of	.....	10,019	.....	942	.....	7,482	.....	.....	.....	6,050
All other articles	.....	18,082	.....	12,684	.....	22,948	.....	36,444	.....	30,233
TOTAL VALUE OF EXPORTS OF DOMESTIC MERCHANDISE..	.....	814,885	.....	590,295	.....	631,103	.....	588,280	.....	621,974

No. 37.—QUANTITIES AND VALUES OF MERCHANDISE IMPORTED FROM, AND OF FOREIGN AND DOMESTIC MERCHANDISE EXPORTED TO, THE HAWAIIAN ISLANDS, &c.—Continued.

EXPORTS OF DOMESTIC MERCHANDISE—Continued.

ARTICLES.	1876.		1877.		1878.		1879.		1880.	
	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.
		Dollars.		*Dollars.*		*Dollars.*		*Dollars.*		*Dollars.*
Agricultural implements		7,177		9,323		17,149		6,626		9,901
Animals		3,005		5,875		17,900		74,216		90,192
Beer, ale, and porter		704		1,061		3,505		12,883		19,890
Billiard tables and apparatus				104		472		1,328		2,920
Books, pamphlets, maps and other publications		7,334		5,519		10,105		8,787		10,442
Bread and breadstuffs:										
Bread and biscuit lbs.	159,143	10,261	367,731	17,766	496,197	27,290	698,525	35,496	643,195	33,052
Oats bush.	4,534	3,010	6,912	4,305	14,892	8,396	31,064	13,849	31,609	14,339
Wheat bush.	127	99	4,062	6,991	3,079	4,223	1,757	1,710	2,491	2,774
Wheat flour bbls	11,076	63,361	11,698	72,640	14,004	89,686	17,934	93,484	17,074	99,648
All other breadstuffs, and preparations of, used as food		8,057		7,515		13,557		29,642		52,846
Carriages, carts, and parts of		6,361		10,477		15,430		27,427		28,294
Coal tons	430	2,810	684	5,026	1,099	7,515	1,362	5,389	922	5,775
Copper, and manufactures of		5,275		3,167		6,820		7,168		8,740
Cotton manufactures		41,491		103,849		60,249		125,231		114,895
Drugs, chemicals, and medicines, n. e. s		14,790		19,909		12,265		25,765		27,569
Fancy articles, n. e. s		14,531		15,796		16,260		26,070		18,378
Fruits		10,259		15,271		14,566		26,497		25,004
Glass and glassware		4,034		8,789		7,307		11,442		5,942
Jewelry and manufactures of gold and silver		1,268		1,698		6,626		24,439		17,914
Hats, caps, and bonnets		12,890		16,540		21,193		40,705		23,323
Hay tons	270	5,117	238	4,376	469	8,345	1,112	17,426	1,946	23,579
Hemp manufactures		1,066		6,657		2,801		7,096		7,001
India-rubber manufactures		2,810		18,204		7,587		6,211		8,924
Iron and steel, and manufactures of		98,707		162,771		483,081		586,262		369,940
Leather and manufactures of:										
Boots and shoes pairs	14,398	24,186	21,188	32,341	23,550	38,416	33,428	53,665	26,406	53,153
All other		10,207		15,500		31,785		36,820		34,643
Lime and cement bbls	2,400	4,650	3,604	6,054	5,821	8,775	10,048	16,381	10,483	14,706
Matches		5,246		14,679		6,094		1,527		2,202
Musical instruments		1,347		4,442		4,974		7,504		3,590
Oils:										
Mineral galls	23,126	5,429	91,691	29,749	141,600	33,154	121,944	22,630	161,202	33,785
All other		238		305		1,082		4,066		8,705

Lard ..... lbs..	5,122	795	10,268	1,476	36,094	4,440	118,550	11,858	131,902	12,540
Pork ..... lbs..	50,250	5,888	30,200	2,102	22,437	1,813	177,020	10,727	207,715	12,244
Potatoes ..... bush..	5,922	5,102	8,567	4,614	9,507	9,671	13,495	9,912	25,145	10,298
All other	.....	11,105	.....	17,397	.....	19,753	.....	51,062	.....	46,745
Quicksilver ..... lbs..	.....	.....	77	38	.....	.....	.....	.....	.....	.....
Spirits, from grain ..... galls..	4,225	10,200	4,622	11,413	3,950	10,165	14,261	24,638	3,123	1,340
Sugar, refined ..... lbs..	15,365	1,520	193,591	19,463	86,484	9,214	145,987	15,606	206,513	20,569
Tobacco, manufactures of:										
Cigars ..... M..	2	66	76	1,489	534	7,140	612	7,846	874	14,507
All other manufactures of	.....	27,587	.....	32,426	.....	31,398	.....	48,268	.....	46,951
Varnish ..... galls..	138	187	320	591	1,021	1,511	708	1,029	466	896
Wearing apparel	.....	60,636	.....	60,510	.....	67,776	.....	80,629	.....	30,443
Wine ..... galls..	738	1,016	2,028	2,091	1,013	572	1,681	1,519	2,302	1,708
Wood and manufactures of:										
Boards, clapboards, deals, planks, joists, and scantling ..... M feet..	5,821	59,346	7,215	75,900	11,081	111,211	14,561	142,558	13,644	143,044
Shingles ..... M..	4,662	10,025	8,471	16,799	12,536	21,781	12,166	19,985	12,065	19,274
Shooks, staves, and headings	.....	17,639	.....	25,180	.....	32,907	.....	12,456	.....	360
Hogsheads and barrels, empty ..... No..	1,060	1,348	140	175	.....	.....	184	129	813	891
Household furniture	.....	10,939	.....	22,195	.....	43,587	.....	53,264	.....	62,145
All other, n. e. s.	.....	33,379	.....	39,293	.....	67,224	.....	65,907	.....	71,624
Wool, manufactures of	.....	2,697	.....	4,432	.....	8,489	.....	10,545	.....	12,370
All other articles	.....	33,598	.....	78,798	.....	129,748	.....	173,634	.....	131,181
TOTAL VALUE OF EXPORTS OF DOMESTIC MERCHANDISE ..	.....	724,267	.....	1,109,429	.....	1,683,446	.....	2,288,178	.....	1,985,506

Lard ..... lbs..	125,718	14,808	178,380	25,417	204,250	30,763	242,788	30,589	239,288	26,894
Pork ..... lbs..	195,900	12,366	159,300	13,999	150,900	14,679	147,700	13,450	100,700	8,932
Potatoes ..... bush..	34,547	18,722	29,814	27,383	40,719	26,468	44,175	24,559	36,337	21,049
All other	.....	65,799	.....	72,616	.....	78,058	.....	102,102	.....	79,001
Quicksilver ..... lbs..	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Spirits, from grain ..... galls..	3,512	2,380	.....	.....	20,859	18,139	19,968	531,223	10,461	525,775
Sugar, refined ..... lbs..	190,826	22,650	295,218	29,164	356,615	40,966	333,743	34,894	463,911	35,674
Tobacco, manufactures of:										
Cigars ..... M..	1,648	27,983	1,491	23,892	1,232	20,474	812	16,619	2,795	24,596
All other manufactures of	.....	49,572	.....	66,332	.....	84,687	.....	76,655	.....	71,547
Varnish ..... galls..	905	1,464	908	1,279	330	491	870	1,846	540	858
Wearing apparel	.....	43,758	.....	35,537	.....	74,289	.....	(c)	.....	(c)
Wine ..... galls..	3,923	4,526	1,250	1,312	2,725	3,190	5,160	6,734	.....	10,371
Wood, and manufactures of:										
Boards, clapboards, deals, planks, joists, and scantling ..... M feet..	19,675	223,816	22,123	259,422	23,226	294,574	22,512	326,913	15,077	195,892
Shingles ..... M..	16,529	28,752	15,539	29,042	17,994	36,163	17,032	32,958	12,096	21,608
Shooks, staves, and headings	.....	6,530	.....	6,662	.....	13,414	.....	12,374	.....	13,985
Hogsheads and barrels, empty ..... No..	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Household furniture	.....	49,686	.....	93,233	.....	105,685	.....	71,172	.....	50,184
All other, n. e. s	.....	85,384	.....	93,212	.....	101,804	.....	89,200	.....	46,177
Wool, manufactures of	.....	12,339	.....	22,199	.....	21,083	.....	76,341	.....	85,354
All other articles	.....	160,010	.....	165,968	.....	287,115	.....	203,991	.....	191,281
TOTAL VALUE OF EXPORTS OF DOMESTIC MERCHANDISE..	.....	2,694,583	.....	3,272,172	.....	3,683,460	.....	3,446,024	.....	2,709,573

a Barley, $84,059.

b Not enumerated.

c Whisky only.

No. 37.—QUANTITIES AND VALUES OF MERCHANDISE IMPORTED FROM, AND OF FOREIGN AND DOMESTIC MERCHANDISE EXPORTED TO, THE HAWAIIAN ISLANDS, &c.—Continued.

EXPORTS OF FOREIGN MERCHANDISE—Continued.

ARTICLES.	1876.		1877.		1878.		1879.		1880.	
	Quantities.	Values.	Quantities.	Values.	Quantities.	s .	Quantities.	Values.	Quantities.	Values.
Free of duty.		*Dollars.*		*Dollars.*		*Dollars.*		*Dollars.*		*Dollars.*
Coffee.....lbs.			4,563	872	480	85	854	142		
Tea.....lbs.	9,517	3,718	4,712	2,088	25,784	7,040	31,648	5,648	17,452	5,549
All other free articles		25		268		313		106		2,231
TOTAL FREE OF DUTY		3,743		3,228		7,438		5,896		7,780
Dutiable.										
Breadstuffs						412		1,359		368
Chemicals, drugs, dyes, and medicines, n. e. s		2,872		1,082		857		2,620		1,872
Clothing (except of silk, and except hoisery, &c., of cotton or wool)		233		7,617		154		2,328		
Copper, manufactures of				1,302		271		130		12
Cordage, rope, and twine, of all kinds.....lbs.	505	54	3,547	489	15,920	2,253	6,774	833		
Cotton, manufactures of		2,124		3,555		1,399		1,418		1,953
Fancy goods		1,978		747		1,371		1,065		2,101
Fish, not of American fisheries		103		95		4,385		8,132		3,202
Flax, manufactures of		769		305		379		30		60
Fruits of all kinds, including nuts		846		445		349		1,454		812
Glass and glassware		2,442		614		653		897		448
India-rubber and gutta-percha, manufactures of						274				
Iron and steel, and manufactures of		799		2,648		3,776		2,784		2,723
Jute, and other grasses, manufactures of		5,979		18,694		100		14,556		18,228
Oils, vegetable, fixed, n. e. s.....galls.	3,000	1,498	300	194	4,290	2,567	4,180	2,218	10,610	5,573
Paper, and manufactures of		159		394		285		981		199
Provisions		2,882		1,732		4,508		4,011		4,207
Rice.....lbs.			519,341	16,924	36,733	962	190,508	4,932	1,244,662	30,065
Silk, manufactures of		159		9,881		709		2,294		785
Soda, and salts of.....lbs.			5,877	177			6,814	177	3,900	130
Sugar, brown.....lbs.			1,205,870	77,278	2,024	90			750	38
Tobacco, manufactures of:										
Cigars.....lbs.	2,660	3,303	1,818	1,878	2,815	2,458	4,349	4,197	2,808	3,018
All other		138		2,179		393		898		1,859

Wine, spirits, and cordials:										
Spirits and cordials in casks ..... proof galls..	41	47	2,831	797	5,706	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Spirits and cordials in bottles ..... doz..	10	47	101	187	78	146	42	52	[illegible]	[illegible]
Wine in casks ..... galls..	2,780	915	3,128	1,005	3,051	1,089	4,133	1,423	1,319	[illegible]
Wine in bottles ..... doz..	192	730	147	472	71	726	201	1,163	696	2,425
Wool, manufactures of	.....	1,592	.....	3,389	.....	1,463	.....	2,611	.....	465
All other dutiable articles	.....	11,983	.....	6,212	.....	9,784	.....	12,530	.....	9,899
TOTAL DUTIABLE	.....	41,652	.....	160,292	.....	45,215	.....	80,844	.....	92,884
TOTAL VALUE OF EXPORTS OF FOREIGN MERCHANDISE ...	.....	45,895	.....	163,520	.....	52,653	.....	86,740	.....	100,664

No. 37.—QUANTITIES AND VALUES OF MERCHANDISE IMPORTED FROM, AND OF FOREIGN AND DOMESTIC MERCHANDISE EXPORTED TO, THE HAWAIIAN ISLANDS, &c.—Continued.

EXPORTS OF FOREIGN MERCHANDISE—Continued.

ARTICLES.	1881.		1882.		1883.		1884.		1885.	
	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.
Free of duty.		*Dollars.*		*Dollars.*		*Dollars.*		*Dollars.*		*Dollars.*
Coffee.....lbs.	240	40	17,951	1,742	92,148	9,657	26,875	2,917	55,673	5,794
Tea.....lbs.	21,181	7,385	48,194	11,057	20,611	6,336	26,394	6,774	24,258	6,195
All other free articles		9,923		43		488		886		235
TOTAL FREE OF DUTY		17,348		12,842		16,481		10,577		12,224
Dutiable.										
Breadstuffs		688								
Chemicals, drugs, dyes, and medicines, n. e. s		1,975		3,817		768		2,483		1,178
Clothing (except of silk, and except hosiery, &c., of cotton or wool)				237		502		167		
Copper, manufactures of						1,606		180		359
Cordage, rope, and twine, of all kinds.....lbs	888	98								
Cotton, manufactures of		6,465		2,593		734		3,548		2,627
Fancy goods		836		653		1,029		544		797
Fish, not of American fisheries		5,740		8,081		6,565		5,166		3,091
Flax, manufactures of		202		531		117		a6,756		a26,135
Fruits of all kinds, including nuts		1,628		1,373		1,073		466		347
Glass and glassware		479		218		1,235		62		610
Iron and steel, and manufactures of		2,157		1,285		3,766		20,216		1,094
Jute, and other grasses, manufactures of		23,061		14,964		14,348		(b)		(b)
Oils, vegetable fixed, n. e. s	1,000	477	9,660	4,172	7,930	3,377	6,850	3,439	15,501	7,447
Paper, and manufactures of				884		2,836		717		478
Provisions		1,589		3,477		2,611		2,463		721
Rice.....lbs.	86,308	1,818	20,701	542	33,270	676	8,441	161	120,281	2,467
Silk, manufactures of		442		203		4,717		7		563
Soda, and salts of.....lbs.	23,972	623	5,958	152	19,542	353	6,325	139	7,042	138
Sugar, brown			2,258	113					2,162	83
Tobacco, manufactures of:										
Cigars.....lbs.	3,642	4,250	11,633	9,353	14,190	10,799	9,968	6,229	5,540	3,722
All other		117		539		576		102		591
Wines, spirits, and cordials:										
Spirits and cordials in casks.....proof galls	259	122	1,187	891	978	546	63,423	1,859	c3,199	2,853
Spirits and cordials in bottles.....doz	1,270	2,818	1,216	2,045	1,044	1,498				

Wine in casks	gals.	1,452	546	1,[illegible]	6[illegible]	2,7[illegible]	1,661	[illegible]	2,[illegible]	[illegible]	[illegible]	[illegible]
Wine in bottles	doz.	833	2,124	87	796	284	2,764	309	2,261			3,618
Wool, manufactures of			1,985		801		1,874		2,261			2,949
All other dutiable articles			5,943		7,522		10,803		7,116			
TOTAL DUTIABLE			66,141		65,761		76,124		66,752			66,125
TOTAL VALUE OF EXPORTS OF FOREIGN MERCHANDISE			88,489		78,603		92,605		77,829			78,349

a Including jute and other grasses, &c.

b Included under flax manufactures.

c Proof gallons.

No. 37.—QUANTITIES AND VALUES OF MERCHANDISE IMPORTED FROM, AND OF FOREIGN AND DOMESTIC MERCHANDISE EXPORTED TO, THE HAWAIIAN ISLANDS, &c.—Continued.

EXPORTS OF DOMESTIC MERCHANDISE.

ARTICLES.	1871.		1872.		1873.		1874.		1875.	
	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.
		Dollars.		*Dollars.*		*Dollars.*		*Dollars.*		*Dollars.*
Agricultural implements		1,158		2,628		4,443		1,840		2,438
Animals		180		1,100		260		1,223		2,570
Beer, ale, and porter		482		921		403		219		188
Billiard tables and apparatus		2,802		2,170		76				57
Books, pamphlets, maps, and other publications		6,365		9,288		7,806		4,627		6,951
Bread and breadstuffs:										
Bread and biscuit lbs.	375,973	19,029	184,845	11,158	175,642	8,971	269,103	13,580	349,012	16,265
Oats bush.	14,496	7,516	13,876	8,074	10,210	5,834	11,906	6,049	8,314	4,071
Wheat bush.	1,356	1,563	430	558	1,207	1,294	7,345	8,857	574	466
Wheat flour bbls.	11,804	70,113	8,106	50,120	8,325	42,977	11,650	68,102	9,905	47,701
All other breadstuffs, and preparations of, used as food		7,616		6,575		5,939		8,150		3,936
Carriages, carts, and parts of		4,087		4,336		3,171		956		1,188
Coal tons	259	3,013	417	2,901	1,046	7,567	868	4,240	3,043	19,494
Copper, and manufactures of		2,199		1,653		2,488		308		1,381
Cotton manufactures		51,300		16,800		30,383		28,000		23,621
Drugs, chemicals, and medicines, n. e. s		13,044		11,012		20,822		10,553		11,482
Fancy articles, n. e. s		9,309		7,514		4,864		6,833		14,745
Fruits		11,084		9,449		5,355		14,813		9,826
Glass and glassware		5,985		3,018		4,622		1,584		5,102
Jewelry and manufactures of gold and silver		2,015				4,212		2,640		1,728
Hats, caps, and bonnets		28,663		23,128		14,369		22,679		17,891
Hay tons	163	2,512	251	4,786	112	2,270	94	1,985	121	1,994
Hemp manufactures		23,427		5,146		7,025		2,439		1,788
India-rubber manufactures		3,122		1,715		2,773		1,616		3,587
Iron and steel, and manufactures of		90,710		83,525		74,527		44,498		61,422
Leather, and manufactures of:										
Boots and shoes pairs	22,918	33,917	19,931	30,882	9,559	19,659	14,240	25,567	13,961	25,751
All other		12,565		12,150		12,471		9,362		9,960
Lime and cement bbls.	2,175	4,415	4,156	8,290	2,000	3,813	1,914	4,056	4,495	9,863
Matches		6,735		1,896		6,044		6,419		16,309
Musical instruments		3,837		1,807		860		1,550		3,682
Oils:										
Mineral galls.	38,410	15,335	28,880	11,187	66,314	26,516	61,093	17,219	43,740	10,745
		227		519		2,160		1,922		1,619

Provisions:										
Bacon and hams ..... lbs..	53,491	8,953	20,707	3,284	60,220	848	28,354	5,000		1,000
Beef ..... lbs..	10,950	1,134	27,000	2,854	12,329			23,051		
Butter and cheese ..... lbs..	32,774	7,614	13,745	2,446	11,957	1,872			9,117	
Fish, dried, smoked, pickled, or other cured		32,622		26,660		21,573				
Lard ..... lbs..	10,052	1,394	6,740	902	7,160	879	6,840	890	9,117	1,000
Pork ..... lbs..	65,750	6,743	11,100	1,098	18,400	1,374	21,900	1,586	40,200	4,168
Potatoes ..... bush..	10,235	9,391	12,915	7,217	5,873	4,354	10,404	7,474	6,734	6,120
All other		7,845		4,007		5,201		9,233		9,992
Quicksilver ..... lbs..	21,875	17,160			18,993	16,918				
Spirits, from grain ..... galls..	3,923	8,427	3,981	8,776	4,172	9,811	5,292	11,728	5,863	14,984
Sugar, refined ..... lbs..	1,300	157	5,012	661	15,466	1,645	38,208	3,664	10,478	1,095
Tobacco, manufactures of:										
Cigars ..... M..	212	4,021	10	265			5	125		
All other manufactures of		13,391		18,571		18,944		15,320		13,884
Varnish ..... galls..	510	1,079	70	153	348	694			80	108
Wearing-apparel		57,837		38,570		26,133		36,893		50,137
Wine ..... galls..	1,060	1,961	1,247	1,777	1,636	2,633	1,054	1,354	651	1,078
Wood and manufactures of:										
Boards, clapboards, deals, planks, joists, and scantling, M feet..	5,440	55,194	4,811	51,563	2,447	26,454	3,546	34,331	2,869	29,121
Shingles ..... M..	4,849	10,239	3,771	8,618	3,459	7,915	4,316	7,514	4,916	9,236
Shooks, staves, and headings		46,816		17,190		45,067		25,642		23,607
Hogsheads and barrels, empty ..... No..	1,984	2,177	200	439	988	1,360	500	575		
Household furniture		17,915		16,759		14,591		5,824		6,319
All other, n. e. s		19,111		17,518		40,216		16,573		16,382
Wool, manufactures of		10,019		942		7,482				6,050
All other articles		18,082		12,684		22,948		36,744		30,233
TOTAL VALUE OF EXPORTS OF DOMESTIC MERCHANDISE..		814,885		590,295		631,103		588,280		621,974

No. 37.—QUANTITIES AND VALUES OF MERCHANDISE IMPORTED FROM, AND OF FOREIGN AND DOMESTIC MERCHANDISE EXPORTED TO, THE HAWAIIAN ISLANDS, &c.—Continued.

EXPORTS OF DOMESTIC MERCHANDISE—Continued.

ARTICLES.	1876.		1877.		1878.		1879.		1880.	
	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.	Quantities.	Values.
		Dollars.		*Dollars.*		*Dollars.*		*Dollars.*		*Dollars.*
Agricultural implements		7,177		9,323		17,149		6,626		9,901
Animals		3,005		5,875		17,900		74,216		90,192
Beer, ale, and porter		704		1,061		3,505		12,883		19,890
Billiard tables and apparatus				104		472		1,328		2,920
Books, pamphlets, maps and other publications		7,334		5,519		10,105		8,787		10,442
Bread and breadstuffs:										
Bread and biscuit lbs.	159,143	10,261	367,731	17,766	496,197	27,290	698,525	35,496	643,195	33,052
Oats bush.	4,534	3,010	6,912	4,305	14,892	8,396	31,064	13,849	31,609	14,339
Wheat bush.	127	99	4,062	6,991	3,079	4,223	1,757	1,710	2,491	2,774
Wheat flour bbls	11,076	63,361	11,698	72,640	14,004	89,686	17,934	93,484	17,074	99,648
All other breadstuffs, and preparations of, used as food		8,057		7,515		13,557		29,642		52,846
Carriages, carts, and parts of		6,361		10,477		15,430		27,427		28,294
Coal tons	430	2,810	684	5,026	1,099	7,515	1,362	5,389	922	5,775
Copper, and manufactures of		5,275		3,167		6,820		7,168		8,740
Cotton manufactures		41,491		103,849		80,249		125,231		114,895
Drugs, chemicals, and medicines, n. e. s		14,790		19,909		12,265		25,765		27,569
Fancy articles, n. e. s		14,531		15,796		16,260		26,070		18,378
Fruits		10,259		15,271		14,566		26,497		25,004
Glass and glassware		4,034		8,789		7,307		11,442		5,942
Jewelry and manufactures of gold and silver		1,268		1,698		6,626		24,439		17,914
Hats, caps, and bonnets		12,890		16,540		21,193		40,705		23,323
Hay tons	270	5,117	238	4,376	469	8,345	1,112	17,426	1,946	23,579
Hemp manufactures		1,066		6,657		2,801		7,096		7,001
India-rubber manufactures		2,810		18,204		7,587		6,211		8,924
Iron and steel, and manufactures of		98,707		162,771		483,081		586,262		369,940
Leather and manufactures of:										
Boots and shoes pairs	14,393	24,186	21,188	32,341	23,550	38,416	33,428	53,665	26,406	53,153
All other		10,207		15,500		31,785		36,820		34,643
Lime and cement bbls	2,400	4,650	3,604	6,054	5,821	8,775	10,048	16,381	10,483	14,706
Matches		5,246		14,679		6,094		1,527		2,202
Musical instruments		1,847		4,442		4,974		7,504		3,590
Oils:										
Mineral galls	28,126	5,429	91,691	29,749	141,600	33,154	121,044	22,630	161,202	33,785
All other		238		305		1,032		4,066		5,295
						5,469		9,127		13,974

Provisions:										
Bacon and hams	lbs.	38,989	6,466	48,815	8,082	95,515	13,102	134,427	17,738	136,596	17,618
Beef	lbs.	85,914	4,768	109,151	5,035	88,755	4,526	255,100	11,092	198,546	8,910
Butter and cheese	lbs.	13,889	3,337	13,320	2,710	64,329	15,000	196,294	40,371	125,025	26,142
Fish, dried, smoked, pickled, or other cured			18,552		25,697		38,061		75,958		74,618
Lard	lbs.	5,122	795	10,268	1,476	36,094	4,440	113,550	11,858	131,902	12,540
Pork	lbs.	50,250	5,888	30,200	2,102	22,437	1,813	177,020	10,727	207,715	12,244
Potatoes	bush.	5,922	5,102	8,567	4,614	9,507	9,671	13,495	9,912	25,145	10,298
All other			11,105		17,397		19,758		51,062		46,745
Quicksilver	lbs.			77	38						
Spirits, from grain	galls.	4,225	10,200	4,622	11,413	3,950	10,165	14,261	24,638	3,123	1,340
Sugar, refined	lbs.	15,365	1,520	193,591	19,463	86,484	9,214	145,987	15,606	206,513	20,569
Tobacco, manufactures of:											
Cigars	M.	2	66	76	1,489	534	7,140	612	7,846	874	14,507
All other manufactures of			27,587		32,426		31,398		48,268		46,951
Varnish	galls.	138	187	320	591	1,021	1,511	708	1,029	466	896
Wearing apparel			60,636		60,510		67,776		80,629		30,443
Wine	galls.	738	1,016	2,028	2,091	1,013	572	1,681	1,519	2,302	1,708
Wood and manufactures of:											
Boards, clapboards, deals, planks, joists, and scantling	M feet.	5,821	59,346	7,215	75,900	11,081	111,211	14,561	142,558	13,644	143,044
Shingles	M.	4,662	10,025	8,471	16,799	12,536	21,781	12,166	19,985	12,065	19,274
Shooks, staves, and headings			17,639		25,180		32,907		12,456		360
Hogsheads and barrels, empty	No.	1,060	1,348	140	175			184	129	813	891
Household furniture			10,939		22,195		43,587		53,264		62,145
All other, n. e. s			33,379		39,293		67,224		65,907		71,624
Wool, manufactures of			2,697		4,432		8,489		10,545		12,370
All other articles			33,598		78,798		129,748		173,634		131,181
TOTAL VALUE OF EXPORTS OF DOMESTIC MERCHANDISE			724,267		1,109,429		1,683,446		2,288,178		1,985,506

Potatoes ..... bush..	34,547	18,722	29,814	27,383	40,719	26,468	44,175	24,559	36,337	21,049
All other	.....	65,799	.....	72,616	.....	78,058	.....	102,102	.....	79,001
Quicksilver ..... lbs..	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Spirits, from grain ..... galls..	3,512	2,380	.....	.....	20,859	18,139	19,968	b31,223	10,461	b25,775
Sugar, refined ..... lbs..	190,826	22,650	295,218	29,164	356,615	40,966	333,743	34,894	463,911	35,674
Tobacco, manufactures of:										
Cigars ..... M..	1,648	27,983	1,491	23,822	1,232	20,474	812	16,619	2,795	24,596
All other manufactures of	.....	49,572	.....	66,332	.....	84,687	.....	76,655	.....	71,547
Varnish ..... galls..	905	1,464	908	1,279	330	491	870	1,846	540	858
Wearing apparel	.....	43,758	.....	35,537	.....	74,289	.....	(c)	.....	(c)
Wine ..... galls..	3,923	4,526	1,250	1,312	2,725	3,190	5,160	6,734	.....	10,371
Wood, and manufactures of:										
Boards, clapboards, deals, planks, joists, and scantling ..... M feet..	19,675	223,816	22,123	259,422	23,226	294,574	22,512	326,913	15,077	195,892
Shingles ..... M..	16,529	28,752	15,539	29,042	17,994	36,163	17,032	32,958	12,096	21,608
Shooks, staves, and headings	.....	6,530	.....	6,662	.....	13,414	.....	12,374	.....	13,985
Hogsheads and barrels, empty ..... No..	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Household furniture	.....	49,686	.....	93,233	.....	105,685	.....	71,172	.....	50,184
All other, n. e. s	.....	85,384	.....	93,212	.....	101,804	.....	89,200	.....	46,177
Wool, manufactures of	.....	12,339	.....	22,199	.....	21,083	.....	76,341	.....	85,354
All other articles	.....	160,010	.....	165,968	.....	287,115	.....	203,991	.....	191,281
TOTAL VALUE OF EXPORTS OF DOMESTIC MERCHANDISE	.....	2,694,583	.....	3,272,172	.....	3,683,460	.....	3,446,024	.....	2,709,573

a Barley, $84,059.

b Not enumerated.

c Whisky only.

No. 38.—STATEMENT showing the TOTAL VALUES of DOMESTIC and FOREIGN EXPORTS from the United States to the HAWAIIAN ISLANDS, and of the IMPORTS from the HAWAIIAN ISLANDS into the United States, from 1871 to 1885, inclusive (including gold and silver coin and bullion and merchandise).

YEAR ENDING JUNE 30—	MERCHANDISE.					GOLD AND SILVER COIN AND BULLION.				
	EXPORTS.			IMPORTS.	TOTAL IMPORTS AND EXPORTS.	EXPORTS.			IMPORTS.	TOTAL IMPORTS AND EXPORTS.
	Domestic.	Foreign.	Total.			Domestic.	Foreign.	Total.		
	Dollars.	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*
1871	814, 885	43, 730	858, 615	1, 143, 244	2, 001, 859	25, 500	.....	25, 500	9, 910	35, 410
1872	590, 295	43, 469	633, 764	1, 280, 833	1, 914, 597	30, 000	.....	30, 000	4, 487	34, 487
1873	631, 103	43, 088	674, 191	1, 275, 061	1, 949, 252	23, 000	.....	23, 000	41, 209	64, 209
1874	588, 280	26, 348	614, 628	1, 016, 952	1, 631, 580	35, 000	.....	35, 000	220	35, 220
1875	621, 974	40, 190	662, 164	1, 227, 191	1, 889, 355	33, 200	.....	33, 200	.....	33, 200
1876	724, 267	45, 395	769, 662	1. 376, 681	2, 146, 343	30, 000	9, 595	39, 595	5, 911	45, 506
1877	1, 109, 429	163, 520	1, 272, 949	2, 550, 335	3, 823, 284	187, 513	.....	187, 513	81, 428	268, 941
1878	1, 683, 446	52, 653	1, 736, 099	2, 678, 830	4, 414, 929	100, 250	.....	100, 250	9, 600	109, 850
1879	2, 288, 178	86, 740	2, 374, 918	3, 257, 938	5, 632, 856	134, 980	.....	134, 980	6, 626	141, 606
1880	1, 985, 506	100, 664	2, 086, 170	4, 606, 444	6, 692, 614	214, 100	245, 550	459, 650	8, 911	468, 561
1881	2, 694, 583	83, 489	2, 778, 072	5, 533, 000	8, 311, 072	202, 685	13, 520	216, 205	45, 400	261, 605
1882	3, 272, 172	78, 603	3, 350, 775	7, 646, 294	10, 997, 069	98, 945	3, 554	102, 499	1, 100	103, 599
1883	3, 683, 460	92, 605	3, 776, 065	8, 238, 461	12, 014, 526	26, 098	9, 750	35, 848	6, 336	42, 184
1884	3, 446, 024	77, 329	3, 523, 353	7, 925, 965	11, 449, 318	1, 047, 250	43, 980	1, 091, 230	28, 336	1, 119, 566
1885	2, 709, 573	78, 349	2, 787, 922	8, 857, 497	11, 645, 419	697, 800	.....	697, 800	616, 059	1, 313, 859

Reciprocity Treaty and other, from *the* HAWAIIAN ISLANDS into the United States, and of EXPORTS of Merchandise from the United States to the HAWAIIAN ISLANDS, from 1871 to 1885, inclusive.

YEAR ENDING JUNE 30—	CUSTOMS DISTRICTS ON THE—											
	PACIFIC COAST.								ATLANTIC COAST.			
	San Francisco.				Other ports.				Imports.			Exports.
	Imports.			Exports.	Imports.			Exports.	Under reciprocity treaty.	Other.	Total.	
	Under reciprocity treaty.	Other.	Total.		Under reciprocity treaty.	Other.	Total.					
	Dollars.	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*
1871	.....	901,114	901,114	645,933	.....	186,903	186,903	83,306	.....	65,137	65,137	154,876
1872	.....	1,048,908	1,048,908	532,312	.....	191,117	191,117	74,438	.....	45,295	45,295	57,014
1873	.....	1,109,890	1,109,890	475,059	.....	173,601	173,601	39,549	.....	32,779	32,779	182,583
1874	.....	683,286	683,286	482,000	.....	302,300	302,300	91,113	.....	31,586	31,586	76,515
1875	.....	997,879	997,879	530,047	.....	203,644	203,644	74,023	.....	25,668	25,668	91,294
1876	.....	1,112,663	1,112,663	641,743	.....	222,580	222,580	74,607	.....	47,349	47,349	92,907
1877	1,964,454	303,549	2,268,003	1,183,556	310,201	30,098	340,299	104,671	2,699	20,762	23,461	172,235
1878	2,204,180	103,913	2,308,093	1,378,755	308,901	3,711	312,612	160,743	9,173	58,552	67,725	296,851
1879	2,934,281	113,087	3,047,368	2,087,591	176,397	4,345	180,742	198,452	1,760	34,694	36,454	223,855
1880	4,306,435	149,522	4,455,957	2,180,192	157,983	690	158,673	108,401	45	680	725	197,237
1881	5,367,646	205,323	5,572,969	2,324,634	5,431	.....	5,431	195,791	.....	.....	.....	478,802
1882	7,328,819	170,352	7,499,171	2,835,753	63,820	432	64,252	206,076	82,814	57	82,871	308,946
1883	7,666,998	199,948	7,866,946	2,969,915	11,364	5	11,369	278,660	351,486	8,660	360,146	527,490
1884	7,677,516	234,250	7,911,766	2,779,229	12,700	1,459	14,159	330,468	.....	40	40	413,656
1885	8,605,582	242,254	8,847,836	2,424,399	6,094	856	6,950	182,806	260	2,451	2,711	180,717

No. 40.—STATEMENT showing the TOTAL VALUES of FREE and DUTIABLE MERCHANDISE IMPORTED from the HAWAIIAN ISLANDS into the United States, distinguishing the values of articles named in the Reciprocity Treaty, together with the estimated amounts of duty remitted under the provisions of that treaty, from 1868 to 1885, inclusive.

YEAR ENDING JUNE 30—	IMPORTS.				VALUE OF ARTICLES MADE FREE BY THE TREATY.		
	FREE OF DUTY.						
	Under the reciprocity treaty.	Other free articles.	Total.	Dutiable.	Imported prior to the treaty.	Imported subsequent to the treaty.	Estimated amounts of duty remitted under treaty.*
	Dollars.	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*
1868	.....	6,359	6,359	1,183,041	1,096,101	.....	.....
1869	.....	7,705	7,705	1,281,079	1,196,442	.....	.....
1870	.....	7,469	7,469	1,127,254	1,020,008	.....	.....
1871	.....	32,442	32,442	1,110,802	1,038,641	.....	.....
1872	.....	52,636	52,636	1,228,197	1,076,765	.....	.....
1873	.....	186,775	186,775	1,088,286	1,024,928	.....	.....
1874	.....	176,818	176,818	810,134	801,358	.....	.....
1875	.....	168,771	168,771	1,058,420	1,017,451	.....	.....
1876	.....	192,071	192,071	1,184,610	1,154,348	.....	.....
1877	2,277,354	108,012	2,385,366	164,969	.....	2,277,354	1,064,225
1878	2,522,254	119,374	2,641,628	37,202	.....	2,522,254	1,029,854
1879	3,112,438	131,550	3,243,988	13,950	.....	3,112,438	1,387,380
1880	4,464,463	101,455	4,565,918	40,526	.....	4,464,463	2,009,060
1881	5,373,077	144,660	5,517,737	15,263	.....	5,373,077	2,604,776
1882	7,475,453	146,237	7,621,690	24,604	.....	7,475,453	3,539,293
1883	8,029,848	166,089	8,195,937	42,524	.....	8,029,848	4,279,975
1884	7,690,216	209,784	7,900,000	25,965	.....	7,690,216	3,307,270
1885	8,611,936	205,131	8,817,067	40,430	.....	8,611,936	4,103,775

*The collector of customs at San Francisco, under date of February 26, 1886, forwards the statement of his appraiser that the polariscopic test of the Hawaiian sugar brought into that port during the fiscal years 1884 and 1885 would average a little above 93°. The estimated duty remitted has therefore been computed at 2.12 cents per pound, which is the equivalent of the polariscopic test above indicated.

HAWAIIAN ISLANDS into the United States, from 1866 to 1876, inclusive.

YEAR ENDING JUNE 30—	Molasses.		SUGAR, DUTCH STANDARD IN COLOR.								Total value of sugar and molasses.
			All above No. 12.		Above No. 12 and not above No. 15.		Above No. 15 and not above No. 20.		TOTAL.		
	Gallons.	*Dollars.*	*Pounds.*	*Dollars.*	*Pounds.*	*Dollars.*	*Pounds.*	*Dollars.*	*Pounds.*	*Dollars.*	*Dollars.*
1866	393,573	58,063	12,622,159	579,756	5,591,842	375,247	27,061	1,895	18,241,062	956,898	1,014,961
1869	269,094	41,136	.....	.....	.....	.....	.....	.....	16,314,482	1,087,433	1,128,569
1870	78,774	11,255	.....	.....	.....	.....	.....	.....	14,016,181	901,645	912,900
1871	127,888	18,270	.....	.....	.....	.....	.....	.....	15,018,469	935,909	954,179
1872	135,853	21,398	.....	.....	.....	.....	.....	.....	15,357,784	923,441	944,839
1873	65,217	10,512	.....	.....	.....	.....	.....	.....	15,743,146	934,824	945,336
1874	117,541	17,197	.....	.....	.....	.....	.....	.....	13,575,674	740,786	757,983
1875	63,578	8,961	.....	.....	.....	.....	.....	.....	17,838,000	938,676	947,637
1876	67,256	9,075	.....	.....	.....	.....	.....	.....	20,978,374	1,051,987	1,061,062

No. 42.—STATEMENT showing the QUANTITIES and VALUES of MOLASSES and BROWN SUGAR IMPORTED from the HAWAIIAN ISLANDS and ENTERED for CONSUMPTION in the United States, from 1877 to 1885, inclusive.

[Free of duty under reciprocity treaty, act of Congress approved August 15, 1876, which went into effect September 9, 1876.]

YEAR ENDING JUNE 30—	Molasses.		SUGAR, DUTCH STANDARD IN COLOR.								Total value of sugar and molasses.
			Above No. 7 and not above No. 10.		Above No. 10 and not above No. 13.		Above No. 13 and not above No. 16.		Above No. 16 and not above No. 20.		TOTAL.		
	Gallons.	*Dollars.*	*Pounds.*	*Dollars.*	*Pounds.*	*Dollars.*	*Pounds.*	*Dollars.*	*Pounds.*	*Dollars.*	*Pounds.*	*Dollars.*	*Dollars.*
1877	138,672	23,509	3,980,804	230,155	11,291,315	714,490	10,183,556	737,525	5,186,406	426,303	30,642,081	2,108,473	2,131,982
1878	87,534	14,449	2,437,920	161,922	10,805,283	757,734	12,227,780	963,550	4,897,345	391,224	30,368,328	2,274,430	2,288,879
1879	98,112	14,936	8,174,146	501,850	16,615,686	1,099,164	15,670,564	1,118,118	1,232,673	92,061	41,693,069	2,811,193	2,826,129
1880	111,950	19,835	7,793,349	450,030	28,416,596	1,892,737	23,868,886	1,689,061	1,477,493	103,659	61,556,324	4,135,487	4,155,322
1881	198,987	35,037	5,373,005	286,707	28,486,589	1,774,952	43,649,613	2,865,362	.....	.....	76,909,207	4,927,021	4,962,058
1882	152,700	25,256	a3,952,806	182,873	53,228,379	3,416,318	44,973,293	3,026,298	4,027,380	292,595	106,181,858	6,918,084	6,943,340
1883	238,773	37,493	b5,179,726	213,582	55,797,719	3,553,651	50,921,114	3,385,194	2,234,111	157,606	114,132,670	7,340,033	7,377,526
1884	163,347	22,964	.....	.....	78,249,593	4,287,730	44,993,790	2,702,792	1,905,297	117,770	125,148,680	7,108,292	7,131,256
1885	71,649	9,054	.....	.....	116,365,606	5,490,517	52,193,920	2,654,762	1,093,257	52,865	169,652,783	8,198,144	8,207,198

a Includes 13,571 pounds not above No. 7, valued at $606.

b Includes 243,600 pounds not above No. 7, valued at $10,108.

No. 43.—STATEMENT, by ARTICLES, showing the VALUE of MERCHANDISE IMPORTED into the HAWAIIAN ISLANDS during the Year 1884.

[From Report of Hawaiian Collector-General of Customs, 1885.]

ARTICLES.	VALUE OF MERCHANDISE.			Total
	Dutiable.	Free by treaty.	In bond.	
Imports at Honolulu.	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*
Ale, porter, beer, cider	27,496 46	.....	45,093 85	72,5
Animals and birds	85 00	86,946 38	.....	87,0
Building materials	60,916 93	64,175 84	1,800 38	126,8
Clothing, hats, boots	168,299 84	133,467 56	7,452 23	309,2
Crockery, glassware, lamps, and lamp fixtures	46,457 14	.....	3,134 40	49,5
rugs, surgical instruments, and dental materials	45,869 32	.....	2,312 18	48,1
Dry goods:				
Cottons	79,216 16	108,908 43	2,977 62	191,1
Linens	13,871 81	.....	502 63	14,3
Silks	29,716 62	.....	359 16	30,0
Woolens	52,654 59	13,585 04	2,554 57	68,7
Mixed goods	18,848 22	3,472 53	4,781 63	27,1
Fancy goods, millinery, &c	89,172 50	5,367 73	6,674 16	101,2
Fish (dry and salt)	11,135 67	63,609 18	7 00	74,7
Flour	2,220 24	168,060 67	.....	170,2
Fruits (fresh)	712 82	10,743 46	.....	11,4
Furniture	53,543 61	40,937 45	2,118 47	96,5
Grain and feed	982 44	183,616 09	.....	184,5
Groceries and provisions	108,282 45	360,906 20	1,740 77	470,9
Guns and gun materials	6,984 24	2,902 42	1,171 97	11,0
Gunpowder	4,382 92	.....	.....	4,3
Hardware, agricultural implements, and tools	104,311 57	176,716 64	4,963 12	285,9
Iron and steel, &c	26,858 97	14,502 68	94 96	41,4
Jewelry, plate, clocks	38,832 75	.....	2,817 05	41,6
Leather	790 28	41,342 66	.....	42,1
Lumber	50 60	283,851 41	.....	283,9
Machinery	62,667 48	144,803 98	3,701 04	211,1
Matches	301 36	4,135 01	314 99	4,7
Musical instruments	6,784 10	5,572 24	704 21	13,0
Naval stores	6,982 40	35,377 52	179 36	42,5
Oils (cocoanut, kerosene, whale, &c.)	26,802 00	61,718 54	452 00	88,9
Paints and paint oils, and turpentine	30,727 13	2,050 60	782 94	33,5
Perfumery and toilet articles	9,570 33	2,905 90	507 13	12,9
Railroad materials, rails, cars, &c	20,092 11	78 00	.....	20,1
Saddlery, carriages, and materials	34,117 17	33,452 47	2,827 75	70,3
Shooks and containers	77,338 97	18,783 63	10,586 51	106,7
Spirits	4,594 78	.....	136,881 61	141,4
Stationery and books	14,732 25	53,246 60	1,188 38	69,1
Tea	22,321 35	.....	100 00	22,4
Tin and tinware, and materials	10,563 68	.....	136 16	10,6
Tobacco, cigars, &c	8,600 03	93,657 39	38,198 68	140,4
Wines (light)	6,124 81	.....	16,401 77	22,5
Sundry merchandise not included in above	52,320 40	35,842 02	2,900 33	91,0
Charges on invoices	48,271 30	34,649 32	4,216 61	87,1
25 per cent. added on uncertified invoices	3,080 14	.....	.....	3,0
Total	1,437,634 94	2,289,384 59	310,635 62	4,037,6
Discounts, damaged, and short	.....	.....	.....	58,1
Net total imports at Honolulu	.....	.....	.....	3,979,5
Imports at other ports	.....	.....	.....	400,0
Merchandise entered free of duty	.....	.....	.....	257,2
TOTAL IMPORTS OF MERCHANDISE	.....	.....	.....	4,637,7
IMPORTS OF SPECIE	.....	.....	.....	1,180,3

No. 44.—STATEMENT, by COUNTRIES, showing the VALUE of MERCHANDISE IMPORTED into the HAWAIIAN ISLANDS during the Year 1884.

[From Report of Hawaiian Collector-General of Customs, 1885.]

COUNTRIES FROM WHICH IMPORTED.	MERCHANDISE. Dutiable.	From the United States, free by treaty.	Merchandise and spirits, bonded.
At Honolulu:	*Dollars.*	*Dollars.*	*Dollars.*
United States, Pacific ports	392, 965 68	1, 976, 765 83	108, 094 65
United States, Atlantic ports	29, 676 02	302, 371 96	25, 253 52
United Kingdom	610, 150 72	.....	105, 381 84
Germany	184, 017 07	.....	13, 328 98
France	12, 097 86	.....	9, 622 73
China	141, 333 03	.....	37, 828 72
Australia and New Zealand	18, 806 91	.....	10, 568 41
Micronesia	269 96	.....	.....
Islands in the Pacific	717 29	.....	.....
Total Honolulu	1, 390, 034 54	2, 279, 137 29	310, 078 85
At Kahului	49, 560 32	203, 087 40	414 00
At Hilo	7, 361 45	89, 175 14	.....
At Mahukona	2, 778 42	40, 852 96	.....
At Kawaihae	16 00	7, 258 95	.....
TOTAL INTO ALL PORTS	1, 449, 750 76	2, 619, 511 74	310, 492 85

RECAPITULATION OF IMPORTS.

Value of goods free by treaty	$2, 619, 511 74
Value of goods paying duty	1, 449, 750 76
Value of goods and spirits bonded	316, 492 85
Value of goods free of duty	257, 758 90
Total	4, 637, 514 22

No. 45.—STATEMENT, by COUNTRIES, showing the PRINCIPAL ARTICLES of DOMESTIC MERCHANDISE EXPORTED from the HAWAIIAN ISLANDS during the calendar Year 1884.

[From Report of Hawaiian Collector-General of Customs, 1885.]

ARTICLES.	COUNTRIES TO WHICH EXPORTED. Pacific ports of the United States.	Australia and New Zealand.	Islands in the Pacific.	China.	South American ports.	Total.
Sugar ..... pounds	142, 637, 457	.....	17, 466	.....	.....	142, 654, 923
Molasses ..... gallons	97, 482	.....	.....	.....	13, 048	110, 530
Paddy ..... pounds	46, 224	.....	.....	.....	.....	46, 224
Rice ..... do	9, 478, 900	10, 000	4, 100	.....	.....	9, 493, 000
Coffee ..... do	4, 181	50	.....	.....	.....	4, 231
Fungus ..... do	.....	.....	.....	2, 247	.....	2, 247
Bananas ..... bunches	58, 040	.....	.....	.....	.....	58, 040
Goat-skins ..... number	20, 125	.....	.....	.....	.....	20, 125
Hides ..... do	21, 026	.....	.....	.....	.....	21, 026
Tallow ..... pounds	2, 864	.....	.....	.....	.....	2, 864
Wool ..... do	300, 369	107, 254	.....	.....	.....	407, 623
Betel-leaves ..... boxes	416	.....	.....	.....	.....	416
Sheep-skins ..... number	8, 038	.....	.....	.....	.....	8, 038
Calf-skins ..... do	117	.....	.....	.....	.....	117
Bananas, dried ..... boxes	106	.....	.....	.....	.....	106
Pulu ..... pounds	465	.....	.....	.....	.....	465

TOTAL VALUE OF ALL EXPORTS FROM THE HAWAIIAN ISLANDS.

Value of domestic goods exported	$7, 977, 908 82
Value of domestic goods furnished as supplies (estimated)	89, 740 00
Value of foreign goods exported	117, 273 81
TOTAL	8, 184, 922 63

(Specie, $671,687.67.)

No. 46.—STATEMENT SHOWING the TOTAL VALUES of the IMPORTS into, and EXPORTS from, the HAWAIIAN ISLANDS; the CUSTOMS RECEIPTS; the HAWAIIAN NATIONAL and MERCHANT MARINE, and the ENTRANCES of WHALERS, for each YEAR from 1847 to 1884, inclusive.

[From the Hawaiian Almanac and Annual.]

YEARS.	Total imports.	Total exports.	Domestic produce exported.	Foreign merchandise re-exported.	Total custom-house receipts.	OIL, BONE, AND IVORY TRANSSHIPPED.				National vessels entered.	Merchant vessels entered.		Entries of whalers.	Spirits consumed.
						Sperm.	Whale.	Bone.	Ivory.					
	Dollars.	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*	*Gallons.*	*Gallons.*	*Pounds.*	*Pounds.*	*Number.*	*No.*	*Tons.*	*Number.*	*Gallons.*
1847	710,138 52	264,226 63	209,018 53	55,208 07	48,801 25	(a)	(a)	(a)	(a)	4	67	(a)	167	3,271
1848	605,618 73	300,370 98	266,819 43	33,551 55	55,568 94	(a)	(a)	(a)	(a)	7	90	(a)	254	3,443
1849	729,839 44	383,285 81	185,083 74	198,202 07	83,231 32	(a)	(a)	(a)	(a)	12	180	(a)	274	5,718
1850	1,035,058 70	783,052 35	536,522 63	246,529 72	121,506 73	(a)	(a)	(a)	(a)	12	469	90,304	237	8,251
1851	1,823,821 68	691,231 49	309,828 94	381,401 55	160,602 19	104,362	909,379	901,604	.....	7	446	87,920	220	11,270
1852	759,868 54	638,393 20	257,251 69	381,142 51	113,001 93	173,490	1,182,738	3,159,951	.....	3	235	61,065	519	14,148
1853	1,401,975 86	472,996 83	281,599 17	191,397 66	155,650 17	175,396	3,787,348	2,020,264	.....	7	211	59,451	535	18,203
1854	1,590,837 71	585,122 67	274,029 70	311,092 97	152,125 58	156,484	1,683,922	1,479,678	.....	16	125	47,288	525	17,537
1855	1,383,169 87	572,601 49	274,741 67	297,859 82	158,411 90	109,308	1,436,810	872,954	.....	13	154	51,304	468	18,528
1856	1,151,422 99	670,824 67	466,278 79	204,545 88	123,171 75	121,294	1,641,579	1,074,942	.....	9	123	42,213	366	14,779
1857	1,130,165 41	645,526 10	423,303 91	222,222 91	140,777 03	176,306	2,018,027	1,295,525	.....	10	82	26,817	387	16,144
1858	1,089,660 60	787,082 08	529,966 11	257,115 97	166,138 23	222,464	2,551,382	1,614,710	.....	10	115	45,875	526	14,637
1859	1,555,558 74	931,329 27	628,575 21	302,754 06	132,129 37	156,360	1,668,175	1,147,120	.....	5	139	59,241	549	14,158
1860	1,223,749 05	807,459 20	480,526 54	326,932 66	117,302 57	47,859	782,086	571,966	.....	10	117	41,226	325	14,295
1861	761,109 57	959,774 72	476,872 74	182,901 98	100,115 56	20,435	795,988	527,910	.....	7	93	45,952	190	9,676
1862	998,239 67	838,424 61	586,541 87	251,882 74	107,490 42	19,522	460,407	193,920	.....	6	113	48,687	73	8,940
1863	1,175,493 25	1,025,852 74	744,413 54	281,439 20	122,752 68	56,667	675,344	337,013	.....	6	88	42,930	102	7,862
1864	1,712,241 61	1,662,181 49	1,113,328 81	548,852 66	159,116 72	33,860	608,502	339,331	.....	8	157	75,893	130	10,237
1865	1,946,265 68	1,808,257 55	1,521,211 82	287,045 73	192,566 63	42,841	578,593	337,394	.....	7	151	67,068	180	11,745
1866	1,993,821 56	1,934,576 76	1,205,821 61	428,755 15	215,047 08	118,961	1,250,965	611,178	.....	3	150	60,628	229	12,833
1867	1,957,410 17	1,679,661 87	1,324,122 02	355,539 85	220,599 91	103,215	821,929	405,140	.....	11	134	60,268	243	15,119
1868	1,935,790 72	1,898,215 63	1,450,269 26	447,946 37	210,076 30	106,778	774,913	596,043	.....	7	113	54,833	153	16,030
1869	2,040,068 10	2,336,358 83	1,743,291 59	623,067 24	215,798 42	157,690	698,189	627,770	.....	6	127	75,656	102	17,016
1870	1,930,227 42	2,144,942 62	1,514,425 06	630,517 56	223,815 75	105,234	443,809	642,905	.....	16	159	91,248	118	19,948
1871	1,625,884 27	1,892,089 45	1,733,094 46	158,974 99	221,332 34	63,310	283,055	29,362	.....	9	171	105,903	47	18,817
1872	1,746,178 97	1,607,521 99	1,402,685 38	204,836 61	228,375 43	50,887	32,074	81,998	.....	7	146	98,647	47	18,843
1873	1,437,611 77	2,128,054 66	1,725,507 78	402,546 88	198,655 76	56,687	573,697	122,554	25,108	12	109	92,767	63	21,212
1874	1,310,827 40	1,839,620 27	1,622,455 37	217,164 90	183,857 66	23,187	403,876	174,111	56,552	13	120	71,266	43	18,466
1875	1,505,670 08	2,089,736 60	1,835,382 91	254,353 09	213,447 21	37,812	312,305	104,715	17,254	22	120	93,110	641	21,181
1876	1,570,146 22	2,241,041 91	2,055,133 55	185,908 36	199,036 40	(a)	(a)	(a)	(a)	14	141	108,706	37	19,707
1877	2,428,139 28	3,676,202 98	2,462,416 66	213,786 32	230,498 71	(a)	(a)	(a)	(a)	17	168	116,621	33	24,223
1878	3,046,369 70	3,548,471 84	3,343,979 49	214,492 35	284,426 42	(a)	(a)	(a)	(a)	11	232	163,610	27	36,360
1879	3,742,978 39	3,781,717 97	3,605,503 76	116,214 21	359,671 05	(a)	(a)	(a)	(a)	6	251	151,576	25	43,166
1880	3,673,268 41	4,968,444 87	4,889,194 40	79,250 47	402,181 63	(a)	(a)	(a)	(a)	15	239	141,916	16	44,289
1881	4,517,978 64	6,855,436 56	6,789,076 38	66,360 18	423,192 01	(a)	(a)	(a)	(a)	13	258	159,341	19	46,085
1882	4,974,510 01	8,299,016 70	8,165,931 34	133,085 36	505,300 98	(a)	(a)	(a)	(a)	6	258	172,619	32	50,064
1883	5,624,240 09	8,133,343 88	8,036,227 11	97,116 77	577,332 87	(a)	(a)	(a)	(a)	18	267	185,316	18	61,272
1884	4,637,514 22	8,184,922 63	8,067,648 82	117,273 81	551,736 59	(a)	(a)	(a)	(a)	11	241	187,826	23	61,512

a No data. b These figures give the number of custom house entries of whalers at various ports, some of the vessels entering several ports during the year.

No. 47.—STATEMENT showing, by COUNTRIES, the IMPORTS of MERCHANDISE into the HAWAIIAN ISLANDS for the Ten Years ending June 30, 1884.

YEARS.	IMPORTED AT— Honolulu from—								All other ports.	Total Hawaiian Islands.
	Pacific ports, United States.	Atlantic ports, United States.	United Kingdom.	Germany.	France.	China.	All other countries.	Total.		
1875.	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*
Dutiable	777,423 55	59,791 87	132,538 41	152,136 16	.....	35,915 65	26,248 90	1,184,054 54	463 75	1,184,518 29
Free of duty	.....	.....	.....	.....	.....	.....	176,124 05	176,124 05	676 90	176,800 95
Bonded	100,148 30	9,896 72	48,384 09	27,892 50	.....	659 00	114,889 32	301,869 93	19,281 86	321,151 79
Total	877,571 85	69,688 59	180,922 50	180,028 66	.....	36,574 65	317,262 27	1,662,048 52	20,422 51	1,682,471 03
1876.										
Dutiable	675,533 65	13,199 46	60,550 47	199,184 96	.....	48,347 53	53,762 38	1,050,578 45	3,380 70	1,053,959 15
Free of duty	.....	.....	.....	.....	.....	.....	247,135 24	247,135 24	795 82	247,930 56
Free under treaty	256,007 63	87,823 32	.....	.....	.....	.....	.....	343,830 95	.....	343,830 95
Bonded	74,470 78	8,203 13	22,800 13	15,389 27	.....	2,969 25	39,780 16	163,612 72	2,437 18	166,049 90
Total	1,006,012 06	109,225 91	83,350 60	214,574 23	.....	51,316 78	340,677 78	1,805,157 36	6,613 20	1,811,770 56
1877.										
Dutiable	563,636 31	17,124 66	249,880 87	193,324 38	.....	30,772 98	59,971 21	1,114,712 81	2,358 65	1,117,071 46
Free of duty	.....	.....	.....	.....	.....	.....	126,216 81	126,216 81	.....	126,216 81
Free under treaty	969,529 49	72,176 33	.....	.....	.....	.....	.....	1,041,705 82	58,936 70	1,100,642 52
Bonded	64,239 66	17,163 27	41,825 28	8,824 96	.....	1,346 55	77,025 58	210,425 30	.....	210,425 30
Total	1,597,405 46	106,463 66	291,706 15	202,149 34	.....	32,119 53	263,216 60	2,493,060 74	61,295 35	2,554,356 09
1878.										
Dutiable	302,550 21	12,866 15	514,404 34	99,442 20	19,078 81	57,946 80	74,540 39	1,080,828 90	6,823 81	1,087,652 71
Free of duty	.....	.....	.....	.....	.....	.....	112,570 82	112,570 82	.....	112,570 82
Free under treaty	1,304,020 75	259,345 14	.....	.....	.....	.....	.....	1,563,365 89	56,621 72	1,619,987 61
Bonded	111,498 79	(a)	34,711 30	20,304 25	.....	25,846 31	33,797 91	226,158 56	.....	226,158 56
Total	1,718,069 75	272,211 29	549,115 64	119,746 45	19,078 81	83,793 11	220,909 12	2,982,924 17	63,445 53	3,046,369 70

a Included under Pacific ports.

No. 47.—IMPORTS OF MERCHANDISE INTO THE HAWAIIAN ISLANDS, &c., 1875-1884—Continued.

YEARS.	IMPORTED AT—									
	Honolulu from—								All other ports.	Total Hawaiian Islands.
	Pacific ports, United States.	Atlantic ports, United States.	United Kingdom.	Germany.	France.	China.	All other countries.	Total.		
1879.	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*
Dutiable	361, 919 49	33, 670 59	798, 261 17	185, 867 69	26, 256 94	86, 443 43	81, 396 79	1, 573, 816 10	12, 017 57	1, 585, 833 67
Free of duty							149, 639 41	149, 639 41		149, 639 41
Free under treaty	1, 317, 824 62	298, 727 77						1, 616, 552 39	203, 802 94	1, 820, 355 33
Bonded	69, 851 50	8, 320 52	43, 683 98	4, 876 06	7, 597 11	39, 459 97	13, 326 18	187, 115 32	34 66	187, 149 98
Total	1, 749, 595 61	340, 718 88	841, 945 15	190, 743 75	33, 854 05	125, 903 40	244, 362 38	3, 527, 123 22	215, 855 17	3, 742, 978 39
1880.										
Dutiable	422, 013 18	41, 860 04	577, 061 14	44, 777 17	15, 112 81	86, 690 46	55, 067 12	1, 242, 581 92	42, 939 68	1, 285, 521 60
Free of duty							126, 615 36	126, 615 36		126, 615 36
Free under treaty	1, 456, 851 37	203, 810 18						1, 660, 661 55	365, 896 35	2, 026, 557 90
Bonded	126, 513 59	11, 344 21	45, 005 73	3, 911 82	1, 712 34	34, 528 80	10, 961 73	233, 978 22	595 33	234, 573 55
Total	2, 005, 378 14	257, 014 43	622, 066 87	48, 688 99	16, 825 15	121, 219 26	192, 644 21	3, 263, 837 05	409, 431 36	3, 673, 268 41
1881.										
Dutiable	377, 697 72	29, 399 96	726, 631 23	105, 268 94	18, 081 71	a 58, 753 79	46, 785 25	1, 362, 618 60	69, 178 13	1, 431, 796 73
Free of duty							150, 207 97	150, 207 97	5, 070 00	155, 277 97
Free under treaty	1, 650, 716 95	277, 503 20						1, 928, 220 15	718, 296 97	2, 646, 577 12
Bonded	94, 526 96	23, 650 98	145, 223 52	18, 444 29	6, 179 41	a 18, 329 60	7, 972 06	314, 326 82		314, 326 82
Total	2, 122, 941 63	330, 614 14	871, 854 75	123, 713 23	24, 261 12	77, 083 39	204, 965 28	3, 755, 433 54	792, 545 10	4, 547, 978 64
1882.										
Dutiable	522, 642 84	29, 844 83	730, 389 16	166, 357 52	15, 789 06	112, 527 05	81, 732 75	1, 609, 284 11	77, 484 82	1, 686, 768 93
Free of duty							221, 399 88	221, 399 88	17, 360 03	238, 759 91
Free under treaty	1, 991, 293 77	245, 675 46						2, 236, 969 23	552, 005 40	2, 788, 974 63
Bonded	126, 863 67	5, 281 65	68, 374 30	18, 832 05	2, 423 24	26, 309 52	3, 714 61	251, 799 04	8, 207 50	260, 006 54
Total	2, 640, 800 28	280, 801 94	798, 763 46	185, 189 57	18, 212 30	138, 837 47	256, 847 24	4, 319, 452 26	655, 057 75	4, 974, 510 01

1883.										
Dutiable	619, 892 51	36, 830 41	822, 001 01	191, 793 03	28, 603 84	50, 396 77	33, 074 98	1, 777, 592 05	66, 105 29	1, 843, 697 34
Free of duty							258, 556 18	258, 556 18	8, 724 50	267, 280 68
Free under treaty	2, 352, 959 51	442, 254 76						2, 795, 214 27	374, 201 43	3, 169, 415 70
Bonded	129, 653 08	26, 292 20	117, 293 73	24, 538 85	7, 331 01	19, 696 64	18, 743 26	343, 548 77	297 00	343, 845 77
Total	3, 102, 505 10	505, 377 37	939, 294 74	216, 331 88	30, 934 85	70, 093 41	310, 374 42	5, 174, 911 27	449, 328 82	5, 624, 240 09
1884.										
Dutiable	392, 965 68	29, 676 02	610, 150 72	184, 017 07	12, 097 86	141, 333 03	19, 794 16	1, 390, 034 54	59, 716 19	1, 449, 750 73
Free of duty							241, 623 24	241, 623 24	16, 135 66	257, 758 90
Free under treaty	1, 976, 765 33	302, 371 96						2, 279, 137 29	340, 374 45	2, 619, 511 74
Bonded	108, 094 65	25, 253 52	105, 381 84	13, 328 98	9, 622 73	37, 828 72	10, 568 41	310, 078 85	414 00	310, 492 85
Total	2, 477, 825 66	357, 301 50	715, 532 56	197, 346 05	21, 720 59	179, 161 75	271, 985 81	4, 220, 873 92	416, 640 30	4, 637, 514 22

a Includes Japan.

No. 47.—IMPORTS OF MERCHANDISE INTO THE HAWAIIAN ISLANDS, & 1875 to 1884—Continued.

RECAPITULATION of TOTAL VALUES of IMPORTS into the HAWAII ISLANDS.

YEAR ENDING JUNE 30—	Dutiable.	Free of duty.	Free under reciprocity treaty.	Bonded.	Total.
	Dollars.	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*
1875	1,184,518 29	176,800 95	.....	321,151 79	1,682,47
1876	1,053,959 15	247,930 56	343,830 95	166,049 90	1,811,78
1877	1,117,071 46	126,216 81	1,100,642 52	210,425 30	2,554,35
1878	1,087,652 71	112,570 82	1,619,987 61	226,158 56	3,046,36
1879	1,585,833 67	149,639 41	1,820,355 33	187,149 98	3,742,97
1880	1,285,521 60	126,615 36	2,026,557 90	234,573 55	3,673,28
1881	1,431,796 73	155,277 97	2,646,577 12	314,326 82	4,547,97
1882	1,686,768 93	238,759 91	2,788,974 63	260,006 54	4,974,51
1883	1,843,697 94	267,280 68	3,169,415 70	343,845 77	5,624,24
1884	1,449,750 73	257,758 90	2,619,511 74	310,492 85	4,637,51
Annual average for 10 years	1,372,657 12	185,885 14	1,813,585 35	257,418 10	3,629,54

RECAPITULATION of the TOTAL VALUES of IMPORTS at HONOLULU, principal COUNTRIES.

YEAR ENDING JUNE 30—	United States.	United Kingdom.	Germany.	France.	China.	All other countries.	Total
	Dollars.	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars.*	*Dollars*
1875	947,260 44	180,922 50	180,028 66	.....	36,574 65	317,262 27	1,662,0
1876	1,115,237 97	83,350 60	214,574 23	.....	51,316 78	349,677 78	1,805,1
1877	1,703,869 12	291,706 15	202,149 34	.....	32,119 53	263,216 60	2,493,0
1878	1,990,281 04	549,115 64	119,746 45	19,078 81	83,793 11	220,909 12	2,982,9
1879	2,090,314 49	841,945 15	190,743 75	33,854 05	125,903 40	244,362 38	3,527,1
1880	2,262,392 57	622,066 87	48,688 99	16,825 15	121,219 26	192,644 21	3,263,8
1881	2,453,555 77	871,854 75	123,713 23	24,261 12	77,083 39	204,965 28	3,755,4
1882	2,921,602 22	798,763 46	185,189 57	18,212 30	138,837 47	256,847 24	4,319,4
1883	3,607,882 47	939,294 74	216,331 88	30,934 35	70,093 41	310,374 42	5,174,8
1884	2,835,127 16	715,532 56	197,346 05	21,720 59	179,161 75	271,985 81	4,220,8
Annual average for 10 y's.	2,192,752 33	589,455 24	167,851 22	16,488 64	91,610 28	262,324 50	3,320,4

NOTE.—The imports free under the general tariff laws not being stated by countries, their valu been credited to "all other countries." The value of such imports represents about 8 per ce he total imports.

TOTAL VALUE of the IMPORTS from the principal and other CO TRIES into the HAWAIIAN ISLANDS during the Year ending June 1885.

COUNTRIES.	Values.	Percenta total imp
	Dollars.	
United States	3,367,585 76	
United Kingdom	769,004 62	
Germany	225,543 59	
China	179,161 75	
Australia and New Zealand	72,026 81	
France	21,720 59	
All other countries	2,471 10	
Total	4,637,514 22	

No. 48.—STATEMENT, by COUNTRIES, showing the NUMBER, TONNAGE, and NATIONALITY of MERCHANT VESSELS ENTERED at ports of the HAWAIIAN ISLANDS from FOREIGN PORTS during the Year ending June 30, 1884.

NATIONALITY OF VESSELS.	ENTERED FROM—					
	The United States.		Australia and New Zealand.		British Columbia.	
	Vessels.	*Tons.*	*Vessels.*	*Tons.*	*Vessels.*	*Tons.*
United States	166	109, 590	13	14, 947	6	3, 261
British	9	14, 326	11	15, 951	.....	.....
Hawaiian	5	1, 751	.....	.....	.....	.....
German	.....	.....	1	697	.....	.....
French	.....	.....	.....	.....	.....	.....
Norwegian	.....	.....	1	513	.....	.....
Bolivian	.....	.....	1	441	.....	.....
Total	180	125, 667	27	32, 549	6	3, 261

NATIONALITY OF VESSELS.	ENTERED FROM—					
	In distress.		China.		Islands in the Pacific.	
	Vessels.	*Tons.*	*Vessels.*	*Tons.*	*Vessels.*	*Tons.*
nited States	1	279	5	7, 541	.....	.....
itish	.....	.....	3	3, 801	.....	.....
awaiian	.....	.....	.....	.....	4	813
rman	.....	.....	1	468	.....	.....
ench	1	244	.....	.....	2	319
rwegian	.....	.....	.....	.....	.....	.....
livian	.....	.....	.....	.....	.....	.....
Total	2	523	9	11, 810	6	1, 132

NATIONALITY OF VESSELS.	ENTERED FROM—							
	Germany.		St. Michael's and Madeira.		South America.		Great Britain and Ireland.	
	Vessels.	*Tons.*	*Vessels.*	*Tons.*	*Vessels.*	*Tons.*	*Vessels.*	*Tons.*
nited States	.....	.....	.....	.....	.....	.....	.....	.....
itish	.....	.....	1	1, 998	.....	.....	5	5, 327
awaiian	1	868	.....	.....	1	240	.....	.....
rman	2	1, 794	.....	.....	.....	.....	.....	.....
ench	.....	.....	1	2, 662	.....	.....	.....	.....
rwegian	.....	.....	.....	.....	.....	.....	.....	.....
livian	.....	.....	.....	.....	.....	.....	.....	.....
Total	3	2, 662	2	4, 655	1	240	5	5, 327

NATIONALITY OF VESSELS.	TOTAL.	
	Vessels.	*Tons.*
nited States	191	135, 618
ritish	29	41, 398
awaiian	11	3, 672
rman	4	2, 959
rench	4	3, 225
rwegian	1	513
livian	1	441
Total	241	187, 826

No. 49.—STATEMENT showing the ANNUAL AVERAGE PRICES of SUGA in New York and San Francisco during each Year ending Dece ber 31, from 1870 to 1885, inclusive.

YEARS.	NEW YORK.	SAN FRANCISCO.		
	Cuban, fair to good refining.	Hawaiian.		Centr Americ
		No. 1.	No. 2.	
	Cts. per lb.	*Cts. per lb.*	*Cts. per lb.*	*Cts. per*
1870	9 1/2	9 11/16	7 3/8	
1871	9 1/8	10 7/16	8 1/4	
1872	9 5/16	10 5/16	7 3/8	
1873	8 1/2	8 5/8	6 1/2	
1874	7 11/16	9 1/16	6 1/4	
1875	7 7/8	9 1/4	5 11/16	
1876	8 1/4	9 1/2	6 7/8	
1877	8 3/16	8 13/16	7 1/2	
1878	7 1/2	8 1/16	6 7/8	
1879	6 3/4	8 1/4	7 1/16	
1880	7 1/2	7 3/4	7 3/8	
1881	7 3/8	7 3/4	7 1/4	
1882	7 1/16	7 3/4	7 1/16	
1883	6 3/4	7 1/8	7 1/8	
1884	5 5/8	6 1/16	5 7/16	
1885	5 1/4	4 7/8	3 5/8	

VIEWS OF THE MINORITY.

he undersigned, regretting that they are unable to unite either in recommendation or report of the majority, content themselves with eby expressing their dissent from each. They are not prepared to that the treaty with the King of the Hawaiian Islands is commerly a good bargain, and they would be glad to see it modified; yet re are geographic and international reasons which are conclusive h them that the treaty ought not to be abrogated. They are not ling to surrender any advantage that may be given by that treaty his Government to the possible future control of those islands. The uliar relations which this Government necessarily bears to the Pacific an and to the peoples bordering thereon or owning colonies in or n said ocean, render them unwilling to take any step that may ken our position, or possibly strengthen that of any other Governit.

may be that new and vexatious complications with European and atic nations may arise if the question of the relations and control of e islands be reopened, and they are not willing at present to have opened.

WM. C. P. BRECKINRIDGE.
THOMAS M. BROWNE.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1760.

JOHN RANDOLPH HAMILTON.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. TUCKER, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany bill S. 2156.]

The Committee on the Judiciary have had under consideration Senate bill 2156, for the relief of John Randolph Hamilton, of the State of North Carolina, and respectfully recommend its passage.

Mr. Hamilton's petition accompanies the bill.

O

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1761.

ALARIES OF JUDGES OF THE UNITED STATES DISTRICT COURTS.

'RIL 20, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Ir. COLLINS, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany bill S. 6.]

The Committee on the Judiciary, to whom was referred the bill (S. 6) ixing the salaries of the several judges of the United States district ourts at $5,000 per annum, and for other purposes, report the same avorably and recommend its passage.

O

ALARIES OF JUDGES OF THE UNITED STATES DISTRICT COURTS.

PRIL 22, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. SENEY, from the Committee on the Judiciary, submitted the following as the

VIEWS OF THE MINORITY:

[To accompany bill S. 6.]

The minority of the Committee on the Judiciary, to whom were referred House bills 88, 594, *and* 3704, *and Senate bill* 6, *submit the following views:*

These bills are substantially alike. They propose to increase the salries of the United States district court judges to $5,000 per annum. he salaries of these judges, under existing law, are as follows: One alifornia), $5,000; one (Louisiana), $4,500; ten at $4,000 each, as folws: In New York, three; Pennsylvania, two; Massachusetts, New Jer, Maryland, Southern Ohio, and Northern Illinois, one each. Forty-ur are fixed at $3,500 each. These salaries now aggregate $203,000. creased as the bill proposes, they will aggregate $280,000. This inease in the public expenditures ought not, in our opinion, to be made.

We favor a liberal salary to these judges. If those allowed by existg laws are less than they ought to be, cheerfully will we vote for an crease.

Perhaps these salaries ought to be made uniform. It may be wrong have the salary of one judge at $3,500, of another at $4,000, still nother at $4,500, and another at $5,000. The fact that all of these laries except twelve are fixed at $3,500 each is a strong reason in pport of this sum as the proper compensation to be paid. Why elve of these salaries were fixed at a sum above $3,500 we are unable state. We have no information as to the reasons for making a difrence in the salaries of the twelve judges who receive more than ,500. The difference, it will be observed, ranges from about 15 to 42 r cent.

Forty-four of these salaries the bill proposes to increase nearly 50 r cent. These salaries were fixed about nineteen years ago. We have ason to believe that the subject at that time was fully considered. at these salaries were then thought to be sufficient we feel bound to esume. If fixed too low, long ago they ought to have been raised. at they were not induces the opinion that the law-making power for any years past was satisfied that they were reasonable, and that more ght not to be paid. If too low now, they were too low when they re fixed, and were too low during all of the time intervening.

Legislation to increase or to equalize the salaries of these judges has

not, until a very recent period, been seriously pressed. In the last C gress, bills for that purpose were introduced in the House, but that b closed its labors without giving them consideration. In the Congre preceding, as far back as 1869, we know of no earnest endeavor to i these salaries above the amount originally fixed in 1867. The neces for an increase, if any there be, was as real in the past as it is all to be in the present.

To recommend an increase at this time, in the aggregate 38 per c in the absence of a single petition or disinterested request, is a res sibility which, with our convictions of duty to both the judges and people, we are not willing to assume.

We indulge the belief that $3,500 is a liberal salary for a dis court judge. It is nearly $300 per month, and more than $11 for working day in the year. Compared with the salaries of others eng in the public service, it is all that ought to be paid. The office of dis judge at $3,500 per annum is more than a living. This cannot be of every $3,500 Government office. It cannot be said of many the ary of which is above $3,500. The position of district judge is b means the least lucrative or desirable in the Government, State or eral.

For nearly a hundred years the position has been held by gentle distinguished for their integrity, learning, and ability. Few re When a vacancy occurs the best talent at the bar offers for the pla

In considering this subject we must not overlook the fact that a j of the district court holds his office during good behavior. It is office at more than a living salary. This is to be said of but few o many official places in the Government.

There is another consideration to be borne in mind. The Congr 1869 enacted that a Federal court judge, at the age of seventy y after ten years of service, might resign, and for the remainder of hi receive the same salary which he received at the time of his resigna This provision is still in force, and, in our judgment, more than pensates for any supposed inadequacy in salary while in active se

Still another consideration is worthy of mention. The duties district judge, as a rule, are performed in the city where he re and for this reason he is at less expense than if he held court at p distant from his home. When official duties are to be performed where, usually the courtesies known to railroad management co the relief of the judge and enable him to travel through his distric of expense.

If we increase the salary of the district judge, we ought, to be sistent, to increase the salaries of others engaged in the public se We feel unwilling to increase the compensation of those now ho office unless it be made to appear that what they receive is below is reasonable, and below what, in justice to those who are not o office-holding class, ought to be paid.

We find that in twenty of the States the salary of the goverr less that $3,500. A judge in the highest court in twelve of the S is paid less than $3,500. The average salary in courts of last res the States is about $4,000; but a district judge is a *nisi prius* j Consider, then, his salary at $3,500, saying nothing about his ex ancy, in connection with salaries paid to *nisi prius* judges in the courts.

We have not at our command exact information as to the sa allowed *nisi prius* judges in the States. The average salary, it is s say, is less than $3,000. These judges, in the discharge of their d

t is believed, do as much, if not more, work each year than is done by a district court judge; that the labor of the State judge is done at more inconvenience and at a greater expense, we think there can be no doubt.

Maturely reflecting upon this subject, we are induced to believe that all things considered there are few, if any, positions in the public service more desirable for its honors or for its emoluments, present and prospective, than the office of judge of the district court of the United States. It is suggested that the majority of these judges are now, by reason of age and length of service, entitled to be retired upon their present salaries for the remainder of their lives. If this be true, we ought not, it seems to us, to add their names to the civil pension-roll at salaries far in excess of what they now receive. We pension our country's defenders, but there are few, however deserving, that are on the rolls at $3,500 per annum.

To our minds there is a moral, if not a legal, difficulty in the way of increasing the salary of a district court judge. Under the Federal Constitution the salary of these judges cannot be diminished during their continuance in office. Under this provision, it is believed, there is the power to increase. Several of the State constitutions provide that the salary of a judge shall be neither increased nor diminished during his official term. These provisions, of course, are not legal objections to increasing the salaries proposed by this bill. They furnish, however, some evidence of the state of the public mind upon this subject. The public judgment, as we believe, rests upon the conviction that one who takes an office by election or appointment, at a specified salary, agrees to do its duties for that salary; and that it is a breach of faith and breach of contract to ask or take more.

The minority of the committee entertain the opinion that an increase in the salaries of the judges of the district courts of the United States, particularly at this time, when the business of the country is seriously depressed, labor scarce, and wages low, is not in the interest of good government; nor will the use of the public revenues for such a purpose satisfy those who believe that the expenses of the public service ought to be kept within economical limits.

GEO. E. SENEY.
JOHN R. EDEN.
WM. C. OATES.
DAVID B. CULBERSON.
R. T. BENNETT.

I concur in this minority report, but not in all the reasoning in its support.

N. J. HAMMOND.

The undersigned cannot concur with the majority of the committee in reporting the Senate bill, for the following reasons:

The present salaries of district judges are as follows: District California, $5,000; eastern district Louisiana, $4,500; district of Massachusetts, northern, eastern, and southern districts of New York, eastern and western districts of Pennsylvania, $4,000; district of New Jersey, district of Maryland, southern district of Ohio, and northern district of Illinois, $4,000; all other districts, $3,500.

Now, if these salaries were properly graded nineteen years ago, there can be no good reason for the increase of the lower salaries to the max-

of family and home, which distract from public duty, and, abov
which will make the judge truly independent of all influences to di
the balance of his judgment and unfit him to be an impartial ar
between all men and all interests in society.

The undersigned thinks the bill which equalizes these salaries
more than is just to some and less than is just to others.

For these reasons the undersigned declines to concur in repo
the Senate bill favorably, and reserves the privilege of movin
amend it so as to do justice to all by proportioning salary to labor,
not equalizing rewards between those who have unequal claims.

All of which is respectfully submitted.

J. R. TUCKE

9TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1762.

SALE OF GOODS AND MERCHANDISE BY SAMPLES.

APRIL 20, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. CALDWELL, from the Committee on Commerce, submitted the following

REPORT:

[To accompany bill H. R. 1621.]

The Committee on Commerce, to whom was referred the bill (H. R. 1621) to regulate commercial sales of goods and merchandise by samples, catalogues, cards, price list, description, or other representation, between residents of the several States and Territories, report back the same to the House without amendment. The committee find that certain laws in different States, Territories, and the District of Columbia imposing license fees on commercial travelers from other States seem to discriminate against citizens and products of other States; and that in the confusion of such laws that free interstate commerce which is designed under the Constitution is interfered with and restrained. The right of a State to tax its citizens engaging in any particular business is not doubted; still it is not conceded that a State has the right to lay a duty upon importation from one State to another under the name of a license tax or penalty, although she at the same time provides for the same tax equally upon residents and non-residents. Such laws, although not discriminating in favor of residents and against non-residents, it is submitted, are in conflict with the constitutional power of Congress to regulate commerce between the States.

The States regulate, as a matter of domestic concern, the instruments of commerce situated wholly within their own jurisdiction and over which they have exclusive governmental control, except when employed in foreign or inter-State commerce.

As they can only be used in the State, their regulation for all purposes may properly be assumed by the State *until Congress acts* in reference to their foreign or interstate relations. When Congress *does* act, the State laws are superseded *only* to the *extent* that they affect commerce *outside* the State *as it comes within* the State. (5 Otto, 485.)

In granting to Congress the right to regulate commerce with foreign nations and among the several States and with the Indian tribes, and in forbidding the States, without the consent of that body, to levy any tax on imports, the framers of the Constitution believed that they had sufficiently guarded the dangers of any taxation by the States which would interfere with the freest interchange of commodities among the people of the different States, and by the people of the States with citizens and subjects of foreign Governments. (97 U. S. Rep., 566.)

The object of the bill is to prevent any State or Territory or the District of Columbia from requiring a license from those who are exclusively agents of inter State commercial transactions.

The contracts for sales made by commercial travelers are not consummated in the State when the order is solicited, but the final assent thereto is given by the merchant or principal who receives and executes the order of his correspondent.

This trade is now carried on without objection by postal communication and samples by mail, and it is not perceived why the same thing executed by a commercial traveler in person is in any way objectionable.

Your committee recommend the passage of the bill.

O

TH CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
1st Session. } { 1762, Part 2.

SALE OF GOODS AND MERCHANDISE BY SAMPLE, &c.

MAY 15, 1886.—Referred to the House Calendar and ordered to be printed.

Ir. O'FERRALL, from the Committee on Commerce, submitted the following as the

VIEWS OF THE MINORITY:

[To accompany bill H. R. 1621.]

We dissent from the views of a majority of the Committee on Commerce s expressed in the report of said majority on the bill (H. R. 1621) to reglate commercial sales of goods and merchandise by sample, catalogues, ards, price-lists, descriptions, or other representation between residents f the several States and Territories and the District of Columbia.

The bill is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America Congress assembled, That residents of each State and Territory may, within the her States and Territories and within the District of Columbia, solicit from dealers merchants orders for goods and merchandise by sample, catalogue, card, price-t, description, or other representation, without payment of any license or mer-atile tax.

It will be observed that the States and Territories and the District Columbia are prohibited from imposing a license tax upon all per-ns going from one State into another, or from a State into the Dis-ict of Columbia, and engaging therein in selling goods or merchan-se by samples, catalogues, cards, price-lists, description, or other presentation.

This tax is imposed by the States of Alabama, Colorado, Delaware, lorida, Louisiana, Maryland, New Hampshire, Nevada, North Caro-na, Pennsylvania, Texas, and Virginia, the Territories of Arizona, Da-ota, and Montana, and the District of Columbia.

We regard the prohibition contained in the bill as a violent innova-on upon the rights of the States to raise revenue in their own way r the support of their State governments, and an interference with eir right to prescribe their own police regulations.

We regard it as an assumption of power upon the part of Congress ot delegated by the States in the Constitution, nor arising by neces-ry implication, and a step in the direction of centralization.

Taking the Constitution as our guide, upon what ground can Congress ercise the jurisdiction asserted in the bill?

We will let the report of the majority speak for itself. It says:

The right of a State to tax its citizens engaging in any particular business is not ubted; still it is not conceded that a State has the right to lay a duty upon im-rtation from one State to another under the name of a license tax or penalty, al-ough she at the same time provides for the same tax equally upon residents and n residents. Such laws, although not discriminating in favor of residents and ainst non residents, it is submitted, are in conflict with the constitutional power of ngress to regulate commerce between the States.

There are two propositions herein laid down.

(1) That when a State levies a tax upon a commercial traveler gaging in said State in the sale of goods or merchandise the growt manufacture of another State, by sample, catalogue, &c., it constitut tax upon importation from one State to another and, therefore, un stitutional.

(2) That Congress has the power under the constitutional provi in regard to the regulation of commerce between the States to prol the levying of such tax.

We deny both propositions.

We insist that this tax is not imposed upon importations nor i State commerce, but is purely a personal tax upon the personal l ness occupation of persons engaged within the limits and jurisdict a State, and under the protection of her laws, and is a police regula

The license system is a police regulation.—Justice McLean in license cases, 5 H 595.

A State may tax occupations generally.—Brown v. State of Maryland, 12 Whe 444.

States may regulate their own internal traffic.—License cases, 5 How., 504.

No one questions the general power of the State to require licenses for the va pursuits and occupations conducted within her limits and to fix that amount a may choose.—Justice Field in Webber v. Virginia, 103 U. S., 344.

The taxing power of a State is one of its attributes of sovereignty. And when has been no compact with the Federal Government, this power reaches all the perty and business within the State, which are not properly denominated the r of the general Government; and as laid down by this court, it may be exercis the discretion of the State. If this power of taxation by a State within its jur tion may be restricted beyond the limitations stated, on the ground that the tax have some *indirect bearing on foreign commerce*, the resources of a State may be th essentially impaired. But State power does not rest on a basis so undefinable. than v. Louisiana, 8 How., 82.

Citations might be multiplied to show that the States have an unc fied and unlimited power to impose a tax upon occupations and suits conducted within their limits and jurisdiction, providing the not discriminate against the citizens and products of other States.

But there are two decisions which in direct terms settle the que herein involved.

Virginia, several years since imposed a license tax upon agen the sale of sewing-machines the growth or manufacture of States, and the Supreme Court of the United States in Webber v. ginia, 103, U. S. 344, hereinbefore cited, held that she had the rig impose such license tax, but that it must be uniform, without rega the place of growth or manufacture of such machines, and that, as i *discriminating*, it was unconstitutional.

Tennessee a few years ago imposed an annual tax upon "all ped of sewing machines and selling by sample," without discriminati to the place of manufacture or growth of material, and the court in 1879, in Machine Company v. Gage, 100 U. S., 676, that "the State ting all such machines upon the same footing with respect to the complained of, had an unquestionable right to impose the burden."

In conclusion we suggest that the powers conferred upon the gress of the United States are ample for the welfare and prosperi the country, and that any disposition to expand the powers of the eral Government and contract those of the States ought not to with favor; that attempts in the direction of such expansion and traction can only result in destroying harmony and bringing about flicts between the States and General Government.

passage of this bill would cause a derangement of the taxing sys-
of many States, and impose increased direct burdens upon their
rty holders, real and personal.
liscriminations are made by any of the States, the courts will cor-
he wrong, but so far as we know no discrimination exists upon the
e books of any State between her own citizens and products and
tizens and products of other States.

CHAS. T. O'FERRALL.
CHARLES F. CRISP.
JOHN H. REAGAN.
A. J. WEAVER.
A. B. IRION.

ncur in the conclusion arrived at in the foregoing report, but I
t in accord with all the reasons advanced for such conclusions.

WILLIAM W. MORROW.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1763.

REATION OF OFFICE OF ASSISTANT COMMISSIONER OF INDIAN AFFAIRS.

PRIL 20, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. STORM, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill H. R. 5787.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 5787) to create the office of Assistant Commissioner of Indian Affairs, having had the same under consideration, submit the following report:

A statement of the salaries paid to the three great Bureaus connected ith the Department of the Interior, to wit, the Land Office, Pensions, nd Patents, will readily show the disparity between the allowance to ie Indian Office and that for the other Bureaus.

The following statement shows the salaries paid to the different Bu-au officers of the Interior Department:

LAND OFFICE.

mmissioner	$4,000
sistant Commissioner	3,000
ief clerk	2,225
	9,225

PENSION OFFICE.

mmissioner	5,000
rst Deputy Commissioner	3,600
cond Deputy Commissioner	3,600
ief clerk	2,500
sistant chief clerk	2,000
	16,700

PATENT OFFICE.

mmissioner	5,000
sistant Commissioner	3,000
ief clerk	2,250
	10,250

INDIAN OFFICE.

mmissioner	4,000
ief clerk	2,000
	6,000

The proposed bill does not create an additional office, but simply creates a new title—Assistant Commissioner—and requires him to perform all the duties now pertaining to the office of chief clerk, as well as the duties of Commissioner in the absence of that officer.

The work of this Bureau is constantly increasing. The increase in the year 1885 over 1884 was over 30 per cent., and the increase for the first quarter of 1886 over the first quarter 1885, has been over 33⅓ per cent.; and the increase for the three past months over a similar period in 1884 is about 46 per cent.

It deals with 260,000 Indians, scattered over a vast extent of territory. It is charged with the execution of almost numberless treaties and agreements made with the Indians. It oversees the whole subject of Indian education and civilization. To accomplish these purposes it pays out in money and property nearly $6,000,000, under 400 heads and subheads of appropriations.

The duties of the Indian Commissioner are not only arduous and multiform, but it is important that he should be absent from his office several months in each year in order to visit the various agencies and inform himself directly of the condition and needs of the Indians. The advantages of such personal inspection of agencies to a wise administration of the office are acknowledged by all who are informed on the subject. During such prolonged absence the chief clerk must perform the duties and assume the responsibilities of the Commissioner, and it will not only give dignity and efficiency to his position, but bring it into harmony of organization with the other Bureaus of the Interior Department. The salary of $3,000 proposed in the bill is the same as that allowed to the Assistant Commissioner in the Land and Patent Offices. To those who are acquainted with the present efficient chief clerk the salary will be regarded as very moderate.

The committee desire to call attention to the report of the present Indian Commissioner for the year 1885, on the subject of the clerical force in the Indian Bureau at Washington:

CLERICAL FORCE OF THE BUREAU IN WASHINGTON.

As the duties devolving on this branch of the Bureau are, in my opinion, most arduous and responsible, I have given the reorganization of the force special attention, and it is my purpose to have the *personnel* of the office most reliable and efficient. The amount and variety of business detail daily passing through the office, for the correctness and honesty of which I am considered responsible, is so great as to render a personal examination by any one man of the clerical work connected with it a physical impossibility. I am therefore compelled, in a majority of cases, to rely wholly upon the ability and integrity of my chief clerk and the heads of the different divisions of the office, who have the papers prepared for my signature; and for this reason I am anxious that the ability of the chief clerk and the chiefs of divisions under him should be of the highest character obtainable. To secure this, salaries commensurate with the responsibility and labor of their respective positions should be paid.

As will be seen from what immediately follows, it is my desire to assign to the chief clerk additional important labors. I deem it proper to call attention to the fact that the duties personally devolving upon the Commissioner of Indian Affairs, as the responsible head of the Indian Bureau, are unusually multiform, complicated, and onerous, and to properly discharge them requires much more time and attention than can be given during business hours. The good of the service leads me to suggest that Congress be asked to give this Bureau an Assistant Commissioner, who shall also perform the duties of chief clerk. To that officer could then be referred much of the routine work which may be performed equally well by another, but which now involves a large expenditure of time and labor on the part of the Commissioner, and to just that extent lessens his ability to devote his energies to the more important matters which relate to the general administration of Indian affairs.

The committee recommend that the accompanying bill do pass.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1764.

WILLIAM McGARRAHAN.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CLARDY, from the Committee on Mines and Mining, submitted the following

REPORT:

[To accompany bill H. R. 8084.]

The Committee on Mines and Mining, to whom was referred the bill (H. R. 3918) for the relief of William McGarrahan, and for the adjustment of his rights in the New Idria quicksilver mines, of California, submit the following report:

The controversy with respect to the title to the tract of land mentioned in this bill covers a period of more than thirty years. Although nominally carried on between William McGarrahan on the one side and the United States on the other, the real contestant of McGarrahan's title has been the New Idria Mining Company. That company got possession of the New Idria quicksilver mine about the time McGarrahan purchased the tract of land, and has held possession ever since. The main question to be decided is whether Vicente P. Gomez, under whom McGarrahan claims, had such a title to the land as was protected by treaty with Mexico, commonly known as the treaty of Guadalupe Hidalgo. If he did, then the faith of the Government is pledged to its protection.

Your committee reports a bill and recommends its passage as a substitute for the bill referred to it, which authorizes and empowers the Court of Claims to hear and determine the question of title, and other questions incident thereto, with right of appeal to the United States Supreme Court.

The claim first came before Congress during the first session of the Fortieth Congress, and was referred by the House of Representatives to the Committee on the Judiciary. Mr. James F. Wilson, the chairman of the committee, during the second session of that Congress, submitted a report, which seemed to give an impartial statement of the facts and of prominent proceedings in the matter, as follows:

[Report No. 33, Fortieth Congress, second session.]

Mr. WILSON, from the Committee on the Judiciary, made the following report:

The Committee on the Judiciary, to whom was referred a bill for the relief of William McGarrahan, respectfully submit the following report:

The history of this case is composed of such a multitude of circumstances, spread over a period extending from the year 1844 to the present time, that to give it in detail would be to present a report so voluminous as to defeat the very object contemplated by the House in submitting it to the committee—that of information to its members.

It has, therefore, been deemed advisable to exhibit leading and controlling facts, rather than minute and unimportant particulars.

The effort has been to give the present paper a synoptical rather than argumental character, as it is believed a plain but abbreviated narrative will be sufficient to satisfy all inquirers that the bill herewith reported should pass.

An impartial statement of the facts and of prominent proceedings is, in the judgment of the committee, all that is needed to show that Mr. McGarrahan is entitled to the relief he seeks, and to the land in question, as described in his original memorial presented to the House during the Thirty-ninth Congress.

In the year 1844, Manuel Micheltorena, the then governor of Upper California, in accordance with a Mexican custom to confer lands upon deserving officials and citizens, granted to Vincent P. Gomez a tract of land, then, it would seem, considered almost valueless, and situate in the present counties of Fresno and Monterey, State of California. The property was then, and is now, known as "Panoche Grande Rancho."

The making of this grant has been denied, and this denial constitutes the principal ground from which has sprung the prolonged and exhausting litigation in the case, extending over a period of more than thirteen years.

The proof of the existence of the grant is satisfactory. It is found mainly in the following facts:

I. The deposition of José Castro, who filled the office of political chief of California, and was also prefect and commandant general, which states that Gomez, with whom he was well acquainted, desired him (Castro) to inform him (Gomez) of a suitable place to petition for or secure, and that he recommended the Panoche Grande.

II. The petition of Gomez to Governor Micheltorena, March 13, 1844, requesting a grant of the rancho.

III. A marginal entry made by the governor, March 14, 1844, on the petition of Gomez, that the proper secretary should cause the necessary investigations to be made and make report.

IV. A declaration of the same date, by Manuel Jimino, the secretary, that the petition of Gomez had been transmitted to the first justice of San Juan, in order that he should report what would be just in the matter.

V. The report of the justice, dated March 20, 1844, stating that the land was vacant, and that there was no reason why the same should not be granted.

VI. A map of the land, filed in pursuance of the justice's report.

VII. The affidavit of Valentine Gajiola, employed in the Presidial Company of Monterey in 1848, showing that Gomez applied to him to make a map of the rancho; exhibited to him the title papers duly executed, and that he made the map as desired.

VIII. The deposition of José Abrigo, the head of the commissary department, and resident in Monterey, proving that Gomez was a clerk in his office, and that, in 1845, he (Gomez) showed him a title to the land named, together with a map of the property; that the papers were signed by the governor and secretary, and that he was well acquainted with the signatures of these officers, having often seen them write; that the archives in which these papers were passed into the possession of the American Army July 7, 1846.

IX. The testimony of Abrigo, Dr. James L. Ord, a surgeon in the United States Army, and others, proving the destruction of the archives in Monterey, and the fact that such destruction is generally admitted.

X. The deposition of Oscar De Grandé Barque, stating that Gomez, in 1845, showed him title papers for the rancho, and proposed a sale of the land to him.

XI. The affidavit of J. Marno Bonilla, secretary of the superior tribunal of justice in Monterey, stating that Gomez, in 1844, applied to him for stamped paper, to be used in procuring a title to lands; and that, in 1845, he saw memoranda of grants of land, among which was that of Panoche Grande to Gomez.

XII. The affidavit of Matias Moreno, secretary of state of Upper California, stating that, in 1846, he knew Gomez had obtained a grant for Panoche Grande, and that he saw the grant.

XIII. The affidavits of Maricio Gonzales, José Fernandez, Gabriel de la Torre, Joaquin S. Escamilla, and others, tending to prove the existence of the grant.

XIV. The statement of E. L. Goold, esq., before the Judiciary Committee, that he believed the petition of Gomez was a genuine document, and that he based his opinion on his knowledge of the facts and circumstances connected with the case of said Gomez against the United States, which involved the validity of the grant upon which this case is based. Mr. Goold was of counsel in said case in opposition to the grant, and appeared as a witness before the committee on behalf of the opposing parties.

XV. The grant by Governor Micheltorena, in the year 1844, to Don Julian Ursua, of the tract known as the rancho "La Panoche de San Juan and Los Carrisalitos," wherein the tract is described as being bounded on the south by the mine of "Los Aguilas" and "La Panoche Grande."

XVI. Statement of Henry D. Cooke, esq., that when he was in California, in the years 1847-'48-49, it was common report that Gomez had received a grant of a rancho near San Juan from the Mexican Government.

XVII. In 1845 the Board of Land Commissioners, at the hearing on the evidence, as equired by the laws of the United States, decided that Gomez had given satisfactory roof of the existence and loss of the grant.

1. In the treaty of Guadalupe Hidalgo, entered into between the United States and lexico, February 2, 1848, it was provided that property of every kind belonging to lexicans should be inviolably respected, and that the United States should pass such aws as would give effect to the different stipulations of the treaty, and always thereafter regularly enforce them. This feature was introduced to secure all landed and ther interests that might in any way be affected by a change of jurisdiction over the territory embraced in the treaty. (Stats. at Large, vol. 9, pp. 229–231.)

2. The law contemplated was passed March 3, 1851 (United States Statutes at Large, ol. 9, p. 631), creating a board of land commissioners, and declaring, among other things, "that each and every person claiming lands in California, by virtue of any ight or title derived from the Spanish or Mexican Government, shall present the same o the said commissioners, when sitting as a board, together with such documentary vidence and testimony of witnesses as the said claimant relies upon in support of such laim; and it shall be the duty of the commissioners, when the case is ready for hearng, to proceed promptly to examine the same upon such evidence and upon the evience produced in behalf of the United States, and to decide upon the validity of the aid claim, and within thirty days after the said decision is rendered to certify the ame, with the reasons on which it is founded, to the district attorney of the United tates in and for the district in which such decision shall be rendered." (Sec. 8.)

3. February 9, 1853, Gomez, in accordance with the provision of the act of March 3, 51, presented his petition to the Board of Land Commissioners, praying a confirmaon of his claim to the rancho Panoche Grande.

4. The board, having fully heard the evidence of the grant, decided that the claimnt had given satisfactory proof of the existence and loss of the grant, but had failed ntirely to offer any proof whatever going to show that he ever occupied, improved, cultivated any part of the land, or that any one ever did for him, or that he ever wn the land; and on the ground of non-occupancy decided the grant invalid.

5. In the case of Frémont *vs.* The United States (17 Howard, 542), decided at Deember term, 1854, the Supreme Court of the United States held that, in the case of exican land grants, omission to take possession of the land did not of itself forfeit ne right or grant. Had this determination preceded the action of the Board of Land ommissioners, the grant to Gomez would certainly have been pronounced valid, as ne board decided against the grant on the ground that the grantee had not entered pon and possessed himself of the land granted.

6. The decision of the Board of Land Commissioners made an appeal necessary, hich was accordingly taken by Gomez, and June 5, 1857, the district court for the uthern district of California confirmed his claim, and a decree to that effect was ronounced. But through what is claimed to have been a clerical mistake, and which ne party asserts was unobserved for some months, the decree was for three leagues f land instead of four, as claimed, and as proved by the deposition of José Abrigo, sed before the Board of Land Commissioners, and in the court, to have been comrised in the grant, and was unsigned by the judge.

7. Thus, as Gomez, his counsel, and all interested might well have supposed, the uestion of title was settled, subject, of course, to the right of appeal. The records f the district court presenting Gomez as owner of the rancho in accordance with ne finding of the Board of Land Commissioners, the decree of the said district ourt, and the decision of the highest court in the Frémont case, Mr. McGarrahan, ecember 22, 1857, bought the property from Gomez in good faith, and for a valuable nsideration.

8. The alleged error in the quantity of land stated in the decree of June 5, 1857, eing discovered, an application was made to the court to correct it, whereupon, ebruary 8, 1858, an amended decree was entered *nunc pro tunc* (that is, as of June 5, 57), covering the four leagues, and duly signed.

9. About the time Mr. McGarrahan purchased from Gomez, some persons, having rospected the land, discovered mineral deposits (a fact unknown to Mr. McGarrahan hen he purchased), and, finding it had been sold by Gomez, they, as "squatters," took ossession of and held it, as they still hold it, either in person or by assignees, cognizt of the facts, and without title.

10. March 15, 1858, the United States appealed from the decree of the district court, it seems was their practice to do in all cases adjudicated against them, and on ly 8, 1858, thirteen months after the final decree of confirmation, a motion was ade by special counsel of the United States in the case, as it seems, without notice the claimant, to have the decree opened.

11. Mr. McGarrahan, having been advised that the appeal to the Supreme Court ad been taken by the Government, without examination as to its merits, in accordnce with the uniform practice, made application through counsel to Hon. Jeremiah Black, the then Attorney-General (a certified transcript of the case being presented

to him), to have him examine the case and determine wh
appeal.

12. After a full argument before the Attorney-General,
appeal should be docketed and dismissed; and on Janua
upon the books of his office and upon the records of the S
in March, 1859, the Supreme Court issued its mandate, w
docketing and dismissal of the appeal entered in the Sup
that "such proceedings be had in said case as, according
laws of the United States, ought to be had."

13. The said mandate was filed in the district court
court ordered, adjudged, and decreed that the said ma
effect, and that the said Gomez proceed under the decree
decree.

The effect of this was to perfect the title to said ranch
grantee of Mr. Gomez.

At this stage of the case the most vigilant lawyer cons
to examine records, could have given no other opinion u
than that a fee-simple interest in the rancho was vested

From this time the parties occupying the property, wi
resorted to divers expedients to defeat McGarrahan's ti
ters'" interest, so called, which vested in the New Idria
to controlling officers of the Government. This is show

1. A consultation between Mr. E. L. Goold, counsel fo
property alluded to, with the Attorney-General, and i
officer making a motion in the Supreme Court to recall t
on the ground of fraud and want of jurisdiction.

2. The alleged fraud was declared to consist in the fact
divided half interest in the property had been made by
representing the United States as district attorney, and
propriety of the original decree of June 5, 1857.

3. It is shown that Mr. Ord, after his appointment to
revealed to the Government the fact that he was interest
the Government to employ other counsel to attend to its

4. This the Government did not do; the consequence
at the time of the original decree, having no evidence mi
of the grant, acquiesced in its confirmation; and, so fa
cover, the representation then made by Mr. Ord was in

5. At this point in the proceedings, it appeared that son
committee, had caused the file-marks and indorsements
trict court, made in obedience to the mandate of the Supr
the record, as well as the filing of the mandate itself. T
on the 18th of January, 1860, more than eight months af
It also appears that certain entries in the books of the
specting the original appeal in this case, and the action
appeals, embraced in the same order, were not known to
counsel in time for them to avail themselves of the benef
the case in the Supreme Court, on motion by the Attorney
date. It will be remembered that it was upon the con
that the Supreme Court had directed the proper entry to
and that their mandate was issued.

6. This failure to disclose the facts to the court, by th
had much to do in securing the order of the Supreme Co
of 1859, and which order was strangely withheld until J
by the present claimant for the purpose of again lodgin
he court below.

7. But, in the mean time (March 21, 1861), the district c
cree. This extraordinary action on the part of the cour
without notice, either to the claimant or his known co
both.

8. As soon as this condition of things was ascertained,
the court to restore the decree, and, upon full hearing,
made on the 4th August, 1862.

9. Thus matters rested until the 25th August, 1862, wh
contrary to express stipulations, entered into between hi
claimant, in their absence, and without notice, obtained
preme Court.

10. The impropriety of this proceeding is made app
order to give the Supreme Court jurisdiction, a citation s
signed by the judges, served on the claimant, and from
service.

11. The law is very clear upon this point; the acts of 1789 and 1803, which regulate appeals (the appeal not having been taken in open court at the June term in 1857, when the original decree was pronounced, nor at the December term in 1857, when the decree was entered *nunc pro tunc*, or, in other words, within five years, as directed by the statutes), demanded a notice to the opposite party, and the proceeding was therefore clearly wrong. The court, upon a full hearing, reached this determination, and accordingly decided, December 4, 1862, that the appeal allowed August 25, 1862, be vacated and set aside, and that an appeal on behalf of the United States to the Supreme Court be denied.

Here, for the second time, the record evidenced a perfect title in the claimant.

It having been twice judicially determined by the action of the courts that Mr. McGarrahan was the legal owner of the Rancho Panoche Grande, the aggressors upon his rights resorted to a new line of action.

1. As seen, after nine years of litigation, Mr. McGarrahan, the present claimant, succeeded in acquiring two distinct confirmations of his title. It was then, in accordance with the act of Congress of June, 1862, he applied to the United States surveyor-general of California for a survey of the said tract of land, and which officer caused the survey to be made and approved September 11, 1862. This survey was transmitted immediately thereafter to the General Land Office, and a patent for the property was demanded.

2. Here, again, he was confronted by the New Idria Mining Company, before referred to. The Secretary of the Interior at that time (Hon. Caleb B. Smith), after argument in the case, ordered the patent to issue.

Thus, again, for the third time, the title to the Panoche Grande was found to be in Mr. McGarrahan. Some unknown cause delayed the execution of this order, and the patent was not issued. This neglect, or refusal, was persisted in throughout the remainder of Mr. Secretary Smith's term. The matter was then brought to the notice of Mr. Usher, the new Secretary, before whom it was again argued, and by whom a patent was directed to be issued. Neither the order of Mr. Smith nor Mr. Usher was obeyed, for some reason not yet divulged or ascertained.

For the fourth time, the title of Gomez and his grantee was decided to be good and available in law. A request was then made by the claimant of President Lincoln that he would make an examination of the case, and determine it upon its merits. This he consented to do. Printed briefs were laid before him; and, upon full consideration of all the facts and circumstances, he directed the Secretary of the Interior to cause a patent to issue to Mr. McGarrahan. And thus, for the fifth time, Mr. McGarrahan was declared to be entitled to the property or rancho, and that neither the United States nor any other person had lawful claim to the same.

In accordance with this order of the President of the United States to the Secretary of the Interior, a patent was actually made out; but, for reasons not fully explained, never delivered to him for signature.

To recapitulate:

1. The proof of a legal grant from the Mexican Government to Gomez and the transfer of title to McGarrahan are clearly and indisputably shown.

2. The district court of the United States for the southern district of California confirmed the grant.

3. The Attorney-General of the United States declared the title to the lands to be in Mr. McGarrahan, and caused an entry to that effect to be made on the books of his office and in the Supreme Court.

4. Hon. Caleb B. Smith, Secretary of the Interior, after examination and consideration of the case, ordered a patent to be issued to Mr. McGarrahan.

5. Mr. Usher, the successor in office of Mr. Smith, similarly decided.

6. Mr. Lincoln, after inquiry, decided the grant to be genuine, and that a patent should be issued to Mr. McGarrahan.

From the time when the district court pronounced its decree of confirmation (June 5, 1857) and the President's action on the case (in the fall of 1863), it will be observed, over six years had elapsed, and, in consequence of the lapse of time, an appeal could not be had according to law, unless something should appear to avoid the limitation.

In December, 1863, a paper, purporting to be a transcript of proceedings as they appeared on the records of the district court, was prepared in the Attorney-General's office in Washington, District of Columbia, forwarded to the district attorney in California, certified by him out of his district, without comparison with the record, and merely from memory, and from which transcript were omitted material parts of the record, and returned to Washington.

Upon the transcript thus made up, the case was again brought before the Supreme Court, which being discovered by the claimant, a motion was made to strike off the appeal, which was refused, although it, as it seems to the committee, was out of time, and the transcript had been made up without reference to the actual records of the district court.

committee to inquire into the grounds of his complaint. This has been done. M
facts have been presented to the committee which were not placed before the c
Additional evidence has been submitted and circumstances disclosed which hav
duced your committee to conclude that the relief prayed for by Mr. McGarr
ought to be extended to him; and this may very readily be done. The title to the
claimed, and which he asks that he may be allowed to purchase, is now vested ir
Government of the United States, and it is merely a question whether he shall be
mitted to secure that which, in the judgment of your committee, he acquired tit
by virtue of the Mexican grant aforesaid, or it shall fall into the hands of a cor
tion known as the New Idria Mining Company, which has been resisting his clai
years and paying the expenses of the efforts of said company out of the proce
the mines, the title to which rests in the United States.

It is clear that McGarrahan purchased the property in good faith, and for a val
consideration, when it was regarded as of but little value. His interests have
attacked and his title resisted, nominally, by the United States, but really by the
Idria Mining Company. The name of the United States, their officers and m
have been used to resist his claim, and all to the end that this property, valuat
it now undoubtedly is, may pass into the hands of parties who are wholly unk
to the record of the proceedings had in the courts of the United States, respectin
title to the land in question, through all its years of transit from the board of
commissioners to and through the Supreme Court of the United States.

The company aforesaid placed before the committee a memorial, in which the
is stated as follows:

"The real parties who contested the grant were your memorialists, for against
only were the efforts of the owners of the 'Panoche Grande rancho' directed.
the New Idria mines, and for the fruits of the labor of those who have developed t
the owners of the 'Panoche Grande' are now seeking Congressional interferen
their behalf. It may well be doubted whether the 'Panoche Grande' would
have been heard of in the district court of the United States or in Congress but fo
hope of robbing your memorialists of the fruits of their years of labor and va
penditures of money."

This extract shows that the United States have no interest as between these pa
beyond that of preserving its faith as pledged in the treaty made between this
ernment and that of Mexico. And as to the allegation of robbery, &c., made by
company, it may be remarked that one of its stockholders, of large interest, tes
before the committee that after paying all of the expenses of said company, inclu
every outlay, a balance would be left in its treasury on account stated.

The precedents are numerous where the Congress has afforded redress in cases
analogous character. The following are referred to:

I. The Soscol act, 12 U. S. Stats., p. 808.

[Report No. 5, 40th Congress, 1st session.]

IN THE HOUSE OF REPRESENTATIVES.

MARCH 18, 1867.—Read twice and referred to the Committee on the Judiciary.

MARCH 26, 1867.—Reported from the said committee without amendment, ordered to be printed, and recommitted to the said committee.

Mr. JAMES T. WILSON, on leave, introduced the following bill:

A BILL for the relief of William McGarrahan.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the tract of land known as the Panoche Grande rancho, in the State of California, granted by Governor Manual Micheltorena to Vincente P. Gomez in the year eighteen hundred and forty-four, and by said Gomez conveyed to William McGarrahan on the twenty-second day of December, eighteen hundred and fifty-seven, surveyed by the United States surveyor-general for the State of California, and approved by him on the eleventh day of September, in the year eighteen hundred and sixty-two, and which said survey is now on file in the General Land Office, be, and the same is, in all respects, hereby fully confirmed to said William McGarrahan, upon this condition, however, that the said McGarrahan shall, within twelve months after the passage of this act, pay into the Treasury of the United States the sum of one dollar and twenty-five cents per acre for the lands embraced within the said survey.

SEC. 2. *And be it further enacted*, That upon the payment of the said sum of money to the Treasurer of the United States by said McGarrahan, the said Treasurer shall give a certificate therefor, and upon the presentation thereof to the Commissioner of the General Land Office, a patent shall be issued to said William McGarrahan for said lands.

The bill reported by that committee was passed by the House of Representatives on the 15th day of May, 1868, after debate. (See Congressional Globe, vol. 97, p. 2479.)

It will be observed that the bill as it passed the House confirmed the grant to William McGarrahan as surveyed by the United States surveyor-general for the State of California.

The bill when it reached the Senate was referred to the Committee on Private Land Claims. The committee reported adversely to the bill, and on the 25th day of July, 1868, the last evening of the session, the bill was called up and indefinitely postponed. At the next session, to wit, on the 20th day of January, 1869, Mr. Morton called up the bill for reference, which motion prevailed by a vote of 27 yeas to 18 nays, after a discussion which consumed a portion of several days, during which the circumstances under which the bill had been indefinitely postponed were fully brought to the attention of the Senate. The bill was recommitted to the Committee on Private Land Claims. It was reported back to the Senate on the 24th day of February, 1869, two of the committee being favorable, two adverse, and one refusing to take any part in the decision. The bill was not further considered during that Congress.

The existence of what is claimed to be a record of a patent in the General Land Office to McGarrahan was brought to his attention about the 6th day of July, 1870, at which time his claim was pending before the Committee on the Judiciary of the House of Representatives of the Forty-first Congress. He notified the committee of the discovery, and the committee on the 6th day of July, 1870, through its chairman, Hon. John A. Bingham, called upon the Department of the Interior for the volume of the records containing the same. The volume was produced and the record inspected by the committee. On the 14th day of July, 1870, an authenticated copy of the record was called for by the chairman of the committee. The copy was not furnished until the 26th day of July, 1870, the record in the mean time, to wit, on the 25th day of July, 1870, having, it is claimed, been mutilated.

A majority of the Committee on the Judiciary reported adversely to the claim, but the chairman of the committee, Hon. John A. Bingham, and Hon. Charles A. Eldridge, a member of the committee, reported a joint resolution providing "that the patent should be transcribed into the records as it stood, without any mutilation or erasure, and authorizing and requiring the President to do in the premises whatever was just and equitable, without regard to any action or proceeding had subsequent to the 14th day of February, 1863, the date of the patent. This joint resolution was passed by the House on the 20th day of February, 1871. It was sent to the Senate but was not considered.

The House of Representatives of the Forty-third Congress passed a resolution requesting the Commissioner of the General Land Office to institute proceedings against the New Idria Company, but the Commissioner refused to bring the suit, and reported his refusal to the House. (See Ex. Doc. 180, Forty-third Congress, second session.)

The "sundry civil bill" for the year ending June 30, 1876, contained a clause authorizing the Secretary of the Interior to cause an examination to be made for the purpose of ascertaining whether any person, firm, or corporation was occupying any larger portion of said tract of land than was authorized by the laws relating to mining lands, and to make report thereof to Congress. (See Ex. Doc. 11, Forty-fourth Congress, first session.)

A majority of the Committee on the Public Lands of the House of Representatives of the Forty-fifth Congress reported a bill referring the whole case to the courts for a rehearing without reference to any decisions of the courts previously rendered, but the bill was not acted upon by the House.

A majority of the Committee on Private Land Claims of the House of Representatives of the Forty-sixth Congress reported adversely to a similar bill reported by the Committee on the Public Lands of the Forty-fifth Congress, but suggested that if the decisions of the Supreme Court, adverse to the validity of this claim, are erroneous, and McGarrahan's title was originally valid, that "his only remedy" was by "direct act of Congress confirming his title to so much of said land as had not been legally disposed of by the Government, and the payment to him in money or other land of an amount equal in value to so much of the same as the Government had parted title with to innocent purchasers." (See House Report No. 29, third session, Forty-sixth Congress.) A bill was thereupon introduced in the House in accordance with this suggestion of the committee providing for the confirmation of the grant and the payment to McGarrahan of an amount in money equal to the value of so much of said grant as had been disposed of. The committee on the 17th day of February, 1881, reported the bill favorably, with an amendment providing that compensation should be made in other land instead of money for so much of said land as the Government had parted title with, but this bill was never considered by the House. (See House Report No. 273, Forty-sixth Congress, third session.)

In the Forty-seventh Congress a similar bill was reported favorably by Mr. Muldrow, from the Committee on Private Land Claims of the House of Representatives, but it was never considered by the House.

In the Forty-eighth Congress a similar bill was considered by the Judiciary Committee of the House of Representatives and reported adversely, several members of the committee submitting views in favor of the passage of the bill, but no action was taken by the House.

Your committee has given this matter a great deal of consideration. The claim when first presented to Congress was carefully considered by

the law committee of the House, and, as has been stated, that committee reported a bill confirming the title to the land in controversy to McGarrahan, and the House passed the bill.

The reasons which led the committee to the conclusions which it reached are stated in the report with great clearness and force. The House of Representatives of the Forty-first Congress passed the joint resolution before referred to, which virtually gave effect to the patent, notwithstanding the adverse decision of the Supreme Court, after a protracted debate. Your committee, in view of the action taken at different times by the two houses of Congress and their committees, and also in view of the decisions of the Departments and the differing decisions of the courts, as above recited, have thought it best to refer the question of the validity of the grant again to the courts, to be acted on without regard to any former decision. It has likewise referred to the courts the question of indemnity to McGarrahan, in case it is decided that the grant is valid. The bill provides that all evidence taken before the land commissioners, or before a court of the circuit or district court of the United States in California, or before the committees of the two houses of Congress, and before persons authorized by law to administer oaths, shall be competent testimony on the trial.

It appears that in January, 1881, and subsequently the United States parted with title to certain portions of the land embracing the New Idria Quicksilver mine to the New Idria Mining Company. If there was a grant of this land to Gomez, protected by the treaty of Guadalupe Hidalgo, and the courts so find under the provisions of the bill reported by your committee, then the question of the liability of the Government, in law or equity, to indemnify said McGarrahan for any portion of the lands disposed of by it is submitted to the court.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1765.

STUDY OF PHYSIOLOGY.

APRIL 20, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. O'DONNELL, from the Committee on Education, submitted the following

REPORT:

[To accompany bill S. 1405.]

The Committee on Education, to whom were referred the bill (H. R. 3496) to provide for the study of physiology and hygiene with reference to the effect of the use of intoxicating, narcotic, and poisonous substances upon life, health, and welfare, by the pupils in the public schools in the Territories and in the District of Columbia, in the Military and Naval Academies, and Indian and colored schools supported in whole or in part from the Federal Treasury, and also the bill passed by the Senate (S. 1405) bearing nearly the same title, submit the following report:

The committee have had the two bills under consideration, and a majority of said committee have ordered that the Senate bill (S. 1405) be reported to this body, with the recommendation that the House concur in its passage, and that H. R. 3496 be indefinitely postponed.

The bill herewith favorably reported passed the Senate without a dissenting vote, and the concurrence of the House of Representatives will enact a law in harmony with the wishes of the people.

Nearly two million men and women have petitioned the legislatures of the different States for similar laws, and up to the beginning of the present year the wishes of the people have been complied with in fourteen States, and practically the same statute hereby recommended was in active operation in the States of New York, Pennsylvania, Massachusetts, Michigan, Wisconsin, Kansas, Nebraska, Nevada, Oregon, Maine, Rhode Island, New Hampshire, Vermont, and Alabama. While these bills have been under consideration by this committee three other States and one Territory have passed corresponding laws, viz, Iowa, Connecticut, Maryland, and Washington Territory, making seventeen States and one Territory whose statute books contain provisions for instruction in the schools thereof as to the effect of alcohol and narcotics on the human system. The aggregate population of these States and the Territory comprise nearly one-half of the inhabitants of the United States.

As evidence that the people earnestly desire a law like the one suggested in this report, attention is directed to the fact that petitions bearing the names of 71,276 residents of the country have been presented to this Congress, praying for the enactment of a measure embracing the features of the bill favorably reported by the majority of this committee to apply to the Territories and institutions under con-

trol of the Government and to the District of Columbia. The petitioners are among the foremost citizens of the different sections, including many opposed to restrictive legislation. In the lists are residents of the Territories and District of Columbia. The remainder are from all the States of the Union. The large number is being augmented by other petitions now being received.

In those States where the laws pertaining to this object are in force their effect is most salutary. The purpose of the bill is to afford scientific knowledge of the effects of intoxicants and narcotics upon the human system, thereby encouraging sobriety among those who will in a few years be the citizens of the country. Such laws lead to progress, and serve to check a threatening evil to humanity and the general welfare. In the interest of industry, prosperity, and good citizenship is the measure commended. It invades no right of self-government, and applies to those schools sustained by the nation and in sections under the control of Congress.

The measure has the further merit of involving no political significance, but appeals to the very foundations on which all admit that popular government rests—the intelligence of the people. It is difficult to see how any objection can be raised to such a statute, except by those who fear to have the next generation educated in its public schools as to a subject universally recognized to be of the most vital importance to individual health and social security.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1766.

MRS. LINA ALFORD.

APRIL 20, 1886.—Laid on the table and ordered to be printed.

Mr. MATSON, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 3900.]

The Committee on Invalid Pensions, to whom was referred House bill 3900, *submit the following report:*

That this claimant is the widow of Augustin Alford, late a private of company A, Ninth United States Infantry; that the incurrence of the disability from which he died was not the results of or incidental to his military service, and we therefore report adversely on the bill, and recommend it lie on the table.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1767.

MICHAEL McGRAYEL.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MATSON, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5975.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5975) granting an increase of pension to Michael McGrayel, having considered the same, submit the following report:

The claimant enlisted as a private in Company B, Ninety-eighth Illinois Volunteers, and was mustered into service at Olney, Ill., November 2, 1863, and was honorably discharged May 31, 1865.

At the battle of Selma, Ala., April 2, 1865, claimant received a severe gunshot wound in the face, for which soldier applied and received a pension of $4 per month March 16, 1866.

The disability resulting from said wound having constantly increased, claimant's pension was correspondingly increased from $4 to $8, $12, $18, and upon a rating of total third grade by a board of examining surgeons, is now receiving a pension of $24 per month. But the disability having rendered soldier entirely unable for the performance of manual labor, he now asks that by special act his pension be increased to $40 per month on account of the fact that his wound has made him offensive to his friends and shuts him out from society, and in support of said application for increase the following strong and uncontroverted medical evidence appears on file with claimant's papers, now before this committee, in claimant's favor.

The board of examining surgeons at Bloomington, Ind., June 6, 1877, make the following report:

Ball entered mouth, carrying away five upper and six lower teeth; lower jaw fractured left side, at anterior maxillary foramen. Jaw-bone discharged and continues discharging fetid matter from the seat of fracture. Several scars upon left side of jaw, and one on the right side of neck, the result of abscesses. Left cheek and corresponding angle of the mouth very much disfigured, and abnormal adhesion of cheek to lower jaw; left side of tongue shot away, on account of which articulation is very imperfect, deglutition difficult, and hearing very much impaired. We consider this case highly meritorious, and find his disability as described above to qual to and entitling him to a "total third-grade rating."

The board of examining surgeons, Columbus, Ind., April 14, 1880, from an examination, report as follows:

Height, 5 feet 8 inches; weight, 129 pounds; respiration, 22 to 28; pulse, 106 to 10. We find gunshot wound of lower jaw, ball entering the mouth at symphysis of lower jaw, ranging down and to left, taking five teeth out of upper jaw and ranging down and to left, taking six teeth out of lower jaw and fracturing the same, also

perform manual labor, and again give him a total third-grade rating

Drs. M. E. Phillips, John F. Ginolan, and J. M. Cook, resident p sicians and surgeons of Nashville, Ind., claimant's home, find the cla ant to be sorely afflicted with offensive ulcerations of the mouth, s of the face, and neck, loss of five upper and six lower teeth and a p tion of the tongue, resulting in a very ugly disfiguration of the face neck, impaired hearing and imperfect speech, difficulty in swallowi and at present time claimant is totally unable to perform manual lal

Your committee being unanimously of the opinion that this is v deserving and meritorious case, report the bill favorably, with the lowing amendment: Strike out the word "forty," in line 5, and in the word "thirty-six," and that the bill as so amended do pass.

O

CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 1768.

NANCY BATTORFF.

20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

[ATSON, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill S. 364.]

Committee on Invalid Pensions, to whom was referred Senate bill 364, *beg leave to submit the following report:*

Senate Committee on Pensions have made the following report :

James Battorff was a private in Company F, Thirty eighth Indiana Volun- that he was severely wounded during the war, for which he obtained a pen- nd that his death occurred on January 15, 1881. The committee, after thorough ıation of the case, are of the opinion that his death was hastened by reason of unds received while on active duty, and from exposure on the field, and there- commend the passage of the bill.

ır committee adopt the above report, and recommend the passage bill.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1769.

MARY A. TIBBETTS.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MATSON, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill S. 135.]

The Committee on Invalid Pensions, to whom was referred Senate bill 135, *beg leave to submit the following report:*

The Senate Committee on Pensions have made the following report:

Mary A. Tibbetts was the mother of Edward J. Tibbetts, who enlisted December 15, 1863, in the Eighty-second Regiment Indiana Volunteers, and who died March 1, 1864, at Ringgold, Ga., from the effects of a gunshot wound received in an action at Dalton, Ga., as appears from the records of the Adjutant-General's Office. At the time of the soldier's death his father and mother were both living at Neil's Creek, Ind. They had two other children, Eugene T. and Mrs. Wallace, both married. The father owned a farm of 80 acres, on which he and his wife lived, and which seems to have been fairly stocked. Besides he was a harness and collar maker by trade, and at the time did a fair business. His health at this time was not very strong, but he attended to his business. The testimony is that they lived comfortably with enough and some to spare in charity. The boy when killed was seventeen years old, and had for some years before going into the Army been working on the farm and going to school. The father's health seems to have grown worse until 1868, when he sold his farm and moved to Volga, where he continued to work at his trade in the shop of his son-in-law, Mr. Wallace, until he died, in April, 1882.

At his death he left a house and lot in Volga, for which he paid $1,600, to his daughter, upon condition that his wife was to have a home and board with her. Besides, the widow has the income from $100 at 8 per cent., $300 at 7 per cent., and $50 at 8 per cent. She claims that she is now old and without income.

Claimant filed her application before the Pension Office April 12, 1882. The claim was rejected on the ground that the mother was not dependent upon her son at the date of his death.

Your committee are of the opinion that, while the decision of the Commissioner was technically correct, the present dependent condition of the mother entitles her equitably to the provisions of the pension laws, and they accordingly recommend the passage of the bill by the Senate.

The committee adopt the foregoing report as their own, and recommend the passage of the bill.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1770.

MARGARET BUTLER.

APRIL 20, 1886.—Laid on the table and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7022.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7022) granting a pension to Margaret Butler, submit the following report:

Claimant is the widow of William Butler, who enlisted March 1, 1865. On the 8th of April he was examined and reported unfit for duty. He was soon after discharged. It seems incredible that his death from kidney disease eighteen years after could have been the result of that service.

Your committee report adversely, and ask that the bill lie on the table.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1771.

SAMUEL PARKHURST.

APRIL 20, 1886.—Laid on the table and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7258.]

7258) *granting an increase of pension to Samuel Parkhurst, submit the The Committee on Invalid Pensions, to whom was referred the bill (H. R. following report:*

The claimant in this case is receiving a pension of $24 per month for chorea. After a careful examination by a board of examining surgeons the Pension Department has fixed the above rate. No evidence is offered to show any error on the part of the office. If the disability has increased the Department has full power to increase the pension.

Your committee therefore report adversely and ask that the bill lie on the table.

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)ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 1772.

BRIDGET RYAN.

APRIL 20, 1886.—Laid on the table and ordered to be printed.

ORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7541.]

mmittee on Invalid Pensions, to whom was referred the bill (H. R. .) granting a pension to Bridget Ryan, submit the following report:

mant is the widow of Timothy Ryan, late a private in Company nth Massachusetts Infantry. The soldier received a gunshot l in his arm, for which he drew a pension. He died May 17, 1882, he effects of a strangulated hernia. No proof whatever is offered e contracted this disability in the service. He did not claim pen-)r it in his original application. He subsequently made three ap- ons for increase on account of his gunshot wound, but in neither allude to the hernia. Without evidence that the disability was ed in service, the case has no merit.

r committee report adversely, and ask that the bill lie on the table.

TH CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
1st Session. } { No. 1773.

JOHN WATSON.

APRIL 20, 1886.—Laid on the table and ordered to be printed.

. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT;

[To accompany bill H. R. 5325.]

e Committee on Invalid Pensions, to whom was referred the bill (H. R. 325) granting a pension to John Watson, submit the following report:

The evidence in this case showing incurrence of disability in the serv- and its continuance since is weak. The examining surgeon at Lin-n, Nebr., September 20, 1881, reported, "The disability is not per-tible." The examining surgeon at Seward, Nebr., reports June 23, 2, "I find him suffering from the effect of rheumatism, after a close estioning," and rates him $2 per month.

The case was fully and carefully investigated by a special examiner, o reported, "I am of the opinion that the claimant was never dis-ed in the service by rheumatism, and has not been since in a pension-e degree."

Your committee therefore report adversely and ask that the bill lie the table.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1774.

CHARLES H. ANTHONY.

APRIL 20, 1886.—Laid on the table and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6766.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6766) granting a pension to Charles H. Anthony, submit the following report:

The files in this case show that claimant enlisted in Company H, Third Missouri Volunteers, September 30, 1861. In April, 1882, he made application for a pension, alleging that at Houston, Mo., about September, 1862, he was thrown from a wagon and had his shoulder broken. The certificate of disability, upon which he was discharged, states that he was "incapable of performing the duties of a soldier by reason of paralysis and atrophy of the right arm"; that he had been unfit for duty for thirty days. This certificate is not dated, but the order of discharge is dated "May 31, 1862." The certificate was probably made a few days before. From this it would seem that he did no duty after May 1 on account of his disability. He alleges that he received the injury for which he asks pension more than four months after he was discharged. It might be claimed that he had made a mistake as to the time of injury, were it not that he swears very positively that it was about a year after his enlistment. It is also shown that the disability for which he was discharged existed at enlistment.

Your committee conclude, from a thorough examination of the evidence, that the case is utterly devoid of merit, and therefore report adversely, and ask that the bill lie on the table.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1775.

BRUNO SCHULTZ.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6774.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6774) granting a pension to Bruno Schultz, submit the following report:

Claimant was a private in Company F, Twenty-second Illinois Volunteers, having enlisted on June 25, 1861, and was discharged July 7, 1864. He alleges in his declaration for pension that he was ruptured on right side, caused by falling over a stump at night about January 17 or 18, 1864, while on the retreat from Dandridge to Loudon, Tenn. His claim was rejected because there was no record of his disability in the service. Claimant is shown to have been a stout, healthy young man prior to enlistment, a cooper by trade. The circumstances of his injury as alleged are shown by the testimony of Lieutenant Scheurmann and comrades John Kimich and Conrad Steffman; and three persons, among them his employer, testify to his showing his rupture within eight days after his return from the service. The report of the medical board of examiners in 1876 shows "right scrotal hernia of large size and difficult of retention," and that the disability is permanent. The last evidence, filed in July, 1884, shows claimant disabled for work at least one-half the time.

It would seem from this evidence that the injury was incurred in the service and line of duty, and therefore recommend the passage of the bill.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1776.

WILLIAM P. CARLETON.

RIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

r. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7074.]

he Committee on Invalid Pensions, to whom was referred the bill (H. R. 7074) granting a pension to William P. Carleton, submit the following report:

Claimant enlisted in Company B, Second Illinois Light Artillery, Au-ıst 18, 1861, and served until July, 1865. In 1879 he applied for a ːnsion, alleging disease of liver, the result of diarrhea, which was re-ɔted on the ground of no record and inability of claimant to produce ːtisfactory evidence. The hospital records show that claimant was in ɔspital for sixty days in the summer of 1862. Thomas J. George, a ːmrade, testifies that claimant was sick in the service and was absent ɔm the company for some time on that account.

George W. Dougherty states in his affidavit that claimant was in poor ːalth when mustered out—was very weak and bloated—worked for ſiant and was disabled one-half of the time. Lewis G. Emmons testi-ːs that he saw claimant at discharge and his health was poor.

Dr. S. L. Ellis testifies to having treated claimant for disease of the ver for past twenty years; that the right lobe of liver was enlarged. r. Thomas J. Norris testifies to treating him in 1868 and for two years ereafter for chronic disease of the liver. Dr. J. H. Campbell testifies being called in consultation in 1876; found his liver enlarged; re-ıced in flesh; considerable debility. The examining board of surgeons Macon, Mo., report March, 1884, "liver enlarged and tender; one-urth disabled." In May, 1884, the same board report him totally dis-ɔled. This soldier served four years in the Army. The proof is strong ıat when he enlisted he was a strong, hearty man. That he was sick the service is shown by the hospital record. It is also proven that ɔ came out of the service in ill health, and that he has suffered ever nce with enlargement of the liver.

Your committee recommend the passage of the bill.

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1777.

ORSON W. SEARS.

RIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7075.]

e Committee on Invalid Pensions, to whom was referred the bill (H. R. 075) granting a pension to Orson W. Sears, submit the following eport:

laimant enlisted in Company B, One hundred and twenty-eighth Ohio lunteers, February 19, 1862, and was discharged February 28, 1865. 1876 he applied for a pension, alleging varicose veins of left spertic cord, caused by a fall at Johnson's Island about March 20, 1863. is was rejected on the ground of no record and no satisfactory evilce of incurrence in line of duty. Claimant in his affidavit states t the injury was received by a fall from a plank walk while standing ard at night.

Capt. L. W. Bailey, of Company D, same regiment, testifies to the currence of the injury; that he fell on the walk around the prison, ich incapacitated him for duty some time; that he formerly beged to same company as claimant, but at time of fall was captain of mpany D, same regiment; that he knows of these facts, because he s on duty at same place when he had the fall.

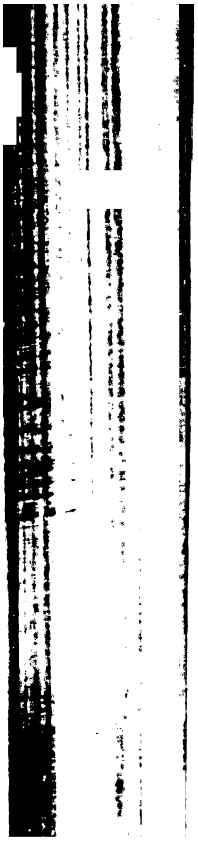
Dr. T. Woodbridge testifies, March, 1879, that he treated him about rch, 1863, for varicose veins of the spermatic cord. Three years and alf after making this affidavit he writes that he has no recollection creating him, though he may have done so.

Dr. J. C. Dunnington testifies to treating claimant from 1865 to 1876 varicose or ruptured veins of the scrotum. P. Attleberry corroboes the above.

Dr. R. H. Dunnington testifies that claimant was under his care in rch, 1876, and was suffering from varicose veins of left spermatic d; that during each year from that time to January, 1879, the spertic cord completely filled the external ring, causing heavy dragging ns when any active exercise was taken.

David E. Attleberry and Fayette Ford testify to being near neighbors ce November, 1865, and that he has suffered from the disability ned and that he has been unfit for manual labor. Have seen and versed with him almost daily.

The only reasons for rejection seem to be that claimant cannot ow that he was in line of duty, and that the surgeon apparently



accepted, and there is nothing shown to throw any doubt around it. soldier received his disability in the service, it existed at discharge, has continued ever since.

Your committee recommend the passage of the bill.

49TH CONGRESS, 1st Session. HOUSE OF REPRESENTATIVES. REPORT No. 1778.

JAMES W. SANFORD.

PRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6135.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6135) granting a pension to James W. Sanford, submit the following report:

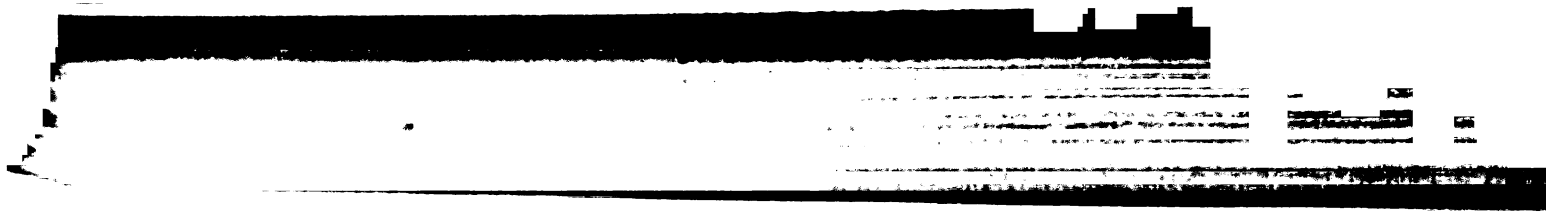
The papers in this case show that claimant enlisted in Company G, Second Ohio Volunteers, September 5, 1861, and was discharged August 2, 1862, upon surgeon's certificate of disability for chronic asthma of long standing, and aphonia which had existed since January 1, 1862. He had spasms of the glottis amounting almost to suffocation.

The application for pension, made in 1878, was rejected on the ground that the disability existed prior to enlistment. On this point Dr. D. H. Cole, whose reputation is vouched for by the postmaster as "the very best," testifies that his acquaintance with claimant extends from 1845, and that as family physician of claimant's father he knows of his own personal knowledge that the soldier was free from all chronic or deep-seated disease of spasms or epilepsy, and that at the time of enlistment he was a sound and healthy man, capable of making a full hand at manual labor; that in March, 1862, when at home on furlough, he found him suffering with extreme deafness of the left ear, spasms of the glottis, being at that time unable to speak above a whisper, and that upon a careful examination he pronounced him injured for life. The continuance of the disability is shown by the evidence of Dr. D. B. Cohn, C. C. Reister, H. C. Taylor, and John Beard, all of whom are reported as men of high standing.

The examining surgeon at Evansville, Ind., reports:

I find this man suffering from epilepsy. The respiratory muscles are mostly affected. After a few slight gasps the muscles become fixed for from two to three minutes, countenance presenting a most distressing picture, then all at once he will take deep inspiration and implore for relief. Has these attacks at times often in twenty-four hours, then again is free for two or three weeks; says it is the result of an attack of pneumonia during service. Drs. Harvey and Compton happened to be in my office during the examination and coincide in the above. In my opinion he is totally disabled.

Accepting the report of the surgeon in the certificate of disability upon which he is discharged, that asthma existed at enlistment, which, however, is flatly contradicted by his family physician, who had known him intimately for sixteen years, your committee still believe that his present disability was largely the result of his Army service, and therefore recommend the passage of the bill.



49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1779.

HENRY G. BALLINGER.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6126.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6126) granting a pension to Henry G. Ballinger, submit the following report:

It appears from the files in this case that claimant was detailed from the Forty-seventh Missouri Enrolled Militia to command a provisional company, organized under General Order 107, Department of the Missouri. That while thus engaged in Camden County, Missouri, in an engagement with the rebels, April 21, 1865, he received a gunshot wound in the shoulder. The affidavits of four credible witnesses as to the incurrence of the wound are on file. The report from the Third Auditor's office shows that claimant was paid by the State of Missouri for his services, and that the State was afterwards reimbursed by the United States.

The claim could not be allowed in the Pension Department because it was not completed before July 4, 1874, as required in all cases of State militia.

There seems to be no question that this officer was acting under the orders of an officer of the United States Army, and that he was wounded as claimed.

Your committee therefore recommend the passage of the bill.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1780.

CATHERINE THEUN.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6776.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6776) granting a pension to Catherine Theun, submit the following report:

We find that claimant is the widow of George M. Theun, deceased, who was a private of Company D, Second Missouri Artillery, enlisting October 26, 1861, and discharged September 19, 1863. In 1877 the soldier applied for a pension, alleging rheumatism and resulting disease of the heart, which was allowed. November 19, 1880, the soldier died, and his widow applied for a pension, which was rejected on the ground that the disease contracted in the service was not the immediate and direct cause of his death. The evidence shows conclusively that the soldier was for many years a great sufferer from rheumatism and heart disease.

Dr. F. W. Wessler, president of the Saint Louis board of examining surgeons, testifies, September, 1881—

That he has known claimant's husband for twelve or thirteen years as a neighbor, and that during most of the time he has been a sufferer from rheumatism, and that was without means of support, except what his wife could earn at washing, and became necessary for him to apply to the city medical department for treatment, and after leaving the city hospital Dr. Walter Wyman, now of the Marine Hospital service, prescribed for him, and affiant's next door neighbor, a druggist, says that the prescription was refilled at least fifty times, and claimant's means becoming still more limited, he requested me to copy the prescription and certify to his destitute condition. This, affiant thinks, was in 1875. In 1876 his family lived two doors from affiant's office, where affiant could daily observe his inability to perform manual labor; that in October, 1880, he was taken sick with acute inflammation of the liver, of which he died November 19, 1880, and affiant believes that the inflammation of the liver was caused by the heart's insufficiency.

In a letter subsequently written Dr. Wessler says:

I believe the disease of liver the result of chronic rheumatism and disease of the heart. The anchylosed condition of his feet and toes, as well as the valvular disease of the heart, prevented him from leaving his room for months at a time, preventing the proper distribution of the circulating fluid in the body, and thereby causing an influx to the organs of digestion, which caused his death.

It is doubtless true that the immediate cause of his death was not from the rheumatism or heart disease for which he was pensioned, but Dr. Wessler's testimony is direct and positive that these disabilities did produce the fatal disease from which he died.

Your committee therefore recommend the passage of the bill.

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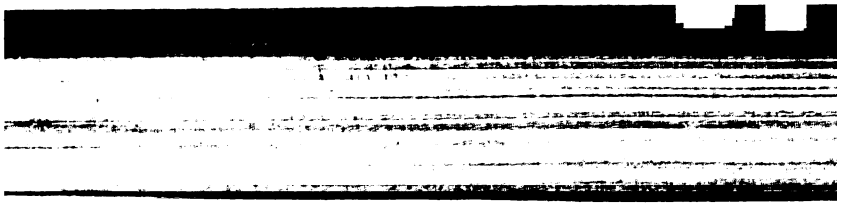


49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1781.

SOLOMON J. GRISSOM.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

MR. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7617.]

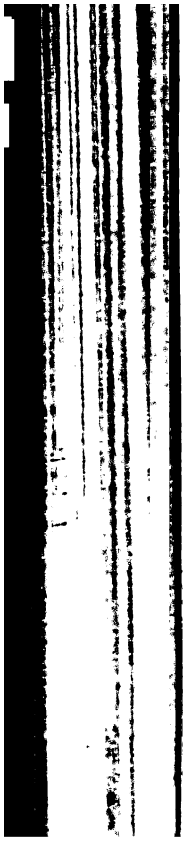
The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7617) granting a pension to Solomon J. Grissom, submit the following report:

The files in this case show that claimant enlisted in Company E, Twentieth Kentucky Volunteers, November 7, 1861, and was discharged January 17, 1865. In 1875 he made an application for a pension, alleging disease of lungs and chest, the result of measles contracted in the service. This was rejected on the ground of no record and no evidence of medical treatment in the service. The records of the hospital, which are very meager, show that claimant was admitted August 17, 1864, with rheumatism; no other diagnosis. A large amount of evidence is on file to show that he was sound and healthy at time of enlistment.

Lieut. S. A. Crowell testifies that claimant contracted measles, took cold, and the disease settled on his lungs; that he did not regain his health during the winter; that he was constantly with him until June, and has known him for several years since discharge, and believes that claimant's health was permanently injured.

J. H. Dunbar, a comrade, testifies that claimant had the measles at Smithland, Ky., and that he was well acquainted with him till 1876, and that he was never a sound man after he had the measles. Nathan B. Jackson, another comrade, testifies to substantially the same effect Timothy Jackson, a comrade, testifies that claimant contracted measles at Smithland, which settled on his lungs; that he was down a long time.

Dr. F. J. Sullivan testifies that he examined claimant August, 1866, and found him suffering with an affection of both lungs, and treated him several times after until 1876. Nathan Creekman and William Holland testify to an intimate acquaintance with claimant from discharge until he left Kentucky in 1876, and that since he returned from the Army he had been constantly ailing, and that they were satisfied his health was permanently injured. Dr. Andrews says he treated him in 1881; Dr. W. T. Sheek testifies to treatment from 1881 to 1884 for pulmonary disease. The examining surgeon at Hopkins in 1876, reports left lung diseased, and rates it at one-half total. The examining surgeon at Peru, Chautauqua County, Kansas, in 1882, reported claimant totally disabled by lung trouble, and the board at Independence, Kans., report him April 15, 1885, and July, 1885, as totally disabled.



To grant the soldier a pension now, to commence with the passag
this bill, seems but partial justice; but your committee heartily rec
mend this recognition of the claim.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1782.

HEZEKIAH TILLMAN.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7614.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7614) granting an increase of pension to Hezekiah Tillman, submit the following report:

Claimant was a private in Company B, Sixth Indiana Volunteers, having enlisted September 3, 1861, and served until September 22, 1864. In 1866 he made application for pension, alleging gunshot wound of right ankle, which was allowed, to date from discharge from service, at $2.66⅔ per month. In 1872 he applied for an increase, alleging that at the battle of Stone River he lost an eye by the bursting of a percussion cap, a part of it entering the eye and destroying the sight; also alleging that he received a shell wound in left knee. The hospital records show that he was treated for three months for "wound," but does not describe it.

The lieutenant-colonel testifies positively to the injury to the eye, and the surgeon of the regiment as to treatment of the wound of the knee. The surgeon is dead, and claimant is unable to furnish corroborating evidence. The fact that the three disabilities were not mentioned in the first application for a pension casts a cloud upon the claim; but the soldier is evidently an uneducated man, and his attorneys had no personal acquaintance with him. The examining boards describe all the disabilities.

Your committee recommend the passage of the bill with an amendment striking out "thirty," in line 6, and inserting "twenty."

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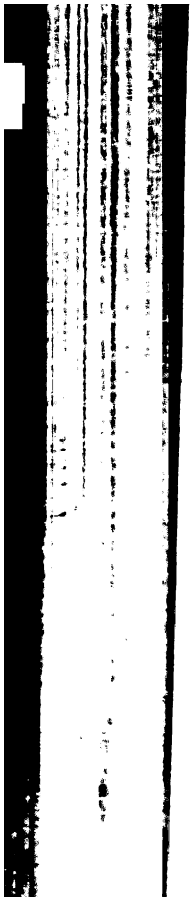


CONGRESS, } HOUSE OF REPRESENTATIVES. { No. 1788.
Session. }

MRS. M. A. LEWIS.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

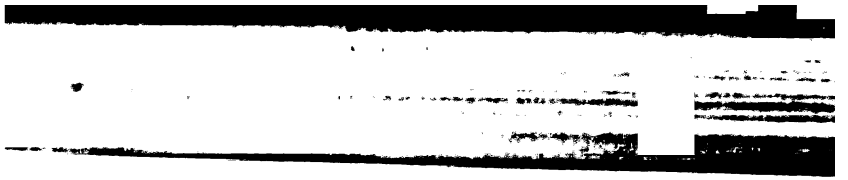
[To accompany bill H. R. 5174.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5174) granting a pension to Mrs. M. A. Lewis, submit the following report:

We find that claimant is the mother of Thomas Lewis, a private of Company L, Second Illinois Volunteer Cavalry, who enlisted August 5, 1861, a mere boy, served faithfully until April 7, 1864, when he was taken prisoner at Union City, Tenn. August 20, 1864, he died of starvation in Andersonville prison. The claimant is now a widow, aged and poor. The father, while living, refused to apply for or accept a pension, because he could earn a living without the help of his Government. The simple statement of this case is the strongest argument in its favor.

Your committee recommend the passage of the bill.

O



49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1784.

MARY MANES.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WINANS, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 2800.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2800) granting a pension to Mary Manes, have had the same under consideration, and beg leave to submit the following report:

Mary Manes is the mother of William Manes, who, while serving as a member of Company D, Fourth Wisconsin Cavalry Volunteers, died of a wound received at Baton Rouge, La., October 23, 1863. Her claim, filed January 23, 1878, was rejected by the Pension Office on the ground that the soldier was not in line of duty at the time of the receipt of the fatal wound.

It appears from the evidence on file that the soldier, while returning to his command from a few hours' leave of absence in the town of Baton Rouge, was shot down by one Bartholomew Sullivan, a private of Company A, Thirty-eighth Massachusetts Volunteers, and at the time of the shooting a member of provost guard. Sullivan was tried by court-martial for the killing of William Manes, and found guilty of manslaughter, for which he was sentenced to prison for life. The proceedings of the court, of which a copy is before your committee, appear impartial, every opportunity having been afforded the accused to justify the deed by the assistance of his counsel, Colonel Hopkins, of his own command. The deceased was slightly intoxicated at the time he met with the provost guard, under the command of a sergeant, who ordered him to return to his camp. This was about 3 o'clock p. m.; Manes was in company with other soldiers; there was no disturbance He was leaning against a lamp-post when two of the guards took hold of him. He offered no resistance; neither did those who accompanied him. While thus held by two of the guards, some one of the latter said, "Shoot him," and at this moment Sullivan raised his gun and shot Manes dead.

William Manes enlisted May 1, 1861; was wounded in action at Port Hudson June 14, 1863, and after recovery served faithfully until shot down by the hands of a coward. The company officer, in letter conveying the sad news to the parents, speaks of the soldier's noble conduct and bravery on the field of battle, and says, "Your son was shot in the streets of this city [Baton Rouge] in the most cowardly manner possible by a soldier of the Thirty-eighth Massachusetts Volunteers."

The evidence further shows that the soldier, prior to his enlistment, aided in the support of his parents, who owned a small tract of timber

land in Pine Valley, Wisconsin. His father, now deceased, was physically disqualified for hard manual labor by reason of rupture and disease of heart. Much of the soldier's earnings went to claimant's support, as much as $100 at one time having been sent to them from the Army. A married daughter has greatly aided, since the soldier's death, in the support of the claimant, who is now seventy-five years of age.

While the action of the Pension Office in rejecting the mother's claim was proper under the strict terms of the law under which pensions can be granted, your committee are of opinion that she is entitled to relief at the hands of the Government in whose service she lost a strong support by the cowardly deed of a fellow-soldier.

We therefore recommend the passage of the accompanying bill.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1785.

AMOS C. WEEDEN.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. LOVERING, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 8085.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 8085) granting a pension to Amos C. Weeden, submit the following report:

The Committee on Invalid Pensions have received from the Commissioner of Pensions a letter dated February 3, 1886, of which the following is a copy:

Under the joint resolution approved May 29, 1830, which provides that meritorious cases for which there is no provisions of the general law be transmitted to Congress, I have the honor to transmit herewith the papers in the case of Amos C. Weeden, late second lieutenant and captain and acting assistant quartermaster, artillery brigade and First Division Fifth Army Corps, ap. No. 209,047, to consider the propriety of placing his name on the pension-roll. It appears from the evidence in the case that he rendered service in good faith from April 22, 1862, and November 15, 1862, respectively, under commissions from the governor of Rhode Island, and was recognized as of those grades at the time by the duly constituted authorities of the United States. It also appears that while he was thus engaged he became disabled, and was discharged March 3, 1863, upon surgeon's certificate of disability because of subacute inflammation of the neck of the bladder, and has been troubled with his urinary organs continuously since his discharge. The claimant filed an application for pension October 12, 1875, alleging injury to back, resulting in spasmodic rheumatism, and in a subsequent declaration filed October 15, 1885, he alleges that the aforesaid injury also resulted in inflammation of the bladder and kidneys, and the claim was rejected January 29, 1886, upon the ground that claimant is not recognized as having been an officer of the United States Army, as shown by the report of the Adjutant-General, United States Army, in this case, under date of January 14, 1886.

In view of the fact that the soldier did perform good and valuable services, and became disabled while in the said service, and is still suffering from disabilities, the result of his said military service, it seems to be a case worthy of the consideration of Congress with a view to special legislation to give title.

Accompanying the letter above quoted came the original papers filed in this case in the Pension Office, including the commissions issued by the governor of Rhode Island and other original papers relating to claimant since. The Adjutant-General reports that—

Amos C. Weeden enlisted as a private in Company A, First Rhode Island Artillery, June 6, 1861, and discharged April 22, 1862, to accept promotion to second lieutenant in Sixth Rhode Island Volunteers. Cannot be recognized as a commissioned officer Sixth Rhode Island Volunteers, said regiment having failed of organization. He appears to have entered on duty without muster, and is first borne on muster roll of Company D, Fifth United States Artillery, for March and April, 1862, as second *lieutenant, Sixth Rhode Island Volunteers*, by order of governor of Rhode Island,

April 22, 1863. Assistant quartermaster division of artillery by Special Order No. 1
Porter's Division, April 25, 1862. Drew pay as second lieutenant Sixth Rhode Isla
Volunteers on muster and pay roll of Company D, United States Artillery, to Septe
ber 30, 1862. Was relieved from duty with the division artillery and assigned to d
as acting assistant quartermaster, Griffin's Brigade, July 27, 1862. He first appe
as captain in orders from division headquarters, announcing him as assistant quart
master of First Division, Fifth Army Corps, November 15, 1862. There is no rec
of his having been paid as captain. The following order also appears of record:

[Special Orders No. 46.—Extract.]

HEADQUARTERS FIFTH ARMY CORPS,
Camp near Falmouth, Va., March 3, 186

The following-named officers, having tendered their resignations, are honor
discharged from the military service of the United States on surgeon's certificat
disability:

Capt. Amos C. Weeden, Sixth Rhode Island Volunteers.

* * * * * * *

By command of Maj. Gen. G. G. Meade.

Notwithstanding all this evidence of service in his possession
Adjutant-General, under date of January 14, 1886, positively refuse
recognize Weeden as an officer in the service, for the reason that
Sixth Rhode Island Volunteers failed to complete its organization
that he declined his appointment as captain and assistant quarterm
ber of volunteers.

The declination of this appointment was due, however, to disabi
contracted prior thereto.

Medical examinations show claimant greatly disabled by reason
disease of kidneys and rheumatism, disabilities shown to have b
contracted in the service and line of duty.

Your committee concur in the opinion of the Commissioner of P
sions that the case is worthy of the consideration of Congress,
that, inasmuch as the technical ruling of the Adjutant-General wo
defeat a meritorious claim, relief should be afforded to the claim
and therefore beg leave to submit the accompanying bill and ask
it do pass.

CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 1786.

STEPHEN FLYNN.

APRIL 20, 1886.—Laid on the table and ordered to be printed.

LOVERING, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1110.]

Committee on Invalid Pensions, to whom was referred the bill (H. R. 0) *granting a pension to Stephen Flynn, submit the following report:*

e beneficiary in this bill still has a pending claim in the Pension artment, the same not having been rejected, it being a rule of the nittee not to take jurisdiction of pending cases.
e committee therefore report the bill back to the House with the nmendation that it do lie upon the table.

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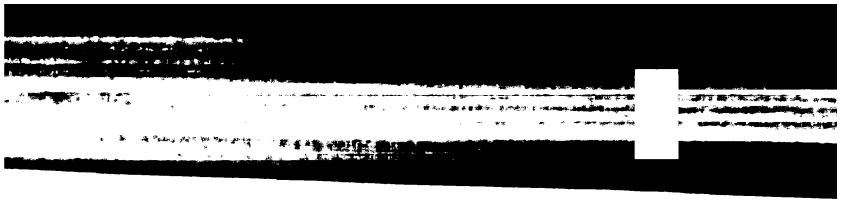


H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
1st Session. } { No. 1787.

CHARLES DOUGLAS.

APRIL 20, 1886.—Laid on the table and ordered to be printed.

. LOVERING, from the Committee on Invalid Pensions, submitted the following

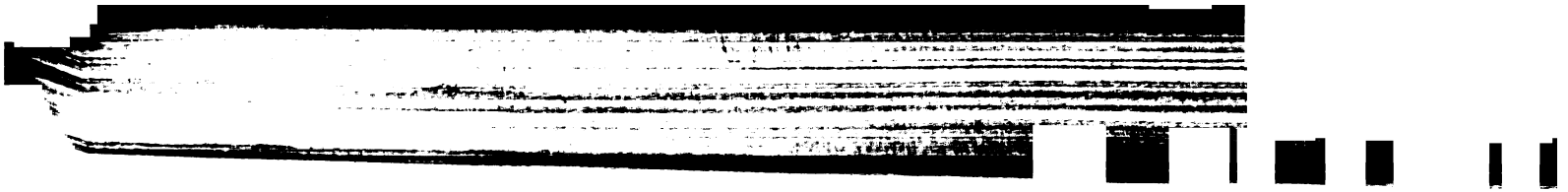
REPORT:

[To accompany bill H. R. 1111.]

e Committee on Invalid Pensions, to whom was referred the bill (H. R. 1111) for the relief of Charles Douglas, submit the following report:

The committee report that they have had the same under considera-n, and they respectfully report the same back to the House and rec-mend that it do lie upon the table.

C



49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1788.

LAURA A. TURNER.

APRIL 20, 1886.—Laid on the table and ordered to be printed.

Mr. LOVERING, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1091.]

The Committee on Invalid Pensions, to whom was referred House bill 1091, *beg leave to submit the following report:*

The evidence in this case discloses the fact that the beneficiary in the bill is now on the pension roll at the rate of $20 per month, commensurate with the rank of acting master, which he held when he contracted the disease which eventually culminated in apoplexy, the fatal disease, at which time he held the rank of an acting master commanding.

There is nothing in this case to distinguish it from thousands of other worthy cases, where the pensioner or his widow are borne upon the roll at a rate less than that of the rank held at discharge or death, and for the same reason as above; *i. e.*, the origin of the disease or the incurrence of the disability being at a time when soldier or sailor held inferior rank in the service.

Your committee therefore report back the bill with the recommendation that it do lie upon the table.

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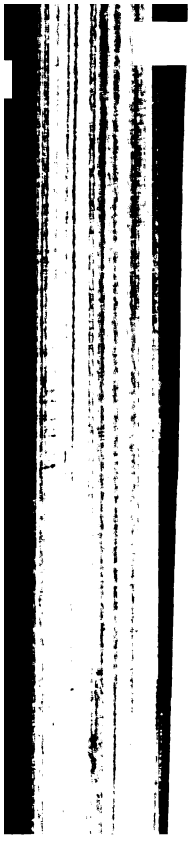

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1789.

GILES SHURTLEFF.

APRIL 20, 1886.—Laid on the table and ordered to be printed.

Mr. HAYNES, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6963.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6963) granting a pension to Giles Shurtleff, submit the following report:

This claim is as dependent father of Harlow P. Shurtleff, a private in Company A, Seventh Ohio Cavalry, who died in the service, of disease.

The claim was rejected on the ground of non-dependence.

A careful examination of the evidence on file leads to the conclusion that the rejection was correctly made upon the grounds stated. A special examination was made in this case, and we quote from the report of the officer conducting it:

> Claimant's own statement is as much against his claim as any made by the witnesses. His health has been good, and had no disability that interfered with his chosen labor, that of colporteur. Was a farmer in a small way when he took employment of American Tract Society, and has since received from $200 to $300 a year and his expenses. This was earning more and much easier than he could on his farm. In 1855, he states, he was worth $1,500; in 1869 it was $1,400, and a four-hundred-dollar piano, &c.; in 1871, $1,650. At the present he estimates his real estate at $900; has money at interest, $800, horse, cow, household furniture, piano, &c. Has a daughter living with him. About two weeks ago, by his horse running away, he was thrown from his wagon and seriously hurt, breaking the collar bone, but was able to attend a "conference" in Northern New Hampshire three or four days after the accident, which prevented my seeing him till to-day. Found him hoeing in his garden, with his arm in a sling.

The claimant states explicitly before the special examiner that, though the son made contributions of money to the family, he don't know that he (the son) thought that the family were in need of it, but he seemed disposed to help. There was no time that the family were in any particular need of his contributions, but they were acceptable.

So the vital question of dependence is not only not established, but is disproved by the statements of claimant himself.

The committee report adversely, and recommend that the bill lie on the table.

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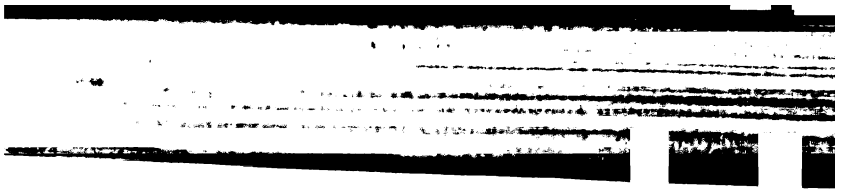

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1790.

DAVID W. BAGLEY.

APRIL 20, 1886.—Laid on the table and ordered to be printed.

Mr. HAYNES, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7332.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7332) granting a pension to David W. Bagley, submit the following report:

The claimant, a private in Company F, Eleventh New Hampshire Regiment, is now pensioned at the rate of $2 per month for gunshot wound in left thigh.

In his original declaration, made in 1864, he alleges:

> Was wounded at battle of Jackson, Miss., July 16, 1863, by a musket ball in left thigh, injuring the bone. * * * That he also has chronic rheumatism, which existed prior to enlistment in a mild form, and for which he expects no pension.

Subsequently, however, in 1880, he applied for increase on account of rheumatism, which was rejected on the admission in original application, quoted above.

It appears that when seven or eight years of age he had a severe rheumatic fever, which resulted in an abscess on right leg, which healed in a year or so, leaving a deep cicatrix. He alleges, and brings affidavits of neighbors in substantiation, that he was not troubled further with rheumatism until he entered the service. His own statement is that he was taken with rheumatism at Fredericksburg, Va., in the winter of 1862–'3, but this is not otherwise shown.

His right leg is now in condition that constitutes a most serious disability, there having been a progressive atrophy of the muscles, and the hip joint limited in action. The Concord board say:

> We are constrained to believe that the trouble with this limb is the result of the abscess rather than of his service.

These disclosures do not warrant the committee in assuming that the disabilities resulting from rheumatism are attributable to his military service, and we accordingly report adversely upon the bill, and recommend that it lie upon the table.

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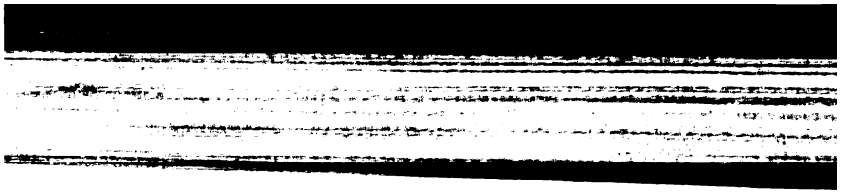

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1791.

CUMMINS PORTER.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. TAULBEE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 8086.]

The Committee on Invalid Pensions, to whom was referred the petition of Cummins Porter, beg leave to submit the following report:

Cummins Porter enlisted in Company F, Second Regiment Ohio Volunteer Heavy Artillery, on 26th September, 1862, and was discharged for disability by order of medical director on 7th April, 1864.

His certificate of discharge recites that disabilities existed at enlistment.

Claimant has lived in Kentucky ever since his discharge, and his inability to show his physical condition at time of enlistment evidently arises from his inability to procure the evidence of any of his comrades who knew the condition of his health immediately preceding his enlistment. He is shown to have been an exceedingly healthy and robust man until he left his present neighborhood some two years prior to enlistment, and that he was a faithful and true soldier, always willing and able for duty until a short time prior to discharge.

There is no evidence of disability at enlistment save the statement in his certificate of discharge to that effect.

Claimant, whose truthfulness is vouched for before your commitee by Mr. Taulbee, a member of the committee, who is personally acquainted with the claimant, states that he was sound and entirely free from disease at enlistment.

He became badly afflicted with fever, resulting in nervous prostration a short time before his discharge, from which he has never recovered.

He is now an exceedingly poor man, wholly unable to support himself by manual labor, has been fed and clothed by the county authorities for many years, and is now in the poor-house of his county.

In view of his long and faithful service in the Army, and the strong probabilities of his soundness at enlistment, as well as his merits and good character, coupled with his present deplorable condition, your committee strongly recommend the granting of a pension to him.

They report back the accompanying bill and recommend that it pass.

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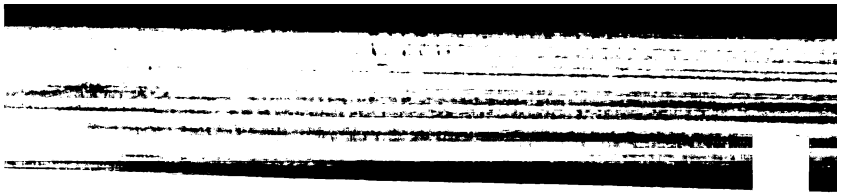

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1792.

MRS. SALLIE ANCRUM.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. O'HARA, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7168.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7168) for the relief of Mrs. Sallie Ancrum, have had the same under consideration, and submit the following report:

Claimant is the widow of Aaron Ancrum, who enlisted as a private in Company G, Thirty-fourth Regiment United States Colored Troops, June 1, 1863, discharged June 2, 1865, and died February 13, 1880.

Claimant's application rejected on the ground "that there is no medical evidence filed to show the soldier's physical condition from the date of his discharge to July, 1879, and no medical evidence to show cause of death, and claimant has declared her inability to furnish the same."

Soldier, during his life, filed an application for pension, which was rejected November 21, 1871, on the ground that the disability claimed for chronic rheumatism existed prior to enlistment.

Soldier's certificate of discharge states that he was incapable of performing the duties of a soldier because of over age and general debility; he complains constantly of urinal irritation and lumbar pains; he is unfit for the "Invalid Corps" on account of color; that a man's color should have unfitted him for the duties of the "Invalid Corps" is one of the cruel insults, the result of a base prejudice that the colored soldier, who, in common with others, hearkened to the country's call for aid in its hour of need and danger was subjected to, and we regret that it is now set up as one of the bars against his legal and equitable claim. It is one of those anomalies of our civilization that ought to be ignored and wiped out.

Dr. Charles Witsell testifies that he was the family physician of soldier's master before the war, and that soldier was sound when he enlisted.

Edward Brown and Sampson Drayton testify that they were neighbors of soldier prior to the war, and that he was a sound healthy man when he enlisted.

William Jones, a comrade, testifies that soldier strained his back and contracted rheumatism while working in the "Swamp Angel Battery," and that he was always troubled with rheumatism from that time, and that he was never well after his discharge.

Robert Boutelle, sergeant in soldier's company, testifies that soldier contracted rheumatism while working in the trenches; the rheumatism

was in his spine; knew that the disease always troubled him to the d
of his death.

Dr. A. P. Prioleau testifies that he commenced to treat soldier abo
1879, and to the best of his belief soldier employed no physician at t
time of his death, nor for some time previous; from his condition at t
time of treatment he has no doubt that his death was caused by drop

R. M. Rutledge and Sackey Taylor, neighbors, testify that sold
had rheumatism and was confined to his house most of the time; he w
not able to perform any manual labor after his discharge until his dea

Hospital record shows soldier treated for rheumatism and lumb
troubles prior to his discharge.

At an examination December, 1867, examining surgeon states th
soldier was totally disabled for obtaining his subsistence by manu
labor, and that he was suffering from chronic rheumatism permanen
affecting his back and causing constant pain, and at times in the l
shoulder; much of the time he was confined to his bed.

The work performed by what was known as the "Swamp Angel B
tery" was of the most arduous nature; the men were obliged to work
the mud all night, often remaining in the swamp both night and da
and from its very nature would be apt to produce rheumatism as alleg
in claim for a pension.

Your committee are of the opinion that soldier during his lifeti
suffered from disabilities incurred in the line of duty while in the serv
of the United States, and that said disabilities were the probable cau
of his death, and that his widow, who is quite poor, is entitled to a pe
sion; therefore recommend the passage of the bill.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1793.

NANCY FRANKLIN.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. O'HARA, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7365.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7365) for the relief of Nancy Franklin, have had the same under consideration, and submit the following report:

The claimant is the mother of Bayliss Norton and James Norton, late privates in the Second Regiment, North Carolina United States Volunteers, and of Josiah Norton, Third Regiment, North Carolina United States Volunteers.

Her claim for a pension was rejected on the ground that "soldiers were not in the line of duty when killed."

The evidence in the case is very lengthy and voluminous, with some conflicting testimony, but as Special Examiner Howard Miller made a careful examination of the case and report on the same on or about the 17th day of May, 1884, we quote the same instead of going over the evidence in detail. He says:

> This is a very difficult case and is remarkable in many ways. The whole matter hinges on the question of line of duty. The soldiers' captain, lieutenant, and sergeant know nothing about it; the parties are in doubt. It is absolutely impossible for one to get the facts. I have seen scores of people and they all know of the killing, but not one of them is able to tell why they were at home. The men in this command came and went as they pleased. The colonel allowed it. These boys, all parties agree, were good soldiers, and the record of the mother precludes the idea that they were deserters.
>
> The following may be accepted as abundantly proven: That she is the mother of the soldiers; that her husband never did support her; that the income of her farm is inadequate to her support; that the three soldiers were killed at a time and place where strict discipline was unknown. The presumption is in favor of the widow. There is no question as to the woman's loyalty, poverty, and patriotism. She gave everything she had, and now has the poor-house staring her in the face. She asks the Government to give her the benefit of a possible doubt. I submit the claim with the unqualified recommendation that it be admitted.

And the same was approved by L. E. Payne, supervising examiner of the Knoxville district.

The evidence shows that the three sons were at home on a short furlough. They were about getting breakfast in the morning; the house

was surrounded by the rebels; the boys ran out of the house, when Bayliss and Josiah were shot down by the rebels. James was shot down some distance from the house. They were buried in one grave without a coffin. The house was also burned down.

Your committee are of the opinion that the soldiers were in the line of duty when killed, and that their mother should be allowed a pension, therefore recommend the passage of the bill.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1794.

SUSAN MALONE.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. O'HARA, from the Committee on Invalid Pensions, submitted the following

REPORT:

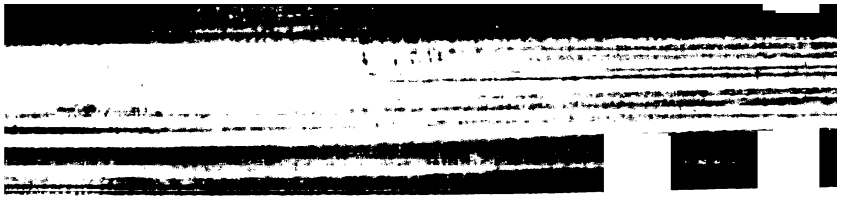
[To accompany bill H. R. 6670.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6670) granting a pension to Susan Malone, have had the same under consideration, and submit the following report:

Claimant is the widow of William Malone, late sergeant Company H, One hundred and tenth Regiment United States Colored Troops, who was taken as a prisoner of war September 24, 1864, and is supposed to have died in prison. Claim not allowed in Pension Office on account of claimant's inability to furnish the testimony required.

Anderson Crenshaw testifies that he was second sergeant in Company H, One hundred and tenth Regiment United States Colored Troops, and was acquainted with William Malone, who enlisted in said company on December 10, 1863, at Athens, Ala., and who was the husband of claimant; that soldier was sergeant of said company, and was captured by the enemy at Athens, Ala., in September, 1864. Affiant was also captured at the same time, and carried with claimant's husband and others to Mobile, Ala., where claimant's husband died some time during the following winter; that affiant acted as nurse in the hospital at the time of said soldier's death, and saw his body after he had died. Prisoner of war records show affiant captured at Athens, Ala., September 24, 1864, and recaptured by United States forces at Mobile, Ala., May 1, 1865.

Isaac Townsend testifies that he was a member of Company H, One hundred and tenth Regiment United States Colored Troops, and was acquainted with soldier (husband of claimant); that he became acquainted with him upon enlisting in said company, and that his wife, the claimant, a short time afterwards, visited him at Pulaski, Tenn., and frequently while said company was at Athens, Ala., and that affiant was with soldier when he was captured at Athens, Ala., in October, 1864, and with other soldiers was carried to Mobile, Ala., as a prisoner of war; said soldier was taken sick and sent to the hospital, and where affiant was informed he died. That affiant's husband, at the date of his capture, was sergeant of the company. Prisoner of war records show affiant captured at Athens, Ala., September 24, 1864. Muster-roll of Company H, One hundred and tenth United States Colored Troops for September, October, November, and December, 1864, reports Private Isaac Townsend (affiant) absent, "prisoner of war." May and June, 1865, present for duty.



49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1795.

MARY GRACE SMITH.

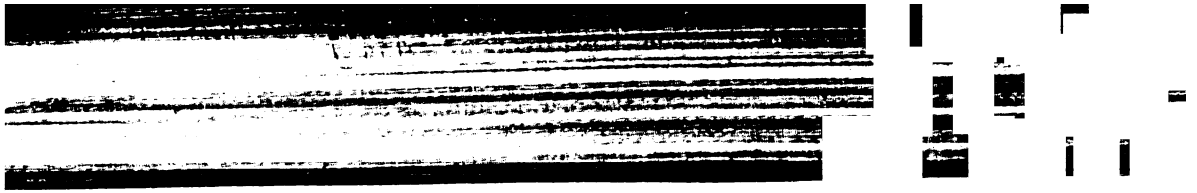
APRIL 20, 1886.—Laid on the table and ordered to be printed.

Mr. O'HARA, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7067.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7067) granting a pension to Mary Grace Smith, have had the same under consideration and recommend that the bill lie on the table, and that the committee be discharged from its further consideration.



)ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 1796.

ABBOTT B. J. BENT.

APRIL 20, 1896.—Laid on the table and ordered to be printed.

'HARA, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7064.]

Committee on Invalid Pensions, to whom was referred the bill 7064) granting a pension to Abbott B. J. Bent, have had the nder consideration, and recommend that the bill lie on the table, at the committee be discharged from the further consideration f.

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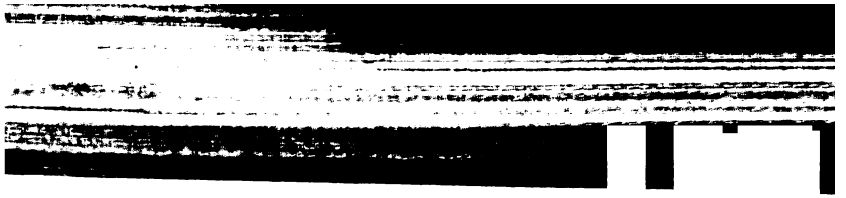

CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 1797.

MANHATTAN PICKETT.

APRIL 20, 1886.—Laid on the table and ordered to be printed.

WOPE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7165.]

ommittee on Invalid Pensions, to whom was referred the bill (H. R.) to increase the pension of Manhattan Pickett, respectfully report:

soldier is now in receipt of a pension for gunshot wound, de- l as follows by J. L. Stewart, president board of examining sur-

hot wound of posterior surface of left leg, leaving an ulcerated discharging 3¼ inches long over the lower part of the gastrocnemius muscle, the lower which muscle has been removed by inflammatory action and discharges, pro- pain and weakness of the leg and ankle, and impairing his ability for manual ausing a disability equal to the loss of a hand or foot.

Pickett has appeared personally before your committee, and, examined him carefully, they find the leg atrophied, with a large tion, which is evidently incurable.

leg requires bandaging to be constantly renewed, and is offensive smell. This has impaired his general health and reduced it to an ebb that an amputation of the leg, though very much to be d, would now be exceedingly dangerous and probably fatal.

ing all things into consideration, your committee think that this ner would be better off had his leg been amputated.

y recommend that the bill be amended by striking out "fifty dol- and inserting "thirty-six dollars," and that so amended it do pass.

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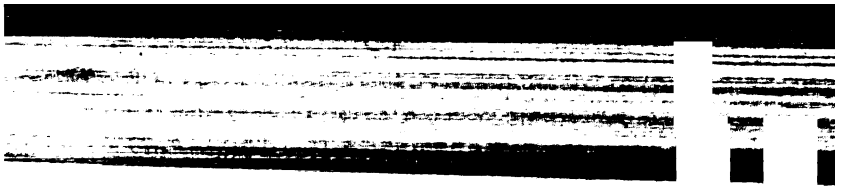


49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1798.

JOHN BUTLER.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SWOPE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5411.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5411) granting a pension to John Butler, respectfully report:

This claimant enlisted September 18, 1862, and was discharged May 30, 1865.

He alleges that while at Middletown, Md., about December 27, 1862, he received a rupture of bowels or rectum, and while near Halltown, Va., about February 1, received an injury of left side, breaking a rib and third finger of left hand. He alleges piles as a result of said injuries. The claim as regards "alleged injury to left side and third finger of left hand" was rejected under order 92.

The evidence all goes to show that this soldier was perfectly healthy and robust at time of enlistment, nor does there seem to be any question that the alleged disabilities were received in the service. The only question is as to the character of the injuries and disabilities, and about this there is some diversity of opinion between the examining surgeons and the physician who treated him.

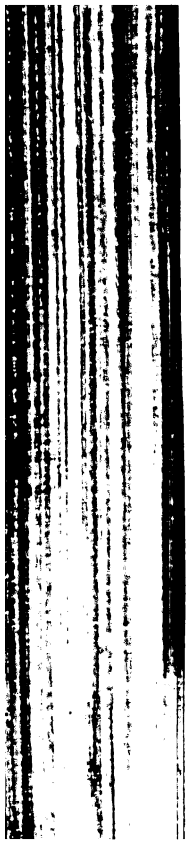
Claimant cannot produce the evidence of Dr. Beazell, who treated him from the date of his discharge up to 1872, Dr. Beazell being dead and his books being not accessible.

As to claimant's condition in service, First Lieut. J. M. Hustead testifies—

That at the time of enlistment claimant was considered sound and so passed examination by the surgeon. That while near Hagerstown, Md., about December 1, 1862, I heard claimant complain of piles, and was detailed to do camp duty, on account of not being able to ride. I heard him complain of said disease during his enlistment. I know the captain said that he had claimant detailed as cook on account of his having the piles and some of the members of the company did not like to eat after said claimant, because they said he had the piles.

Q. M. Sergt. A. W. Swaney testifies—

That at the time of claimant's enlistment he was, so far as I know, a sound and able-bodied man, and on or about November 30, or December 1, of 1862, while on the march from Hagerstown to Middletown, Md., said claimant was thrown from his horse—by his horse falling—and causing rupture. I heard claimant complain of being badly injured by his wagon sliding from off the road, the wagon catching him and breaking one of his ribs on left side.



Also produced piles, from which he is now suffering.

Privates Thomas Williams and James W. Dougherty, in their jo affidavit, testify as to claimant's horse falling and the incurrence of injuries, and claimant's inability to do anything but camp duty, p cisely the same and in corroboration of the evidence already quoted.

As to claimant's condition after service Dr. J. H. Patton testifies

I gave medical advice and treatment to claimant about the year 1872 or 1873. consulted me two or three times for the piles, and I gave him medicine for same.

Rebecca Butler testifies:

Since claimant's discharge from the Army he has not been able to do one-fourth amount of work he could prior to his enlistment. I have known claimant to be quently laid up as much as three weeks at a time with rupture and piles, and at same time said claimant complained very much of his breast and broken ribs hur him. He also had rupture and yiles very bad. I have washed claimant off bleeding a tea-cup full.

Mary E. Tobin testifies to the same effect as Rebecca Butler.

John W. Butler and Joseph T. Butler, in their joint affidavit, testif

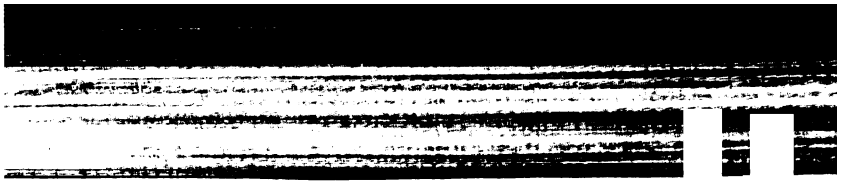
That since claimant's discharge from the Army we have frequently known hi be disabled on account of rupture, piles, and pains in his breast, and needed me treatment at times, when he failed to get it on account of limited means. Clai is one-fourth disabled, and we have frequently known him to have had contribu given him by his friends to keep him from want.

Dr. John Boyd testifies—

That he examined claimant August 19, 1885 (a stranger to him), and found he years ago suffered a severe accident to the chest and abdomen; the sternum has fractured, or the sixth and seventh ribs broken from it, and never reunited, but a bony anchylosis, the size of an egg, covers the part, preventing exact diagn that the two lower ribs have been broken from the spine, both are bent, and l one never reunited, and is still detached; this condition could only result pressure or crushing; that when examined claimant was free from excitement, lungs and heart indicated no disease, but quick motion or hard work would certa distress both. Cannot say how or when he was hurt, but can say he is an unsc man by reason of said disabilities; that he noticed his third finger of left hand is

r broken finger. It is my opinion that the disability was incurred in the s claimed. I find the disability, as above described, to entitle him to one-ree.

ng the evidence of this claimant's comrades into consideration, the evidence of those in daily contact with him, and that of Dr. your committee are fully of the opinion that the soldier was in-n service as claimed; and as the bill proposes to subject him to visions and limitations of the pension laws, which will rate the t of his disabilities, they therefore report the bill favorably and mend its passage.



49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1799.

ABRAHAM HOWARD.

APRIL 20, 1886.—Laid on the table and ordered to be printed.

Mr. SWOPE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 2091.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2091) granting a pension to Abraham Howard, respectfully report:

They find that the Committee on Invalid Pensions of the Forty-eighth Congress reported adversely a similar bill. Since then the claimant was allowed another examination, and the report of the board of examining surgeons was:

On examination we find nothing in his condition to corroborate his statement. We find hip and knee in a natural condition. Muscles, tendons, joints in a healthy condition.

The committee adopt the report herewith printed and ask that it be considered as their own.

That the said Abraham Howard claims to have been a private in Company C, Fitfy-second Regiment Pennsylvania Volunteers, from 26th September, 1864, till 23d June, 1865. During said time he contracted rheumatism in line of his duty near Salisbury, N. C., in December, 1864, by reason of exposure and sleeping on the wet ground; that said disease affected his back, hips, and legs; that he still suffers from said disease. There is no record of said disability in the War Department, and for that reason he did not apply to the Pension Department for relief.

David Gardner testifies that he is a neighbor of Howard, and that at the time of his enlistment claimant was a man of sound physical health, and free from rheumatism.

Henry Brubaker, M. D., testifies that he has treated claimant for said disease since discharge.

Jacob Shouman testifies that he was a comrade of claimant in the service; that he knew of his personal knowledge he contracted disease of rheumatism in the service.

The committee do not think the evidence and facts as set forth by applicant sufficient to warrant the passage of the bill (H. R. 2659), and therefore recommend that it do not pass.

ı CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
ıt Session. } { No. 1800.

ELLEN DECKER.

APRIL 20, 1886.—Laid on the table and ordered to be printed.

SWOPE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 2182.]

Committee on Invalid Pensions, to whom was referred the bill (H. R. 82) granting a pension to Ellen Decker, mother of John A. Fails, respectfully report:

ıey find that the records of the Pension Office fail to exhibit any ence that claim for pension has ever been filed in behalf of Ellen ker, the mother of John A. Fails.

ɔur committee are of the belief that this mother should first apply elief at the Pension Office before coming to Congress.

ıey therefore ask that this bill do lie on the table.

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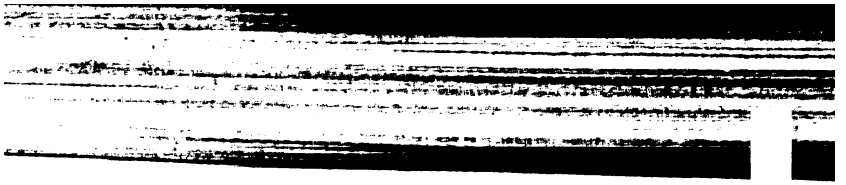

TH CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
1st Session. } { No. 1801.

HENRY N. HUGGINS.

RIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

r. SAWYER, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1678.]

he Committee on Invalid Pensions, to whom was referred the bill (H. R. 1678) for the relief of Henry N. Huggins, submit the following report:

A bill similar to this was introduced into the last House and passed, it failed to be reached in the Senate.

From an examination of the case, the committee think that the report the Committee on Invalid Pensions, which is adopted as their report this case, is a fair statement of the facts in the case, believe that the se is a meritorious one, and therefore recommend that the bill do pass.

The petitioner applied for a pension August 11, 1879, alleging that his son died m disease of the lungs, contracted in the service of the United States, and that fore and at the time of death he was dependent upon him for support, and that he d at sundry times contribute money for that purpose. Of the son's receiving wounds id incurring disease in the Army there is no doubt, as it was proven to the satisfac-on of the Pension Office, he being allowed and paid a pension of $8 per month from ay 30, 1863, to the time of his death, July 13, 1877.

It is in evidence that the soldier received a canister-shot through the right thigh Bull Run, Virginia, August 30, 1862, and that prior to that he had been sick with easles with many others in the regiment, and that, on account of the hospital being errun with sick, he was obliged to remain in company quarters, and in consequence ok cold and had "falling back of the measles," from which he never recovered, but at his lungs became affected; that he had a constant cough, which continued and creased until he died from hemorrhage of the lungs.

This is the substance of several affidavits, both medical and lay, which makes the ct of soldier's death plainly and positively attributable to disease incurred in the rvice.

Soldier was married, but his wife is dead, and there are no children. Mother is so dead, and the father has a clear title.

As to the question of dependence, the claimant shows that the soldier enlisted at ghteen years of age; that after he was old enough to work he received his wages; at soldier sent from the Army $40, and afterwards $100 or more; that after his return me gave him $100 more; that after his enlistment gave claimant $300 town bounty; at he purchased clothing for his mother to the amount of $35 or $40, and bought flant a suit of clothes. Claimant says that during the last five years (statement ted August 25, 1881) his whole earnings, with a little his wife had, has been in-fficient for his support.

Dr. Jacobs testifies that at the time of soldier's death claimant had chronic dysen-ry and hyperæmia of the brain, with irritable condition at base of skull. Occupa-

tion was that of clerk in a store, and could do about one-third the labor of an
bodied man. Doctor says at date of affidavit that claimant is in same disable
dition.

Postmaster at Mannsville, N. Y., says claimant is a man of integrity, and th
considers him poor; that he is now more than sixty years old, and incapable of
much labor. There is much evidence showing the dependence of the father; t
earns but little, and is incapable of earning much.

The committee are of the opinion that the claimant is entitled to be place
the pension-roll, and recommend the passage of the bill. Claim was rejected
Pension Office on the ground that claimant was not dependent upon the soldie
sisted by the soldier at the time his wife died. While this may be true, it is
technical objection and does not affect the merits of the case.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1802.

MRS. ANTONIA B. LYNCH.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PINDAR, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1630.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1630) to increase the pension of the widow of the late Capt. Dominick Lynch, United States Navy, have had the same under consideration, and beg leave to submit the following report:

Mrs. Antonia B. Lynch, widow of Capt. Dominick Lynch, United States Navy, was granted a pension at the rate of $25 per month, from October 11, 1884, the date of the officer's death. The rate granted is that of the widow of a lieutenant in the Navy, the rank held by the officer at the time of the incurrence of the fatal disease, according to the interpretation by the Pension Office of the evidence filed in support of the widow's claim.

Dominick Lynch was appointed a midshipman in the Navy February 2, 1829, promoted to passed midshipman July 3, 1835, to lieutenant September 8, 1841, to commander on the reserved list July 21, 1861, to captain on the reserved list April 4, 1867, to captain on the active list January 20, 1871, and died at Brooklyn, N. Y., October 10, 1884.

During the late war he served on the Daylight, and later commanded the Bainbridge, the naval station at Beaufort, S. C., and the steamer Saint Lawrence, of the North Atlantic Blockading Squadron.

Dr. Henry N. Read, who attended the officer in his last illness, testifies that his death was due immediately to cerebral hemorrhage, depending upon intracranial rupture of artery, degenerated from attrenomatous deposit. His heart had been affected for years with valvular disease due to acute endocarditis, the origin of which was inflammatory rheumatism, brought on by exposure.

The report of the Navy Department of the medical history of this officer during nearly fifty years of service is unusually complete. From this it appears that he was under treatment for rheumatism seven days in 1847 and two days in 1851, but at no time thereafter.

The widow is over sixty years of age, and an invalid, having the care of a daughter physically unable to earn a support. Her only son, who contributed to the support of the claimant and her invalid daughter, has been taken from her recently by death, thus leaving her entirely dependent upon the small pension now paid to her by the Government.

For nearly forty years claimant has been the true and faithful wife of a gallant officer, who, as heretofore stated, has honorably served his

country for a half century on sea and land. Her present pension is entirely inadequate for her support and the maintenance of a physically disabled daughter, and therefore comes to Congress for relief, asking that her pension be increased from $25 to $50 per month, in order that she may be able to retain the station in life in which her late husband's official position has placed her.

There are several precedents to which your committee desire to invite attention, in cases no more meritorious, or entitled to more favorable consideration than the one at issue. The widow of Maj. Levi Twiggs, of the Marine Corps (relative rank with that of lieutenant in the Navy), was granted an increase from $25 to $50 per month by a recent Congress; as was also the widow of Capt. John Gallagher, U. S. Navy, and in the Forty-seventh Congress a bill passed giving the widow of Frederick Collins, U. S. Navy, an increase from $25 to $40 per month.

Recent action on the part of the House in similar cases, however, is deemed by your committee sufficient to indicate that such precedents should no longer govern us in the consideration of bills asking for rates of pension in excess of those provided by the general law, and therefore must decline to grant the rate asked for in the bill under consideration, but, believing that the cause of the officer's death originated after he became a captain instead of being traceable to the slight attacks of rheumatism, from which he is shown to have suffered many years previously and while holding the rank of lieutenant, we are of opinion that the claimant is entitled to the pension provided for the widow of a captain in the Navy, viz, $30 per month, and therefore recommend that the bill be amended by striking out the word "fifty," in line 6, and inserting instead thereof the word "thirty," and thus amended, be passed.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1803.

ERDMUTHE KIRCHNER.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. NEECE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5931.]

The Committee on Invalid Pensions, having had under consideration the bill (H. R. 5931) granting a pension to Erdmuthe Kirchner, dependent mother of Carl Kirchner, report thereon as follows:

Carl Kirchner was enlisted in Company G, Twenty-fourth Regiment Illinois Volunteers. He was mortally wounded at Chaplin Hills, Kentucky, October 8, 1862, and died of his wounds two days afterwards.

The claim of his mother, Erdmuthe Kirchner, was rejected by the Pension Office on the ground that it does not appear that she was dependent on her son for support at the time of his death.

The facts bearing on this point appear to be as follows:

Claimant had a husband, who, at the time of Carl Kirchner's enlistment, was a wood-turner, following this business in a small wooden building in the rear of his residence in Chicago. The son, Carl, appears to have been the main-stay of the business, and from the time of his enlistment the business appears to have gradually fallen off. Claimant's husband, shortly before the Chicago fire of 1871, mortgaged his premises for about $2,500. This money he appears to have lost before or during the fire. The property was afterwards quit-claimed to the mortgagee in satisfaction of the debt, leaving claimant's family practically destitute. Claimant's husband died in 1875. Since that time claimant has been absolutely without means and dependent on the charity of friends and relatives. She is over seventy years old and disabled by a hip disease.

It appears that during the short period of Carl Kirchner's service in the Army he was in the habit of sending home money to his mother.

As the son, Carl Kirchner, was the main-stay of his father's family before he enlisted, as the family gradually sunk into destitution from the time of Carl's enlistment till the death of his father in 1875, and as since that time claimant has been entirely dependent on friends and relatives for her support, your committee believe that the bill ought to pass, and recommend accordingly.

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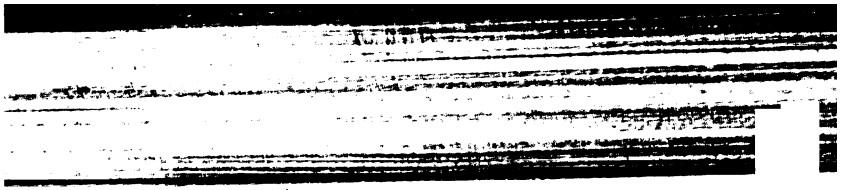


49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1804.

WILLIAM BISHOP.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. NEECE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6688.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6688) for the relief of William Bishop, respectfully report:

That claimant enlisted in the Seventy-ninth Indiana Volunteers on March 25, 1865, to serve one year. On April 3, ten days after enlistment, he was admitted to post hospital, Camp Carrington, Indianapolis, Ind., with measles, which continued six weeks, and resulted in disease of eyes and weakness of the spinal column.

His claim for pension was rejected on the ground that measles were contracted before service, the medical referee of the Pension Office claiming that the disease must have been well advanced so that the diagnosis could be made at the time—*i. e.*, April 3, ten days after enlistment.

Claimant swears that he was under military orders for several days in the barracks at Terre Haute, Ind., prior to enlistment at Indianapolis, where he alleges he caught the measles.

Dr. Martin Flenner testifies—

That he knew of his own personal knowledge that at the date of and prior to enlistment claimant was free from diseased eyes and spinal column. He is positive of claimant's prior soundness, as he was his family physician, and claimant worked as a laborer for him for several years.

Theodore Barnes testifies:

I formed the acquaintance of William Bishop about the 20th day of March, 1865. While in camp at Indianapolis Bishop was taken sick with measles, and I helped to carry him to the hospital on or about the 5th day of April, 1865. I was soon after taken down with the measles and was placed in the same ward and in the same bed with claimant, and know that said disease affected his eyes. I saw him just after he came out of the hospital and his ears were discharging matter and his eyes were sore.

Nelson Shaffner testifies—

That he was intimately acquainted with claimant for ten years prior to enlistment and he was apparently free from all diseases. Is positive his eyes were perfectly sound. Has known him well since his discharge and noticed that claimant was troubled with some disease of the eyes up to 1872, when he moved from affiant's town.

A number of affidavits are on file among the papers in the case which show that claimant's eyes were sore at the time of his discharge and continue sore to the present time, the board of examining surgeons rating him one-eighth disabled for manual labor by reason of granulation of both upper eye-lids and conjunctivitis of same.

Your committee believe that the claimant contracted measles after enlistment, notwithstanding the opinion rendered by the medical referee, and report the bill with the recommendation that it do pass.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1805.

ELIZABETH A. ROBBINS.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. NEECE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 426.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 426) granting a pension to Elizabeth A. Robbins, submit the following report:

Elizabeth A. Robbins, mother of William Henry Robbins, filed her application for a pension as a dependent mother in the Pension Office, which was rejected March 13, 1879, on the ground that the soldier's death was not the result of his military service. The evidence shows that claimant's son, William Henry Robbins, enlisted in the service of the United States August 13, 1861, in Company E, Seventh Iowa Volunteers. It appears from the evidence that the soldier was sent from his regiment to transact some business with the Seventh Kansas Regiment on the 27th day of June, 1863, near Corinth, Miss., and has never been heard of since. There was a stream of water between the two regiments which the soldier had to cross, which was greatly swollen on account of recent rains, and which was a very rapid stream.

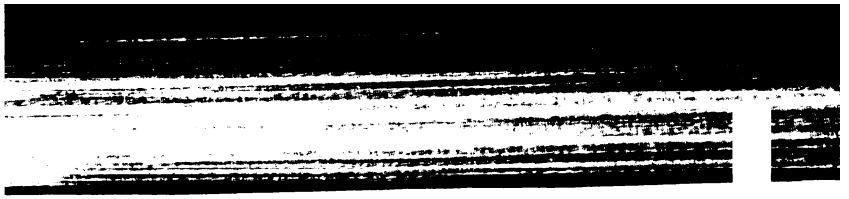
C. Fleonn, captain of the company in which the soldier was a member, testifies as follows:

I was the captain of Company E, Seventh Iowa Volunteer Infantry. On the 27th day of June, 1863, at Corinth, Miss., I gave William Henry Robbins leave to go to the company of the Seventh Kansas Cavalry to get a pistol. The Seventh Kansas was about 1½ miles distant from our company. A creek ran between, which was heavily swollen with rains. He never returned. The cause of his absence was investigated under my orders, and all the circumstances pointed to the fact that he had been drowned in the creek. I never heard from him afterwards. He was in the line of his duty, because he went by my authority as captain. My opinion is that he was drowned.

Two comrades testify substantially to the same facts. The soldier has never been heard of since. Your committee have no doubt but what the said soldier was drowned as alleged.

The claimant is shown to have been the mother of the soldier, and that she was dependent on him for her support; that he sent her $100 after he enlisted. The father of the soldier died when he was about four years old, and his mother, who was a very poor woman, made her living by day's work, washing and the like. The soldier, after he was big enough to work, contributed all his earnings to the support of his mother. He was her only help, and she has not had any one to depend on for help since the death of the soldier, and has had to make her living by her labor. She is now very old and unable to work.

Your commtttee are of the opinion that this is a meritorious case, and therefore recommend the passage of the bill.



49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1806.

ELMER DECKER.

APRIL 20, 1886.—Laid on the table and ordered to be printed.

Mr. NEECE, from the Committee on Invalid Pensions, submitted the following

REPORT:

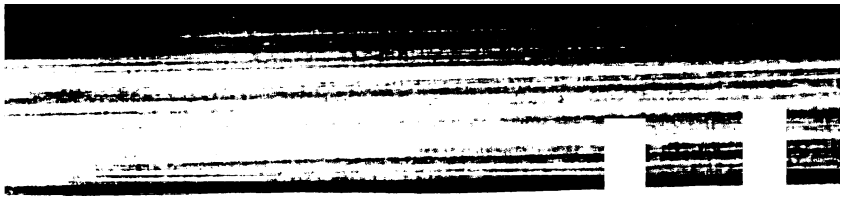
[To accompany bill H. R. 3288.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3288) for the relief of Elmer Decker, report:

That the evidence fails to show that claimant was disabled in the service, or that he is disabled at the present time.

Your committee recommend that the bill do not pass, and that it lie on the table.

C



:H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
1st Session. } { No. 1807.

WILLIAM J. HEADY.

:IL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Z. TAYLOR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5635.]

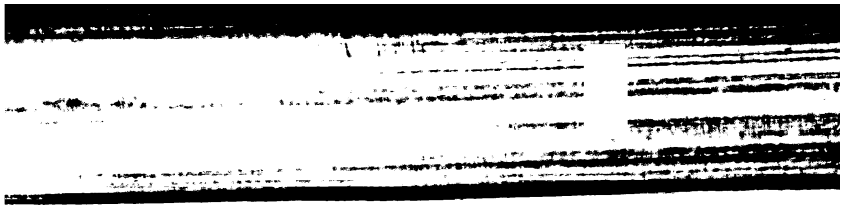
Committee on Pensions, having had under consideration the bill (H. R. 5635) granting a pension to William J. Heady, report:

'hat William J. Heady, of Kentucky, was a captain in the Army of United States during the war with Mexico. That just previous to battle of Buena Vista he was sent with a small detachment on a igerous reconnaissance, and was captured and carried to the City of xico, and kept a prisoner until that city was captured by General tt.

Ie was a brave, prompt, intelligent, and efficient officer. He is now y old, poor, and in very bad health, in some measure resulting from d usage as a prisoner, being now wholly unable to do any kind of k, and has been an inmate of a public hospital.

'our committee recommend the passage of the bill.

C



49TH CONGRESS, 1st Session. | HOUSE OF REPRESENTATIVES. | REPORT No. 1808.

LEWIS W. SCANLAND.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STRUBLE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 3043.]

The Committee on Pensions, to whom was referred the bill (H. R. 3043) for the relief of Lewis W. Scanland, submit the following report:

It appears that petitioner enlisted April 18, 1832, for service in the Black Hawk war; that he served about thirty-eight days, and was honorably discharged with his comrades May 28, 1832. On March 14, 1884, petitioner filed his application for pension, alleging the incurrence of chronic diarrhea during the service above mentioned.

There is no record of his disability or treatment therefor, nor does claimant allege to have been treated while in the service. There is no mention of his disability at discharge.

Claim was rejected on ground of no record, short service, and claimant's inability to furnish satisfactory evidence to connect the alleged disability with his military service. To substantiate claimant's testimony in regard to alleged disability, we have the affidavit of his comrade, S. W. Gaskell, who has known claimant since he was ten years old; enlisted with him, served and been discharged with him; knew that he was attacked with chronic diarrhea while in the aforesaid service; that he suffered severely with it after discharge and upon the route home, and that he suffered with it continually up to 1872, when affiant moved from the vicinity of claimant. Said Gaskill is the only member of his company whom claimant knows to be now living.

We also find the evidence of Col. John Thomas, of Belleview, Ill., who says that from the best of his remembrance claimant was attacked with diarrhea while in said service, and that a great many in that service were similarly attacked. Colonel Thomas also testifies to his belief in the truthfulness and uprightness of claimant.

Claimant testifies that the physician who treated him immediately upon his return home died many years ago. Other medical treatment of claimant is testified to by the following physicians: Henry L. Strong, who was his family doctor for ten years after September 9, 1848, and he knows him to have been troubled with chronic weakness of bowels both before and after September, 1848. Samuel Willard, who, for a few years about 1856, was claimant's family doctor, testifies:

> Claimant was subject to chronic diarrhea. He had several severe attacks, in which I was obliged to be up all night with him.

J. L. R. Wadsworth, who treated claimant in 1871 and 1872, testifies that he was subject to chronic diarrhea.

Also, affidavit of True Blake, who was a near neighbor of claimant from 1872 to 1883, and knew that he was subject to chronic diarrhea.

James Purviance also makes affidavit that he has known claimant for sixty years; was his neighbor before and after his service in Black Hawk war, and from the time of his discharge up to 1872, when claimant moved from his vicinity, it was common report that he was suffering from chronic diarrhea.

Claimant is unable to produce evidence of any one except Gaskell and Purveyance as to his condition at discharge, as all his old neighbors are dead or moved to parts unknown.

We recommend the passage of the bill, with the following amendments: Strike out the word "Burbank's," in the sixth line, and insert "John Thomas's"; also insert after "regiment," in the sixth line, the words "Captain Barnsback's company."

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1809.

PHŒBE H. MEECH.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ALEXANDER C. WHITE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1649.]

The Committee on Pensions, to whom was referred the bill (H. R. 1649) granting a pension to Phœbe H. Meech, respectfully submit the following report:

Phœbe C. Meech is the widow of Horace J. Meech, who was a soldier in the Mexican war, serving gallantly and faithfully. By the records of the adjutant-general's office at Albany, N. Y., he is shown to have been commissioned second lieutenant in the First Regiment Volunteers on the 19th day of February, 1848, with rank from that date. Also, the same fact is shown by quite a number of witnesses. Whether he was mustered or served as a second lieutenant is not clear. He was honorably discharged on the 28th day of June, 1848. He applied for a pension, but died in 1851, before receiving the same. The applicant was pensioned in 1875, but only from that date and only at the rate of $8 per month.

From all the facts in the case your committee are of the opinion that she is entitled to receive pension as a widow of a second lieutenant. They therefore recommend the passage of the bill.

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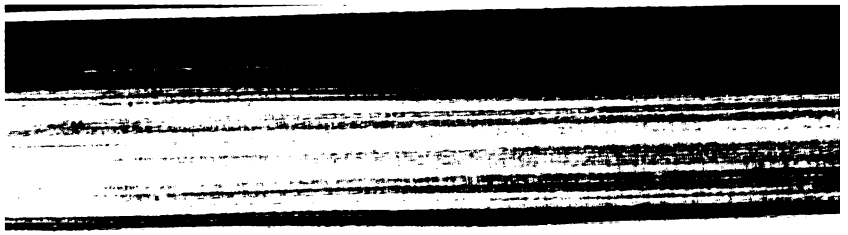


49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1810.

JAMES M. HAGAR.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. W. WARNER, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 7507.]

The Committee on Claims, to whom was referred the bill (H. R. 7507) for the relief of James M. Hogar, have had the same under consideration, and beg leave to report:

That it appears by communications from the State Department and Treasury Department, and from the petition of the claimant, that in the month of August, 1871, the American ship St. James, of which James M. Hagar of Richmond, Me., was managing owner, arrived at Bremerhaven, Germany, and that immediately on arrival several seamen deserted, whereupon the United States consul at that port, without giving notice to the captain of the vessel, and without proper investigation into the facts, exacted three months' extra wages of the vessel, claiming to act under section 4600 of the Revised Statutes, repealed by the shipping act of 1884, amounting to $1,112.78 in gold, or $1,325 in American currency and exchange, in which latter currency said James M. Hagar paid the exaction. The master of the vessel paid the amount, under protest, in order to obtain his clearance papers, and at once appealed to the American minister at Berlin, Mr. Bancroft, who caused the case to be investigated, and subsequently reported to the State Department that the exaction was illegal, and that the consul, who had required the payment of the same without warrant of law, should be removed.

The State Department, after further investigation, affirmed the decision of Minister Bancroft, and removed the consul by abolishing the office. The consul, in the mean time, finding that he had got into trouble by his course, forwarded the sum exacted of the vessel, amounting to $1,112.78 in coin (worth at that time $1,325 in American currency), and it was covered into the Treasury in 1871. The illegal conduct of the consul is further shown by this course, because, if he had acted under the law (now repealed) by which he attempted to justify his course, he should have paid two-thirds of the sum to the seamen (who evidently received nothing), and only one-third of the amount should have been paid into the Treasury.

It was not until the return of the ship to the United States, some time after the transaction, that all the facts became known to the managing owner, when he applied to the Treasury Department to have the amount illegally exacted returned to him. He was informed that this would require action by Congress, as the amount had been covered into the Treasury. Subsequently application was made to Congress, but up to this time no action has been had.

DEPARTMENT OF STATE,
Washington, April 3, 1886.

SIR: I have the honor to acknowledge the receipt of your letter of the 19th of Fe ruary, requesting certain information from the files of this Department concerni certain exactions by W. C. Brown, consul at Bremerhaven (Geestemunde) in 18 from the American ship St. James.

In reply I would state that the records of this Department do not show the retu of $1,325, as these returns are made to the Treasury Department.

It does appear, from the records, that the master protested against the exaction the United States minister, who subsequently reported that the exaction was illeg The consulate at Bremerhaven was shortly afterward closed.

The Department has no record of any refund of the amount exacted to James Hagar, of Richmond, Me., the owner of the vessel, or to any other person.

For this information, as well as that desired in your first inquiry, I would refer y to the Treasury Department.

I have the honor to be, sir, your obedient servant,

T. F. BAYARD

Hon. N. DINGLEY, Jr.,
House of Representatives.

Memorial of James M. Hagar.

To the Congress of the United States:

The undersigned respectfully represents to your honorable body that in the y 1871 he was the managing and principal owner of the ship St. James, of Richmo Me.; that in August of that year this ship arrived at Bremerhaven, Germany; t immediately on arrival fifteen seamen (foreigners) deserted, without cause, and s after left the port; that soon after the master of said ship St. James was notified W. Colvin Brown, American consul at said port, that he must pay to said consul th months' extra wages in coin, on account of said seamen; that the master of said ve protested that he had not been notified of any cause for said exaction, and that th was no cause for it; but that he was obliged to pay, under protest, to the consu coin $1,112.78, amounting with exchange to $1,325 in American money, in order to tain his papers and clear his vessel; that he at once appealed to Mr. Bancroft, t the American minister at Berlin, whereupon the minister caused the case to be vestigated, and gave a decision that the exaction was illegal, of which decision b the consul and the United States Government at Washington were advised; that State Department, after correspondence and investigation, affirmed the decisior

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1811.

AMERICAN GROCER ASSOCIATION.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUCHANAN, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 3176.]

The Committee on Claims, to whom was referred the bill (H. R. 3176) for the relief of the American Grocer Association of the city of New York, would respectfully report:

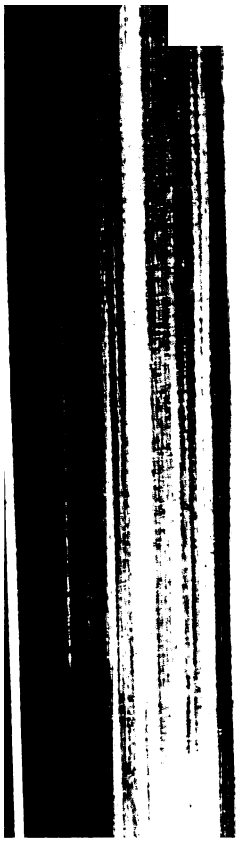
That this claim has been before previous Congresses. From the Committee on Post-Offices and Post-Roads of the Senate (Forty-seventh Congress, first session) the following report was made (No. 715):

The law of July 12, 1876, for the transmission of matter through the mails, in section 15 provides "that transient newspapers and magazines, regular publications, designed primarily for advertising purposes, or free circulation, or circulation at nominal rates," &c., "shall be transmitted in the mails at the rate of one cent for every two ounces and one cent for each two additional ounces or fractional part thereof." By the act of Congress approved June 23, 1874, "newspapers mailed from a known office of publication, issued weekly or oftener, and addressed to regular subscribers, shall be charged two cents a pound or fraction thereof."

On the 5th day of July, 1877, the Postmaster-General decided that the paper called "The American Grocer" was not entitled to the lower rates of postage, to wit, two cents per pound, upon the ground that it was "designed primarily for advertising purposes"; and the company was therefore compelled to pay for the months of July and August, 1877, the sum of $648. Upon a rehearing the Postmaster-General determined that his first decision was erroneous, and that said paper should be subject only to the lower rate of postage, to wit, two cents per pound. The amount paid by "The American Grocer Association" was, as has been stated, $648. Under the lower rates it would have been $162. Deducting that sum from $648, it appears that said publishing association paid $486 over and above what the Postmaster-General finally decided they should pay. It being in accordance, therefore, with the final decision of the Postmaster-General that said company overpaid that sum, your committee recommend the passage of the accompanying bill; and it is understood that if the money had not been covered into the Treasury it would have been reimbursed by the Postmaster-General to the said company.

The committee therefore recommend the passage of the bill.

This report your committee adopt. The sum paid was $648. The sum that should have been paid was $162. This leaves an overpayment of $486. Your committee recommend the amendment of the bill by striking out in sixth line the words "five hundred" and inserting in lieu thereof the words "four hundred and eighty-six," and that so amended the bill do pass.



49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1812.

GEORGE T. NEWMAN.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUCHANAN, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 5400.]

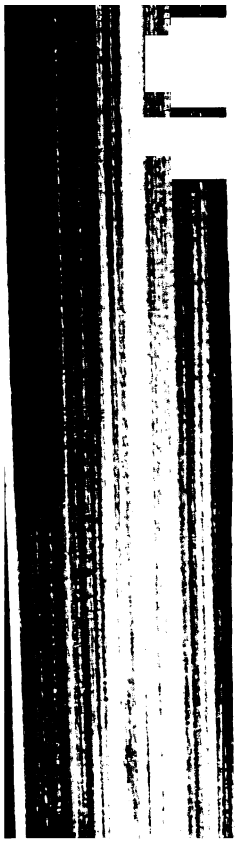
The Committee on Claims, to whom was referred the bill (H. R. 5400) for the relief of George T. Newman, would respectfully report as follows:

April 27, 1883, the Indian Office entered into contract with the claimant for the delivery at Blackfeet Agency, Montana, for the fiscal year, of 180,000 pounds of beef. The Indian Office report:

In making said contract the amount appropriated by Congress, in addition to other supplies purchased was exhausted. In the fall of 1883 reports as to the starving condition of the Blackfeet Indians reached this office, and on the 4th of October, 1883, the the Department authorized this office to call on the contractor for the additional 25 per cent. of beef provided for in the contract, and also to purchase in open market additional beef to an amount not to exceed $3,000. Funds for the payment of said beef were diverted from other funds, under section 4 of the act of Congress approved May 1, 1883 (22 Statutes at Large, page 450). In making his deliveries, the contractor, it is understood, at the request of the then agent, and on account of the starving condition of the Indians, delivered more beef than the 25 per cent. additional and the $3,000 worth in open market. The claim for the additional beef delivered, amounting to $935.37, was allowed by this office, but the Second Comptroller of the Treasury disallowed the amount, claiming that under section 3 of the act of Congress approved March 1, 1883 (22 Statutes at Large, page 350), no more than $3,000 worth could be purchased in open market. This office has contended, and contends, that section 3709, Revised Statutes, fully covers this case, as it is there provided that when immediate delivery or performance is required by the public exigency, the articles or service required may be procured by open purchase or contract at the places and in the manner in which such articles are usually bought or sold or such services engaged, between individuals; but the Second Comptroller, whose decision under section 191, Revised Statutes, is final, does not agree with this, and hence I see no way for claimant to obtain payments except through action of Congress.

The Indians were starving. The claimant in the emergency furnished supplies. The amounts and prices are not disputed. The Indian Office has recommended payment. Upon a technicality, the existence of which, even, is denied by the Indian Office, payment is refused.

We recommend the passage of the bill.



Acting Secretary

The PRESIDENT OF THE SENATE PRO TEMPORE.

DEPARTMENT OF THE INTERIOR,
Washington, February 18, 188

SIR: Under the direction contained in the second section of the act of July 7, 1
I have the honor to transmit herewith, for presentation to Congress, an item of
propriation prepared in the Office of Indian Affairs to pay George T. Newman thes
of $935.37 from the balance of the appropriation for the relief of Indians at Cr
Blackfeet, Fort Belknap, and Fort Peck Agencies, being the amount due him for b
delivered at Blackfeet Agency in 1883.

I also inclose copy of letter of 17th instant from the Commissioner of Indian Affa
with inclosures noted therein, in relation to the matter of this account, which
pears, for reasons stated in the correspondence, to have been disallowed by the S
ond Comptroller of the Treasury, as in excess of the amount allowed to be purcha
in open market.

The Commissioner recites the circumstances attending the purchase of this b
and cites the law which in his opinion justified this action, and he recommends t
the item in question be attached to the deficiency or sundry civil appropriation
now pending in committee.

Concurring in his views, I respectfully recommend the matter to the favorable c
sideration of the committee and Congress.

Very respectfully,

H. M. TELLER,
Secretar

The Hon. SECRETARY OF THE TREASURY.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, February 17, 188

SIR: By your reference of the 13th instant I am in receipt, for report and rec
mendation, of a letter from R. B. Harrison, president of the Montana Cattle Comp
in relation to a disallowance of $935.37 made by the Second Comptroller of the Tr
ury in the claim of George T. Newman for cattle delivered by him at the reques
the agent at Blackfeet Agency, Montana, in excess of the amount authorized t

In making his deliveries the contractor, it is understood, at the request of the then agent, and on account of the starving condition of the Indians, delivered more beef than the 25 per cent. additional and the $3,000 worth in open market. The claim for the additional beef delivered, amounting to $935.37, was allowed by this office, but the Second Comptroller of the Treasury disallowed the amount, claiming that under section 3 of the act of Congress approved March 1, 1883 (22 Stat., page 350), no more than $3,000 worth could be purchased in open market. This office has contended, and contends, that section 3709 Revised Statutes fully covers this case, as it is there provided that "when immediate delivery or performance is required by the public exigency, the articles or service required may be procured by open purchase or contract, at the places and in the manner in which such articles are usually bought or sold, or such services engaged, between individuals;" but the Second Comptroller, whose decision under section 191 Revised Statutes is final, does not agree with this, and hence I see no way for claimants to obtain payments except through action of Congress. The amount due has been reserved by this office from the funds appropriated by Congress during the fiscal year 1884 for the "relief of the Indians at Crow, Fort Belknap, Fort Peck, and Blackfeet," and I respectfully recommend that the inclosed amendment be forwarded, through the proper channel, to the House Committee on Appropriations, to be attached to the deficiency or sundry civil bill now pending before that committee, with a favorable recommendation from you.

Very respectfully,

H. PRICE,
Commissioner.

HON. SECRETARY OF THE INTERIOR.

That the Secretary of the Treasury be, and is hereby, authorized and directed to pay to George T. Newman the sum of $935.37, from the balance appropriated for the relief of Indians at Crow, Blackfeet, Fort Belknap, and Fort Peck Agencies, the same being amount due him for beef delivered at Blackfeet Agency on account of the starving condition of the Indians, in excess of the amount authorized by law to be purchased in open market.

[Montana Cattle Company, incorporated 1880.]

HELENA, MONT., *September* 20, 1884.

SIR: On the 27th day of April, 1883, George T. Newman was awarded a contract for the delivering of 180,000 pounds of beef at Blackfeet Agency. On the 4th day of October, 1883, the Commissioner called upon Newman to deliver 25 per cent. additional, making a total of 225,000 pounds to be delivered under the contract. On the same day the Commissioner authorized the agent at the said agency to purchase $3,000 worth of beef in open market. All of said beef was furnished to said agent at the said agency by the Montana Cattle Company, and in the delivery thereof an excess over and above the amount above mentioned was delivered to and received by said agent at said agency, for the use of said agency, to the amount of $935.37. The Montana Cattle Company, knowing the necessities of the Indians at the agency, and their starving condition, supposed the agent had authority to receive and account for all the beef so delivered, and was never informed to the contrary until the receipt of notice from the Second Auditor's Office, under the date of January 2, 1884, by which the contractor is informed that this amount, viz, $935.37, is "suspended, as recommended by the Commissioner of Indian Affairs," as being in excess of the amount authorized to be purchased. Afterward a notice was sent to the contractor, under date of July 17, 1884, informing him that the claim for $935.37 for beef cattle furnished the Blackfeet Agency, under contract of April 27, 1883, and suspended in settlement 942, *was allowed* by this office March 7, 1884, and *was disallowed* by the Second Comptroller July 5, 1884. After the Indian Department issues the requisition, the United States Treasurer will send a draft for the amount. It appears from this notice that there is a difference of opinion in the Departments as to the propriety of allowing this claim, as it is allowed by the Second Auditor and disallowed by the Second Comptroller.

The beef which this excess of $935.37 represents was furnished Mr. Young, their agent, at said agency, in good faith, upon the credit of the Government of the United States at said agency, and we feel that the amount should be paid. If there is no appropriation out of which it can be met, we respectfully suggest that it might be provided for in the deficiency bill for your Department at the ensuing session of Congress.

in regard to a disallowance of $935.37 in the beef contract of George T. Newman
the Blackfeet Indians, under contract of April 27, 1883, and ask if my request to
this disallowance submitted to present Congress in your deficiency estimates has
complied with. I herewith hand you a copy of a letter from the Second Audit
the United States Treasury (original mailed to Hon. J. K. McCammon, attorney-
eral of the Interior Department), quoting one from the Second Comptroller of
Treasury on this same subject. It appears from these letters that there is no
whatever to secure payment of the beef furnished except through a deficiency ap
priation. Our company was a subcontractor under Newman, who will not pa
until he receives the money from the Government. I trust your Department, if
have not already done so, will submit at once an estimate to cover this claim.

Yours, truly,

R. B. HARRISON, *Presider*

Hon. H. M. TELLER,
Secretary of the Interior, Washington, D. C.

[Montana Cattle Company, incorporated 1880.]

WASHINGTON, D. C., *December* 6, 188

SIR: Your letter to the Secretary of the Interior dated September 20, 1884, tr
mitted to this office for action, relating to a disallowance of $935.37 in settlement
942, January 5, 1884) of claim of George T. Newman for beef delivered at the Bl
feet Agency, has been referred to the Second Comptroller, who made the suspens
and has been returned with the following indorsement:

"SECOND COMPTROLLER'S OFFICE,
"*November* 20, 1880 [1884

"Respectfully return to the Second Auditor, and his attention is invited to the
that this case has been twice considered and decided, and no reason is seen for
further action in the matter.

"JAS. S. DELANO,
"*Acting Comptroller*

As under provisions of section 191 Revised Statutes the decision of the Comptr
is "final and conclusive," no further action can be taken in the case by this o
Your letter is filed with settlement 1982 of July 5, 1884.

Respectfully,

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1813.

MALITTY ROSE.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUCHANAN, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 2585.]

The Committee on Claims, to whom was referred House bill 2585, beg leave to submit the following report:

This bill was reported this present Congress from the Committee on Pensions (Report No. 816). When the bill came up for action in the House, in what is known as "pension night," the point of order was raised that the bill was improperly on the Calendar as a pension bill, and by vote of the House it was ordered to be recommitted to the Committee on Claims.

The report of the Committee on Pensions was as follows:

That it appears from the papers now on file in the Pension Office that Malitty Rose was the widow of Elias Rose, a private in Captain McCoy's company, United States Infantry, engaged in the Florida war; under act of Congress approved February 3, 1853 (section 4732, R. S.), the said Malitty Rose was granted a widow's five-year one-half pay pension; said pension commenced December 3, 1853, and expired December 3, 1858.

On June 3, 1858, six months before the expiration of her five-year grant, an act (now section 4725 R. S.) was approved continuing that class of pensions for life. After the expiration of the five-year grant the Pension Office dropped the name of Malitty Rose from the roll and did not continue her as a pensioner for life, as provided by said act of June 3, 1858.

On March 29, 1879, she made application for restoration and accrued pension from date her name was dropped from the pension roll. On June 9, 1879, she was restored to the roll and paid a pension from date of completion of evidence in accordance with section 4713, Revised Statutes. This section provides that when an application has not been filed within three years of the termination of the pension previously granted, the pension under said application shall commence from date of completing the evidence. The claimant made several unsuccessful attempts, between the years 1879 and 1885, to get a reversal of above decision as to arrears; finally she took her case on appeal to the Secretary of the Interior, who, on March 5, 1885, rendered a favorable decision, using the following language: "It is believed by the Department that the provisions of section 4713 should not be applied to this case, for the reason that the name of Mrs. Rose was on the roll when the act of June 3, 1858, was passed, and that the act could have been properly executed in her case without requiring of her an application. The act continued the pension she was receiving at the date of its passage, and the certificate for the continued pension might properly have been issued without any action on her part," and directed that a reissue certificate be issued for amount of accrued pension, viz, $1,556.68.

On March 17, 1885, the Pension Office notified her attorney that the reissue certificate had that day been issued and sent to the pension agent at Knoxville, Tenn.

On April 9, 1885, over three weeks after the issue of her certificate, and the pension agent had been directed to pay her the amount of accrued pension, the claimant died.

The administrator signed the vouchers and returned them to the agent, demanding payment. He was denied. He applied to the Commissioner of Pensions to direct the payment as asked, who, in a letter to the attorney dated July 22, 1885, declined to do

so, giving as a reason the law as expressed in section 4718, Revised Statutes. He then appealed to the Secretary of the Interior, asking payment upon the ground that the Government should not profit by its own wrong in first dropping the name of Malitty Rose from the rolls in direct opposition to the provisions of act of June 3, 1858, which declared the pension should continue for life; second, in refusing payment of accrued pension on June 9, 1879, and thereafter until March 5, 1885; third, in the long withholding of the vouchers (over three weeks) and negligence of duty by the pension agent; and fourth, that the decision of March 5, 1885, was rendered by a competent tribunal; hence the question was *res adjudicata;* the character of pension had ceased and was thereafter one of the settlement of a judgment against the United States.

This appeal was decided adversely to the estate by the Secretary of the Interior, upon the ground "that no equity powers in the matter are vested" in his Department. The administrator of the estate of Malitty Rose now applies to Congress for relief.

From the facts before us we are satisfied that it was through no neglect on the part of the claimant in applying for or in proving her claim that she was kept from enjoying the use of the money that clearly belonged to her, but that it was through the erroneous acts of the agents of the Government, particularly of the pension agent in retaining the vouchers in his hands for so long a period as three weeks, more than sufficient time to have closed the matter up; that had it not been for this last act of negligence the vouchers and money would have reached the claimant before her death, and the estate would have been benefited thereby.

The principles of equity apply to prevent the United States from reaping the benefit of the wrong acts of their agents, and in favor of those who would have been benefited had it not been for said acts.

The theory advanced, that the decision of March 5, 1885, is a judgment, and carries with it an obligation of debt, is sufficient within itself to warrant the granting of the relief asked for in the accompanying bill.

Your committee therefore report the accompanying bill without amendment and recommend that it pass as reported.

Your committee adopt said report as their own. In this case Malitty Rose should never have been dropped from the roll. The action by the Government officer in so dropping her name was totally without warrant or authority. It is not analogous to the case of a pensioner dying after the pension is allowed and before its payment. The case goes further back than that, and, as stated, reaches a point where the claimant was already on the roll—properly so—and then improperly dropped therefrom.

In the opinion of your committee the claim is just and should be allowed.

C

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1814.

HEIRS OF ERSKINE S. ALLIN.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GALLINGER, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 4961.]

The Committee on Claims, to whom was referred the bill (H. R. 4961) for the relief of the heirs of Erskine S. Allin, having given the matter careful consideration, report as follows:

Mr. Allin entered the armory at Springfield, Mass., in 1829, as a mechanic, and served in that capacity and as clerk, foreman, acting master armorer, acting superintendent, and master armorer for a period of over fifty years, twenty-six of which were as master armorer. During his service as master armorer he invented and had patented a valuable improvement in breech-loading fire-arms, dated September 19, 1865, a copy of which is attached to this report. Mr. Allin also originated other valuable improvements designed to perfect and reduce the cost of the gun (known as the Allin gun, or, in United States Tactics, the converted Springfield musket) without in any way detracting from its workmanship, but this patent is the only one he obtained. This gun, embodying his invention and secured by patent, was approved by the Government, and adopted as the model arm for the United States service after a protracted trial by a board of officers appointed by the President and Secretary of War, and from that time to the present its manufacture has been continued as required by the wants of the service.

(See report for the Congress of the United States of the Chief of Ordnance United States Army, Brevet Maj. Gen. A. B. Dyer, dated December, 1868. See also report of General Grant to Congress for 1867, as Secretary of War and General-in-Chief of the Army. Also, letter from the Secretary of War, Hon. W. W. Belknap, embodied in his annual report for 1873, Forty-second Congress, House of Representatives, Ex. Doc. No. 72.)

The Government, by adopting this gun and continuing its manufacture, has admitted that it excels any other invention of fire-arms in affording an immediate means of converting muzzle-loading muskets quickly and economically into the best breech-loading rifle in the world. Eliminate from this gun the principal feature covered by the Allin patent, that of the locking device for holding the breech-block closed when in the act of firing, and it would be left comparatively worthless. This feature alone would have been sufficient to sustain any claim Allin might have made but for the regulation which practically forced him to assign his invention to the Government, which he did for a consideration of $1. True it is that he might have left the service and gone into the private manufacture of the gun, but he did not choose to do this, and

the fact that he remained faithful to the interests of the Government, and gave his country the benefit of his valuable invention, ought certainly not to prejudice his case, especially as by so doing he died in poverty, leaving his widow and daughter in indigent circumstances, while the Government reaped a rich reward as a result of his skill and ingenuity. On the contrary, it is the strongest possible reason why some measure of relief should be granted.

The bill referred to your committee asks that $100,000 be paid to the heirs of Mr. Allin. In investigating the case the present Chief of Ordnance, Brig. Gen. S. V. Benét, was consulted, and his views will be found in the appendix to this report. In brief, they are that, recognizing the great value to the Government of the Allin patent, he recommends that an allowance of 10 cents per gun be made on all guns containing said improvement. It appears from official documents, which, also, are appended to this report, that up to the 23d day of February, 1886, 5,026 Springfield rifles had been changed to breech-loading arms by the use of the Allin patent, and that 432,873 rifles had been manufactured under said patent, making a total of 437,899 guns. Recognizing the justice and equity of some degree of relief in this case, your committee recommend that the sum of 5 cents per gun be allowed, and we accordingly report the bill back with an amendment, striking out in the third line the words "one hundred thousand dollars," and substituting the words "twenty one thousand eight hundred and ninety-four dollars and ninety-five cents," and as amended recommend its passage.

APPENDIX.

I, Fannie T. Allin, of Springfield, county of Hampden, Commonwealth of Massachusetts, on oath do depose and say that my age is 49 years; that I am the widow of Erskine S. Allin, late master armorer at the United States armory located in said Springfield; that my said husband died at said Springfield, September 11, 1879; that the compensation of my said husband during the time of his service in said armory, which was from the year 1829 until his death, was only sufficient for meeting necessary living expenses of himself and family, and that he died without having accumulated property therefrom, and that my means of a livelihood at the present time, as they have been since his death, are small, and derived in part from the assistance of friends.

I further depose and say that my husband frequently expressed regret that the Government regulations were such that he could not derive some royalty or remuneration therefrom for the invention of the device for changing muzzle-loading rifles to breech-loading, for which he had secured a patent; and as he had been obliged to assign all his interest in it to the Government, he hoped that in some way his family might be remunerated after his death, which he thought would be only simple justice to him and them as a recognition of his services and the value of the invention to the Government. I know that he was advised by prominent parties to leave the service of the Government and go into the manufacture and sale of guns with his improvement, as they believed large profits could be thereby made; but he preferred to remain faithful to the service.

FANNIE T. ALLIN.

COMMONWEALTH OF MASSACHUSETTS,
Hampden, ss:

February 13, 1886.

Sworn and subscribed this day, before me.

H. K. HAWES,
Justice of the Peace.

I, Augusta M. Ladd, of Holyoke, county of Hampden, Commonwealth of Massachusetts, on oath do depose and say that my age is forty-five years; that I am the daughter of Erskine S. Allin, late master armorer at the United States armory located in Springfield; that my said father spent over fifty years of his life in the service of

the Government at said armory, as I am credibly informed and believe, and died in 1879, without having accumulated any property therefrom beyond what was necessary for the support of himself and his family.

I know that my said father frequently expressed the feeling that it would be only an act of simple justice that the Government should compensate him for the great value to it of his invention of the device for changing muzzle-loading guns to breech-loading, for which he secured a patent in the year 1865; and felt that the regulations existing at that time which prevented such compensation were unjust, but expressed the hope that in view of his long service for the Government and the advantages and benefits to it of his invention some compensation would in some way be made to his family, should they outlive him.

I further depose and say that my family consists of a husband and three children, and that my husband is in feeble health and unable to earn more than enough to partially defray necessary living expenses.

AUGUSTA M. LADD.

COMMONWEALTH OF MASSACHUSETTS,
Hampden, ss:

FEBRUARY 15, 1886.

Sworn and subscribed this day, before me.

H. K. HAWES,
Justice of the Peace.

UNITED STATES PATENT OFFICE.

E. S. ALLIN, OF SPRINGFIELD, MASS.

Improvement in breech-loading fire-arms.

[Specification forming part of Letters Patent No. 49959, dated September 19, 1865.]

To all whom it may concern:

Be it known that I, Erskine S. Allin, of Springfield, Hampden County, Commonwealth of Massachusetts, have invented certain improvements in fire-arms; and I do hereby declare that the following is a full and exact description thereof, reference being had to the accompanying drawings, and to the letters of reference marked thereon.

My invention belongs to that class of fire-arms known as "single-breech loaders" using the metallic cartridge.

I will first describe its construction, and next its operation, and, finally, show some of its advantages over others of the same class.

In the drawings, Figure 1 is a side view of a portion of my gun near the breech, showing it closed in the act of firing. Fig. 2 is a side view of the same, showing the recoil-block A thereon up so as to admit the cartridge into the bore of the gun at B. Fig. 3 is a rear view of the recoil-block A. Fig. 4 shows the cam shaft in the rear end of the recoil-block. Fig. 5 shows a section of the cartridge-shell extractor.

To the barrel G, I attach, by means of the joint *d*, the recoil block A, which swings in *d*, and when opened, as shown in Fig. 2, exposes the rear end of the bore of the barrel to admit the cartridge, and when closed the part C completely fills up the space between the end of the cartridge and the breech-pin *c*. It will be seen that the part C of the barrel is beveled, and the part C of the block is also beveled to fit in the place, so that when the block is down it forms a dovetail joint at the front end with the barrel, thus preventing it from being lifted out at the end, even though the pin *d* be removed. This block A is also fastened at the rear end by the cam *c*, turned by the short lever F at the side, this cam fitting into a recess cut in the breech-pin *b* to receive it, thus completely fastening in the recoil-block A. The shaft *h*, in which the cam *c* turns, is raised up at C in form of a crank, so as to pass over the side of the barrel.

I will now describe the construction of the cartridge-shell extractor.

To the recoil-block A, at N, I attach a part of a gear or pinion formed by cutting several teeth, *n n*, &c., in the inside of N. These teeth of the pinion fit in similar teeth of a rack, M, at the side, having teeth *o o*, &c. To this rack the cartridge-shell extractor M is attached.

I will now describe the operation of my invention.

We will suppose the gun fired and the shell of the metallic cartridge remaining in it. It is desired to remove the shell to allow another cartridge to be placed in the bore at B. The gun being cocked, the piece A is raised by turning the lever *f* up, thus releasing the rear end piece. A is raised up, the notch *s* in it acts on the spring-

tooth S, and carries forward the rack M, so that the gear-teeth *n n*, &c., may catch in the rack and draw back the shell-extractor. This (the shell-extractor) is arranged as shown in Fig. 5, the part *t* fitting behind the rim of the cartridge-shell, and as it is moved back takes the shell along with it. As the block A is raised farther the last tooth of the pinion slips off from the rack and the spring *s* pulls the rack forward to its former position.

I wish to call particular attention to the arrangement for throwing the pinion *n* into gear with the rack M. This is accomplished by means of the spring-tooth S, which springs into the notch *s*, and as the block A is raised again the rack is drawn forward into gear with the pinion, as before described. The block A being raised, as shown in Fig. 2, a cartridge is inserted into the bore of the gun. It will be seen that it is not necessary that the cartridge should be pressed up entirely to its place, as the part C of A in coming down will force it into its place, even though the end of it should be half an inch back from its proper position. As the part C of A comes down it forces in the cartridge and the front end blocks at C, as before described, and the lever *f* is turned down. This brings the cam *c* into the recess *g* in *b*, thus holding A securely in its place. If by any accident the lever *f* should not be turned down, it is impossible to fire the gun, for the hammer V in coming down will strike the projection in *f* and throw it up against A, as shown in Fig. 3, thus effectually preventing the hammer from striking the pin U, which communicates with the cartridge, as shown in Fig. 1; or, if *f* should be turned down part way and not entirely, the hammer in coming down strikes over the projection *x* and forces it to its place, locking A.

I will now state some of the advantages of this arrangement

First. It is very easy of operation, it being only necessary to cock the gun, raise A, which removes the shell, and insert a cartridge and close A, and it is ready for firing.

Second. It is impossible to blow the piece A open, it being fastened in at each end, as described. It will lessen the danger, in this connection, that it does not depend at all upon the pin *d*, as this may be taken out without rendering the gun useless or dangerous, as a solid block, C, is interposed between the breech-pin and the end of the carriage in a direct line.

Third. It is impossible to fire the gun unless its working parts are in relative position for firing, as before described.

Fourth. The cartridge is not required to be pressed entirely to its place, as already described, which saves much care and attention in loading and firing rapidly.

Fifth. It is very simple, compact, and positive in its movements, and not liable to get out of order.

Sixth. It is particularly adapted to the alteration of the Springfield rifle-musket (or any other), as it can be done without changing the feature of the musket or without throwing away any of its parts. All that is necessary is to cut away the barrel on the top at the breech and add the part A and shell-pulley, cut the recess in the breech-screw, and modify the hammer. All other parts remain the same.

Now, having described my invention, what I claim as new, and desire to secure by Letters Patent, is—

1. The combination of a solid recoil-block, A, with a pinion, N, and rack M, the first tooth, *s*, of which is hung on a spring, in the manner and for the purpose described.

2. Beveling the front end of the recoil-block at *c'* and forming a corresponding bevel, *c*, on the barrel, as and for the purpose described.

3. The projection *x*, in combination with the lever *f* and hammer V, substantially in the manner and for the purpose described.

E. S. ALLIN.

Witnesses:
MILTON BRADLEY.
J. B. GARDINER.

DEPARTMENT OF THE INTERIOR,
United States Patent Office.

To all persons to whom these presents shall come, greeting:

This is to certify that the annexed is a true copy from the records of this office of an instrument of writing executed by E. S. Allin October 30, 1867, and recorded in liber X 9, page 207. Said record has been carefully compared with the original, and is a correct transcript thereof.

In testimony whereof I, M. V. Montgomery, Commissioner of Patents, have caused the seal of the Patent Office to be affixed this 19th day of February, in the year of our Lord one thousand eight hundred and eighty-six, and of the Independence of the United States the one hundred and tenth.

[SEAL.]

M. V. MONTGOMERY,
Commissioner.

Whereas Erskine S. Allin, of Springfield, in the county of Hampden and State of Massachusetts, has invented certain new and useful improvements in breech-loading fire-arms;

And whereas the United States has aided in developing, perfecting, and applying to practical use the said improvement by furnishing to said Allin, at the United States Armory in Springfield, Mass., the labor, materials, and other requisites to that end:

Now, be it known that, for and in consideration of the aid aforesaid and one dollar received by me, the said Allin, I have granted, bargained, and sold, and by these presents do grant, bargain, and sell and assign to the United States of America the right to manufacture the said improvement in all the armories and arsenals of the United States, and the right to use said improvement so manufactured everywhere, together with the right, title, and interest that I have or may have to said improvement under any letters patent dated September 19, 1865, or any renewal or extension thereof, that have been or may be granted therefor to the extent of the grant and license aforesaid to manufacture and use said improvement.

In testimony whereof I have hereunto set my hand and seal this 30th day of October, A. D. 1867.

[SEAL.] E. S. ALLIN.

Witnesses:

FRANK R. YOUNG,
WM. H. BRADBURY.

The date September 19, 1865, interpolated on eighteenth line is by my consent.

E. S. ALLIN.

SPRINGFIELD, *October* 30, 1867.

HAMPDEN, *ss:*

The foregoing named E. S. Allin personally appeared and acknowledged the foregoing instrument by him subscribed to be his free act and deed.

Before me—

W. G. CHAMBERLAIN,
Justice of the Peace.

HAMPDEN, *ss:*

The within date, September 19, 1865, interpolated on eighteenth line, is acknowledged to be by the consent of D. S. Allin before me this day.

December 12, 1867.

W. G. CHAMBERLAIN,
Justice of the Peace.

Recorded December 17, 1867.

ORDNANCE OFFICE, *Washington, April* 7, 1886.

SIR: In compliance with request of this date, I herewith inclose copies of the papers in the case of the heirs of Erskine S. Allin, late master armorer at the National Armory, Springfield, Mass.

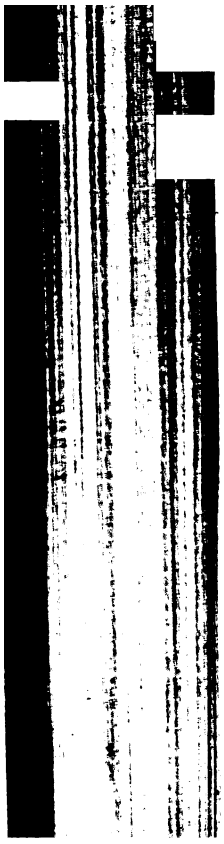
Very respectfully, your obedient servant,

S. V. BENÉT,
Brigadier-General, Chief of Ordnance.

Hon. J. H. GALLINGER,
House of Representatives.

NATIONAL ARMORY, *Springfield, Mass., February* 24, 1886.

SIR: In reply to your instructions of the 19th instant, inclosing two letters from the chairman of the Senate Committee on Patents with Senate bill 1359, for the relief of the heirs of E. S. Allin, formerly master armorer of this armory, to give as full report as the records of the armory and the personal knowledge of myself, the present master armorer, and other employés of the armory can furnish, I have the honor to report, returning herewith the papers referred to above, that the records of the armory show that 5,020 Springfield muzzle-loading rifles were changed to breech-loading arms by using the Allin devices described below, and are known as the Allin alteration or model, 1865, and that 432,873 Springfield (models 1866-'68-'70-'73-'79-'84) rifles, exclusive of the aforesaid, have been manufactured since, to include the 23d day of February, 1886, having at least one feature claimed in the Allin patent, No. 49,959, of December 19, 1865. A copy of the license to the United States to manufacture the claims of said patent is herewith inclosed.



The aforesaid 5,020 altered Springfield rifles have all the three devices claimed. Tl 432343 arms aforesaid have the third or last construction claimed, and what may t considered the mechanical equivalent of the second, t hat is the bevel *c'* on the rec block, and corresponding bevel, *c*, on the barrel, do not appear at all, but the t devices, viz, in model 1866, the front end of recoil block when closed enters into, f a certain distance, the cartridge-head recess in the chamber of barrel behind tl cartridge, and in all subsequent models the face of the breech-block being in tl same plane with the axis of motion; that is, with the axis of the hinge-pin, the rou hinge lugs of receiver on each side project over, when the block is closed, corr sponding cuts in the front end of breech-block, thus securing it from throwing upward strain on the hinge-pin when under the action of recoil. These constru tions perform the same office as the *bevels* aforesaid, and may, as said, be consider mechanical equivalents, though they do not at all resemble the bevels, and respect to all models subsequent to model 1868, the location is not the same. Tl construction of the third claim, what is called now the firing-pin guard of the cam-lat thumb-piece, is on all the arms, as above stated, substantially as patented. I belie the above and inclosures answer specifically all the questions of the chairman of tl Committee of the Senate on Patents, and give a complete history of the matter as pe sonally known here and shown by the armory records. The master armorer's view are stated in this letter of the 23d instant herewith inclosed.

Respectfully, your obedient servant,

A. R. BUFFINGTON,
Lieutenant-Colonel of Ordnance, Commanding.

The CHIEF OF ORDNANCE,
Washington, D. C.

NATIONAL ARMORY,
Springfield, Mass., February 23, 1886.

SIR: In obedience to your instructions of even date, I have the honor to state n opinion concerning the E. S. Allin patent on fire-arms, No. 49,959, September 19, 18 as having been applied to the Springfield rifles made at this armory, as follows, wit: The guns known as the model 1865 included all the devices as claimed in sa patent. Those of the models of 1866, 1868, 1869, 1870, 1873, and 1884 include the loc ing device for holding the breech-block closed when in the act of firing, as stated the Allin third claim, letter *x*.

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

SAM. W. PORTER,
Master Armorer.

Col. A. R. BUFFINGTON, U. S. A.,
Commanding

The court of inquiry of which Maj. Gen. Geo. H. Thomas was president, and Generals Hancock and Terry, members, and Judge Advocate General Holt, judge-advocate, which convened in October, 1868, expressed the following opinion:

"The court is of the opinion that when a person in the military employment of the Government, either as an officer, soldier, mechanic, or laborer, devises a new and valuable improvement in any kind of military material, and with his own means makes experiments and brings to perfection his invention, there is no reason why he should not be permitted to secure to himself any pecuniary value which his invention may have, by obtaining letters patent for his invention under the patent laws of the United States or of foreign countries."

"In such a case, should the Government make use of the invention, it is but just that it should make compensation to the patentee. Even should the Government tools, materials, and labor be used in perfecting the invention, in cases where the object for which the inventor is employed is not such as to make it his duty to devise improvements, if it be in his power to do so, the fact that the public has contributed to the invention should not be a bar to the right of the inventor to recover compensation from the Government, if it makes use of his invention. It may and should be considered, in determining the amount of compensation equitably due to him for the use. But when any person is employed for the express purpose of making experiments, with a view to the discovery of improvements in the construction or manufacture of military material, and is paid for his time, and supplied with tools, machinery, materials, and labor, so that the whole expense of the experiments from which the invention results is borne by the Government, the invention, in the judgment of the court, although under our patent laws it is the legal property of the inventor, belongs, equitably, to the Government, at least to the extent that the Government should have the right to use it without further compensation to the inventor. In such case the inventor, in devising his improvement, has done only that which he was expressly employed to do—only that which he was paid by the Government to do for its benefit."

Mr. Allin was, at the time he made this invention, the master armorer of the Springfield Armory. He was not "employed for the express purpose of making experiments with a view to the discovery of improvements in the construction and manufacture" of the Springfield rifle, but he did make this invention while in the employ of the Government and receiving its pay, and licensed the United States to make free use of the patent granted to him. While he has no legal claim on the United States for compensation, in equity his heirs are entitled to some remuneration.

In my opinion, 10 cents per gun containing his improvement would be a fair and reasonable compensation for the invention.

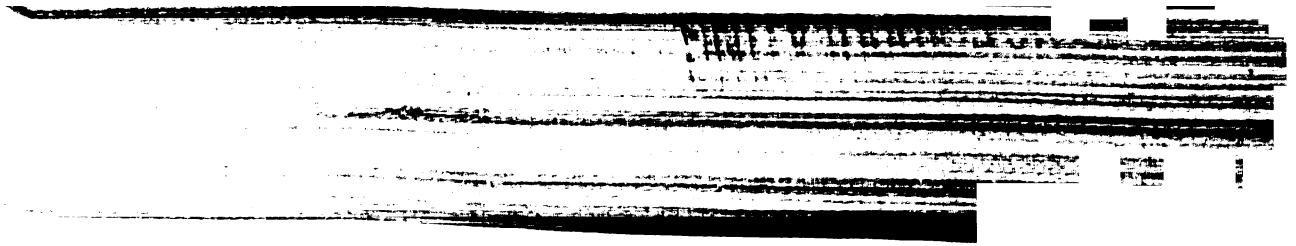
Of course this office does not pretend to decide on the validity of the patent, although the validity of the "locking device" used by the United States, invented by Mr. Allin, has never been questioned as far as this office is aware.

Very respectfully, your obedient servant,

S. V. BENÉT,
Brigadier-General, Chief of Ordnance.

The SECRETARY OF WAR.

H. Rep. 1814——2



49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1815.

P. A. LEATHERBERRY.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. TRIGG, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 7455.]

The Committee on Claims, to whom was referred the bill (H. R. 7455) for the relief of P. A. Leatherberry, submit the following report:

This case was before the Committee on Claims of the Forty-seventh Congress, and the following favorable report was made, viz:

On or about the 25th day of July, 1876, checks were issued and delivered by the United States to Lucy Roberts, of Onancock, Accomack County, Virginia, widow of Nelson Roberts, in payment of a pension granted to her as such widow.

These checks were for the sum of $1,301.21, and were purchased by the claimant, Perry A. Leatherberry, of the said Lucy Roberts, he paying her therefor the full amount of said checks. Six hundred and one dollars and twenty-seven cents was paid to her on her order, and for the balance, $700, he gave her his due bill payable on demand.

This purchase was on or about the 8th day of August, 1876. The last of August, 1876, Special Agent Clements, of the Pension Office, demanded these checks of the claimant, and the same were delivered up to him by the claimant, the Pension Office having, prior to that time, and after the purchase of the checks by claimant, decided that said pension was obtained by fraud, and had dropped the pensioner from the pension rolls.

The Commissioner of Pensions, in a letter to Hon. G. Garrison, of the House of Representatives, dated December 17, 1881, says, in regard to this case, "that, from a careful examination of the papers in the case, Mr. Leatherberry's possession of the checks and his whole connection therewith seem to have been wholly innocent and in no wise calculated to cheat either the claimant or the Government; nor does it appear that he was in the least interested in the prosecution of the claim for pension, other than as the friend of the pensioner he desired to protect her from wrong. He paid Mr. Thomas, the attorney in the case, $300 upon the written order of the pensioner. There is, therefore, no reason known to this office why a special act for the relief of Mr. Leatherberry should not be passed.

Your committee report back the bill and recommend its passage.

It was also reported favorably to the Forty-eighth Congress.

Your committee find the facts have been correctly reported and they adopt the above report, and recommend the passage of the bill (H. R. 7485) which they have had under consideration.

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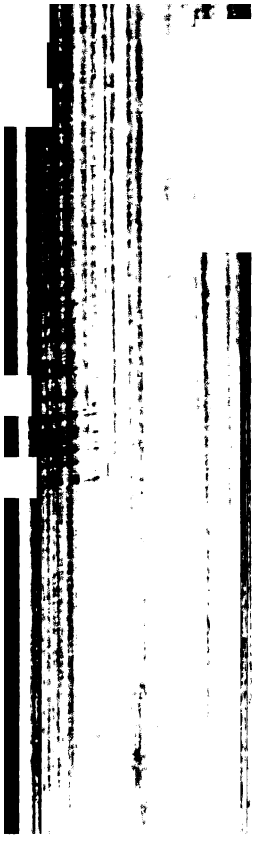


49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1816.

WILLIAM C. DODGE.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. TRIGG, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 4649.]

The Committee on Claims, to whom was referred the bill (H. R. 4649) for the relief of William C. Dodge, respectfully report:

This case was favorably reported by the Committee on Patents in the Forty-fifth Congress, and again by the same committee to the Forty-eighth Congress. It has also been favorably reported by the Committee on Patents in the Senate at the present Congress (Senate Report 88). The facts in the case are fully and correctly given by the report to the Forty-eighth Congress, which is as follows:

The Committee on Patents, to whom was referred the bill (H. R. 4670) for the relief of William C. Dodge, have investigated the subject, and report as follows:

It appears from the testimony that the operation of filling cartridge cases with powder had always been performed by hand down to 1864, and that it was a very dangerous work, explosions frequently occurring, destroying life and property, despite the utmost precautions.

June 17, 1864, an explosion occurred in the cartridge-filling shops at the arsenal in Washington, D. C., where 150 operatives were employed, which killed 21 persons and seriously injured many others, who were buried among the burning ruins.

That in consequence of this disaster the petitioner conceived the idea that this work might be done by a machine, and after consultation with the officers in charge, who expressed doubts as to the feasibility of his plan, but encouraged him to try, he devised a machine, had a small one made, and submitted it to the Department for trial. Colonel Benton, then in charge of the arsenal, in his official report under date of December 27, 1864, after describing the machine and the tests to which he had submitted it, concludes with this statement:

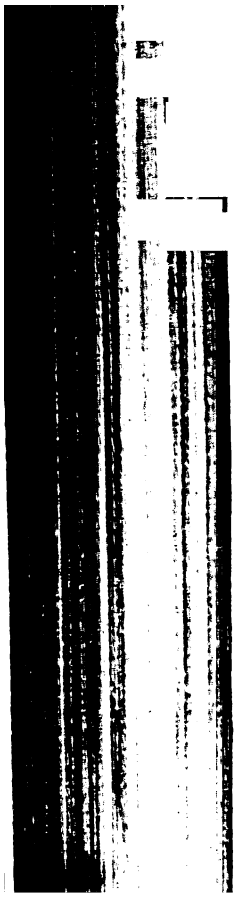
"The principle of this machine is a good one, and a machine properly constructed on it would, I think, give *greater uniformity of weight to the charges*, and work could be turned out *more uniformly, rapidly, and safely* than at present done by the hand process."

The result was so satisfactory that four days thereafter the Department gave petitioner an order to furnish a full-sized machine which should fill one hundred cartridges at a time.

After much trouble and expense the machine was delivered August 18, 1865. It was officially tested and approved, and in his report dated February 15, 1866, Colonel Benton says:

"It can be worked at the rate of six slides-full per minute, or about 360,000 per day, so that one such machine would fill as many cartridges as could be made by any one establishment. If a greater number, however, were required to be filled, the capacity of the machine could be easily increased by increasing the number of holes in the slides and drawer.

"For cartridges like those of Sharp's and those with copper cases (now used) the use of this machine affords a considerable saving of time, as one machine can do the work of many hands."



The benefits of this invention to the Government are many. The saving in t cost of filling the cartridges made since its adoption has been from $15,000 to $20,0 It has greatly reduced the risk to both life and property, has enabled the Departm to concentrate the business at a single arsenal, thereby enabling the Government dispense with a large number it formerly had located at various points, and the pense of keeping them up, and enables the work to be performed with immens greater rapidity in cases of emergency, and far more perfectly.

From the nature of the invention it is one that is of value to the Government or as it is a thing that cannot be sold to or used by the public at large.

The petitioner has never been paid a cent, either for the machine furnished on order of the Department or for the use of his invention. The Chief of Ordnance s that "he is entitled to remuneration," and the Secretary of War also says he ou to be paid.

The petitioner also claims that the Government has used for several years a j ented improvement of his in cartridges, but as that was a matter of minor im tance, the committee have not given it any consideration in arriving at their con sion in this case.

The committee are unanimously of the opinion that the petitioner is justly e tled to remuneration, both for the machine furnished and for the use of his invent and therefore report the accompanying bill, and recommend its passage, with amendment fixing the amount to be paid Mr. Dodge at $10,000.

A similar report was made by the Senate Committee on Patent the Forty-eighth Congress, and a bill appropriating $10,000 for the lief of Mr. Dodge was passed by the Senate, but was not reached the House.

Your committee adopt the above report to the Forty-eighth Cong as their report. They recommend that the bill be amended by fil the blanks therein by inserting in each blank the words "ten th sand," and that the bill thus amended do pass.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1817.

MILO McCRILLIS.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. TRIGG, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 6550.]

The Committee on Claims, to whom was referred the bill (H. R. 6550) for the relief of M. McCrillis, having considered the same and accompanying papers, submit the following report:

It appears from the affidavits filed in the case that on the night of the 1st day of March, 1883, the post-office at Weaver's Corners, in the county of Huron, in the State of Ohio, was entered by burglars, and postage stamps of the value of $73.93, and postal cards of the value of 99 cents, and stamped envelopes to the value of 84 cents, aggregating $75.76, were stolen therefrom.

The burglars effected an entrance through the front door, which had been carefully and substantially locked and bolted. They used a crow-bar and a heavy sledge, which were found the next morning under the steps leading to the room.

The deputy postmaster, Mr. Peter Roth, lost at the same time $81 in money, besides an amount of merchandise taken from the same room.

Your committee find from the evidence that the loss resulted from no fault or negligence of the postmaster or his deputy, or any one having any connection with said room, and therefore recommend the passage of the accompanying bill.

O

49TH CONGRESS, 1st Session. | HOUSE OF REPRESENTATIVES. | REPORT No. 1818.

JOHN J. COUGHLIN.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SHAW, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 8087.]

The Committee on Claims, to whom was referred the petition of John J. Coughlin, praying additional compensation for services rendered in arranging, classifying, and cataloguing bound volumes of newspapers which had accumulated in the State Department and were turned over to the Librarian of Congress, report as follows:

That said John J. Coughlin was employed by the Architect of the Capitol, from March 6, 1883, to November 30, 1883, as a laborer at $1.25 per day; that he was assigned to duty under the Librarian of Congress during this period of 229½ days, and engaged in a work requiring skilled and intelligent labor, in the cataloguing and arranging of newspapers published in the several States and Territories of the United States, in England, France, Spain, Portugal, Switzerland, Belgium, Russia, Cuba, India, Egypt, China, Mexico, and the Central and South American States, constituting a collection of rare historical value; that his pay was inadequate for the service rendered, and that he is entitled to a more equitable and just compensation.

During a portion of the time he was employed J. B. Fay was associated with him in the work, receiving pay as a laborer. That Congress recognizing the value of his (Fay's) services, appropriated in the sundry civil appropriation bill, approved July 7, 1884, the sum of $313.44, making the compensation of said Fay during the time he was employed $4 per day. (See Stat. at Large, vol. 23, page 226.)

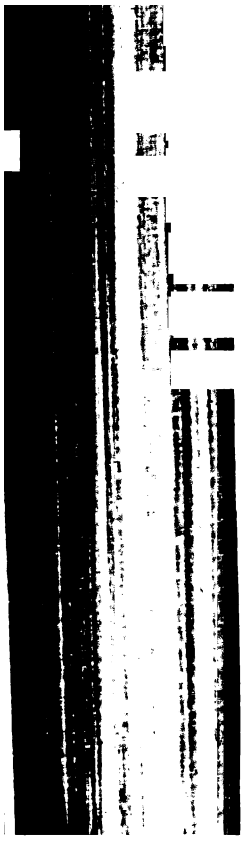
Your committee believe that, in justice and right, said John J. Coughlin should be paid an equal sum with that received by J. B. Fay—at the rate of $4 per day—especially in view of the statement by the Librarian of Congress that said Coughlin rendered valuable service and is justly entitled to more compensation than $1.25 per day, the pay of a laborer.

Your committee find that the difference of pay between $1.25 and $4 per day for two hundred and twenty-nine and one-half days amounts to the sum of $631.13, and recommend the passage of the accompanying bill, which provides for the payment of the same.

The committee herewith append the statement of Hon. A. R. Spofford, Librarian of Congress, as part of this report:

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

The petition of John J. Coughlin respectfully represents that he was placed upon the rolls of Edward Clark, esq., architect of the Capitol, on the 7th day of March, 1883, and assigned by him to duty under A. R. Spofford, esq., Librarian of Congress.



his services during said period the sum of $286.87 laborers' wages. Mr. Clark havi
no authority to pay more for temporary work, and the librarian, Mr. Spofford, havi
no appropriation whatever out of which to pay for the work and labor performe
although so urgently necessary.

Your petioner therefore respectfully prays your honorable body to allow him t
sum per diem ($4) compensation which obtains in said library for work of a simi
nature, or which may be considered as fair and proper in the premises, deducti
therefrom the nominal sum already paid—viz, $286.87 for two hundred and twen
nine and one-half days.

And, as in duty bound, will ever pray.

JOHN J. COUGHLIN.
Petitione

John J. Coughlin in account with A. R. Spofford, esq., Librarian of Congress.

By work performed, arranging, classifying, and cataloguing the bound volume
newspapers in Congressional Library, from March 6, 1883, to November 30, 1883:

229½ days, at $4 per day	$91
To cash received, at $1.25 per day	28
Balance due your petitioner	63

JOHN J. COUGHLI

LIBRARY OF CONGRESS.
Washington, April 2, 188

This will certify that the services of Mr. John J. Coughlin were employed for s
eral weeks in the fiscal year 1883–'84, in arranging several thousand volumes of ne
papers, which it became necessary to remove and arrange in the Library of Congr
in an emergency requiring prompt transfer. The work involved skilled and inte
gent labor, but Mr. Coughlin received only day laborer's wages, and was justly
titled to more.

Very respectfully,

A. R. SPOFFORD.
Librarian of Congres

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1819.

HENRY BAZSINSKY, ADMINISTRATOR OF ABRAHAM BAZSINSKY.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. RICHARDSON, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 8088.]

The Committee on War Claims, to whom was referred the claim of Henry Bazsinsky, administrator, &c., beg leave to report:

That the Committee on War Claims of the Forty-eighth Congress, not being clearly and fully advised of all the facts in the case, referred it to the Court of Claims for a finding, under the provisions of an act entitled "An act to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government," approved March 3, 1883. Said claim has been returned by said Court of Claims to the committee, with the following findings of fact, filed January 11, 1886, to wit:

[In the Court of Claims. Henry Bazsinsky, administrator of Abraham Bazsinsky, *v.* The United States. Congressional case No. 392.]

At a Court of Claims held in the city of Washington on the 12th day of April, 1886, in the cause aforesaid, the court filed findings of fact, and, it was ordered that a copy of same be certified to the Committee on War Claims, House of Representatives.

By the court.

[SEAL.]

[In the Court of Claims. Congressional case No. 392. Henry Bazsinsky, administrator of Abraham Bazsinsky, *v.* The United States.]

Findings of fact, filed April 12, 1886.

The claim in the above entitled suit having been transmitted to this court by the Committee on War Claims of the House of Representatives on the 3d day of March, 1885, and the Attorney-General having appeared for the defendants, and the suit having been brought to a hearing on the 25th day of March, 1886, the court, upon the proofs and evidence, and after hearing Gilbert Moyers, esq., of counsel for the claimant, and Lewis Cochran, esq., of counsel for the defendants, finds the following facts:

I.

Abraham Bazsinsky, deceased, in the year 1863 was residing on his plantation, about 4 miles from Vicksburg, Warren County, Mississippi, where he had stored a large amount of groceries and dry goods, which he had removed there from his stores in Vicksburg, where he had long been engaged in trade.

II.

He was loyal to the Government of the United States throughout the war, as the court found January 11, 1886, upon a preliminary inquiry.

III.

There were taken from said deceased during said year by the military forces of the United States for the use of the Army, the following stores and supplies, of the value herein specified, and the same have never been paid for:

3,750 bushels corn, at 60 cents	$2,250
14,200 pounds beef, at 6½ cents	923
3 head of horses, at $120	360
6 head of mules, at $125	750
1 wagon	75
1 wagon, at	50
11,000 pounds bacon, at 7 cents	770
50 head of hogs, at $5	250
30 hogsheads of sugar, 36,000 pounds, at 12½ cents	4,500
20 barrels of molasses, 800 gallons, at 65 cents	520
8 barrels of flour, at $10	80
1,000 pounds coffee, at 30 cents	300
12 barrels, 480 gallons, whisky, at $2	960
10 boxes of shoes, 600 pairs, $2 less ¼ for ladies' shoes	900
One lot clothing	2,500
Fodder, growing corn, 400 tons, at $10 per ton	4,000
7,000 cords of wood, standing timber, at 50 cents per cord	3,500
320 cords of wood (rails), at $3	960
	23,648

COURT OF CLAIMS.

I certify that the foregoing are true transcripts of record.
Test, this 14th day of April, 1886.
[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Your committee therefore report a bill herewith providing for the payment of the amount found by said Court of Claims, and recommend that it do pass.

49th CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1820.

ELIZABETH GRIGGS, ADMINISTRATRIX OF CHARLES MURPHY.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. RICHARDSON, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 8089.]

The Committee on War Claims, to whom was referred the claim of Elizabeth Griggs, administratrix of Charles Murphy, beg leave to report:

That the Committee on War Claims of the Forty-eighth Congress, not being clearly and fully advised of all the facts in the case, referred it to the Court of Claims for a finding under the provisions of an act entitled "An act to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government," approved March 3, 1883.

Said claim has been returned by said Court of Claims to the committee with the following findings of fact, filed January 11, 1886, to wit:

[In the Court of Claims. Elizabeth Griggs, administratrix of Charles Murphy, *v.* The United States. Congressional case No. 182.]

At a Court of Claims held in the city of Washington on the 5th day of April, A. D. 1886, in the cause aforesaid the court filed findings of fact and it was ordered that a copy of said findings be certified to the Committee on War Claims of the House of Representatives.

By the court.

[In the Court of Claims. Congressional case No. 182. Elizabeth Griggs, administratrix of Charles Murphy, deceased, *v.* The United States.]

Findings of fact, filed April 5, 1886.

This case, referred by the Committee on War Claims of the House of Representatives, under the provisions of the act of March 3, 1883, Chap. 116 (22 Stat. L., p. 485), having been heard by the court, the Attorney-General, by his assistants, appearing for the defense and protection of the interests of the United States, the court, upon the evidence, finds the facts to be as follows:

I.

Charles Murphy, deceased, late of Hardeman County, Tennessee, during the late war for the suppression of the rebellion, did not give aid and comfort to said rebellion, but was, throughout that war, loyal to the Government of the United States.

II.

There was taken from the said Charles Murphy during the late war, by the military forces of the United States, for their use, the following quartermaster's stores and subsistence supplies, to wit:

8 mules, worth	$1,000 00
3 horses	375 00
300 bushels of sweet potatoes, worth 50 cents per bushel	150 00
50 head of hogs, worth $9 per head	450 00
2,000 bushels of corn, worth 40 cents per bushel	800 00
1 wagon and harness	75 00
75 stacks of fodder	337 00

Said property was taken in the year 1862 and 1863, in Hardeman County, Tennessee, from the said decedent, by said forces, and were used for the benefit of the Army of the United States.

By the court.

A true copy of record.

Test: this 7th day of April, 1886.

[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Your committee therefore report bill herewith providing for the payment of the amount found by said Court of Claims, and recommend that it pass.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1821.

WILLIAM ERVIN.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. RICHARDSON, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 3713.]

The Committee on War Claims, to whom was referred the bill (H. R. 3713) for the relief of William Ervin, having considered the same and accompanying papers, submit the following report:

The committee find the facts to be as stated in Senate Report No. 682, Forty-eighth Congress, first session, which report is hereto annexed and made a part of this report, and is as follows:

The Committee on Claims, to whom was referred the bill (S. 1025) for the relief of William Ervin, having considered the same, beg leave to make the following report:

In the year 1862 the claimant was a resident of Kansas and the owner of 180 head of cattle, which were pasturing near Emporia. About April 15, 1862, the said cattle were taken from the claimant by the order of Col. Charles R. Jennison, commanding the Seventh Regiment Kansas Cavalry, and used by said regiment for food.

This appears from the sworn statement of the claimant himself, and the affidavits of Col. Charles R. Jennison and First Lieut. John A. Tanner. Colonel Jennison says the regiment was in want of beef, and he ordered the seizure of the claimant's cattle, and the same were used for the subsistence of his officers and men, and he did not pay for them. Lieutenant Tanner swears the cattle were taken by the command of Colonel Jennison, and were used for the subsistence of the regiment.

Charles F. Garrett and James S. Emery, residents of the city of Lawrence, Kans., swear they were well acquainted with the claimant from 1857 to 1866, and during that time they knew he was thoroughly loyal to the United States Government.

James Angus swears he was employed by the claimant in the month of April, 1862, herding 180 head of cattle, and that about the 15th day of April the said cattle were taken from the possession of the claimant by the Seventh Regiment Kansas Cavalry. Furthermore that he has a distinct recollection that a few days prior Saint Louis cattle dealers offered the claimant $42.50 a head for these cattle, but the claimant declined to sell them at that price.

The claimant himself swears to receiving the same offer, but that he declined because he considered them worth $55 a head.

In explanation of the long delay in presenting his claim to Congress the claimant swears that in the year 1867 he placed his claim in the hands of a Mr. L. M. O'Brien for prosecution, who, being unable to attend to it, turned it over to Chipman & Hosmer, claim agents in Washington, D. C., together with a number of affidavits of persons who knew of the taking of the cattle. Chipman & Hosmer told the claimant he must furnish the statements of some officers in command of the Seventh Regiment Kansas Cavalry relative to taking his cattle. The claimant was unable to find officers who had knowledge of the transaction until last year, when he procured the affidavits above mentioned of Colonel Jennison and Lieutenant Tanner. For the lack of such evidence Chipman & Hosmer did not present and prosecute the claim.

A letter from Chipman & Hosmer, dated April 30, 1867, acknowledges the receipt of the claim and accompanying papers.

reflor, with recommendation that it do pass.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1822.

GEORGE A. NORTON.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GEDDES, from the Committee on War Claims, submitted the following

REPORT:

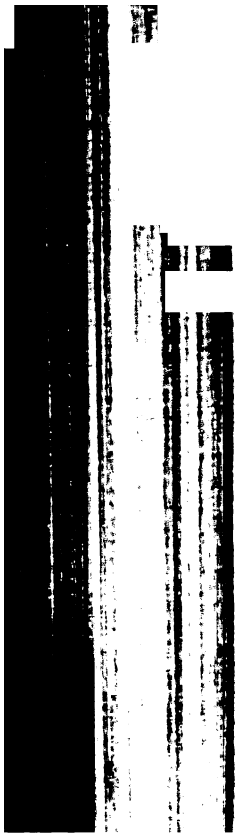
[To accompany bill H. R. 183.]

The Committee on War Claims, to whom was referred the bill (H. R. 183) for the relief of George A. Norton, having carefully considered the same and accompanying papers, submit the following report:

George A. Norton, a citizen of Santa Barbara, in the State of California, was in the year 1865, a captain and assistant quartermaster, United States Volunteers in charge of water transportation at New Orleans, La., and as such became responsible for a large amount of Government property, and among other things for the steamboat Illinois; that during the month of June in said year the said steamer Illinois was sold by one G. A. Hall, acting as the Government auctioneer, under the order of the chief quartermaster of the department, but the said Norton had no personal knowledge of such order or sale until some time after the same occurred; that at the time of the said sale the proceeds, amounting to $1,799.75 were paid by said Hall to Capt. J. B. Dexter, assistant quartermaster, without the knowledge of said Norton. It further appears that the said Norton stands charged with the amount of the said sale in his accounts in the Treasury Department, but it appears that the said Norton never received said money, and it was an error on the part of the clerk making the return to make the acknowledgment, which was put on the books of the Treasury Department as a legitimate charge. The certificate was a form generally used, and escaped his notice when it was placed upon his desk for signature. The invariable custom, as well as a regulation, of the War Department required quartermasters to give duplicate receipts for Government property or money transferred from one officer to another. The said Norton never executed any receipt for the proceeds of the sale of the steamer Illinois.

J. R. Bowler swears that he had exclusive control of the said Norton's cash accounts during the period referred to, and he is positive that the proceeds of said sale never came into the hands of the said Norton.

The said item is the only charge on the books of the Treasury Department against the said Norton, and he had no knowledge or information that the said charge existed against him until the year 1876, when many of the parties familiar with the matter had died.



but that all errors could have been rectified and all differences adjusted.

When Captain Norton's application for muster out came to me for action, I pla upon it the following extract of indorsement:

"HEADQUARTERS DEPARTMENT THE GULF,
"OFFICE CHIEF QUARTERMASTER,
"*New Orleans, August* 26, 186

"Respectfully forwarded for the action of the major general commanding the D sion of the Gulf. Captain Norton has been since June 7, 1865, and is now, in ch of water transportation at this depot—a charge of great importance and resp bility—and, as far as known, has performed his duties with great zeal and to the interests of the service. His services are very important, having become familiar the routine of duties of this office; but, as he appears anxious to leave the ser his application is hereby forwarded.

"S. B. HOLABIRD,
"*Colonel and Aide-de-Camp and Chief Quartermaste*

Captain Norton's services were fresh in my mind at the time that indorsement written, and time has but served to verify and strengthen the good opinion wh had then formed of Captain Norton's personal and official character as a disbu officer of the Quartermaster's Department.

With best wishes for your health and happiness,

Faithfully, yours,

S. B. HOLABIRD,
Assistant Quartermaster-General, United States Ar

WASHINGTON, D. C., *September* 25, 18

GEORGE A. NORTON,
Santa Barbara, Cal.:

SIR: I take pleasure in stating in your behalf that while you were on duty as tain and assistant quartermaster of volunteers in New Orleans, La., in 1863-'64-' part of the time under my immediate direction, your administration of the duti your office seemed to be characterized with a proper zeal and care. In the early of 1865, being in charge of water transportation, your duties were onerous, pres and important, in connection with the movement of troops and supplies to the ports; and I recall that you were always to be depended on for faithful and ca

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1823.

JOSEPH CULBERTSON.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GEDDES, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 7010.]

The Committee on War Claims, to whom was referred the bill (H. R. 7010) for the relief of Joseph Culbertson, having carefully considered the same, submit the following report:

Joseph Culbertson, a citizen of Willow Brook, county of Buchanan, State of Missouri, was duly enlisted into the military service of the United States on the 5th day of August, 1862, in Company A, Fifth Indiana Cavalry Volunteers, for three years, or during the war; but before he was mustered into the service August 6, 1862, while acting in obedience to the orders of the captain of his company, he was so injured by the premature discharge of a cannon as to render him unable to appear for muster with his comrades.

The said Culbertson by said premature discharge of said cannon lost one eye and received serious injury to the other, which permanently disabled him for the performance of the duties of a soldier.

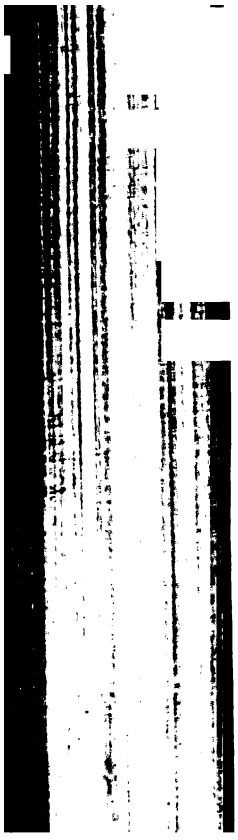
The following affidavits disclose more in detail the nature of the claim:

STATE OF INDIANA, *County of Grant, ss:*

In the matter of Joseph Culbertson, late enlisted man of Company A, Fifth Indiana Cavalry, to amend war record, personally came before me, a clerk of the Grant County circuit court, in and for the aforesaid county and State, Henry Z. Blynn, aged forty-one years, citizen of the town of Marion, county of Grant, State of Indiana, well known to me to be respectable and entitled to credit; and who, being duly sworn, declares in relation to aforesaid case as follows: That he personally knows Joseph Culbertson; affiant and said Culbertson were raised boys together, near Marion, Grant County, Indiana; that on or about the 5th day of August, 1862, affiant and said Culbertson, in the presence of each other, and at the same time, in said town of Marion, subscribed their names to an enlistment paper to serve for the period of three years in a cavalry company that was being recruited for the Fifth Indiana Cavalry, which was subsequently lettered as Company A in said regiment; that said enlistments were made at the solicitation of one James A. Stretch, a recruiting officer, and in his presence; that he was subsequently commissioned as captain of said company; that on the day following said enlistments, as this affiant and said Culbertson and a number of other recruits were approaching the town of Wabash, in Indiana, under command and in charge of said Captain Stretch, said Culbertson and this affiant were seriously injured by the premature discharge of a cannon that they were assisting in loading by order and direction of said Captain Stretch; affiant and said Culbertson each lost an eye, and received other bodily injuries, such as to prevent them from being mustered into said service in said company and regiment.

He further declares that he has no interest in said case, and is not concerned in its prosecution, and is not related to said applicant.

HENRY Z. BLINN.



ganization of said regiment, was commissioned as such in Company A of said reg ment.

On the 6th day of August, 1862, affiant and said Culbertson and a number of othe who had so enlisted, in command of said Stretch, started for Wabash, Ind., a distan of 20 miles, for the purpose of going into camp. Upon nearing said town of Waba by the premature discharge of a cannon, said Culbertson was injured so as to disqua ify him for the service at that time, and was not mustered into said regiment. Sa affiant went to Wabash with a view to enlist in said company, and did on the ne day following said injury, being the 7th day of August, 1862. Said Culbertson w loading said cannon by direction of said Stretch, to affiant's personal knowledge, a was an eye-witness to the injury. He further declares that he has no interest in sa case, and is not concerned in its prosecution, and is not related to said applicant.

JOHN W. HURLEY.

Your committee therefore recommend the passage of the accompan ing bill.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1824.

JOHN B. REID.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GEDDES, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 8090.]

The Committee on War Claims, to whom was referred the claim of John B. Reid, beg leave to report:

That the Committee on War Claims of the Forty-eighth Congress not being clearly and fully advised of all the facts in the case, referred it to the Court of Claims for a finding under the provisions of an act entitled "An act to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government," approved March 3, 1883.

Said claim has been returned by said Court of Claims to the Hon. John G. Carlisle, Speaker of the House of Representatives, and referred to the Committee on War Claims, with the following finding of fact filed February 15, 1886.

[United States Court of Claims. John B. Reid *v.* The United States. Congressional case No. 146.]

CLERK'S OFFICE,
Washington, February 16, 1886.

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the said order and findings of fact, filed the 15th day of February, 1886, in the aforesaid cause, which case was referred to this court by the Committee on War Claims, House of Representatives, under the act of March 3, 1883.

I am, very respectfully, yours, &c.,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Hon. JOHN G. CARLISLE,
Speaker of the House of Representatives.

[In the Court of Claims. John B. Reid *v.* The United States. Congressional case No. 146.]

At a Court of Claims held in the city of Washington on the 15th day of February, 1886. In the cause aforesaid the court filed the findings of fact, and it was ordered that a copy of same be certified to the Committee on War Claims of the House of Representatives.

BY THE COURT.

Findings of fact filed February 15, 1886.

This case, referred to the court by the Committee on War Claims of the House of Representatives, under the act of March 3, 1883 (22 Stat., 485), presents a claim for supplies or stores taken or furnished to the military forces of the United States for their use during the late war for the suppression of the rebellion.

In November, 1862, a company of horsemen belonging to the Seventh Illinois C
alry, in the service of the United States, took the sorrel mules and bay mare fr
the possession of the claimant and drove them to La Grange, within the Fede
lines.

Again, in the spring of 1-63 a squad of United States soldiers, said to bel
to an Ohio regiment under the command of Captain Philips, took the two bl
mules from the possession of the claimant and drove them to the Federal camp
Moscow.

What afterwards became of the animals does not appear, but they were ne
returned to the claimant nor has he received any compensation therefor.

III.

The animals were all of extra quality and in good condition. Their average mar
value at the time they were taken was about $200; making a total of $1,000.

IV.

No receipt or voucher was given to the claimant by the United States officers,
did they make any return thereof to the Quartermaster-General. No record of
transaction is found either in the Treasury or War Department.

BY THE COUR

A true transcript of record.
Test, this 16th day of February, 1886.
[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claim

Your committee therefore report a bill herewith providing for the p
ment of the amount found by said Court of Claims, and recommend th
it do pass.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1825.

HORACE P. HOBSON.

APRIL 20, 1886.—Committee to the Committee of the Whole House and ordered to be printed.

Mr. GEDDES, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 8091.]

The Committee on War Claims, to whom was referred the claim of Horace P. Hobson, beg leave to report:

That the Committee on War Claims of the Forty-eighth Congress, not being clearly and fully advised of all the facts in the case, referred it to the Court of Claims for a finding under the provisions of an act entitled "An act to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government," approved March 3, 1883.

Said claim has been returned by said Court of Claims to the Committee with the following findings of fact, filed January 11, 1886, to wit:

[In the Court of Claims. Horace P. Hobson, administrator of John O. Graves, deceased, v. The United States. Congressional No 363.]

At a Court of Claims, held in the city of Washington, on the 12th day of April, 1886, in the cause aforesaid, the court filed findings of fact, and it was ordered that a copy be sent to the Committee on War Claims of the House of Representatives.

BY THE COURT.

[In the Court of Claims, Congressional case No. 363. Horace P. Hobson, administrator of John O. Graves, deceased, *v.* The United States.

Findings of fact filed April 12, 1886.

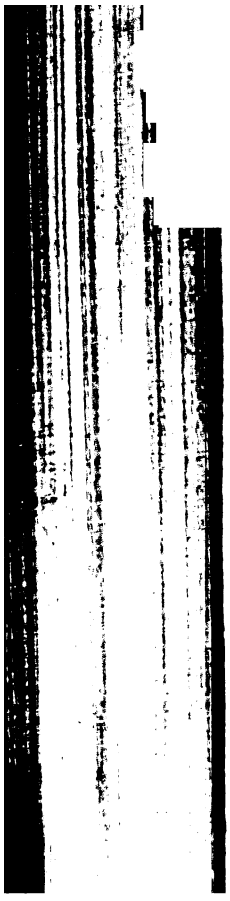
The claim in the above-entitled suit having been transmitted to this court by the Committee of War Claims of the House of Representatives on the 2d day of March, 1885, and the Attorney-General having appeared for the defendants, and the suit having been brought to a hearing on the 5th day of April, 1886, the court, upon the proofs and evidence, and after hearing Gilbert Moyers, esq., of counsel for the claimant, and H. J. May, esq., of counsel for the defendants, finds the following facts.

I.

That John O. Graves, deceased, late of Fayette County, Tennessee, did not give any aid or comfort to the Confederate cause during the late war of the rebellion, but was throughout that war loyal to the Government of the United States.

II.

That the said John O. Graves, deceased, resided near La Grange, Tenn., during the late war, engaged in farming, and that the Federal forces took from him (the said John O. Graves) for their use quartermaster stores and subsistence supplies of the value as shown in finding VI.



Davis's mill, is hereby protected in his property.

All foraging parties and soldiers are forbidden to take the grain housed and stor in the buildings about his residence.

By order of General Hamilton.

J. A. DEWEY,
Captain and Aid-de-Camp.

V.

That the first property was taken in said month of November, and all of such pr erty taken while Graves held the said order of protection.

VI.

Hogs, 11,250 pounds	$700
Cattle, 10 head, worth	180
Bacon, 800 pounds	56
Sweet potatoes	60
Corn, 1,600 bushels	640
Fodder	300
5 mules	625
1 Horse	120
Meal, &c	50
200 cords of wood	500
	3,231

By the Court.

COURT OF CLAIMS

I certify that the foregoing are true transcripts of record.
Test this 14 day of April, 1886.
[SEAL.]

JOHN RANDOLPH,
Assistant Clerk, Court of Claims.

Your committee therefore report herewith a bill for the amount, found by the said Court of Claims, and recommend that it do pass.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1826.

MARY A. BLACKWELL.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GEDDES, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 8092.]

The Committee on War Claims, to whom was referred the claim of Mary A. Blackwell, beg leave to report:

That the Committee on War Claims of the Forty-eighth Congress, not being clearly and fully advised of all the facts in the case, referred it to the Court of Claims for a finding under the provisions of an act entitled "An act to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government," approved March 3, 1883.

Said claim has been returned by said Court of Claims to the committee with the following findings of fact, filed January 11, 1886, to wit:

[In the Court of Claims. Mary A. Blackwell v. The United States. Congressional case No. 365.]

At a Court of Claims held in the City of Washington on the 29th day of March, A. D. 1886, in the cause aforesaid, the court filed findings of fact, and it was ordered that a copy be sent to the Committee on War Claims of the House of Representatives.

BY THE COURT.

[In the Court of Claims. Congressional case No. 365. Mary A. Blackwell v. The United States.]

Findings of fact. Filed March 29, 1886.

The claim in the above-entitled suit having been transmitted to this court by the Committee on War Claims of the House of Representatives on the 2d day of March, 1885, and the Attorney-General having appeared for the defendants, and the suit having been brought to a hearing on the 8th day of March, 1886, the court, upon the proofs and evidence, and after hearing Gilbert Moyers, esq., of counsel for the claimant, and Lewis Cochran, esq., of counsel for the defendants, finds the following facts:

I.

During the years 1863 and 1864 the claimant, a widow, resided upon a farm owned or occupied by her near the town of Bartlett, in Shelby County, Tennessee.

Within that time there were taken from the claimant by the Union forces of t
United States for their use and used by them:

3 horses and one mule of the value of $150 each..... $
300 bushels of corn of the value of .....
4,000 pounds hay of the value of.....

The claimant has received no pay for the same.
By the Court.
A true copy of record.
Test this 30th day of March, 1886.
[SEAL.]

JOHN RANDOLPH,
Assistant Clerk, Court of Claim

Your committee therefore report herewith a bill for the amount found by the Court of Claims, and recommend that it do pass.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1827.

ELIZABETH P. DYER.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GEDDES, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 8093.]

The Committee on War Claims, to whom was referred the claim of Elizabeth P. Dyer, beg leave to report:

That the Committee on War Claims of the Forty-eighth Congress, not being clearly and fully advised of all the facts in the case, referred it to the Court of Claims for a finding under the provisions of an act entitled "An act to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government," approved March 3, 1883.

Said claim has been returned by said Court of Claims to the committee with the following finding of fact filed January 11, 1886, to wit:

[United States Court of Claims. Elizabeth P. Dyer v. The United States. Congressional case No 370.]

CLERK'S OFFICE,
Washington, February 16, 1886.

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the said order and the findings of fact filed February 15, 1886, in the aforesaid cause, which case was referred to this court by the Committee on War Claims, House of Representatives, under the act of March 3, 1883.

I am, very respectfully, &c.,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Hon. JOHN G. CARLISLE,
Speaker of the House of Representatives.

[In the Court of Claims. Elizabeth P. Dyer *v.* The United States. Congressional case No. 370.]

At a Court of Claims, held in the city of Washington on the 15th day of February, A. D. 1886, in the cause aforesaid, the court filed findings of fact, and it was ordered that a copy be certified to the Committee on War Claims of the House of Representatives.

By the Court.

Findings of fact filed February 15, 1886.

The claim in the above-entitled suit having been transmitted to this court by the Committee on War Claims of the House of Representatives March 2, 1885, the Attorney-General, by his assistants, appeared for the defense and protection of the interests of the United States.

On a preliminary inquiry, the court found (January 11, 1886) that the claimant w loyal to the Government of the United States throughout the war.

On the 8th day of February, 1886, the case was brought to a hearing on the meri Gilbert Moyer, esq., being counsel for the claimant and H. J. May, esq. (assistant the Attorney-General), for the defendants. The court, upon the proof and eviden and after hearing the counsel on both sides, finds the facts to be as follows:

I.

The claimant resided during the war of the rebellion in Fayette County, Tennes During the war there were taken from her, by officers of the United States for use of the Army, two mules, two cows, and two heifers, for which voucher was gi to her, of which the following is a copy:

LA GRANGE, TENN., *December* 31, 186

Received of Mrs. Dyer two mules for the use of the United States Government, also two cows and two heifers.

ROBERT MAJOR,
Second Lieutenant Company F, Fifth Regiment Ohio Volunteer Cavalry

II.

The uncontradicted evidence shows that the mules were worth $175 each, the co $35 each, and the heifers $30 each; in all, $480.

By the court.

A true transcript of record.
Test this 16th day of February, 1886.
[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims

Your committee therefore report a bill herewith providing for the pa ment of the amount found by said Court of Claims, and recomme that it do pass.

C

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1828.

EDWARD FITZGERALD.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. LYMAN, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 8094.]

The Committee on War Claims, to whom was referred the bill (H. R. 93) for the relief of Edward Fitzgerald, have had the same under consideration, and report as follows:

This is a claim for quartermaster and other stores alleged to have been taken by the United States Army during the war of the rebellion from the Catholic church at Fort Smith, in the State of Arkansas. The claimant is a bishop of the Catholic Church, and as such is trustee of the property, and it is as such trustee that this claim is made.

Your committee think that the claimant should be heard. The claim was made in due time to the Southern Claims Commission, but rejected, without any examination or hearing upon the merits, because the Commission held it had no jurisdiction of corporations.

Your committee recommend that the accompanying bill be passed as a substitute for H. R. 93. This substitute sends the claim to the Court of Claims to find and report to Congress the facts, with proper provisions and safeguards as the committee believes will protect all parties.

The committee recommend that the original bill do lie on the table.

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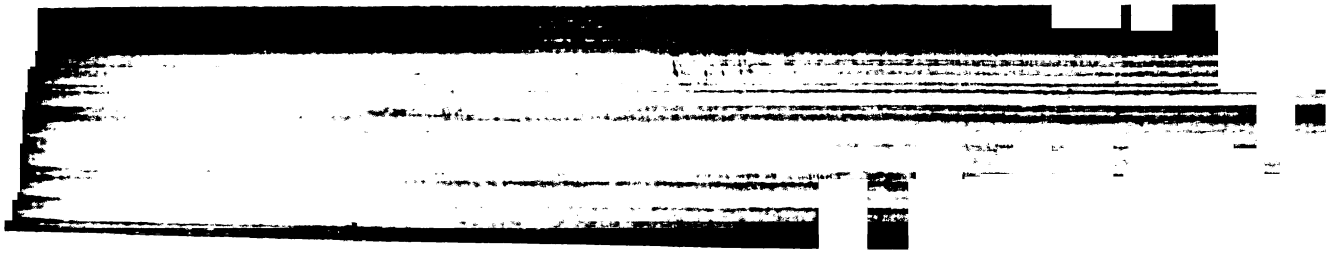


TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1829.

JAMES G. WINTERSMITH.

RIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CHARLES H. GIBSON, from the Committee on Accounts, submitted the following

REPORT:

[To accompany H. Res. 112.]

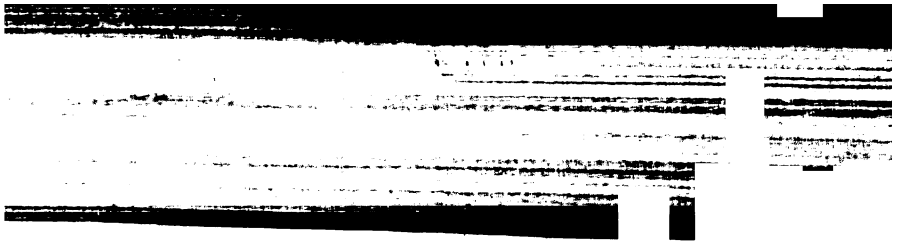
he Committee on Accounts, to whom was referred the joint resolution for the relief of the estate of the late James G. Wintersmith, late Doorkeeper of the House of Representatives, beg leave to submit the following report:

That the said officer died, after a lingering illness, in the city of Louisville, during the summer of 1885; that he left surviving him his father, ho is quite old and poor, and his mother, who died within the past few ys of grief for the loss of her son James and the impending death of other son, who constituted her whole family; that the said late James Wintersmith was a most efficient and faithful officer of the House of presentatives.

Your committee find that it has been usual in cases of the death of icers of the House to allow to the estate of such officer one year's sal- y of such officer and the expenses of the last sickness and burial ex- nses, not to exceed $500, as will appear from the following of the ıny precedents which could be cited:

1) To the widow of Fontain W. Mahood, late stationery clerk of the House, one ır's salary and $500 funeral expenses. (Resolution third session Forty-sixth Con- ıss, Record, vol. 48, page 1898.)
2) To Miss B. A. Hincks, of Cohasset, Mass., the sister of William Hincks, late ıorter of debates in the House of Representatives, one year's salary of $5,000. ırty-sixth Congress, second session, Laws, vol. 21, page 280.)

Your committee, therefore, having carefully considered the resolution ferred to, report favorably the same to the House, with the recom- ıendation that the same be passed by the House with the following ıendment: After the words "expenses of the said last sickness and rial of James G. Wintersmith" add the words "said burial expenses t to exceed five hundred dollars."



49TH CONGRESS, 1st Session. HOUSE OF REPRESENTATIVES. REPORT No. 1830.

AMENDING THE REVISED STATUTES.

APRIL 20, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. STORM, from the Committee on Reform in the Civil Service, submitted the following

REPORT:

[To accompany bill H. R. 1562.]

The Select Committee on Reform in the Civil Service, to whom was referred the bill (H. R. 1562) to amend section 1754 of the Revised Statutes so as to give honorably discharged soldiers and sailors a preference in public appointments, having had the same under consideration, submit the following report:

That the joint resolution of March 3, 1865 (section 1754 of the Revised Statutes), gives preference in appointments to civil employment under the Government to persons honorably discharged from the military or naval service by reason of disability resulting from wounds or sickness incurred in the line of duty. The bill proposes to extend that preference to all persons honorably discharged from the military or naval service.

The soldiers and sailors of the country have for years demanded this change in the law. The committee believe that the demand is just and reasonable. That where a soldier or sailor is found to possess the business capacity necessary for the proper discharge of the duties of the office he seeks, he should be preferred in appointments to the civil service.

The committee recommend the passage of the accompanying bill.

VIEWS OF THE MINORITY.

The section of the Revised Statutes sought to be amended reads as follows:

Persons honorably discharged from the military or naval service by reason of disability resulting from wounds or sickness incurred in the line of duty, shall be preferred for appointments to civil offices, provided they are found to possess the business capacity necessary for the proper discharge of the duties of such offices.

It is proposed by the bill under consideration to strike out the words "by reason of disability resulting from wounds or sickness incurred in the line of duty." The section referred to became law in 1865, about the close of the war, and for twenty-one years since it closed the preference in favor of *disabled soldiers* to appointments to civil offices has been considered sufficient. Now it is proposed to enlarge the preferred class so as to

include all honorably discharged soldiers and sailors, whether disabled or not. The amendment is mandatory, and if it becomes a law the preferred applicant must be taken, if he has sufficient "business capacity necessary for the proper discharge of the duties of such offices," in preference to others who may be more efficient. To illustrate: If one of the heads of Departments should call upon the Civil Service Commission to certify four eligible persons under the civil-service rules, from which to select one person for appointment, and one is an honorably discharged soldier, and the others are not, though he may be graded the lowest of the four, must be preferred, and the certification of the other three is nullified; they have no chance for selection. The amendment is violative of the alleged fundamental principle of the civil-service law, that appointments should be made alone upon merit, ascertained by competitive examination, after satisfactory evidence as to character, &c. We do not believe that the sense of justice of the patriotic soldier will permit him to demand this class legislation in his interest. The Government, in grateful appreciation of the services of its soldiers, maintains liberal pension laws. But the offices established for the public service *alone* ought not to be disposed of as pensions.

We therefore respectfully dissent from the recommendation of the majority of the committee.

J. C. CLEMENTS,
N. C. BLANCHARD.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1831.

PUBLIC ACCOUNTS AND CLAIMS.

APRIL 20, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. OATES, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany bill H. R. 5281.]

The Committee on the Judiciary, to whom was referred House bill 5281, having had the same under consideration, report the same back to the House with a recommendation that the bill pass with an amendment to the first section by adding thereto the following proviso, to wit:

"*Provided*, That no suit shall be barred by this act until five years after its approval."

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1832.

BUILDING AT DES MOINES, IOWA.

APRIL 20, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

MR. HENLEY, from the Committee on Public Buildings and Grounds, submitted the following

REPORT:

[To accompany bill H. R. 5251.]

The Committee on Public Buildings and Grounds, to whom was referred House bill 5251, *beg leave to report:*

By act of May 7, 1882, provision was made for repairing and enlarging the post-office and court-house at Des Moines, Iowa; $45,000 was appropriated to begin the work and additional appropriations have since been made, making a total for said purpose of $180,000. But the rapid growth of the city and State, and the great increase of public business that must be transacted there, has demonstrated the total inadequacy of the proposed enlargement for the present demand, much less the increased demand which must be provided for in the very near future.

The Government owns the ground, and it will be the part of true economy to extend the building at this time, in anticipation of the growing increase in the public business, and thus prevent another enlargement and rearrangement which must of necessity be made, at great expense, at an early date.

It was thought that the original building would answer the public demand for many years, but after an occupancy of only twelve years a considerable enlargement was found absolutely necessary. The per cent. of increase of both population and business is much greater now than then; hence the demand for more liberal accommodations for the future.

As showing the rapid growth of the city and the marvelous increase of business, the population of the city of Des Moines, Iowa, was, in 1860, 3,965; in 1870, 12,035; in 1880, 22,696; in 1885, 36,494.

Population of State in 1865, 754,699; in 1885, 1,753,980.

Miles of railroad in State in 1865, 1,000; miles of railroad in 1885, 7,000.

Des Moines is the capital, and is the commercial as well as the railroad center of the State. In 1865 the city had but one line of railroad; now thirteen lines radiate from here to every part of the State.

The volume of business in the city for 1885 was $70,796,691. The permanent improvements made during the year were $3,502,416.

It expended, in 1885, for paving, sewering, and other public improvements, $217,963. The State has just completed a capitol building there at the cost of $3,000,000.

The internal revenue collected at Des Moines in 1885 was $1,958,811.60. The total financial transactions of the Des Moines post-office were $1,809,542.57; money-order business, $1,720,923.99; stamps sold, $88,618.

Gross receipts	$93,308 83
Expenses	25,471 29
Net revenue	67,837 54

being a larger per cent. of net revenue than from any other first-class post-office save one in the United States. The pension office here paid out, during 1885, to 17,989 pensioners, $1,958,811.60.

This public building must accommodate the post-office with over forty employés; the pension office with a very large clerical force; the United States courts with their various officers; the collector of internal revenue with necessary attendants, and the register and receiver of the United States land office, with their cumbersome records. The space in the old building had proven grossly inadequate and the present plan for enlargement will very illy meet the demands for room.

In consequence of the repairs and extension ordered, the offices are now all in rented quarters—none of them fire-proof—all of them very crowded, and for which the Government is paying an annual rental of $6,148.

Des Moines is the largest and most rapidly growing city in the State and the whole State is tributary to her. Judging from the past, her population will probably reach 75,000 at the end of the next ten years, with the public business increased in proportion. The Government ought, while enlarging this building, to make provisions for this increased business.

The Supervising Architect of the Treasury and the General Superintendent of Repairs of Public Buildings both recommend it in their annual report, and the Secretary of the Treasury advises it in a letter here subjoined.

The additional appropriation of $153,000 asked for in this bill should be granted, to the end that safe, convenient, and comfortable accommodations for the transactions of the public business may be furnished to a community who are doing so much for the public improvement and contributing so largely to the public revenue. Your committee therefore recommend the passage of the bill.

TREASURY DEPARTMENT,
Washington, March 13, 1886.

SIR: I have the honor to acknowledge the receipt of your letter of the 26th ultimo in relation to extension of limit of cost of public building at Des Moines, Iowa, as proposed by pending bill No.

The following statement is submitted by the Supervising Architect of the Treasury Department, and shows the amount of space which is now occupied by the several officers who are to be located in the building, and the space which can be allowed by the extension to the old building, as proposed in bill above referred to:

	Space now occupied.	Space allowed by extension.
First floor:	*Feet.*	*Feet.*
Post-office, working-room	4,400	5,100
Post-office, working-room	2,200	1,560
Postmaster	660	1,056
Stamp department	.....	308
Money-order, &c	.....	704
Assistant postmaster	.....	352
	7,260	9,080
Second floor:		
Pension office	264	1,012
Pension office	756	1,144
Internal revenue	1,452	1,232
Internal revenue	.....	338
Railway mail service	560	1,584
District attorney	486	1,088
District attorney	432	624
Master in chancery	.....	1,224
Third floor:		
Circuit court	3,528	1,320
District court	1,404	1,224
Judges' rooms	280	704
Judges' rooms	.....	704
Judges' rooms	513	484
Judges' rooms	.....	336
Clerks of court rooms	405	704
Clerks of court rooms	486	1,088
Clerks of court rooms	540	288
Clerks of court rooms	.....	338
Marshal	486	748
Marshal	.....	352
Witness room	.....	308
Fourth floor:		
Land office	1,760	484
Land office	.....	748
Signal office	1,452	704
Grand jury	459	1,224
Petit jury	459	640
Petit jury	.....	312
Petit jury	.....	1,536
Custodian	.....	704
Storage	.....	1,320
Storage	.....	352
Total	22,982	34,248

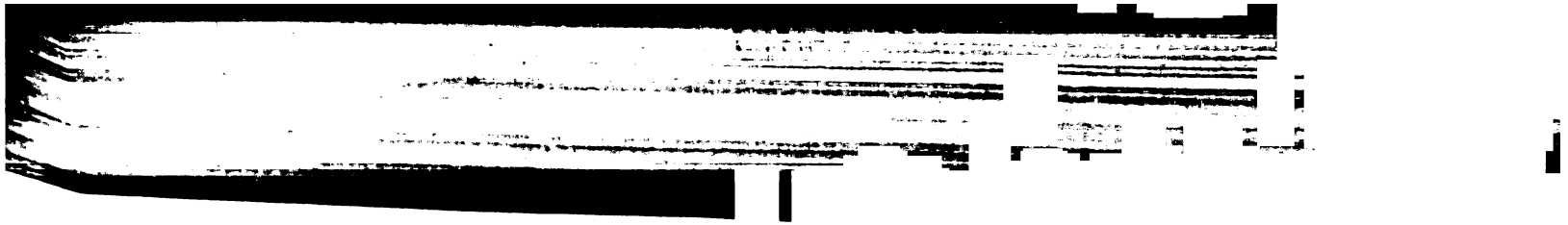
It will be observed that the extension will afford about one-half more floor space than the officers now occupy in rented buildings; and it is reported that the offices of the clerks of court, the marshal and the jury rooms are much crowded, and the post-office and pension departments are very badly crowded. As the alterations of the present building under the limit of cost heretofore fixed have been commenced, it would seem to be a measure of economy to make the proposed extension of the building large enough not only to afford the additional space which is now very much needed, but to provide for the future increase of the public business. By this extension the accommodation for the Post-Office Department is increased only from 7,260 feet to 9,080 square feet. The present building has been built about twelve years, and in that short space of time the accommodations afforded have been found entirely inadequate. With the exception of a tower, with clock, which it is estimated will cost $12,240, there is no external ornamentation of note contemplated, as the design must necessarily be made to conform to that of the present building, which is a plain stone structure; that is, the outside walls are faced with limestone.

The estimated cost of the proposed enlargement, including the cost of an elevator, the approaches, and heating apparatus for the entire building, is $155,000, and the limit should be extended from $180,000 to $335,000. The cost of heating apparatus, approaches, and elevator were not included in the original estimate.

Respectfully, yours,

DANIEL MANNING,
Secretary.

Hon. SAMUEL DIBBLE,
Chairman Committee on Public Buildings and Grounds,
House of Representatives.



49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1833.

PUBLIC BUILDING AT CHEYENNE, WYO.

APRIL 20, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. HENLEY, from the Committee on Public Buildings and Grounds, submitted the following

REPORT:

[To accompany bill H. R. 8095.]

The Committee on Public Buildings and Grounds, to whom was referred the bill (H. R. 2926) for the erection of a public building at Cheyenne, Wyoming Territory, beg leave to report a substitute for said bill.

Cheyenne is the capital of Wyoming Territory, the county-seat of Laramie County, the commercial center of a large area of country, and the largest city between Omaha and Sacramento, on the main line of the Union and Central Pacific Railroads. The Territory has no indebtedness, and has a large surplus in the treasury. The property of the Territory has trebled in the past six years, and now amounts to $31,000,000, assessed valuation being one-third of actual valuation. The population has increased in the same ratio. The city of Cheyenne has a population of over 10,000 people. More business is done in the city than in many other cities of three times its size. It has the very best commercial standing and is reported by the mercantile agencies as among the wealthiest cities per capita, in the United States. The city is supplied with railroad facilities to the East and West, with two lines to the South, and arrangements have been perfected for the building of a railroad to the North, with its initial point at this place.

The cash receipts of the railroad companies for passenger fares and freight at this point, amount to over $1,000,000 per annum. The postal receipts during the last fiscal year amounted to $15,299.56, making a net revenue of nearly $11,000.

The assessed valuation of the property in the city is nearly $3,000,000; actual valuation, $11,000,000.

The city has three national and two private banks, with an aggregate banking capital of over $1,000,000, with deposits of over $2,000,000.

The city has a water and sewer system worth $250,000. Private corporations maintain an electric light system, which has cost $150,000, and gas-works, which have cost $75,000. The city has public and private school buildings of the aggregate value of $125,000. These afford accommodations for 1,400 school children. The best system of graded public schools are maintained. Ten churches are supported, and the prominent benevolent institutions of the country have substantial and costly buildings.

There are published in the city three daily and four weekly newspapers. Near the city is located Fort Russell, the principal military post and quartermaster's depot in the Department of the Platte.

The following are the public offices in the city, for which the United States pay rent, and the amount paid:

	Per annum.
Court-house, supreme court	$1,100 00
Legislature	1,000 00
Surveyor-general's office	650 00
United States land office	800 00
Governor's office	400 00
Secretary's office	480 00
Clerk supreme court	275 00
United States Signal Service	250 00
Post-office (now paid by subscription)	1,800 00

United States revenue, marshal, and attorney, no report.

In addition to the foregoing the Territory is paying for room for Territorial library, which Congress has helped to purchase (14,000 volumes), $1,200; Territorial treasurer, $300; Territorial auditor, $120; Territorial veterinarian, $150; insurance commissioner, $150; penitentiary commissioner, $200; stenographer, $150.

In case of fire many valuable records and papers would be destroyed that could not be replaced.

In view of the foregoing facts the committee recommend that the substitute for bill No. 2926 do pass.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1834.

MRS. FLORIDA KENNERLY.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HIESTAND, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 8096.]

The Committee on War Claims, to whom was referred House bill 8096, *submit the following report:*

Mrs. Florida Kennerly is the widow of Pierre M. Kennerly, a member of a volunteer company in the Mexican war, commanded by Capt. Justus McKinstry, called "The McKinstry Guards," in said war. She has been refused a pension by the War Department because there is no muster-roll on file in the Department. But there is evidence enough on file to allow her as the widow of Pierre M. Kennerly a bounty-land warrant for 160 acres of land in April, 1880. In equity she should have one month's pay for her husband's service as a dragoon and the three months' extra pay allowed to all Mexican soldiers, amounting in all to $126.60.

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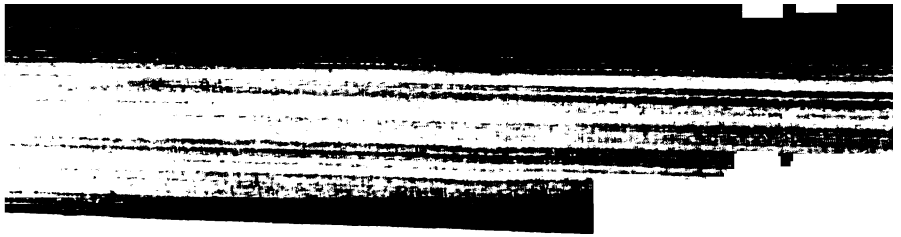


49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1835.

ALLOTMENT OF LANDS IN SEVERALTY TO INDIANS.

APRIL 20, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. SKINNER, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill S. 54.]

The Committee on Indian Affairs, to whom was referred the bill (S. 4) to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the United States and the Territories over the Indians, and for other purposes, having had the same under consideration, respectfully report back the same, with sundry amendments, as follows:

(1) Strike out sections 1 and 2 of said bill and insert in lieu thereof the following:

"That in all cases where any tribe or band of Indians has been, or shall hereafter be, located upon any reservation created for their use, either by treaty stipulation or by virtue of an act of Congress or Executive order setting apart the same for their use, the Secretary of the Interior be, and he hereby is, authorized, whenever in his opinion any reservation of such Indians is advantageous for agricultural and grazing purposes, to cause said reservation to be surveyed, or resurveyed if necessary, and to allot the lands insaid reservation in severalty to the Indians located thereon, in quantities as specified in the treaty with said tribes or bands if said reservation was created by treaty: *Provided*, That in all cases where no provision for the allotment of land is made in the treaties, acts, or Executive orders creating or relating to said reservations, allotments in severalty may be made thereon as follows:

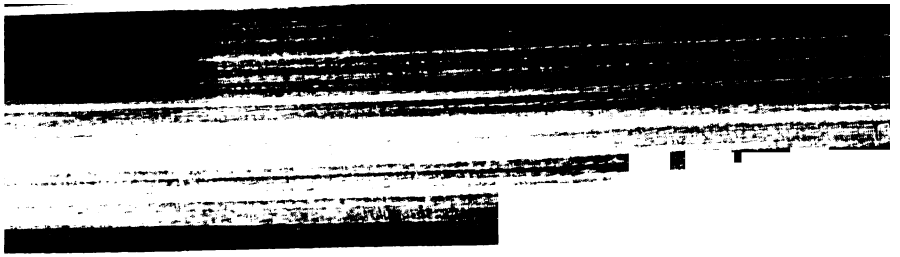
"To each head of a family, one quarter of a section;

"To each single person over eighteen years of age, one-eighth of a section;

"To each orphan child under eighteen years of age, one-eighth of a section; and

"To each other person under eighteen years now living, or who may be born prior to the date of the order of the Secretary of the Interior directing an allotment of the lands embraced in any reservation, one-sixteenth of a section: *Provided*, That in case there is not sufficient land in any of said reservations to allot lands to each individual of the classes above named in quantities as above provided, the lands embraced in such reservation or reservations shall be allotted to each individual of each of said classes pro rata in accordance with the provisions of this act."

(2) Strike out all after the word "void" in line 16, section 6, up to the word "Provided" in line 21.



49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1836.

SIGNAL STATIONS, WEST INDIA ISLANDS.

APRIL 20, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. WHEELER, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 7656.]

The Committee on Military Affairs, having had under consideration the bill (H. R. 7656) to authorize and direct the Secretary of War to establish signal stations in the West India Islands, and duly considered the same, submit the following report:

Meteorological reports from stations located in the West Indies are of especial value to the Signal Service, as they frequently contain information upon which warnings are issued to the ports of the United States informing the shipping interests of the approach of dangerous storms. The study of West India hurricanes during the past century has shown that these islands are located in the path of the violent storms which, after leaving the West Indies, pass along the coast of the United States, attended by the most dangerous and destructive gales to which our shipping is exposed. Weather reports from these islands are therefore necessary for the protection of our shipping during the hurricane season, and they are as necessary for the successful management of the Signal Service as an outpost or picket-guard is to the active operations of an army in the field.

In some instances these cyclones have penetrated inland far to the West, circling over a considerable extent of territory, carrying devastation and destruction in their path, and it is hoped that with warning of their approach much can be done to save life and property.

In many cases these storms have passed from the West Indies northward along the Gulf Stream, beyond the limits of the stations in the United States, but sufficiently near the coast to endanger all shipping leaving ports on the Atlantic coast. In such cases reports from the West Indies would furnish the Signal Office with the necessary information, which would be communicated to all ports of the United States, and vessels would thus be detained in port, thereby avoiding the dangerous storms. These storms are also likely to occur south of the island of Cuba, then passing northward over the Gulf of Mexico, endangering the shipping in the Gulf, after which they turn to the north or northeast and move over the Gulf States, or move along the Atlantic coast. In such cases reports from the island of Cuba would enable this service to give from one to two days' warning before the occurrence of the storm on the Atlantic coast.

As to the value of these storm warnings to the shipping interests of the country, the following letter from the secretary of the Maritime Exchange, New York City, is cited:

[The Maritime Association of the Port of New York, Produce Exchange Building, Beaver street.]

NEW YORK, *November* 10, 1885.

DEAR SIR: Highly appreciating as we do the invaluable service you are rendering the commerce of the country by advanced reports of approaching storms, we may venture, now that the stormy season is upon us, to suggest that these reports be telegraphed to us at the earliest possible moment.

Thanking you for the promptitude with which they have hitherto been sent us, we merely suggest that any improvement in that direction, if any be possible, will further add to their usefulness.

Instantly upon their receipt, if in time, we conspicuously bulletin the message at the Maritime Exchange, and notify the steamers about leaving port. As an illustration of their usefulness, I would say that Captain Garvin, of the steamer Orinoco, which cleared for Bermuda on the 29th ultimo, on receiving from us the advanced reports you kindly sent us on that day, came to anchor in the harbor, together with a number of other outward-bound vessels. He is enthusiastic in praise of the service rendered, and to day informed me that the report referred to probably saved a large amount, especially in the cost of cattle being shipped abroad, which would probably have suffered heavy loss had the vessels encountered the storm of which you gave warning.

Very respectfully, yours,

F. W. HOUGHTON.
Superintendent.

General W. B. HAZEN, U. S. A.,
Chief Signal Officer, Washington, D. C.

From the above letter it will be seen that vessels bound south from New York or any Northern port may be enabled to avoid the destructive storms, through warnings received from the Signal Service, based upon West India reports.

An examination of the chart exhibiting the course pursued by these West India hurricanes will show that while these storms do not occur at regular intervals, they are likely to occur every year. Two such storms swept over the Gulf and Atlantic coasts during the fall of 1882, one in September and one in October. Warnings of the approach of these storms were fortunately received from the West Indies, so that this service was enabled to give at least two days' notice to every port on the Atlantic coast; the result was an immense saving of valuable property. Immediately after the occurrence of these severe storms reports were received showing the names of vessels and their value, and the value of their cargoes, which remained in port in obedience to the storm warnings issued by this office, and these reports show that over $12,000,000 worth of property remained in harbor which but for the warnings would have been exposed to the dangers of the storms.

The small sum asked for, if granted, might not only result in the saving of life, but also supply reports which would enable the Signal Service to save from destruction a fleet of vessels the value of which would support the Signal Service for ten years.

These storms do not occur every year, but they are likely to occur in any hurricane season, and the service and the country should be prepared for them.

Your committee therefore report back H. R. bill No. 7656, and recommend that it do pass with the following amendments:

After the word "War," in line 3, insert the words "by and with the consent of the proper authorities"; and after the word "establish," in line 4, insert the words "and maintain"; and after the word "their," in line 7, insert the words "character and."

The committee therefore recommend the passage of the bill as amended, which will read as follows:

A BILL to authorize and direct the Secretary of War to establish signal stations on the West India Islands.

Whereas investigations have developed the fact that nearly all the destructive cyclones which have occurred during the past hundred years, which have passed along the eastern coast of the United States, have originated in the vicinity of the West India Islands, or at points east *and south* of said islands; and

Whereas early tidings of the same can always be received from these islands by cablegrams in time to give full warning of the approach of the same before they reach the coast of the United States: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War, by and with the consent of the proper authorities, is hereby authorized and directed to establish not to exceed six signal stations at such points upon the West India Islands as he may think advisable, for the purpose of observing such cyclones and storms of like character, and telegraphing warning of their character and approach; and the sum of four thousand dollars is hereby appropriated for said purpose from any money in the Treasury not otherwise appropriated.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1837.

THEODORE TEED.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. TRIGG, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 8097.]

The Committee on Claims, to whom was referred the petition for the relief of Theodore Teed, submit the following report:

This case was considered by this committee in the Forty-eighth Congress, and the following report agreed upon, viz:

It appears from the proof on file in this case that in 1864 the petitioner and Mary Ann Cheeny purchased of the United States at a confiscation sale a house and lot in the city of Alexandria, Va., for which they paid the sum of $950; and that petitioner and Charles Cheeny purchased of the United States at a confiscation sale in the same year a tract of land in Fairfax County, Virginia, for which they paid the sum of $190. Each of said parcels of land were condemned under the confiscation act of July 17, 1864, and subsequent to the sale thereof said Mary Ann Cheeny and said Charles Cheeny conveyed their interest acquired under said sales to petitioner.

In 1874 William N. McVeigh, the owner of said house and lot in Alexandria before said sale, brought an action of trespass in the corporation court of said city against petitioner to recover the possession of said house and lot and damages for his wrongful detention of the same, which resulted in the following verdict:

"We, the jury, find the issue joined for the plaintiff, and assess his damages at $362.50.

"A. G. UHLER,
"*Foreman.*"

A writ of possession issued and plaintiff put in possession and petitioner thrown out.

About the same time James H. McVeigh and William N. McVeigh, by the same kind of an action against petitioner in the circuit court of Fairfax County, Virginia, obtained the following verdict:

"We, the jury, find the issue joined for the plaintiffs, and we find that the defendant is guilty of unlawfully withholding the premises claimed by plaintiffs in the declaration mentioned, and we further find that the plaintiffs are entitled in fee simple to the premises mentioned in the declaration.

"R. W. AVERY,
"*Foreman.*"

Under this verdict petitioner was dispossessed of said tract of land in Fairfax County, Virginia. The title of the United States to both of said parcels of land having wholly failed, the one thousand one hundred and forty dollars paid her for the same should be refunded.

The committee therefore report favorably the accompanying bill for the relief of said Theodore Teed, and recommend that it do pass.

Your committee, upon investigation, find said report correctly states the facts, and they adopt the same, and recommend the passage of the accompanying bill for the relief of said Teed.

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[redacted]

49TH CONGRESS, 1st Session. HOUSE OF REPRESENTATIVES. REPORT No. 1838.

GEORGE W. COUSINS.

APRIL 21, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WOLFORD, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 2173.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2173) to remove the charge of desertion from the military record of George W. Cousins, submit the following report:

Your committee have carefully considered the military history of George W. Cousins, and find, from the records of the War Department and the evidence on file in said office, as reported to your committee, that George W. Cousins was enrolled March 6, 1865, for one year, in Company K, One hundred and fourth Regiment Pennsylvania Volunteers, and served faithfully until August 1, 1865. At that date, while his regiment was at Norfolk, Va., he received a letter stating that his wife was at the point of death; that he asked his captain, Martin McCanna, for a furlough, and that the captain tried to get one for him, but failed, as the command was in daily expectation of being mustered out; that he then told Captain McCanna that he must go, and did go, and as his command was mustered out August 25, 1865, he had not returned.

Capt. Martin McCanna and First Lieut. Joel Crawford bear testimony to the good character of said George W. Cousins, and that he served faithfully and well up to the time he went home, and that Cousins had no intention to desert.

Prior to the passage of the act of Congress of July 5, 1884, application for the removal of the charge of desertion was denied on the ground that from his own statement the charge was not erroneously made; and subsequent to the passage of the act referred to, on the ground that he had not served six months, as specified in the statute.

Your committee therefore recommend the passage of the bill.

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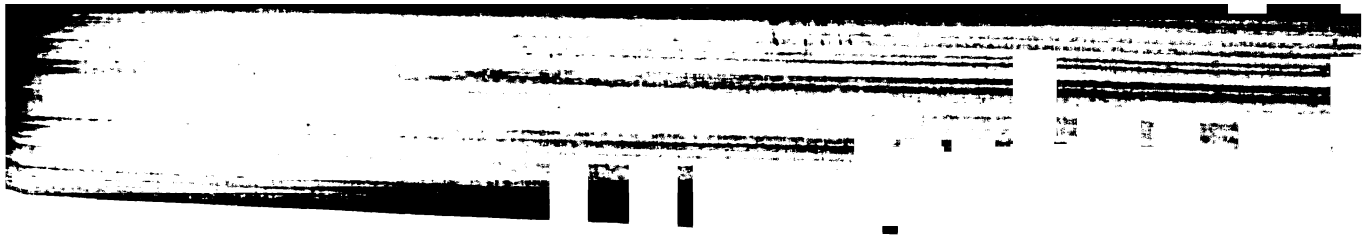

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1839.

CONSIDERATION OF BUSINESS FROM THE COMMITTEE ON THE POST-OFFICE AND POST-ROADS.

APRIL 21, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. BLOUNT, from the Committee on the Post-Office and Post-Roads, submitted the following

REPORT:

[To accompany House Mis. Doc. 235.]

The Committee on the Post-Office and Post-Roads, to whom was referred the following resolution (House Mis. Doc. 226)—

Resolved, That Tuesday, the 27th, and Wednesday, the 28th day of April, 1886, not to interfere with the consideration of revenue bills and regular appropriation bills, be set apart for the consideration of such bills as may be reported from the Committee on the Post-Office and Post-Roads—

having considered the same, report a substitute therefor (House Mis. Doc. 235) and recommend its passage, and that House Mis. Doc. 226 do lie upon the table.

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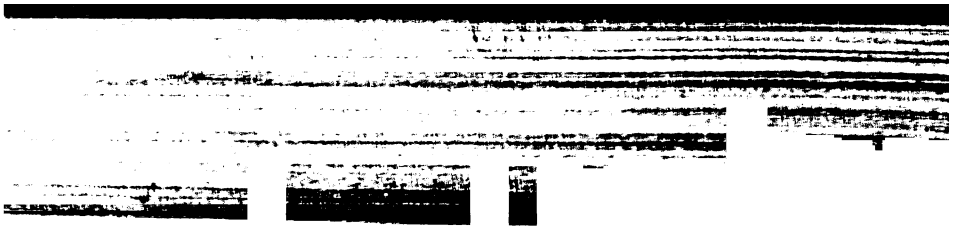

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1840.

COLUMBIA SPAULDING.

APRIL 21, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BRAGG, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 5586.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 5586) to correct the military record of Columbia Spaulding, submit the following report:

The records in the office of the Adjutant-General show that Columbia Spaulding was enrolled August 25, 1862, to serve three years, in Company H, Thirty-eighth New York Volunteers; was subsequently transferred to Company D of that regiment and to Company C, Fortieth New York Volunteers, and served until September 27, 1863, when he is reported on the muster-roll for September and October as "deserted from camp near Culpeper, Va."

The date of the desertion on different rolls is stated as September 16 and October 4, 1863.

On muster for November and December he is borne as present, with remark, "$30 reward paid for arrest as a deserter." The date of his return is stated on different records as October 14, November 7 and 30, 1863.

His subsequent record is good to June 1, 1865, when he was mustered out of service, with the following remark opposite his name on the muster-roll:

Deserted from Culpeper, Va., September 16, 1863; returned to duty October 14, 1863, under General Orders No. 88, headquarters First Division Third Army Corps, to lose all pay while absent and make the time good at the expiration of his original term of service; $30 paid for his arrest as a deserter; was taken prisoner at Cold Harbor, Va., June 13, 1864, and exchanged May 15, 1865.

Upon an application made to the War Department in 1883 Spaulding testifies:

That in 1863 he left his command on a pass, which he overstaid, and was arrested, and was kept a few days and was sent to his regiment; that he immediately reported to his colonel, who, after hearing his explanation, ordered him put on duty.

The record is uncertain as to the date of the supposed desertion, and therefore does not impart that verity that might otherwise attach to it.

The statement of the soldier is entirely consistent with the experience of officers and men, who were in the service in 1863, in the Army of the Potomac. Men who were found absent from their command with an expired pass were seized and taken to the "bull-pen," as the headquarters of the provost marshal were sometimes called, and were kept

several days, sometimes a week or ten days, which gave color to the charge of their being deserters, and were then sent to their regiment. Sharpers were on the lookout for an opportunity for picking up men with "overstaid passes" and making $30, and many a good soldier innocent of any intent of desertion was made to appear so by this class of men, aided by the lapse of time resulting from the detention under arrest.

The colonel of his regiment evidently did not regard him a deserter, or he would have been court martialed, instead of being returned to duty.

The subsequent history of the man sustains the view the committee entertain that he was a faithful soldier, and in no sense a deserter in fact.

And therefore they report the bill favorably, and recommend its passage.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1841.

RIGHT OF WAY TO THE MORRIS COUNTY RAILROAD COMPANY.

APRIL 21, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. BRAGG, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 1377.]

The Committee on Military Affairs, to whom was referred Senate bill No. 1377, "to grant the right of way for railroad purposes through lands of the United States powder depot, near Dover, N. J., to the Morris County Railroad Company," submit the following report:

The committee have carefully considered the bill, and find that, in the opinion of the War Department, as will be seen by the correspondence annexed hereto, and made a part of this report, no objection exists to the passage of the same.

ORDNANCE OFFICE, WAR DEPARTMENT.
Washington, January 26, 1882.

SIR: I have the honor to return the bill S. 838, "to grant the right of way for railroad purposes through the lands of the United States powder depot near Dover, N. J." with the following report:

I recommend that on line 14, after the word "works," the following proviso be added, viz:

"*Provided also*, That such sidings, tracks, switches, and loading stations as may at any time be required by the Secretary of War, shall be promptly provided by said railroad company, and that such stoppage of trains, and generally such facilities and privileges as the United States may desire for the shipment of materials of war at any time, shall be provided by said railroad company."

The passage of this bill and the construction of a railroad through these lands will connect the powder depot with the railroad system of the country. This connection was contemplated when the site was selected and the land purchased, as being an economical necessity in the cheap transportation of material during the construction of the magazines and other buildings, and for the prompt and safe distribution of gunpowder after the depot is in operation.

The distance of boundary line from the nearest railroad is over 3 miles, through a rather difficult country for hauling at a cost of over $1.15 per ton, which increases the expense of the building operations at the depot. The Central Railroad Company of New Jersey are willing to extend their road up to and into the depot this spring, for the convenience of the United States, provided the right of way be granted through lands as provided for in this bill, and of which it can avail itself to make railroad connections beyond the reservation, thus bringing the depot in direct connection with all parts of the country.

I consider this a fair and liberal proposition on the part of the railroad. The line of the railroad will be located on the side-hills bordering the track, at a very safe distance from all buildings, and effecting no damage whatever to the value of the Government property.

I respectfully recommend the passage of this bill as herewith amended.

Very respectfully, your obedient servant,

S. V. BENÉT,
Brigadier-General, Chief of Ordnance.

The Hon. SECRETARY OF WAR.

Chief of Ordnance, which will, it is believed, afford the information requested.

I concur with the Chief of Ordnance in recommending the passage of this bill.

Very respectfully, your obedient servant,

WM. C. ENDICOTT,
Secretary of Wa

Hon. W. J. SEWELL,
Of Committee on Military Affairs, United States Senate.

ORDNANCE OFFICE, WAR DEPARTMENT,
Washington, D. C., February 19, 188

SIR: I have the honor to return letter from Hon. W. J. Sewell, Committee on M tary Affairs of the Senate, of the 16th instant, inclosing Senate bill 1377, being granting right of way for railroad purposes through the lands of the United St powder depot, near Dover, N. J., to the Morris County Railroad Company, and report:

The act of Congress approved July 31, 1882, granted this right of way to the C tral Railroad Company of New Jersey, but as that company has waived its ri the Morris County Railroad Company of New Jersey is desirous to have the s privilege, and this bill is a reproduction, word for word, of the act of July 31, 1

The reasons and necessities in favor of favorable action are still in full force.

The passage of this bill and the construction of a railroad through these lands connect the powder depot with the railroad system of the country. This connec was contemplated when the site was selected and the land purchased, as being economical necessity in the cheap transportation of material during the construc of the magazines and other buildings, and for the prompt and safe distributio gunpowder after the depot is in operation.

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The line of the railroad will be located on the side-hills bordering the tract very safe distance from all buildings, and effecting no damage whatever to the v of the Government property.

I respectfully recommend the passage of this bill.

Very respectfully, your obedient servant,

S. V. BENÉT,
Brigadier-General, Chief of Ordnan

The Hon. SECRETARY OF WAR.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1842.

JOHN YOUNG.

APRIL 21, 1886.—Laid on the table and ordered to be printed.

Mr. BRAGG, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 6415.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 6415) for the relief of John Young, submit the following report:

If this man is justly entitled to relief, his case is covered by the provisions of a general bill which has passed the Senate and been favorably reported to the House from this committee, entitled "A bill to remove the charge of desertion from the rolls and records in the office of the Adjutant-General of the Army against certain soldiers."

And therefore your committee report back this bill adversely and recommend it do lie upon the table.

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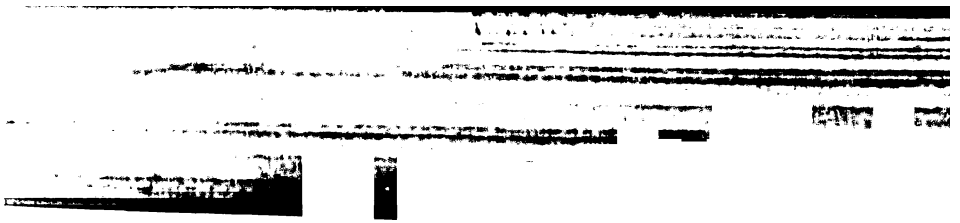

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1843.

ISAAC R. KEMP.

APRIL 21, 1886.—Laid on the table and ordered to be printed.

Mr. BRAGG, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 5236.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 5236) to remove the charge of desertion against Isaac R. Kemp, submit the following report:

If this man is justly entitled to relief, his case is covered by the provisions of a general bill which has passed the Senate and been favorably reported to the House from this committee, entitled "A bill to remove the charge of desertion from the rolls and records in the office of the Adjutant-General of the Army against certain soldiers."

And therefore the committee report back this bill adversely and recommend it do lie upon the table.

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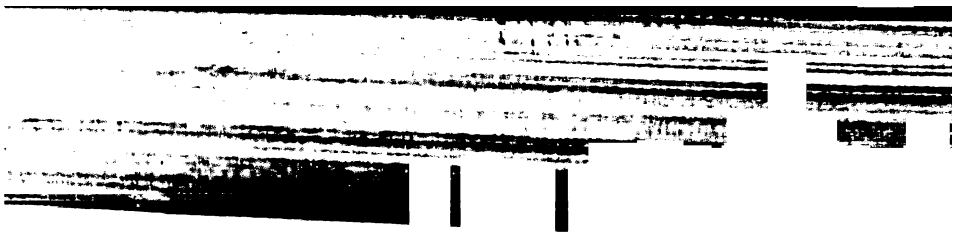

9TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1844.

) CORRECT THE ARMY RECORD OF CERTAIN OFFICERS.

APRIL 21, 1886.—Laid on the table and ordered to be printed.

r. BRAGG, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 5368.]

he Committee on Military Affairs, to whom was referred the bill (H. R. 5368) to correct the Army record of certain officers, submit the following report:

The purpose of this bill is the same as that of House bill 6014, already ported adversely.
For reasons stated in such report, your committee report this bill adrsely, and recommend that it do lie upon the table.

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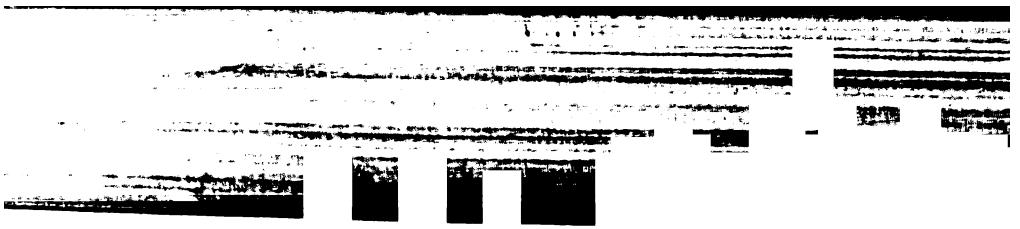


49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1845.

SAMUEL BURRELL.

APRIL 21, 1886.—Laid on the table and ordered to be printed.

Mr. BRAGG, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 3023.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3023) for the relief of Samuel Burrell, submit the following report:

The Committee on Military Affairs applied to the honorable Secretary of War for the military history of Samuel Burrell, the claimant for relief, and received in reply the following communication and exhibit:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, March 24, 1886.

SIR: I have the honor to return herewith a bill (H. R. 3023, Forty-ninth Congress, first session) for the removal of the charge of absence without leave and desertion from the military record of Samuel Burrell, late first lieutenant Fifth Illinois Cavalry, submitted to the Department by the Hon. E. S. Bragg, chairman Committee on Military Affairs, House of Representatives, and to report as follows:

The records of this office show that Samuel Burrell was mustered into service as first lieutenant Company M, Fifth Illinois Cavalry, November 8, 1861, to serve three years, and that he was present with his command to August 31, 1862.

On September 12, 1862, he tendered his immediate and unconditional resignation "on account of extreme ill health and unfitness for duty," accompanied by the certificate of the assistant surgeon of the regiment, which stated that—

"I have carefully examined this officer, find him unable to perform the duties of his office because of diarrhea and extreme debility; and I further declare my belief that he will not be able to resume his duties for a less period than twenty days; and I also further declare my belief that it is actually necessary, for the restoration of his health and to prevent permanent disability, that he be allowed to go North immediately."

On the same date he applied for leave of absence, pending action on his tender of resignation, and by special orders, Army of the Southwest, dated September 25, 1862, he was granted leave for twenty days, upon his tender of "unconditional resignation and surgeon's certificate, approved by the medical director, that the same is necessary to prevent permanent disability."

Company rolls to February 28, 1863, report him "Absent, pending action on resignation."

His tender of resignation of September 12, 1862, was duly forwarded by brigade, division, and Army commanders, but, for reasons not shown by the records, final action does not appear to have been taken thereon.

March 12, 1863, the commanding officer of the regiment reported to this office that "First Lieut. Samuel Burrell, of Company M, of this command, tendered his resignation on September 27, 1862, and obtained twenty days' leave of absence on surgeon's certificate. Said officer returned to this regiment November 5, 1862, and on the 26th of November, 1862, absented himself from his command without leave and returned to his residence at Grayville, White County, Ill., and has not since returned to his regiment. Said officer having been absent from his command over sixty days without leave, I recommend that he be discharged the service of the United States."

That report was forwarded, approved, through the proper military channels, to the commanding general Thirteenth Army Corps (Maj. Gen. John A. McClernand), who,

on March 19, 1863, forwarded the same, indorsed as follows: "Instead of discharging the delinquent, I earnestly recommended that the general commanding the department will cause him to be arrested, returned, and tried for desertion. This evil needs an example to arrest it."

Upon the receipt of that report at this office Lieutenant Burrell was published officially for absence without leave April 13, 1863, and cited to appear before the military commission, then in session in this city, and make defense against the said charge. Having failed to appear, he was dismissed the service to date April 13, 1863, "for desertion," in special orders from this Department dated May 23, 1863.

Lieutenant Burrell returned to his regiment March 31, 1863, and on April 1, 1863, by orders from Second Cavalry Division, Army of the Tennessee, a commission was appointed in accordance with paragraph 5, General Orders No. 100, series of 1862, from this Department (copy herewith), to investigate his case.

The commission found that he was absent from the 25th day of September, 1862, to the 6th day of November, 1862, with proper cause, and that he was entitled to pay during said time; but that from the 28th of November, 186 , to the 31st day of March, 1863, he was absent without good cause, and was not entitled to pay for that period; and furthermore, the commission was of opinion that his absence during the last-mentioned period fell under section 2 of the act of August 5, 1861, which provides "That any commissioned officer of the Army, Navy, or Marine Corps who having tendered his resignation, shall, prior to due notice of the acceptance of the same by the proper authority, and without leave, quit his post or proper duties with the intent to remain permanently absent therefrom, shall be registered as a deserter and punished as such."

The proceedings of the commission, having been duly forwarded, approved, to this office, were approved by the Secretary of War, and thereupon Lieutenant Burrell was dismissed the service "for absence without leave from November 28, 1862," in special orders from this Department dated September 16, 1863.

The proceedings, findings, &c., of the commission appointed April 1, 1863, by orders from Second Cavalry Division, Army of the Tennessee, and his dismissal, in orders from this Department dated September 15, 1863, based thereon, are regarded as the complement of his former dismissal to date April 13, 1863.

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

R. C. DRUM,
Adjutant-General.

The SECRETARY OF WAR.

GENERAL ORDERS, No. 100.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, August 11, 1862.

* * * * * * *

V. When an officer returns to his command after having overstaid his leave of absence, he may be tried by a court-martial for this as a military offense, or a commission may be appointed by the commanding officer of his division, Army corps, or Army, as the case may be, to investigate his case and to determine whether or not he was absent from proper cause; and if there should be found to be such proper cause he will be entitled to pay during such absence. The proceedings of such commission will be sent to the Adjutant-General of the Army for the approval of the Secretary of War. Such commissions will consist of not less than three nor over five commissioned officers.

* * * * * * *

By order of the Secretary of War.

E. D. TOWNSEND,
Assistant Adjutant-General.

The purpose of the bill under consideration is to set aside the order of dismissal and grant an honorable muster out of service.

The committee are clearly of opinion that the conduct of this officer fully justified his dismissal. Had he been a private soldier no mercy would have been shown him, but "death or Dry Tortugas" would have been meted out to him; and it would have resulted in much good to the service had the suggestions made by General McClernand been followed, viz, "arrest, trial, and punishment" of this officer under the laws of war for desertion.

Your committee therefore report adversely, and recommend the bill do lie upon the table.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1846.

HOLMAN ANDERSON.

APRIL 21, 1886.—Laid on the table and ordered to be printed.

Mr. BRAGG, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 5859.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 5859) for the relief of Holman Anderson, submit the following report:

The committee have carefully considered this bill in connection with the military record of Holman J. Anderson, late of the Fifteenth Illinois Cavalry, and find that the purpose of this bill is to pay said Anderson as second lieutenant from October 14, 1863, to the date of his muster out, August 25, 1864.

The reason assigned in support of the bill is that he was in fact commissioned and did duty as second lieutenant.

The answer to this, which has been made many times before, is this:

The record shows that during all that time the company to which he was commissioned had its full complement of officers exclusive of him, the company being below the minimum number fixed by the War Department for more than two officers. He was in fact and in law a first sergeant holding a commission from his State as second lieutenant, but the United States refused to muster him out as sergeant to accept his commission, for the reason above stated. He was rated and paid as first sergeant and that is all he was entitled to.

This committee have uniformly refused to grant any relief in such cases, and therefore report this bill adversely, and recommend it do lie upon the table.

[redacted]

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1847.

ARMY RECORD OF OFFICERS.

APRIL 21, 1886.—Laid on the table and ordered to be printed.

Mr. BRAGG, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 6014.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 6014) to correct the Army record of certain officers named therein, submit the following report:

This bill was submitted to the Secretary of War for a report of the War Department thereon, and the committee received the following correspondence and documents furnished the Military Committee of the Senate, first session Forty-seventh Congress, as giving the status of the case:

EXHIBIT A.

WAR DEPARTMENT,
Washington City, July 21, 1882.

SIR: I have the honor to acknowledge the receipt of your letter of the 2d instant, inclosing S. 1267, Forty-seventh Congress, first session, a bill to correct the Army record of Lewis Downing, late lieutenant-colonel of the Third Regiment of Indian Home Guards; Evan Jones, late chaplain of the First Regiment of Indian Home Guards; and James McDaniel, late captain of the Second Regiment of Indian Home Guards.

In reply to your request for such information as the records of the Department may afford pertinent to said bill, I beg to invite your attention to the inclosed report on the subject, dated the 21st instant, from the Adjutant-General, which is believed to contain the information desired.

Very respectfully, your obedient servant,

WM. E. CHANDLER,
Acting Secretary of War.

Hon. S. B. MAXEY,
Of Committee on Military Affairs, United States Senate.

EXHIBIT B.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, D. C., July 21, 1882.

SIR: I have the honor to submit herewith letter of the Hon. S. B. Maxey, of Committee on Military Affairs, United States Senate, inclosing a bill (S. 1267) to correct the Army record of certain officers of Indian Home Guards named therein, and requesting to be furnished with such information as the records may afford pertinent to the bill, and to report as follows:

Lewis Downing was mustered into service as lieutenant-colonel Third Regiment Indian Home Guards, to date from September 16, 1862. He is reported on the rolls of field and staff of the regiment to March 31, 1863, "present"; from March 21, 1863, to December 30, 1863, "absent on detached service at Washington, D. C."; from De-

cember 30, 1863, to June 30, 1864, "absent without leave since December 30, 1863, at Washington, D. C."; and from June 30, 1864, to muster-out of regiment, March 25, 1865, "present, under arrest at Fort Gibson, C. N., since August 30, 1864."

Evan Jones is reported on the rolls of field and staff of the First Regiment Indian Home Guards, as enrolled May 12, 1862, and as chaplain from the date of the organization of the regiment, May 22, 1862, but there is no evidence of his muster-in as such. He is reported on rolls of field and staff of the regiment to June 30, 1862, "present"; and from June 30 to August 31, 1862, "absent; leave of absence." His name is dropped from August 31, 1862, to roll for May and June, 1863, when it again appears with remark, "taken up on rolls by order of Colonel Phillips, having been dropped without authority by Adjutant Gelpatrick. Absent on detached service by Special Orders 73." From July 1, 1863, to January 31, 1864, he is reported "absent by orders from headquarters Department Missouri, Special Orders No. 73, since February 28, 1863," and subsequently reported "absent without leave since January 20, 1864."

James McDaniel was mustered into service as captain Company A, Second Regiment Indian Home Guards, to date from June 22, 1862. He is reported on rolls of company to February 28, 1863, "present"; from March 1, 1863, to December 31, 1863 "absent on detached service since March 5, 1863": from January 1, 1864, to August 31, 1864, "absent without leave since January 1, 1863"; roll for September and October 1864, "present, in arrest, by order of Colonel Wattles, commanding Indian brigade, since October 10, 1864," and subsequently reported "absent without leave since January 1, 1863."

Attention is invited to the following copy of a report from this office, dated June 14, 1864, which embraces the facts in the cases of these officers up to that date:

"WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
"*June* 14, 1864.

"Respectfully submitted to the Secretary of War.

"In accordance with Special Orders No. 60, headquarters District of Kansas, Fort Leavenworth, Kans., March 25, 1863, issued by Major-General Blunt, Lieutenant-Colonel Downing, Captain McDaniel, and Chaplain Jones, of the Indian Home Guards, came to this city as a delegation from the Cherokee Nation. When they arrived they made claim for pay. The claim was brought to the attention of the Secretary, who declined issuing any order for their payment, and decided that the order of General Blunt was irregular, and ordered his pay to be stopped for the amount of their expenses in coming to this city. It was reported by the Quartermaster-General that transportation had not been furnished by the United States; the stoppage was therefore removed.

"The claim for pay was made in June, 1863, and it was presumed that, upon the same being disallowed, the officers had returned to their commands.

"It appears, however, that they are still in this city, but under what authority is not known to this office. They are now reported absent without leave. (A. 478, V. S., 1864, herewith.)

"Since the refusal, in the first instance, of the War Department to pay them, a like refusal through the Secretary of the Interior has been made. They have also applied repeatedly, through claim agents and other parties, but refusal has been the result.

"Their claim at this time will amount to about $7,255, and it is recommended that, instead of its being recognized and allowed, the parties be mustered out of service as of the date (March 25, 1863) they were ordered to this city by Major-General Blunt.

"Their connection with the military service will thus cease, and for the long time (nearly fifteen months) they have rendered no military service to the Government they will be deprived of pay.

"THOMAS M. VINCENT,
"*Assistant Adjutant-General.*"

January 23, 1865, the attorney in the cases called the attention of the Department to the fact that no action had been taken on the recommendation of the Adjutant-General, as made in his report of June 14, 1864. Thereupon, by direction of the Secretary of War, Lieut. Col. Lewis Downing, Chaplain Evan Jones, and Capt. James McDaniel were mustered out and discharged the service on February 7, 1865, in special orders from this office, to date March 25, 1863, the date they were irregularly ordered to Washington, D. C., by Major-General Blunt.

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

R C. DRUM,
Adjutant-General.

The Hon. the SECRETARY OF WAR.

(A. 478, V. S., 1864.)

HEADQUARTERS OF THE ARMY,
Washington, June 6, 1864.

SIR: By direction of Major-General Halleck, chief of staff, your attention is called to the following extract from inspection report of district of the frontier for month of April, 1864, viz:

* * * * * * *

Officers absent without authority.

Lieut. Col. Lewis Downing, Third Indian Home Guards, since December 30, 1863.

* * * * * * *

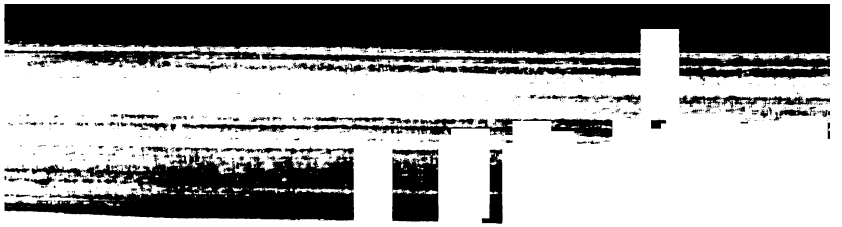
Chaplain Evan Jones, First Indian Home Guards, since January 24, 1864.
Capt. James McDaniel, Second Indian Home Guards, since January 1, 1864.

Very respectfully, your obedient servant,

ROBERT N. SCOTT,
Captain Fourth U. S. Infantry, A. D. C.

ADJUTANT-GENERAL, U. S. ARMY.

Upon the state of the case as presented on this record the committee are of the opinion that no relief should be extended to the persons named in the bill, and therefore report the bill adversely and recommend it do lie upon the table.



49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1848.

ROBERT HEDIAN.

APRIL 21, 1886.—Laid on the table and ordered to be printed.

Mr. BRAGG, from the Committee on Military Affairs, submitted the following

REPORT:

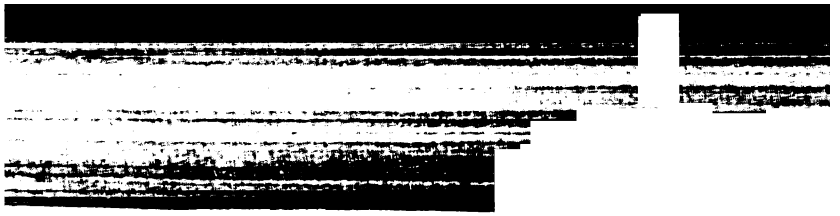
[To accompany bill H. R. 6245.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 6245) to provide for the correction of the military record and pay of Robert Hedian, submit the following report:

The committee have carefully considered this bill in connection with the military record of Robert Hedian, second lieutenant of Company I, Fifty-eighth Regiment of Pennsylvania Volunteers, and find that the claimant, Robert Hedian, has made the claim and filed his proof in support thereof with the War Department, and the same has been rejected—and very properly so—because the muster-rolls of the company in which he claims to have served as second lieutenant show that he was discharged August 28, 1863, and such rolls do not show that he ever had any connection with the company after that date, and there is no record of any other service.

Under the action of the Department he was mustered in on June 5, 1863, and mustered out August 28, 1863, the date of his discharge, as shown by the records of his company, and he has been paid as second lieutenant for that period of time, and the committee can find no reason for paying him from August 28, 1863, to February 20, 1864, during which time there is no convincing evidence to show he was in the service, and therefore the committee report the bill adversely, and recommend it do lie upon the table.

O



49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1849.

CHARLES L. CAMPBELL.

APRIL 21, 1886.—Laid on the table and ordered to be printed.

MR. BRAGG, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 1828.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 1828) for the relief of Charles L. Campbell, submit the following report:

The committee have carefully considered this bill, in connection with the official record of Charles L. Campbell, in the office of the Adjutant-General.

The purpose of the bill is to muster him as first lieutenant of Company H, Thirty-sixth Regiment of Ohio Volunteer Infantry, from the 9th day of May, 1864.

He was commissioned first lieutenant March 8, 1864, and no vacancy existed in the company in the office of first lieutenant of his company until March 10, 1865, and he was mustered and paid from that date.

He claims to have been assigned to duty without a commission, by a verbal order of his colonel, in May, 1864, the other officers of the company being absent on duty. This gives him no shadow of claim to be recognized as an officer from that date entitled to pay. He did not become an officer in any sense. And the records of his company, in which he alleges he was recognized and doing duty as first lieutenant, from the 9th day of May, 1864, to his actual commission and muster, show that on February 22, 1865, he was reduced from first sergeant to the ranks, which would not have been likely to have happened had he been acting and recognized as a first lieutenant.

The committee report adversely, and recommend the bill do lie upon the table.

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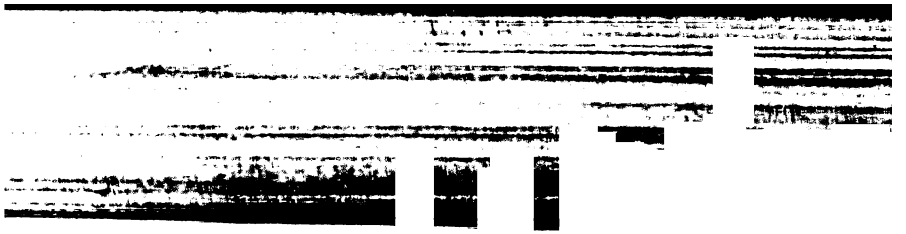


49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1850.

ANDREW MARTIN.

APRIL 21, 1886.—Laid on the table and ordered to be printed.

Mr. BRAGG, from the Committee on Military Affairs, submitted the following

REPORT:

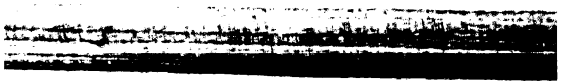
[To accompany bill H. R. 3743.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3743) for the relief of Andrew Martin, submit the following report:

If this man is justly entitled to relief his case is covered by a general bill which has passed the Senate and been favorably reported from this committee, entitled "A bill to remove the charge of desertion from the rolls and records in the office of the Adjutant-General of the Army against certain soldiers."

And therefore the committee report back this bill adversely, and recommend it do lie upon the table.

O



49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1851.

DAVID A. GREEN.

APRIL 21, 1886.—Laid on the table and ordered to be printed.

Mr. BRAGG, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 5101.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 5101) to remove the charge of desertion against David A. Green from the records in the Adjutant-General's Office, submit the following report:

From an examination of the military history of David A. Green, the committee find that if he is entitled to the relief he seeks, it can be granted under a general bill reported from this committee, and now upon the Calendar of the House, entitled "A bill to remove the charge of desertion from the rolls and records in the office of the Adjutant-General of the Army against certain soldiers."

And therefore the committee deem it inexpedient to report upon special bills, when a general bill is before the House for consideration, and which has already passed the Senate, which will meet the case if it be a proper one for relief.

The committee recommend the bill do lie upon the table.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVNS. { REPORT No. 1852.

THOMAS DOUGLAS.

APRIL 21, 1886.—Laid on the table and ordered to be printed.

Mr. BRAGG, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 6341.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 6341) to remove the charge of desertion against the Army record of Thomas Douglas, submit the following report:

The committee have examined the Army record of Thomas Douglas, the person named in this bill, and find the same to be as follows:

Thomas Douglas was mustered into service November 17, 1863, for three years, in Company F, Forty-first New York Volunteers, and served in that organization until March 13, 1865, when he *deserted* and never rejoined his command, which remained in service until December 9, 1865.

The claim for relief is made upon the ground that he had a furlough for twenty-one days, and was taken sick with the brain fever, which lasted for several months; and for fear of being treated as a deserter he did not report to military authorities when he got well, and the war was over and he did not know where his regiment was stationed; but the claimant is frank enough to state that he has made search for evidence to corroborate his statement and had wholly failed.

The committee do not believe that a man who did not intend to desert would desert for fear he should be treated as a deserter, and that is the gist of the man's story in one branch of his case. If he had been sick with brain fever for several months (that is the other branch of the case) he would not have a very great difficulty in stating where he was sick and who attended him, even if he could not find the man or woman. And besides this, and what adds more to the "fishiness" of this tale, the man was married, and was home on a furlough to see his sick wife when he was taken sick, "as his story goes."

The committee do not believe the statement, and therefore report adversely, and recommend the bill do lie upon the table.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1853.

DAVID H. THOMPSON.

APRIL 21, 1886.—Laid on the table and ordered to be printed.

Mr. BRAGG, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 5609.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 5609) for the relief of David H. Thompson, submit the following report:

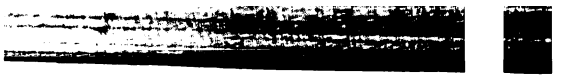
The committee have carefully examined the military record of David H. Thompson, the person named in this bill, and find the same to be as follows:

David H. Thompson was mustered September 7, 1861, to serve three years in Company D, First Michigan Cavalry, and served therein till August 31, 1862, when he was captured at the battle of Bull Run. He was paroled on the field September 1, 1862, and reported at Camp Parole, Annapolis, Md., October 23, 1862, *deserted* from said camp in December, 1862, and was arrested as a deserter ($30 reward allowed) January 4, 1864, by the provost-marshal, sixth district of Michigan, and rejoined his regiment April 25, 1864, and served faithfully until August 24, 1864, when he was mustered out of service.

In 1864, the commanding general Department of Washington removed the charge of desertion, and there has not since that time been any charge of desertion against this soldier, but he is entered as "absent without leave" from date of his leaving Camp Parole in December, 1862, to January 4, 1864. The truth of this entry is not disputed. It imposes no disability upon the soldier, nor does it in any way impair any of his rights. If it be wrong it could only be *damnum absque injuriâ*, and would not properly be the subject of legislation. But the entry is right and not wrong.

The committee therefore report adversely, and recommend that the bill do lie upon the table.

O



49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1854.

JAMES K. KENNEDY.

APRIL 21, 1886.—Laid on the table and ordered to be printed.

Mr. BRAGG, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 5526.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 5526) for the relief of James K. Kennedy, submit the following report:

The committee have carefully considered the military record of James K. Kennedy, the person named in this bill, and find the same to be as follows:

James K. Kennedy was enrolled August 8, 1862, to serve three years, in Company F, Eighty-fifth Indiana Volunteers, and served therein until January 26, 1863, when he deserted at Danville, Ky. He returned to his command on or about October 23, 1863, and on muster-roll from October 31, 1863, to February, 1864, he is reported "Absent; in military prison, Nashville."

On April 12, 1864, he was forwarded from that prison to his regiment, and was present with it April 30, 1864, having in the mean time been tried and convicted, by a general court-martial, of desertion, and sentenced as follows:

To forfeit all pay and allowances from January 27, 1863, to October 28, 1863; to make good the time lost; to confinement at hard labor on the Dry Tortugas for the remainder of his term of enlistment, and to forfeit his pay proper during that period.

The proceedings, findings, and sentence were properly approved May 1, 1864, but so much of the sentence as imposed imprisonment was not executed, because *on June 23, 1864, he again deserted in face of the enemy!* and never returned.

Your committee regard the presentation of such a bill as this an outrageous attempt to filch money from the Treasury for pay while a man was absent, having deserted his command, and to make it possible for this deserter to enroll his name on the pension-roll of his country, and thereby disgrace, by reflection, every good soldier whose name is borne on such roll.

Your committee unanimously report this bill adversely, and recommend it do lie upon the table.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1855.

ANDREW B. KELLY.

APRIL 21, 1886.—Laid on the table and ordered to be printed.

Mr. BRAGG, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 6342.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 6342) to remove the charge of desertion from the Army record of Andrew B. Kelly, submit the following report:

The committee have examined the Army record of Andrew B. Kelly, the soldier named in this bill, and find his history to be as follows:

Andrew B. Kelly was mustered into service February 1, 1864, for three years, as a recruit for Company F, First New York Veteran Cavalry, and served in that organization until March 16, 1865, when he is reported as "deserted at Kelly's Creek, Va." He never returned to his command, and there is nothing tending to show any mistake in his record as above given.

Your committee therefore report the bill adversely, and recommend it do lie upon the table.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1856.

ROSTRUM IN NATIONAL CEMETERY NEAR MEMPHIS, TENN.

APRIL 21, 1886.—Laid on the table and ordered to be printed.

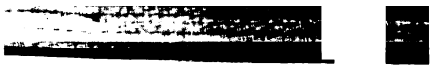
Mr. BRAGG, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. Res. 122.]

The Committee on Military Affairs, to whom was referred the resolution (H. Res. 122) to authorize the erection of a rostrum in the national cemetery near Memphis, Tenn., submit the following report:

The committee find, upon examination, that the improvements desired to be made by this bill are already provided for without further legislation, and therefore report adversely and recommend that the resolution do lie upon the table.



49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1857.

LORENZO LAKE.

APRIL 21, 1886.—Laid on the table and ordered to be printed.

Mr. BRAGG, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 5758.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 5758) to remove the charge of desertion from the record of Lorenzo Lake, submit the following report:

The committee find from an examination of the record of Lorenzo Lake, in the Adjutant-General's Office, that whatever relief he may be entitled to receive can be reached under the provisions of a general bill, reported from this committee at this session, entitled "A bill to remove the charge of desertion from the rolls and records in the office of the Adjutant General of the Army against certain soldiers."

And therefore report this bill adversely, and recommend it do lie upon the table.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1858.

ASSISTANT SURGEON THOMAS F. AZPELL.

APRIL 21, 1886.—Laid on the table and ordered to be printed.

Mr. BRAGG, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 6264.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 6264) to correct an officer's record, submit the following report:

The object of this bill is to promote Assistant Surgeon Thomas F. Azpell, a captain on the retired list, to the rank of major. The recitals in the bill indicate the reason why this action is asked to be, in effect, that Captain Azpell was eligible to promotion and would have been promoted to the rank of major before his retirement but for disability contracted in the service, and hence it is inferentially urged that it is unjust to a man worn out in the service to deprive him of a rank which was his due and which would have been given had he not been so worn out. This might present a strong equity, did the record support the argument; but unfortunately the record shows the fact to be essentially the reverse of what is necessary to support the supposed equity.

The record shows that in October, 1876, Captain Azpell was examined by an Army medical board with a view to his promotion when he should become entitled thereto, and he was found "not qualified either physically or professionally for promotion."

The record further shows that Captain Azpell has been very generously dealt with by the Government. He was examined by an Army retiring board, March 28, 1879, and pronounced permanently incapacitated for active service on account of disease contracted in the service, but he was permitted to remain nominally on the active list and draw full pay until August 10, 1885, more than six years before he was retired. His retirement was not enforced until August 10, 1885, and he, in fact, did no duty after April 26, 1877.

Your committee are unable to find any good reason why this bill should be favorably reported, and therefore they report adversely and recommend it do lie upon the table.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1859.

SAMUEL T. EVEY.

APRIL 21, 1886.—Laid on the table and ordered to be printed.

Mr. BRAGG, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 3939.]

The Committee on Military Affairs, to whom was referred bill (H. R. 3939) for the relief of Samuel T. Evey, submit the following report:

The records of the War Office show that Samuel T. Evey was commissioned second lieutenant Company G, One hundred and twenty-eighth Indiana Volunteers, September 1, 1864, but that from that date to April 4, 1865, it was below the minimum and entitled to only two commissioned officers, which it had up to April 4, 1865, exclusive of the claimant.

It is stated inferentially that April 4, 1865, was the earliest date at which there was a vacancy which could be properly filled, and the claimant has, by order of the War Department, under the provisions of the act approved June 3, 1884, been mustered as a first lieutenant from that date.

The purpose of this bill is to pay claimant as second lieutenant from September 1, 1864, to April 4, 1865; and the reasons urged are that he had a commission and did duty as second lieutenant for that time, although the company was not entitled to such an officer; and he was not mustered as such officer.

To recognize this claim would be to open wide the door to claims equally meritorious, but which, like this one, has its foundation in violation of law and Army regulations.

Every company under the minimum had a first sergeant just as much entitled to second lieutenant's pay as this man. The fact that the governor of some State issued commissions in disregard of the laws, rules, or regulations governing the mustering of officers and limiting the numbers to a company and regiment, as fixed by the United States, can furnish no good reason why a sergeant who held such a commission should fare better than a sergeant who had no commission, because the governor of his State heeded Federal regulation, but who did the same duty.

The same reasoning would apply to field and other officers who were retarded in promotion, and sometimes absolutely deprived of promotion by the rules affecting minimum regiments and companies.

It would be unwise to unsettle the rules of the Department and disturb the peace of mind of a large body of men, now content, who will all be aroused and commence clamoring "for more" should we furnish this precedent.

Your committee do not feel called upon to establish any such precedent, and therefore report adversely, and recommend the bill do lie upon the table.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1860.

J. C. HEATH.

APRIL 21, 1886.—Laid on the table and ordered to be printed.

Mr. BRAGG, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 5300.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 5300) for the relief of J. C. Heath, submit the following report:

The committee find, from an examination of the official records—

That John C. Heath was drafted March 16, 1865, to serve one year, and was assigned to Company I, Fifteenth Regiment Michigan Volunteers, and served until July 1, 1865, when he deserted from the regiment while it was *en route* from Louisville, Ky., to Little Rock, Ark.

Upon this state of facts—and none other are presented to this committee—the bill is reported adversely, with a recommendation it do lie upon the table.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1861.

ISAAC M. SHEPHERD.

APRIL 21, 1886.—Laid on the table and ordered to be printed.

Mr. BRAGG, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 6195.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 6195) for the relief of Isaac M. Shepherd, submit the following report:

The committee have examined the military record of Isaac M. Shepherd, the person named in this bill, and find that he was enrolled September 27, 1864, to serve one year, and was assigned to Company I, One hundred and seventy-ninth Ohio Volunteers, but did not join the regiment until December 19, 1864, and served with it until March 9, 1865 (less than three months), when he was tried before a general court-martial on charge of "sleeping on his post"; was found guilty, and sentenced "to forfeit to the United States all pay and allowances and be confined at hard labor for the same period"; but the sentence was not carried into execution, because, on March 27, 1865, he deserted and never returned.

The committee have no doubt that if an opportunity were given this man he could establish clearly "that he never slept on his post unless he was sleepy," and that the reason he deserted was because "he wanted to go home," or that there was "no butter, hot biscuit, and honey," which he had been wont to feed upon, issued in his rations.

Your committtee extend their sympathies to the poor unfortunate "brave," and wish him success in all his undertakings, except in securing a pension, and, to prevent that, report this bill adversely, and recommend it do lie upon the table.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1862.

TO LIMIT JURISDICTION OF UNITED STATES COURTS IN PATENT CASES.

APRIL 21, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. TOWNSHEND, from the Committee on Patents, submitted the following

REPORT:

[To accompany bill H. R. 4458.]

The Committee on Patents, to whom was referred the bill (H. R. 4458) to limit the jurisdiction of United States courts in patent cases, and to protect persons who without notice are *bona fide* manufacturers, purchasers, vendors, and users of articles, machines, machinery, and other things for the exclusive use, manufacture, or sale of which a patent has been or may hereafter be granted, after careful consideration of same, recommend the passage of the bill.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1863.

STATE UNIVERSITY OF CALIFORNIA.

APRIL 21, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. FORAN, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany bill H. R. 3220.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 3220) for the relief of the State University of California, respectfully report the same back with amendments, and recommend its passage.

Amend section 2 by inserting in fourth line, after the word "deeds," the words "not to exceed in amount five thousand acres," and by striking out in the same section, in the tenth and eleventh lines, the words "and said lands so selected shall not be sold for more than five dollars per acre," and insert "and the State of California shall pay to the United States the sum of one dollar and twenty-five cents per acre for each acre selected in place of the selections canceled under this act, payment to be made before the same shall be patented to the State by the United States," and insert in said section 2, after the fifteenth line, "*Provided further*, That in no event shall any land scrip be issued for these lands."

Your committee find that the bill as amended will be an advantage to the United States in this respect: It will restore to the public domain about 5,000 acres of land, which will thus be made subject to preemption and homestead entry; and the regents of the State University, who have the management of the agricultural college grant under the State law, will be required to pay to the United States $1.25 per acre for lands selected in the State in place of those surrendered under this act.

The relief to the university will result from the selection of other unoccupied lands, that may in time be sold by the board of regents for at least $5 or more per acre, as required by the law of the State regulating the selection and sale of agricultural or university lands.

The official reports of the board of regents show that the State has liberally endowed the university, and fully complied with the law donating lands to the several States which may provide "colleges for the benefit of agriculture and the mechanic arts."

The grant to the State of 150,000 acres has been efficiently and wisely managed, resulting in the accumulation of a land fund of over $700,000. The interest from this fund under the agricultural college grant must be and is applied to the support of the university.

The passage of this act will greatly aid this free and promising educational institution, and not affect or change existing land laws.

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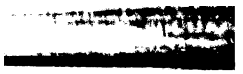

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1864.

D. O. ADKINSON.

APRIL 21, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MCKENNA, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 1452.]

The Committee on Claims, to which was referred the bill (H. R. 1452) for the relief of D. O. Adkinson, has considered the same, and reports as follows:

That said D. O. Adkinson was postmaster at Virginia City, Nev., on the 25th of October, 1875, and on said day paid certain money orders, to the amount of $174.95, and that the vouchers for said payments were destroyed by fire on the day following, and that no credit for said payments has been allowed him.

Your committee therefore recommends the passage of the bill with this amendment: Strike out the word "Atkinson" in line 5, and insert "Adkinson."

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1865.

HEIRS OF HENRY LEEF, DECEASED.

APRIL 21, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MCKENNA, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 1069.]

The Committee on Claims, to which was referred the bill (H. R. 1069) for the relief of the heirs of Henry Leef, deceased, owner of the bark Mary Teresa illegally seized by Alexander H. Tyler, consul of the United States at Bahia, Brazil, has considered the same, and reports:

That the result of its investigation coincides with that of the Committee on Claims in the Forty-eighth Congress, and therefore the report of said committee is adopted and hereto attached. The amendment proposed by said report has been adopted, and the present bill conforms thereto, and its passage is recommended.

[House Report No. 277, Forty-eighth Congress, first session.]

The Committee on Claims, to whom was referred the bill (H. R. 737) for the relief of Juliet Leef, widow, and the heirs at law of Henry Leef, deceased, submit the following report:

From the evidence referred to your committee with the memorial of the claimants, it appears that while Henry Leef, a citizen of the United States, was engaged in business in Baltimore as ship-owner and merchant, he became the owner of a vessel which had been wrecked in Chesapeake Bay, condemned, and sold at public auction in the city of Baltimore. This purchase and ownership was immediately made known to the Government of the United States, together with a request for information and instructions from the proper Department as to the requisite and necessary formalities of clearance, &c., to enable Henry Leef to send this vessel to a foreign port for sale. By letter from the Secretary of the Treasury, Henry Leef was informed that the vessel, being of foreign build, could not receive papers of any description under the registering or licensing laws of the United States; but he was referred to the consul of the country to which it was proposed to send the vessel for information as to the proper formalities and evidence of ownership. The vessel was accordingly cleared in conformity with the usual formalities, not only in respect to the laws of the United States, but also to those of Brazil, the place of her destination. She reached the port of Pernambuco, where all the requisite and usual formalities of entrance, &c., were complied with, and the customary facilities of the consul of the United States rendered. After landing a portion of her cargo, she proceeded, with a view to a more favorable market, to the port of Bahia, where the usual formalities were complied with in respect to the United States consulate at that port. But it further appears that the consul at this port pronounced her to be confiscated to the Government of the United States, in consequence of her not being furnished with or presenting the necessary registers or papers to prove her nationality, notwithstanding the fullest and most satisfactory proofs of ownership and citizenship, duly authenticated, were presented to the said consul, and by him returned to the Secretary of State of the United States.

Accordingly, the bark Mary Teresa was taken possession of by the consul of the United States in Bahia, and under his directions and authority was sent to the port of Philadelphia, and was delivered up to the authorities of the United States, after which, the particulars of the case having been received at Washington, the vessel was released by the authorities of the United States, and the proceedings of the United States consul disavowed; all which proceedings of the authorities of the United States have involved the memorialists in serious damage and loss, fully set forth in their details in the papers accompanying the memorial.

From the correspondence which took place between our consul, Mr. Tyler, and our minister at Rio, and our then Secretary of State, it appears that our minister disapproved of the conduct of our consul in seizing and detaining the vessel.

In one letter Alexander Tyler informs our minister that the officer in charge of the vessel refused to consent to the sending of the vessel to Rio, and, in the language of the consul—

"Informing me that he had *sold* the vessel, as will be seen by the accompanying documents, which I refused to allow."

Thus the sale was prevented. Replying to this, Mr. Tod, the minister, says:

"You should not have * * * sent the vessel here, and I regret that you saw fit to do so."

Again:

"My opinion is, the papers were sufficient to entitle the vessel to carry the American flag, and that you erred in compelling her to haul it down."

The consul, however, having determined to carry out his design to treat the vessel as confiscated to the Government, William McKee, as supercargo and representative of the owner, addressed a letter to the consul, in which, after reciting the action of the consul in reference to said vessel, he says:

"I have no recourse but to abandon her, which I hereby do to you, as consul of the United States, and as the representative of the Government thereof; hereby solemnly protesting against you, as consul of the United States and the representative thereof, for the value of the said vessel, the bark Mary Teresa, owned by Henry Leef, of Baltimore, of 251 tons burden, and for all damages accruing to all and every person concerned in said vessel or cargo, which I estimate at 30,000 silver dollars."

It may not be improper to state that a communication from the Department of State shows:

"1st. That dissatisfaction was expressed with Mr. Tyler for his neglect and general disregard of instructions, and particularly for his failure to make any return or statement of the fees taken at his post, though repeatedly requested to do so.

"2d. That he was superseded by Thomas Turner, esq., who took charge of the consulate on or about the 27th day of July, 1849."

It thus appears that a wrong has been done by the representative agent of the Government in a foreign land, while in the exercise of his functions, and acting in behalf of and in the name of the United States.

This case has heretofore been six times passed upon and favorably reported to the House; and this committee now, for the seventh time, after a careful review of the evidence, concur with the opinion that it is a case in which Congress should interpose to grant relief.

The committee have examined a large number of cases in which the Government has acknowledged its liability in analogous cases, and select the following as sufficiently conclusive of the past action of the Government:

March 31, 1814. Act to reimburse Samuel Ellis, marshal district of Maine, amount of judgment recovered against him for seizing certain flour.

February 27, 1815. Act to reimburse Joshua Sands, collector of New York, amount of judgment recovered against him for seizing certain vessels.

May 19, 1824. Act to reimburse Archibald Clark, collector at Saint Mary's, amount of judgment recovered against him for detaining ship Apollo.

July 14, 1832. Act to pay the amount of certain judgments recovered against the marshal for the district of Pennsylvania for seizing certain teas to the parties interested therein.

March 2, 1833. Act to reimburse Cyrenius Hall, collector at Sandusky, amount of judgment recovered against him for seizing a vessel.

June 30, 1834. Act to reimburse W. C. H. Waddell amount of judgment recovered against him, as marshal, for seizing certain brandies.

July 7, 1838. Act to reimburse David Geletin, collector at New York, amount of judgment recovered against him for seizing the ship American Eagle.

The only other case necessary to refer to is that of John O'Sullivan, whose vessel was seized by John M. Forbes, the commercial and political agent of the Government of the United States at Buenos Ayres. The case was referred to the Secretary of the Treasury, Mr. Woodbury, by the Senate, and, after his report thereon, an act was passed providing for compensation, July 2, 1836. Mr. Woodbury's report will be found in Document No. 5, Twenty-third Congress, second session, and is dated Decem-

ber 8, 1834. The liabilities of the Government for the acts of its agents, as therein maintained, "extend only to such acts as arise from gross negligence in dischage of official duties, or from omissions to perform them; and even in these cases the persons suffering should either resort to the agent early, and in a suit with him establish his liability and the amount of damage, *or resort early to the Government*, and make out a very clear case, so that redress might be had by the Government on his personal responsibility on his official bonds and sureties, if any exist;" and the report concludes: "In many cases the Government has refused to indemnify the claimants themselves, the original sufferers, unless first showing, with clearness, gross neglect *or wrong* by the officers in discharge of their official obligations." Mr. Woodbury was of the opinion that the parties had been guilty of *laches*. He says "the vessel was sold in this country in the beginning of the year 1824. The first petition presented to Congress was not until the year 1828."

In the case now presented to the consideration of the House the parties have been prompt in the pursuit of their rights. Within sixty days after the vessel had reached Philadelphia and was discharged, the memorialists had presented their claims to this body.

It would seem to be a proper policy, as well as a duty of the Government, to protect its officers from liability whenever they act in good faith in the assertion of its rights.

Sir William Scott, in the case of the action in adjusting a question of damage arising out of an alleged capture, says:

"It does not appear that Captain Capel is chargeable with having acted from any corrupt or malicious motives; and if, as I believe to be the case, he has acted from a sense of duty and obedience to orders, *I can have no doubt will be indemnified upon a proper representation to Government.*"

This is both a strong and peculiar case. The consul at Bahia was the sole representative of the Government at Bahia. There was no appeal from his decision in the custody and management of the vessel. It is better that the Government should hold itself responsible for his acts than, by denying its responsibility, to invite that resistance which the common law justifies in the protection of property against trespassers.

The subject is one of great importance to the protection of our commerce, as is evidenced by the petitions in this case from our principal commercial marts, signed by their most distinguished merchants.

Our Government has not failed to demand indemnity from foreign countries when the rights of our merchants have been violated by their officials, and it would seem that a like indemnity is due to those who have suffered from our own.

Your committee, therefore, following the precedent made by a former Congress, in the case of O'Sullivan above cited, report unanimously in favor of the passage of the bill with the following amendment: In line 3, strike out "twenty thousand" and insert "fifteen thousand five hundred and six."

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1866.

REMOVAL OF THE CHARGE OF DESERTION FROM CERTAIN APPOINTED OR ENLISTED MEN OF THE NAVY AND MARINE CORPS.

APRIL 21, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. BOUTELLE, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany bill H. R. 1017.]

The Committee on Naval Affairs, having under consideration various bills for the removal of the charge of desertion from the records of appointed or enlisted men of the Navy or Marine Corps, ask to be discharged from the further consideration of House bills Nos. 764, 1498, 1916, 1917, 2770, 2786, 3127, 3449, 3450, 4602, 6365, 7720, and also petitions of A. H. Barton, Edward A. Morehouse, Josiah Wardwell, and George P. Haven, and that they may be laid upon the table, and as a substitute therefor recommend the passage of House bill No. 1017, with certain amendments, to provide for the foregoing and similar cases by a general law to be entitled "An act to relieve certain appointed or enlisted men of the Navy or Marine Corps from the charge of desertion."

The object and effect of the legislation recommended are simply to extend to the men who served in the naval branch of the military service during the late war the benefit of the provisions of the act approved July 5, 1884, entitled "An act to relieve certain soldiers from the charge of desertion." The justice and expediency of applying the same general rules to the Army and Navy in the matter of amending or correcting the military record of individuals are so obvious that your committee deem no argument necessary to sustain the proposition. Yet, at the present time the charge of desertion may be promptly and lawfully removed from the record of a soldier, while there is no power to amend or correct the record of an appointed or enlisted man of the Navy or Marine Corps, whose case might be precisely similar to that of the soldier, and of course equally deserving of relief.

As explanatory of the act of July 5, 1884, and in support of the action proposed by the bill herewith reported, your committee quote the following extracts from the report of the Committee on Military Affairs of the Forty seventh Congress:

> Your committee, in the substitute proposed, have provided in the first section of the same for the removal of the charge of desertion from all soldiers who served in the volunteer service in the late war until the expiration of the term of their enlistment, or until the 1st day of May, A. D. 1865. It is claimed, and your committee believe justly, that after the war was over and hostilities had actually ceased, a number of soldiers, long departed from their families and from their relatives and friends, feeling that the country no longer needed their services, and impatient at the delay of being mustered out, left their commands and went home without being mustered out of the service, and without receiving the certificate of honorable discharge to which their patriotic and faithful service entitled them. And while your committee

would regret to see the charge of desertion removed from the record of any unworthy soldier who actually deserted his country's flag in the hour of danger, and left his comrades to brave perils he was too cowardly or too unpatriotic to share with them, yet to soldiers who had served long and faithfully, who had followed the flag until the war was regarded at an end, and the Government had entered upon the work of mustering out the volunteer forces, your committee think the charge of desertion should not be allowed to stand longer upon the rolls and records against them, but should now be removed.

There is another class of soldiers who enlisted to serve for a certain number of years, or "during the war," who enlisted as volunteers to aid in the suppression of the rebellion and in the restoration of the Union, who left their homes and their families to help maintain and preserve the Government of their country; and when the war was over, as they felt, and hostilities had actually ceased, believing that their term of enlistment had actually expired, and that the country no longer needed their services for the purposes for which they enlisted, upon a refusal to muster them out, left their commands, returned to their occupations and to their homes and families, and stand charged as deserters. The first section of the proposed substitute will also relieve that class of soldiers from the charge of desertion; and while your committee hesitate to admit, under any circumstances, the right of a soldier to determine for himself the expiration of his term of enlistment, yet there is so much in favor of the class of soldiers last referred to, who, inspired by patriotism, enlisted as volunteers only to serve during the war for the preservation of the Union, and having served faithfully until it was universally recognized and felt that the war was over and that the Government no longer had any just claim upon their services, left their commands and returned to their homes. Your committee, believing that there was no intention in these cases to desert the flag of their country, are of the opinion that the charge of desertion should be removed from that class of soldiers also.

The second section of the proposed substitute is intended by your committee to relieve another class of soldiers, who, having absented themselves from their commands, or deserted, after such desertion or absence without leave, voluntarily returned to their commands, and were either tried by court-martial and punished and restored to the rolls of their commands, or were restored without punishment, and who served afterwards until regularly mustered out of the service and received a regular certificate of discharge. It appears from the evidence in a number of cases, where bills have been introduced by members of the House to remove charges of desertion from the record of individual soldiers, that after desertion such soldiers voluntarily returned, were tried by court-martial, and paid the full penalty of their absence without leave or desertion, and afterwards served honorably and faithfully, in some instances receiving honorable wounds in battle, and at the close of the war were mustered out regularly and received a regular certificate of discharge. In such cases your committee are of the opinion that the charge of desertion should be removed, and that in all cases where a soldier absented himself from his command and voluntarily returned to the same, and paid the penalty of such absence, or the offense was not regarded as sufficient to require any punishment, and then served until regularly mustered out and received regular discharges, should have the charge of desertion removed.

For these reasons your committee have recommended the passage of the substitute proposed.

In order to adapt the provisions of the law as perfectly as possible to the conditions of the naval service, your committee referred the subject-matter to the Navy Department for its suggestions, and in a communication dated March 23, 1886, Judge Advocate-General William B. Remey, United States Navy, recommends certain amendments to House bill No. 1017, and says:

In reply I have the honor to state that should the bill become a law, it will tend to facilitate the granting of equitable relief in many cases where such relief is now delayed or prevented only by the fact that the mark of desertion appears upon the record.

Under existing law this Department has uniformly declined to remove the mark of desertion except when it is conclusively shown that such mark has been erroneously made, or where an honorable discharge subsequently granted operates, under the decision in the case of the United States r. Kelly (15 Wallace 34), to render the removal of the mark of desertion unnecessary.

When, at the close of the late war a large reduction in the number of appointed and enlisted men in the Navy became necessary, and vessels of the Navy which had been engaged in the blockading squadrons returned to the North, leave of absence was given to enlisted men whose terms had not expired, as well as to some whose terms had expired, such leave, however, being only temporary and intended to cover

the period necessary for adjusting the accounts of the men prior to their discharge. Such of them as failed to return to their vessels or to report at any station, were necessarily marked as deserters, and although there may have been a reasonable excuse for such failure the Department has no power to remove the mark without authority from Congress.

In view of the considerations stated your committee recommend the passage of House bill No. 1017, with the following amendments:

In section 1, line 16, after the word "service" insert the words "*Provided*, That no such appointed or enlisted man shall be relieved under this section, who, not being sick or wounded, left his command without proper authority while the same was in presence of the enemy."

In section 2 insert in line 1 the words "Secretary of the Navy is hereby authorized to remove the," so that it will read:

"SEC. 2. That the Secretary of the Navy is hereby authorized to remove the charge of desertion standing on the pay or muster rolls of the Navy or Marine Corps against any appointed or enlisted man of the Navy or Marine Corps, &c."

In section 2, line 4, strike out the words "shall also be removed."

In section 2, line 8, strike out the word "and."

In section 2, line 12, insert the words "or while so absent, and before the expiration of his term of enlistment, died from wounds, injury, or disease received or contracted in the service and in the line of duty."

In section 4, line 17, insert the words "*And provided further*, That all applications for relief under this act shall be made to and filed with the Secretary of the Navy, within the period of five years from and after its passage, and all applications not so made and filed within the said term of five years shall be forever barred and shall not be received or considered."

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1867.

PUBLIC BUILDING AT PATERSON, N. J.

APRIL 23, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. W. W. BROWN, from the Committee on Public Buildings and Grounds, submitted the following

REPORT:

[To accompany bill H. R. 1483.]

The Committee on Public Buildings and Grounds, to whom was referred the bill (H. R. 1483) for the erection of a public building at Paterson, N. J., would report as follows:

They found that no city in the State was growing in population and business so rapidly as Paterson. It had in 1850, 11,000; in 1860, 19,000; in 1870, 33,000; in 1880, 51,000; 1885, 62,500 inhabitants by actual census.

There are located in Paterson large manufacturing interests, among which are over one hundred silk enterprises, with about 1,500 operatives; three large locomotive works, with about 3,000 workmen; two large rolling mills, with about 1,000 employés; several large machine shops, two extensive iron-bridge building establishments, large flax interests, jute mills, cotton factories, and many smaller industries representing a large outlay of capital and in the aggregate giving employment to many thousands of hands. There are three great railway lines entering the city, which carry to and from it over 100 tons of freight daily. The gross receipts for the office at Paterson, N. J., are very large, and are regularly increasing. The committee were informed that in the whole State of New Jersey there were but four public buildings erected by the United States Government.

In consideration of the foregoing facts, your committee would recommend the passage of bill H. R. 1483, herewith submitted, being substantially the same bill which was favorably reported to the House in the Forty-seventh and Forty-eighth Congresses, but not reached for consideration, with the amendments indicated.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1868.

PENSIONING PRISONERS OF WAR WHO WERE CONFINED IN CONFEDERATE MILITARY PRISONS DURING THE LATE WAR.

APRIL 21, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 8098.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 641) for pensions to prisoners of war, submit a substitute therefor and recommend its passage.

The substitute offered by the committee is as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place upon the pension-roll the names of the surviving officers and enlisted men, including marines, militia, and volunteers of the military service of the United States, who served in the late war of the rebellion, and were prisoners of war for thirty days or more, and who are now suffering from any disability which can reasonably be presumed to be the result of exposure and hardships endured while in such confinement as prisoners of war, and not the result of their own misconduct or vicious habits, and pay them the pension now provided by law for similar disabilities: *Provided*, That this section shall not be construed to allow any person to receive more than one pension.

SEC. 2. All surviving officers and enlisted men, including marines, militia, and volunteers of the military service of the United States, who served in the late war of the rebellion, and were prisoners of war for a period of thirty days or more, shall receive the sum of $2 for each and every day they were held in confinement as prisoners of war, to be paid by the Secretary of the Interior.

In the opinion of your committee the time has not yet arrived for granting service pensions to the survivors of the late war; but that some relief ought to be extended to our unfortunate prisoners of war is obvious to every fair-minded man. It is believed that all who have been able to show the incurrence of their disabilities by record evidence, or other competent testimony, together with the widows and orphans and dependent parents of those who died in prison, or who have died since their release from captivity by reason of disabilities traceable thereto, are already on the pension rolls of the nation; but there still remains a small class, who are sick and suffering, whose claims have never been considered by Congress.

The substitute does not propose to pension sound, able-bodied men, and it is therefore unnecessary to even assert the strong improbability of any man who suffered the average term of imprisonment being now in perfect health. That is a physical question that may be wisely referred to the medical boards provided by law for the examination of applicants for pensions. Nor is it necessary to rake among the ashes of a civil war to show by the bills of mortality that the living must be

now physically disabled. The substitute deals only with the survivors of the Confederate prison camps, and proposes to do long-deferred justice to a class of brave and devoted men who suffered untold horrors, and whose claims to consideration have heretofore been defeated by a technicality of law, which in their cases seems inapplicable.

The technicality referred to above is that which requires proof of the incurrence of the applicant's alleged disability. This has proven an impossibility for many prisoners who sought admission to the Confederate hospitals in vain, even when suffering from serious illness, on account of the crowded condition of those hospitals, and hence have no hospital records. Indeed, the War Department, in a "statistical exhibit of deaths in the United States Army during the late war," compiled under the direction of the Adjutant-General of the Army, dated May 22, 1885, expressly states that the records of Southern prisons in possession of the Department are very incomplete. Not even the death registers of some of the principal places of confinement for Union soldiers have been secured. It is therefore evident that even a prisoner with a hospital record might be denied a pension under existing laws because of the loss or destruction of those records. True, he might prove his treatment in hospital by surviving comrades, but even that resource is denied to many whose living comrades are few, while their present places of residence are to them unknown. This substitute, therefore, provides for placing on the pension-rolls the names of all disabled surviving prisoners who were confined thirty days or longer, at rates corresponding with their present disabilities, when such disabilities can reasonably be presumed to be the result of exposure and hardships endured while in confinement as prisoners of war, and not the result of their own misconduct or vicious habits. To similarly favor captives in war, if such a scant measure of justice can be called favor, is not without precedent in the legislation of this country. By the second section of the act of September 28, 1850, awarding to soldiers and sailors who served the United States in the war with Great Britain, declared on the 18th of June, 1812, or in the war with Mexico, it was provided as follows:

SEC. 2. *And be it further enacted*, That the period which any officer or soldier may have remained in captivity with the enemy shall be estimated and added to the period of his actual service, and the person so detained in captivity shall receive land under the provisions of this act in the same manner that he would be entitled in case he had entered the service for the whole term made up by the addition of the time of his captivity and had served during such time.

In comparison, the average pension to a disabled man for the brief remnant of a life whose vigor was spent almost a generation ago does not seem considerable.

Whether the sufferings of Federal prisoners could have been mitigated by the Confederate authorities is not now the question. Your committee prefers to discuss the measure of responsibility incurred by the United States in refusing to exchange. This was undoubtedly a violation of the implied contract between the soldier and his Government, which had agreed to succor him in sickness and distress as fully as he had agreed to serve its cause in the field. But our soldiers were left for months in the hands of an ill-provisioned and poorly-supplied enemy, doubtless in pursuance of a severe but necessary military policy, and in so doing the Government owes reparation for the resulting damages to the health of the survivors and to the widows and dependent relatives of the dead. This point settled, it only remains to determine the number who would be affected by the provisions of the foregoing bill. The

latest estimate of the War Department of the number of surviving ex-prisoners is contained in a letter to Mr. Van Voorhis, of the Committee on Mines and Mining, dated June, 1882, which in substance is as follows:

Whole number legally captured	196,365
Whole number legally paroled and exchanged or escaped	166,616
Died in prison	29,749

Of the number paroled, exchanged, or escaped, 13½ per cent. are known to have died after release and while still in service, and 31½ per cent. of the remainder were believed to have died prior to the date of the report, leaving 98,725 ex-prisoners then surviving. But this latter number obviously includes some 67,000 who were captured during those periods of the war when exchanges were freely made, as well as twelve or fifteen thousand wounded men who were exchanged on the field at different times, reducing the number actually entitled under this bill, providing all are disabled, which is probable, the exceptions being too rare for consideration, to 22,000, of whom at least one-half are now on the pension-rolls. Hence, if all the remaining 11,000 should prove to be totally disabled the annual pension charge would be increased only $1,056,000.

But there remains a truer and surer record of the number actually captured and held by the enemy for any appreciable length of time, in the record of payments of commutation of rations made to prisoners of war and their relatives, to be found in the office of the Commissary-General of Subsistence.

This record is complete up to 1878, when a thorough search was made of the files of the Treasury Department, and the account of every commissary or acting commissary of subsistence closely scanned for such payments. Commutation of rations to enlisted men is made under an old law, and was practiced throughout the war. Almost every prisoner was so paid upon reaching our lines, and the records above referred to are believed to represent nineteen-twentieths of all such claims that will ever be made under existing laws on account of the casualties of the late war. These records contain the names of 63,047 enlisted men who died in prison or who were actually exchanged or paroled. Of these payments 13,246 are for periods of less than sixty days, and 49,801 for periods of more than sixty days. The number of rations paid for was 11,096,272, costing at 25 cents each, which was the average, the gross sum of $2,774,018, from which must be deducted $582,824 paid to men who were prisoners less than sixty days each, leaving $2,191,294 as a basis for calculation in connection with the second section of this bill.

But from the 50,000 long-term prisoners exchanged, supposing that figure represents the number actually arriving within our lines, a further enormous reduction must be made. It is obvious that if 13½ per cent. of the total number paroled died in parole camp or before they reached their homes, such deaths must have been confined almost wholly to long-term prisoners. If so, the number of ex-prisoners is reduced to 28,400, of whom at least one-third may well be supposed to have died since the war, leaving but 18,934 survivors of those privations that have moved the world to tears. But the number 22,000 is retained by your committee as affording a margin for all possible errors of calculation, as well as to include the officers captured and held for periods longer than thirty days, the names of such officers not appearing on the roll of those who were paid commutation of rations. Claims for commutation of rations to prisoners of war to the number of 4,620, averaging $22.19,

have been allowed since 1878 by the Third Auditor, but these cut but a small figure in any calculation of the number of ex-prisoners now living, and are more than offset by payments made in the office of the Commissary-General to relatives of deceased prisoners.

Calculating, then, upon the basis of 22,000 surviving ex-prisoners, the average term of imprisonment exceeding 30 days, being 176 days, the sum of $7,744,000 would represent the second section of this bill. This sum, though large, would but poorly compensate the survivors of Andersonville, Florence, and Salisbury for the vigor they lost and have never fully recovered, besides all the opportunities, privileges, and rights sacrificed by the deliberate policy of this Government in refusing an exchange.

But, it will be asked, why should ex-prisoners be paid a per diem for the time spent in captivity? Unlike the ordinary soldier, who, when he fell a victim to disease, had every care and attention known to medical skill, the prisoner in the late war was absolutely without medicines, nursing, proper food, shelter, or any of the means used to combat disease and restore the body to health and strength. This was not the case for a few days or even weeks, but for long and weary months, lengthening out in some cases to a year and a half. Consider the effect of the continuance for months of unchecked diarrhea, rheumatism, disease of the lungs or heart, or any of the countless afflictions that beset the prisoners of war—not in a few instances, but in so many as to be well-nigh, if not absolutely, universal.

The bulk of those to be benefited by the proposed enactment were held as prisoners until March 1, 1865. Not one in twenty was fit to resume active service, if there had been such duty to perform. In the majority of cases, as soon as they were able to travel, returned prisoners were sent or taken to their homes; and as their terms had nearly all expired, they were discharged. Who paid the bills for treatment and care for the months and in some instances years that followed? Not the Government. The soldier, who had through privation and disease suffered everything but death itself, made such recovery as he might, at his own expense or that of his friends. Not only so, but he suffered great loss through inability to labor, to earn even the smallest pittance. Consider the weakness and inanition of one who has long suffered from these most exhausting diseases, even when he has convalesced. Is it asking too much of this rich and prosperous nation to make good at least a part of this expense and loss? We think not. Shall this Government shrink from making what amends it may? It is to be hoped that no such base ingratitude shall ever be charged against this "Government of the people, by the people, and for the people." It will not be, if the wishes of the people are obeyed.

No other plan of distribution seems so fair as a per diem for the time spent in confinement, as that will afford the greatest relief to those whose expenses and loss of time were the greatest. It would seem that a contrary view is impossible; that there can be no comparison instituted between the hardships, suffering, and privations of prisoners of war and those of any other class of soldiers. Theirs is a peculiar case, and should be independently considered. The non-exchange of prisoners was a part of the plan of the Government in crushing out the rebellion. This cannot now be denied. Nor can it be denied that such non-exchange was of incalculable service to the armies in the field. Stripped of all the protection and consideration that a nation owes its soldiers, left entirely desolate and at the mercy of every adverse influence, shall there be any quibbles now regarding measures of relief or as to the jus-

tice of their claim? We cannot believe there will. Pensions most of them are entitled to for disabilities, as well as other soldiers (except that more should be assumed in their cases as to incurrence); but in addition to this, and with only a general reference to it, and also to any benefits that may have come from arrears of pensions, every soldier who was a prisoner of war for the length of time contemplated in this bill is justly entitled to the additional compensation the $2-per-diem clause will confer.

A few may have so far recovered as not to come within the scope of this bill in so far as it relates to disabilities. But they, too, were subject to all the expense and loss heretofore described, and are as justly entitled to reimbursement as are the others. Those who are disabled and who are not now on the pension-roll (the bulk of whom have not even applied, knowing how useless to expect relief under laws requiring technical proof which they could not furnish), but who will be placed there through the proposed enactment, will only be entitled to pension from the date of this act.

Surely, until some fuller provision is made, the very least that ought to be done for this class, after all these years, will be to grant the relief contemplated in the per-diem clause of this bill.

S. Rep. 1868——2

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1869.

MAJ. GEN. DANIEL MORGAN.

APRIL 21, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. SINGLETON, from the Committee on the Library, submitted the following

REPORT:

[To accompany bill H. R. 2528.]

The Committee on the Library beg leave to report back to the House the accompanying bill (H. R. 2528) making an appropriation to erect a monument over the grave of Maj. Gen. Daniel Morgan and to preserve said grave, with an amendment, and to recommend the passage of the same as amended.

The bill as introduced provided for the appropriation of $25,000; the committee has amended the same by reducing the said amount to $15,000.

The committee do not think it necessary to dwell upon the great and distinguished services to his country of this Revolutionary hero—the famous commander of the Rifle Corps; the hero of Quebec, Saratoga, and the Cowpens.

The nation, in its moments of gratitude, has passed unnoticed the incalculable obligations it owes to the memory of this brave and daring soldier, who, in the recorded opinion of one of the most distinguished general officers of the eventful period of the Revolution, "paved the way for the salvation of this country."

For well on to a century the Government which he did so much to establish has permitted his grave to remain unmarked, uncared for, and neglected. Many millions have been expended in the erection of monuments to the memory of other patriots, soldiers, and statesmen of the period in which he lived and since, but no attention has been given to the memory of Morgan.

Your committee recommend the passage of the bill as amended, and the appropriation of the small sum of $15,000, in the full confidence that the Congress of the United States will only be too glad to attest a nation's gratitude for the services and sufferings of this illustrious man, who contributed so much to lay the foundation upon which generations since have builded the grand structure which stands as the pride of the American citizen and the marvel of the world.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1870.

JOHN M. McCLINTOCK.

APRIL 21, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SHAW, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 936.]

The Committee on Claims, to which was referred the bill (S. 936) for the relief of John M. McClintock, has had the same under consideration, and submits the following report:

There was a favorable report in the Forty-sixth Congress by Senator Kernan upon the claim, and the same report was made in the Forty-seventh Congress by Senator Morrill, and in the Forty-eighth and Forty-ninth Congresses by Senator Harris, and the bill passed the Senate in the Forty-eighth and Forty-ninth Congresses.

Your committee finds the report fully sustained by the facts, and adopts it as its own and makes it part hereof, and recommends the passage of the accompanying bill.

The Committee on Finance, to which was referred Senate bill 936 "for the relief of John M. McClintock," has had the same under consideration and submits the following report:

John M. McClintock, of the city of Baltimore, Md., was engaged in the business of city and local expressage of baggage and merchandise in said city during the years 1864, 1865, 1866, 1867, 1868, 1869, and 1870, and for and during these years he has been assessed and has paid to the collector of internal revenue of the United States for the third district in the State of Maryland the sum of $3,600. The said collector of internal revenue assessed and collected the above-described amount under the alleged authority of section 104 of the act of June 30, 1864, which provides as follows: "That any person, firm, company, or corporation carrying on or doing an express business shall be subject to and pay a duty of 3 per centum on the gross amount of all the receipts of such express business."

Owing to the want of uniformity in the construction of this section of the statute among the different collectors of internal revenue—since it appears that in a "large number of cities the officers of the revenue did not construe this law as applicable to persons engaged in local expressage merely; and that the carrying of passengers and baggage on no continuous or fixed route was not 'an express business within the intent of the statute,'"—the Commissioner of Internal Revenue, Hon. J. W. Douglass, on the 6th of April, 1870, instructed S. B. Dutcher, supervisor, New York, that "it is only those who do their business on regular routes that should be regarded as engaged in an express business and liable under section 104. * * * If taxes under section 104 have been assessed contrary to the above rule, * * * you will see that collection is suspended and claims for abatement prepared."

Under the above ruling of the Commissioner of Internal Revenue, the claimant in this case, in the form and manner prescribed by the rules of the Commissioner, filed his application for the refunding of the said amount of internal tax, but his claim

was rejected by the said Commissioner of Internal Revenue without formal opinion containing the reasons for such rejection being given by that officer.

Subsequently, it appearing that the Commissioner of Internal Revenue, Hon. D. D. Pratt, was reopening the claims of Dodd's Express Company of the city of New York, and Parmalee's Local Express of Chicago, for the reason that these claimants had obtained a judgment of the circuit court of the United States construing the law (section 104) in their favor, application was made to the Commissioner, Hon. D. D. Pratt by the claimant to have his claim reopened and the former ruling set aside, and the amount of tax, as alleged to have been erroneously or illegally collected, refunded to him; but the Commissioner of Internal Revenue decided that, inasmuch as his predecessors in office had rejected this claim, he had no authority to act in the premises as requested by claimant. The official record of the Internal Revenue Office shows that the sum of $3,600 was paid by the claimant as alleged and set forth in his said application.

In view of the facts stated, and for the reason that several similar prayers for relief have been favorably considered by Congress, your committee recommends that the bill be passed.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1871.

PUBLIC BUILDING AT MONTPELIER, VT.

APRIL 21, 1886—.Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. WILKINS, from the Committee on Public Buildings and Grounds, submitted the following

REPORT:

[To accompany bill H. R. 1366.]

The Committee on Public Buildings and Grounds, to whom was referred House bill 1366, *submit the following report:*

The limit of cost originally fixed for a public building at Montpelier, Vt., will not permit the construction of a building which will provide the accommodations required.

The Committee on Public Buildings and Grounds recommend the passage of the bill. Attached hereto is a letter from the Supervising Architect of the Treasury, and is made part of this report.

TREASURY DEPARTMENT, OFFICE OF THE SUPERVISING ARCHITECT,
Washington, March 19, 1886.

SIR: I have the honor to acknowledge the receipt of your letter of the 17th instant inclosing bill No. 1366, changing the limit of appropriation for the public building at Montpelier, Vt., and extending it to $125,000.

I have the honor to state that the limit of cost originally fixed would not have permitted the construction of a building which would have provided the accommodations required. According to estimates made in this office from information obtained from the postmaster, about 10,000 square feet of floor space will be required, exclusive of basement and attic. To construct a building which will afford this room, with fire-proof floors and roof, including cost of the site, heating apparatus, and approaches, will cost not less than the amount fixed in the bill, viz, $125,000. The cost of the approaches and heating apparatus were not included in the original act.

Respectfully yours,

M. E. BELL,
Supervising Architect.

Hon. JUSTIN S. MORRILL,
United States Senate.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1872.

JAMES R. CARTER.

APRIL 21, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. TRIGG, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 8099.]

The Committee on Claims, who have had under consideration the petition of James R. Carter, of Fauquier County, Virginia, beg leave to report:

The said James R. Carter was the owner of a valuable horse which was accidentally killed on the 4th day of August, 1884, through no fault or negligence of his, by a detachment of a regiment of United States troops stationed at Fauquier, White Sulphur Springs, and under command of General Ayres. The troops were at the time, by authority of their officer, engaged in target practice, and the killing of the horse seems to have been entirely accidental. The value of the horse was established by proof at the time at $300.

Your committee report the accompanying bill for the relief of said James R. Carter, and recommend its passage.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1873.

REBECCA REESE McKEE.

APRIL 21, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. THOMPSON, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6323.]

The Committee on Pensions, to whom was referred House bill 6323, submit the following report:

The claimant, Rebecca Reese McKee, was married to John McKee, of Iredell County, North Carolina, on the 23d day of December, 1838, and she is now over ninety years of age. On the 19th day of March, 1880, she made application to the Commissioner of Pensions for a pension as the widow of said John McKee, on account of his services as a captain of the Detached Militia of North Carolina, war of 1812, but the application was rejected on the ground that there was no record or other evidence of the service of said soldier. There has been submitted to your committee a printed copy of the—

Muster-rolls of the soldiers of the war of 1812 detached from the militia of North Carolina in 1812 and 1814, published in pursuance of the resolution of the general assembly of January 28, 1851, and a resolution of the general assembly, of February 25, 1873, under the direction of the adjutant-general.

The adjutant-general of North Carolina, under date of March 6, 1873, certifies these rolls to be a true copy of the records of his office, and they show that John McKee was captain of the Iredell County company of the Sixth Regiment of the Detached Militia of North Carolina, commanded by Lieut. Col. Richard Allison. Satisfactory evidence has been filed with the committee showing that John McKee, the husband of the claimant, is the same person who was captain of said Iredell County company.

To correct a mistake in the names of the claimant and her husband your committee recommend that the bill be amended as follows, to wit: In the title of the bill strike out the words "Rebecca McGhee," and insert in lieu thereof the words "Rebecca Reese McKee," and in the sixth line of the bill strike out the words "Rebecca McGhee" and "Captain McGhee," and insert in lieu thereof the words, "Rebecca Reese McKee" and the words "Captain John McKee;" and when so amended your committee recommend that the bill do pass.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1874.

JOHN F. CADWALLADER.

APRIL 22, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SPRINGER, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 7622.]

The Committee on Claims, to whom was referred the bill (H. R. 7622) for the relief of John F. Cadwallader, having had the same under consideration, respectfully submit the following report:

This bill proposes to compensate John F. Cadwallader for work performed by him in 1883 in writing up the back records of the United States district court for the southern district of Illinois. The work it appears was done under the direction of the Attorney-General of the United States. The predecessor of the present clerk of that court died suddenly in office, leaving some of the records of the court unwritten. The necessity for having these back records written up having been represented to the Attorney-General by an examiner of the Department of Justice, the clerk was authorized to proceed with the work. The clerk assigned the duty to his deputy, John F. Cadwallader. For some time the charges for this work were made in the regular accounts-current of the clerk of the court, and allowed and paid by the accounting officers of the Treasury. A later ruling of the Department, however, was that this work was not current work, and could not properly be paid out of current appropriations. This ruling left the present account unpaid. The claim was at the commencement of this session duly transmitted to Congress by the Secretary of the Treasury, on request of the Attorney-General, by whom its payment is recommended. The account is approved by the court, sworn to by Mr. Cadwallader, the clerk of the court, and the present district attorney, and indorsed personally by his honor Judge Treat, of that court.

There is no doubt the work has been well and faithfully performed under proper authority, and the only reason it has not heretofore been paid for is that there was no appropriation out of which the Attorney-General could authorize its payment.

Your committee therefore respectfully recommend the passage of the bill.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1875.

PROBATE COURTS IN WYOMING TERRITORY.

APRIL 22, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. SPRINGER, from the Committee on the Territories, submitted the following

REPORT:

[To accompany bill H. R. 3760.]

The Committee on the Territories having had under consideration the bill (H. R. 3760) to enlarge the jurisdiction of the probate courts in Wyoming Territory, beg leave to report:

This bill proposes to confer upon the probate courts of the Territory of Wyoming jurisdiction in civil causes where the claim does not exceed $500, and in criminal causes that do not require the intervention of a grand jury. The same jurisdiction is exercised by the probate courts of Montana and Dakota Territories. The passage of the law will enable more speedy trial of small cases, both civil and criminal, than can be afforded in the district courts of said Territory.

Your committee therefore recommend that the bill pass.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1876.

COURTS IN WYOMING TERRITORY.

APRIL 22, 1886.—Laid on the table and ordered to be printed.

Mr. SPRINGER, from the Committee on the Territories, submitted the following

REPORT:

[To accompany bill H. R. 4365.]

The Committee on the Territories, having had under consideration the bill (H. R. 4365) to confer upon the probate courts of Wyoming Territory additional jurisdiction, beg leave to report as follows:

The committee consider it unwise to confer chancery jurisdiction upon the probate courts of the Territory of Wyoming; or to give them jurisdiction to the amount of $5,000 in common-law cases. Appeals and writs of error should not be allowed from the probate court to the supreme court of the Territory, as this would introduce an entirely new form of procedure in the Territory, and would destroy the greater portion of the jurisdiction of the district courts of the Territory.

Your committee therefore recommend that the bill do lie upon the table.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1877.

ADDITIONAL COURTS IN MISSISSIPPI.

APRIL 22, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. ROGERS, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany bill H. R. 9100.]

The Committee on the Judiciary, to whom was referred House bill 6762, beg leave to make the following report:

The purpose of the bill is to divide the southern district of Mississippi into three divisions, and to secure the holding of courts in each division—at Jackson, Meridian, and Mississippi City, respectively. No change is proposed in the northern district, except to transfer two or more counties from it to the southern district. It also proposes the appointment of a district judge to preside over the courts in the southern district, and the assignment of the judge now presiding in both districts to the northern district.

Having reported favorably a bill creating the western division of the northern district, whereby several counties were added to the northern district, certain amendments to the bill under consideration would be necessary to make it consistent with the one heretofore reported. Certain other changes are also suggested, whereby the counties assigned by the bill to the two districts are slightly rearranged. We think best, therefore, to recommend a substitute for H. R. 6762, which is herewith submitted.

When the State was divided into districts, there were no railroad facilities and but a few scattering hamlets. Within the last few years new railroads have been built, many towns have become important commercial points, and numerous thrifty villages have sprung up along the line of the railways. By this means the business of the Federal courts has largely increased in amount and importance, and the old arrangement of the districts has become exceedingly inconvenient.

All of the counties south of the Vicksburg and Meridian Railway, which are placed in the proposed eastern division, have ready and inexpensive access by rail to Meridian, where the courts for that division are to be held.

In going to Jackson, under the present arrangement, they necessarily pass through Meridian, where, after laying over from ten to twenty-four hours, they take another railroad and go 100 miles farther to reach Jackson.

Meridian is a rapidly growing city of about 8,000 inhabitants, and is a railroad center of considerable importance. The Vicksburg and Meridian, the Selma, Rome and Dalton, the Mobile and Northeastern, the Mobile and Ohio, and the Alabama Great Southern roads all center at Meridian. It does a large commercial business along these roads, and

being within a few miles of the Alabama line, the transactions between it and the citizens of that State are very great.

It is a matter of great concern to the people of that portion of the State that they should be relieved of the enormous inconvenience and expense attendant upon the transaction of their business in the courts at Jackson, and this relief they can best obtain by giving them courts at Meridian.

The necessity for the courts at Mississippi City grows out of the fact that the counties of Hancock, Harrison, and Jackson lie along the Mississippi Sound, and do an enormous lumber and coastwise trade, whereby many maritime contracts and torts arise which can only be enforced and redressed in the admiralty courts.

Many violations of the timber, customs, and navigation laws also occur, which must be punished, if at all, in the United States courts.

These counties are in the extreme southern end of the State, and to reach Jackson, the people there must either go to New Orleans, and thence to Jackson, or to Mobile, and thence to Jackson by way of Meridian.

The expense and inconvenience attending this long and circuitous travel are so great, that the citizens in most instances do not even appeal to the courts at all, and many violations of the law go unpunished for the same reason.

A court at Mississippi City would not only be a great boon to the people along the coast, but would have a most salutary effect, by preventing depredations upon the public domain, which consists of large areas of valuable pine lands, and bringing offenders against the customs and navigation laws to justice.

An additional judge is needed for the prompt and efficient disposition of the business of the courts in Mississippi. As commercial communities have increased in numbers and importance throughout the State, owing to the construction of new lines of railroad, and the new method of doing business in the South, the business of the United States courts has largely grown.

There were pending on the 1st day of July, 1885, 259 causes; on July 1, 1884, 236; on July 1, 1883, 218; on July 1, 1882, 117. The business of the courts is getting further behind each year. These statistics do not do justice to the case. Owing to the inability of the court to transact all of its business, hundreds of causes are compromised or dismissed, which would be tried if they could be.

The judge presiding over these courts is exceedingly industrious and does all that mortal man can. He opens court at 9 a. m., and, with a recess of two hours for dinner, sits until 6 or 7 p. m. In addition, he often sits at night to hear questions arising upon the pleading and practice; and he frequently during vacation and at odd hours hears and disposes of causes triable without a jury. But for this, the business would be still further behind. He appeals for help and is entitled to it. Parties often come from distant States, and remote parts of Mississippi, with witnesses and counsel, to try their causes; and after waiting at great expense, return to their homes, to repeat the same at the next term. Eventually they may be forced to dismiss them, or settle upon almost any terms.

The Mississippi Bar Association have petitioned for an additional judge, because of the great delays and hardships suitors in the Federal courts are subjected to.

Your committee therefore recommend the passage of the substitute, and that the original bill do lie on the table.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1878.

BRIDGE OVER THE OHIO RIVER.

APRIL 22, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. A. J. WEAVER, from the Committee on Commerce, submitted the following

REPORT:

[To accompany bill H. R. 7938.]

The Committee on Commerce, to whom was referred the bill (H. R. 7938) to authorize the construction of a bridge over the Ohio River between Covington, Ky., and Cincinnati, Ohio, after having carefully considered the provisions of the bill and all the facts, recommend that the bill do pass.

There is a general law applicable to the construction of bridges over the Ohio River, which general law would require the proposed bridge to have a "pivot draw span," even though sufficiently high, as proposed in this case, to in no manner impede navigation. The general law requires 500 feet in the clear between the piers over the main channel, and this with the necessary elevation is a sufficient safeguard for navigation.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1879.

AMENDMENT TO THE CONSTITUTION.

APRIL 22, 1886.—Laid on the table and ordered to be printed.

Mr. TUCKER, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. Res. 17, 49, 56, 66, 77.]

The Committee on the Judiciary, to whom have been referred joint resolutions 17, 49, 56, 66, *and* 77, *have given to them the consideration due to their importance, and respectfully report:*

The principal purpose of these resolutions is to amend the Constitution of the United States so as to give authority to the President, when a bill containing more than one appropriation has passed both houses, to veto any of said appropriations and approve the others.

It is obvious that the same result may be attained by requiring Congress to put into no bill more than one object of appropriation.

The purpose of all these and such devices is to prevent such a combination between the friends of different objects for appropriation as will embrace all in one bill, and thus all will stand or fall before the Presidential veto.

It is not to be denied that the experience of this country for many years has shown the evils of such combinations in the increase of useless expenditures of the public revenues, by which certain valuable objects are secured through the votes of those interested in useless ones, which would be withheld from the good unless the bad were included in the bill embracing all.

But in these cases we must see whether the evils are not inevitable in any system, and whether the remedy may not be worse than the disease.

All administration of popular government, where the people's interests are to be promoted, must depend on mutual concessions and compromises. One interest not only has no right to have exclusive benefit bestowed upon it, but cannot in just administration obtain it. Equality of benefit is due by the Government to those who bear equality of burden. To separate bills in which these benefits are secured, instead of combining the just demands of all in one bill, may endanger the success of some of them, and by intrigue secure the monopoly to others. Combination may be necessary to insure justice to all, and prevent injustice to any, and while it may produce the evil consequence of what is known as log-rolling, yet it will prevent the no less evil of partial and unjust appropriations.

The mandate of these amendments is that Congress shall not make *dependent* appropriations, or that if it does, the President may by his

veto sever the *nexus* of dependence, and defeat either that he pleases, and make the others *independent* of those defeated, and which Congress had made *dependent*.

Your committee does not think Congress should be forbidden to make dependent appropriations.

Whatever may be said of such a provision in a State constitution, the duties of Congress to the thirty-eight States of the Union make it necessary that the expenditure for all the States shall be made proportionate to their several needs. This involves the practice of dependent appropriations, because, if made for each in separate bills, the passage of one may be secured and of others defeated; a result which would be marked by injustice and be a violation of constitutional duty.

If the question be asked why the duty of Congress to the States makes proportionate and dependent appropriations necessary, the answer is found by a reference to the Constitution.

The United States must "protect each of them against invasion." (C. U. S., Art. IV, § 4.) Forts are needed for each. The protection due to all makes fortifications proper for each, and an independent appropriation for one may be a violation of duty to the others, and an unconstitutional discrimination between equal claimants to protection.

Congress has power "to regulate commerce with foreign nations and among the several States," &c. (C. U. S., Art. I, § 8, c. 3), and "to lay and collect taxes," &c. (*Id.*, c. 1). But "no preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another." (*Id.*, § 9, c. 6.) Now, if, as is maintained, the improvements of rivers and harbors be regulations of commerce, Congress must avoid the preference forbidden by making dependent appropriations, and not give the preference to any by making them independent.

The same views may be taken of the postal power and duty; of the power and duty to establish courts, &c.; of providing arms for the militia; of the coinage power, &c.

Your committee do not mean to say that such appropriations must be embraced in one bill, in order to secure equality, but that this practice should not be forbidden.

But the proposition made in the amendments suggested does not forbid Congress to combine appropriations for various objects; but when Congress has bound them together as dependent appropriations it gives the President the power by his veto to sever the nexus which Congress has created, and give the force of law to one and to affix his veto to another.

This extraordinary power should never be granted to the President. The money of the people is more safe in the keeping of their Representatives and Senators than of the one man whom the voice of the whole people calls to the Presidency.

The safety of discriminating between what should and what should not be appropriated for is greater in Congress than with the President. The House represents the people in their districts; the Senators, the people of each State; the President, the whole Union. The discriminating functions as to the local needs of the people represented by Congress are safer with Congress than with the President, who represents the common need and the general sentiment of the country.

It is clear that under the Constitution, as it now is, the President may veto the whole bill because of his disapproval of a part of the appropriation, and return his objections. Congress may then discriminate upon the various appropriations and modify its bill so as to conform to the objections, if it thinks proper, or fail to pass them all over the veto.

But the new power proposed is this: Where Congress has appropriated for A and for B, Congress means to say that it gives to each, conditioned upon the gift to the other, and that it gives to neither unless it gives to both. That is the just interpretation of its act, and in most cases is the just discharge of its duty to each and all. The new veto power proposed would give the President the right by the veto of one and the approval of the other, to exercise the function of giving to one an appropriation independent of the other, when Congress has only given it conditioned upon the appropriation to the other. The will of Congress has never been expressed on the President's proposal to give an independent appropriation to any one object. The President takes the initiative—proposes an independent appropriation; and the independent appropriation, upon which Congress has expressed no purpose, becomes law by the President's will, unless overruled by two-thirds of each House of the legislative department. The President originates an appropriation, not suggested by Congress, and makes it law, if more than one-third of either House agrees with him. That one-third may be in the Senate, and may be composed of States which number but 5,000,000 of people, or one-twelfth of the population of the Union. And so by the will of one-twelfth of the people in only one House of Congress, concurring with the will of the President, money will be appropriated from the Treasury, against (it may be) the unanimous wish of the House of Representatives, and nearly two-thirds of the Senate.

These objections to the proposition are fatal to it. They are apparent on the surface of the question; but he knows but little of human affairs and has but little experience of the unseen and invisible consequences of political empiricism, who does not shrink from trying this experiment, which, once adopted cannot be recalled; and the operation of which in the machinery of the Government is concealed from our knowledge; especially when the proposition disturbs the balance between executive and legislative power over money, and vests in the former a controlling authority over the action of the latter, unknown in our constitutional history and dangerous to the equality of right and privilege, of burden and benefit of the members of our Union.

Your committee therefore report back the several resolutions mentioned, with a recommendation that they do lie upon the table.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1880.

ADULTERATION OF FOOD.

APRIL 22, 1886.—Laid on the table and ordered to be printed.

Mr. TUCKER, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany bills H. R. 4809, 4171, 4172, and 1054.]

The Committee on the Judiciary, to whom have been referred House bills 4809, 4171, 4172, *and* 1054, *ask leave to report:*

The questions submitted by these bills to this committee are of great importance, and involve the fundamental principles of the Constitution.

For our purpose the evil consequences to the regular producer of butter or any other article by the permission of a product by the spurious competitor, and even the results to health of the people may be conceded. The contention is not as to the existence of the disease, but what is the remedy, and by what authority is it to be applied?

Your committee do not think that the evil complained of can find its remedy from what Congress can do, except as hereafter stated. The legislation, if proper, must be sought from the States.

No grant of power to Congress in express terms or by fair inference from express grant can be found which would authorize any law by Congress to prevent the production of anything by a person in a State of the Union. Congress may have some power over production in the District of Columbia, or where its power of exclusive legislation extends, or in the Territories. But the power to forbid the production of butter, or wheat, or tobacco in a State will scarcely be asserted by any one.

Questions which concern the production of the soil or otherwise, the health and well-being of the people of the State, belong to that large class which, for want of a better name, has been termed the police power.

The powers of Congress refer to the foreign relations of the State, to their relations *inter se*, and do not pass within the confines of that interior life which constitutes the being and the civilization of a commonwealth. These are subjects for State legislation. A stranger to these local interests and internal concerns, under our system, must not intermeddle with them.

The evil to result from the exercise of the power as to oleomargarine is not seen by one who looks only to the extermination of the unwholesome product, but dairymen would readily perceive it if the power were directed against the production of butter. The question, then, of power is the primary one.

The concession will be made by most constitutional lawyers that Congress cannot directly forbid the production of this or any other

article in a State. But there are two modes in which it is supposed that Congress may operate on such a product; these methods are indirect.

First it is said that Congress may act upon it through the power to regulate commerce; and second, that as it may tax any article, it may tax oleomargarine, and so heavily as to put a stop to its production. Let us examine these in their order:

First. The power to regulate commerce is one of the most valuable and important of all those granted to Congress. It had two prominent objects: affirmatively, to give to the Federal legislature the control of foreign and interstate commerce; and negatively, to take it from the States. The use of it by the States, under the confederation, put restrictions on trade and intercourse, and created inequalities between the States, which it was believed the Federal Government would not do if the power were vested in Congress.

It is an interesting phase of this discussion, whether the purpose to deny to the States this important power was coupled with a purpose to give to Congress the power to do all that is intended to be denied to the States. For example, it is clear that a State may not prohibit the transit or admission of the ordinary products of another State through or into its territory. But does it follow that Congress may do so? May not the absence of right in the State to do so rest upon another clause of the Constitution which gives equivalent privileges and immunities in every State to citizens of every other with its own citizens?

Your committee are not aware that it has ever been asserted for the power to regulate commerce that it involved a power to prohibit the free transportation of the products of each State through and into every other; and it could hardly have been within the minds of the framers of the Constitution to give to Congress the power to do so, when history shows that the purpose of giving the power to Congress and taking it from the States was to prevent the very result which this construction of the clause would involve and bring about. Be this as it may, no such power under this clause has been heretofore claimed, and has, in regard to the interstate slave trade, been denied by the *dicta* of eminent judges. (Groves *v.* Slaughter, 15 Peters, 449.)

It may be within the meaning of this clause to require such needful regulations as to articles transported from State to State as will conserve the safety and well-being of the transportation, but the right to say what articles shall and what shall not be the subject of commerce is not included in the regulation of the commerce in such articles. The transportation of the article is the commerce in that article; the regulation of that transportation does not touch the right to transport the article under the regulation. Freedom as to the articles to be transported is reserved to the citizen; its transportation, as to mode, &c., is subject to the regulation of Congress.

And this is the more clear because the judicial decisions have never impinged upon the power of each State to control the right of its citizens as to food, clothing, &c., under what is called its police powers, and the right of Congress to enact anything like sumptuary laws for the States is nowhere granted, was expressly refused by the convention (3 Mad. Papers, 1369, 1370) and has never been seriously claimed in this first century of our Constitutional history.

Your committee therefore do not think that Congress can, as a regulation of commerce, forbid or restrain the free transportation of any article from one State into another. It can regulate its transportation

for its safety and for the safety of other articles or persons transported in the same or annexed vehicles provided for their carriage.

The question remains whether, under a regulation of commerce, a duty or tax may be laid upon it. Clearly not, when carried from place to place within a State, for that is not interstate commerce in the article. But how when carried from one State to another?

Regulations of commerce and revenue are wholly distinct in constitutional language. The first clause of Article I, section 8, gives the revenue power to Congress. The third clause of the same gives the regulation of commerce to Congress. In Article I, section 9, clause 6, the phrase "regulation of commerce or revenue" is used, thus emphasizing the distinction. In the convention, at one time, the revenue power was left to be exercised by a majority vote of Congress, the regulation of commerce by a two-thirds vote.

These facts, and the preconstitutional and revolutionary assertion of this distinction, leave no reason to doubt that it was never intended that Congress should lay any tax or duty on the transport of an article from one State to another. Nothing in the debates of the federal convention, nor in those of the States ratifying the Constitution, nor in the Federalist, gives any shadow of claim to this power, and such a construction of the clause has never been asserted in any act of Congress or in any serious proposition to that effect.

Your committee therefore conclude that under the power to regulate commerce no power to forbid, restrain, or tax any product of industry is conferred on Congress.

Second. It remains to inquire whether oleomargarine or any other product may be subjected to an internal-revenue tax.

If the power to lay taxes (Const. U. S., Art. I, secs. 8 and 9) involves the power in Congress to select any article for excise or other tax, as seems to be now settled by the practice of the Government (and no doubt properly so settled), then the right to tax oleomargarine is undoubted.

But your committee are constrained to add that this is a revenue power. The right "to lay" is conjoined with that "to collect taxes," and the right to lay and collect is conjoined with the purpose "to pay the debts and provide for the common defense and general welfare." The power is conferred in order to the duty imposed on Congress. It is a trust power, and becomes a right only when used for the purpose in view. The tax is the means to the end, and is only legitimate and rightful when needful for the end.

To use the tax when needless for revenue, merely to strike down a product or an industry, is to abuse a constitutional trust; and while the power may be conferred, the right to use it in such case cannot be asserted. All power under our system is trust power; to use it for the trust makes it a rightful power; to use it *diverso intuitu*, is wrongful perversion and abuse of power, and is contrary to the Constitution. In other words, as Congress cannot forbid the production of an article in a State by direct legislation, it cannot use a power conferred for another purpose to destroy and prevent such production. To do by indirect means what it could not do by direct legislation would be an unworthy evasion of constitutional limitations, which cannot be sanctioned by an enlightened construction of the Constitution.

It is true that in such case the judicial power may not be able to declare such taxation void, because the judge dare not look into the intents of the legislator's breast, but the legislator who so abuses his trust and wrongfully misuses power cannot avoid responsibility to his own

conscience, bound as it is to support the Constitution; for by personal introspection he will find his motive not to be a tax for revenue to the Government, but a tax as a means of destruction to the product subjected to it; that is, tax used as an instrument of destruction and not as a means of revenue.

Your committee therefore think that Congress may lay the tax, if it be needed for revenue, but does it against right if only to restrain and destroy the use and sale of the article in question.

Your committee will now proceed to consider these various bills in detail.

Bill H. R. 4809 is broad in its terms and makes it unlawful and a misdemeanor for any person or corporation to make or sell any adulterations or imitations of food anywhere; and punishes it by fine and imprisonment. If this were passed all the industries engaged in food production in every State would be subject to the absolute power of Congress. This claims the direct power for Congress to permit or prevent production, to allow or to destroy it, and to regulate all sales and transfers of any such product in a State. Unless your committee have greatly erred in the views presented this bill is clearly unconstitutional.

Bill H. R. 4172 limits the power to the District of Columbia, forts, &c., and to the Territories, and while not forbidding production or sale, requires notice of the nature of the article to be labeled upon it. This bill does not conflict with the Constitution, as exclusive legislative power is vested in Congress over these places, except the Territories, and the power to govern these last is fully recognized as in Congress. Your committee, however, do not recommend its passage. The policy of this legislation is more proper for other committees, and is hardly within the jurisdiction of this committee except upon the inquiry as to power to pass it.

The same general remarks apply to H. R. 4171. The question of power is settled as to places by the considerations applied to H. R. 4172. But the bill is indefinite in the description of the offenses, and dangerous in the powers conferred on the so-called sanitary board, and the effect given to their reports. The bill should be carefully restrained in its operations, the offenses accurately defined, and the reports of the said board be allowed no such effect against the property, liberty, or other rights of the citizen. The policy of this bill is not proper for the consideration of this committee, and should be referred to some other.

Bill H. R. 1054 is liable to the objection that it, under the apparent purposes to regulate interstate commerce, forbids the commerce between the States in certain articles. It strikes at the articles, and does not regulate commerce in them. It is not a regulation of commerce, but a destruction of all commerce in certain condemned articles.

Its other provisions for enforcing the law and defining the offenses are not satisfactory, but these are more proper for the consideration of some other committee of the House.

Your committee therefore report back bills H. R. 4809, 4171, 4172, and 1054, with a recommendation that they do lie upon the table.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REP'T 1880, Part 2.

ADULTERATION OF FOOD.

APRIL 27, 1886.—Laid on the table and ordered to be printed.

Mr. PARKER, from the Committee on the Judiciary, submitted the following as the

VIEWS OF THE MINORITY:

The undersigned, failing to agree with the majority of the Committee on the Judiciary in this case, especially as to its argument and the consequent conclusions, begs leave to dissent therefrom.

A. X. PARKER.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1881.

ESTABLISHMENT OF A BUREAU OF MINES AND MINING.

APRIL 22, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. SYMES, from the Committee on Mines and Mining, submitted the following

REPORT:

[To accompany bill H. R. 8101.]

The Committee on Mines and Mining, to whom was referred the bill (H. R. 5689) to establish a Bureau of Mines and Mining, having considered the same, make the following report:

The duties of the Geological Survey, as now organized and provided, are confined to making surveys, preparing and publishing reports of operations, geological and economic maps illustrating the resources and classification of the mineral lands, and reports and memoirs upon general economic geology and paleontology.

The economic value of this labor of the Geological Survey is and has been very great. The reports and memoirs particularly describe the mining geology and mineral resources of some of the most important and richest mining districts of the country, and are of great practical value to our mining industry.

The volumes entitled "The Mineral Resources of the United States" have done much towards showing the boundless mineral riches in the country, and the immense economic wealth to be derived therefrom.

But these reports, maps, and memoirs contain no statistics covering what are called the *personnel*, and economic profits derived from active mining operations. That is, they contain no statistics relating to the persons or laborers employed in mining operations, the wages paid employés, the time the employés are at work, specific descriptions of mining operations, or the chemic or mineralogic character of the ores or minerals treated.

The collection and publication of statistics on these subjects are very important, in addition to the present duties of the Geological Survey.

This bill provides that the division of mining statistics in the Geological Survey shall collect and publish such statistics and information with the statistics and reports now required.

The additional expense will be very little. It will require no additional division or head thereof to be established or appointed in the Geological Survey. It will only require those now engaged to collect these statistics and information at the same time and in connection with those now collected. It will, perhaps, require the employment of some additional persons to aid in collecting such statistics in the principal mining districts.

Your committee recommend that House bill 5689 do lie on the table, and that the substitute therefor herewith reported do pass.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1882.

J. HARRY ADAMS.

APRIL 22, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. NEAL, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 3698.]

The Committee on Claims, to whom was referred the bill (H. R. 3698) for the relief of J. Harry Adams, having considered the same, make the following report:

This claim was favorably reported on by the Committee on Claims of the Forty-seventh Congress, also by the Committee on Claims of the Forty-eighth Congress. The facts are briefly stated in the report of the Committee on Claims to the Forty-eighth Congress, and are as follows, to wit:

On the 5th day of July, 1880, the claimant purchased from the collector of internal revenue for the fifth district of Tennessee five tax spirit stamps, for which he paid the sum of $188.10, and which were to be placed on five barrels of whisky, which claimant had purchased of T. J. Lee & Co., distillers in Putnam County, Tennessee, and which were then in a bonded warehouse, in charge of a Government storekeeper. On the day after the stamps were purchased and paid for, and while they were in transit through the mails, the said Government warehouse was destroyed by fire, and the said five barrels of whisky were totally lost to the claimant, without fault on his part. The committee therefore unanimously recommend the passage of the accompanying bill.

The committee recommend the passage of the bill.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1883.

SAMUEL B. SEAT.

APRIL 22, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. NEAL, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 2325.]

The Committee on Claims, to whom was referred the bill (H. R. 2325) for the relief of Samuel B. Seat, administrator of Christian Kropp, deceased, having examined the same, make the following report:

This claim was favorably reported by the Senate Committee on Claims of the Forty-eighth Congress (Report No. 240, first session Forty-eighth Congress). Your committee adopt that report, which is as follows:

The Committee on Claims, to which was referred the bill (S. 1072) for the relief of Samuel B. Seat, administrator of Christian Kropp, deceased, respectfully reports:

That the facts in this case are fully set forth in the opinion of the Court of Claims, announced by Chief Justice Drake in the case of Samuel B. Seat, administrator of Christian Kropp *vs.* The United States, reported in 18 Court of Claims Rep., 458, of which the following is a copy:

Court of Claims, No. 13373.

SAMUEL B. SEAT, ADM'R OF CHRISTIAN KROPP,
vs.
THE UNITED STATES.

DRAKE, Ch. J., delivered the opinion of the court.

James T. Carter, intending to be engaged, on and after the 17th of February, 1869, in the business of a distiller, in the vicinity of Clarksville, Tenn., entered into a bond to the United States in the sum of $5,000, with Christian Kropp and Thomas B. Harrison as sureties, conditioned to be void if the said Carter should (among other things) in all respects faithfully comply with all the provisions of law in relation to the duties and business of distillers, and should pay all penalties incurred or fines imposed on him for a violation of any of the said provisions.

On the 11th of April, 1874, suit was instituted on this bond in the United States district court for the middle district of Tennessee, to recover $622.17, taxes assessed against said Carter as a distiller. No service of process on Carter was had, he having left Tennessee. Kropp and Harrison, the sureties, were served with summons in June and July, 1874. Thereafter Kropp died, and the claimant having been appointed his administrator, was made a party to that suit. May 8, 1878, the suit was brought to trial, and there was verdict and judgment in favor of the United States against the claimant as administrator for $1,168.08. Execution was issued thereon, and was satisfied by the claimant as administrator on the 9th of July, 1878.

On the 19th of February, 1880, the claimant sent a petition to the Commissioner of Internal Revenue, in which was the following passage:

"Your petitioner would state that at the time he became a party to the suit [aforesaid] he was not acquainted with the matters involved, and had no way of showing that the estate of said Christian Kropp was not liable for the whole amount of said

judgment; the said Kropp was dead, and the said James T. Carter, the principal, had gone to parts unknown, and [was] not present at the trial, and petitioner was compelled to allow the case to go to trial, and the unjust judgment was rendered against him. Since said judgment and the payment of the same by him, petitioner has ascertained and discovered that the most part of said judgment has been illegally and wrongfully collected; that judgment should have been given against him for only a small amount, and that he is entitled to have the balance thus wrongfully collected paid back to him."

The petitioner then goes on to state what the liability of Kropp's estate was, in his view, and admits that it was, including interest, $234.36; which he contends was all that judgment should have been rendered for; and he asks that, by virtue of section 3220 of the Revised Statutes, the remainder of the judgment, $933.72, which he claims was wrongfully collected, should be paid back to him.

February 25, 1880, the Commissioner of Internal Revenue, holding that he had no authority to review the decisions of the courts, decided that the relief asked for in the petition could not be granted by him.

Thereupon the claimant's attorney sent to the Commissioner the following letter:

CHICAGO, ILL., *March* 11, 1880.

Hon. GREEN B. RAUM,
Com'r Int. Rev., Washington, D. C.:

SIR: Your communication of Feb'y 25, '80, to Hon. John F. House, M. C., rejecting the claim of Samuel B. Seat, adm'r, has been forwarded to me. It appears that the ground of rejection is "that you have no power to review the decisions of the courts," and that a favorable action in this case would have that effect. As a lawyer, I see the full force of your position, and confess well taken. I infer, however, that you are inclined to the opinion that the court may have erred in giving judgment for the amount accruing after April 30, 1869, and that your decision would have been a favorable one on the petition, if there had been no judgment and the question had come primarily before you. In justice to the court this question was not raised at the trial, so far as I can learn (I was not in the case at the time, having been employed only recently), and that the case was allowed to go to trial, and no contest made, through the *ignorance of facts*. I now write to ask whether, if the matter is brought before the court's attention by a petition, the Government being properly represented by the U. S. dist. attorney, and the court would decide that the judgment ought not to have been taken for the whole amount, and would recommend that the same be refunded by your honor, that in that event our petition would be favorably considered.

In other words, the Gov't has the money of the petitioner in the Treasury, which should never been collected, yet some technical rule of law may prevent a setting aside of the judgment, although the court who rendered the judgment may be willing or think that the same should be refunded. I would ask what authority would you wish in the premises to grant the relief desired?

I am, very respectfully,

HARRY HARRISON,
Att'y for S. B. Seat's Ad'm'r.

To this letter the Deputy Commissioner of Internal Revenue returned the following reply:

TREASURY DEPARTMENT,
OFFICE OF INTERNAL REVENUE,
Washington, March 31, 1880.

HARRY HARRISON, Esq.,
Chicago, Ill.:

SIR: In reply to yours of the 11th instant, I have to say that if the court shall see fit to make an order amending and correcting the judgment rendered on the 8th of May, 1878, against S. B. Seat's adm'r and others, it will then be proper for this office to consider Mr. Seat's claim for refunding, now on file. But it is not alleged that the distiller was wrongly charged with the taxes embraced in this suit.

Therefore, if the sureties on the bond sued upon are now released from that part of the judgment which is based upon taxes accruing in some other period than that covered by the bond, there should be another suit brought upon the proper bond or bonds.

The U. S. attorney will be advised in relation thereto.

Respectfully,

H. C. ROGERS,
Deputy Commissioner.

On the 1st of April, 1880, the Deputy Commissioner sent to the district attorney of the United States for the middle district of Tennessee the following letter:

TREASURY DEPARTMENT,
OFFICE OF INTERNAL REVENUE,
Washington, April 1, 1880.

J. A. WARDER, Esq.,
U. S. Attorney, Nashville, Tenn.:

SIR: On the 8th of May, 1878, judgment was rendered in the United States district court, middle district of Tennessee, in suit No. 328, against Samuel B. Seat, administrator of Christian Kropp, deceased, surety upon the distiller's bond of J. T. Carter. Mr. Seat now claims that the court erred in giving judgment against him for the full amount of the suit, for the reason that the larger portion of the taxes for which the suit was brought accrued at a time when Christian Kropp was not a surety upon Carter's bond, and it is proposed by Harry Harrison, esq., of Chicago, Ill., attorney for Mr. Seats, to petition the court to amend and correct the judgment. Should this be done, and should the court issue an order amending and correcting the judgment, this office will then consider a claim presented by Mr. Seats for the refunding of the amount alleged to have been erroneously embraced in the judgment.

It is not alleged that the distiller was wrongly charged with the taxes embraced in the suit. Therefore if the sureties on the bond sued upon are now released from that part of the judgment which is based upon taxes accruing in some other period than that covered by the bond, there should be another suit brought upon the proper bond or bonds.

Respectfully,

H. C. ROGERS,
Deputy Commissioner.

On the 26th of October, 1880, the following order was entered on the minutes of said district court:

UNITED STATES
vs.
SAMUEL B. SEAT, ADM'R OF CHRISTIAN KROPP.

Came the parties by their attorneys, and it appearing to the satisfaction of the court that on the 8th day of May, 1878, in the district court of the United States for the middle district of Tennessee, the United States recovered of Samuel B. Seat, administrator of Christian Kropp, the sum of eleven hundred and sixty-eight $\frac{68}{100}$ dollars and cost of suit; and it appearing to the court that there is error in said judgment to the extent of nine hundred and thirty-three $\frac{72}{100}$ dollars, the same is so corrected, and by consent of attorneys—the district attorney acting with the consent and under the direction of the Commissioner of Internal Revenue—the said judgment is corrected and vacated to the extent of $933\frac{72}{100}$ so erroneously rendered, and the clerk of this court will furnish a certified copy of this decree to the defendant.

March 8, 1881, the Commissioner of Internal Revenue addressed a communication to the Secretary of the Treasury, to which the following answer was returned:

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., March 11, 1881.

Hon. GREEN B. RAUM,
Commissioner of Internal Revenue:

SIR: I have received your letter of the 8th instant, submitting for my consideration and advisement the claim of Samuel B. Seat, administrator, for the refunding of $933.72, tax paid on distilled spirits.

It appears that Mr. Seat is the administrator on the estate of Christian Kropp, deceased, who was one of the sureties on the distiller's bond of James T. Carter from February 12 to April 30, 1869; that per diem taxes accrued and were assessed against said Carter from February, 1869, to February, 1870, which were not paid, and for which suit was commenced on the bond, and judgment obtained to the amount of $1,168.08, on May 8, 1878, in the United States district court for the middle district of Tennessee; that said Kropp was made a party to said suit, and, dying before judgment, his administrator, S. B. Seat, was made a party, and that he afterwards paid the full amount of the judgment with costs; that it was subsequently discovered by the administrator that Kropp was liable under the bond to pay only $126 tax and the interest on this sum, amounting to $108.36, making the whole liability of Kropp only

$234.36; that application was then made to the court, and on October 26, 1880, the judgment was corrected and vacated to the extent of $933.72.

Under these circumstances, I approve of the allowance and payment of the full amount of $933.72, as proposed by you.

Very respectfully,

H. F. FRENCH,
Acting Secretary.

After receiving this letter the Commissioner of Internal Revenue allowed the claim of this claimant, and inserted it in "A schedule of claims for the refunding of taxes," in the form following:

No. 782.

A schedule of claims for the refunding of taxes erroneously assessed and paid, which have been examined and allowed.

District.	Claimants.	Amount.
Sixth Tennessee.....	Samuel B. Seat, administrator.....	$933 72
	Total.....	933 72

I hereby certify that the foregoing claims for the refunding of taxes erroneously assessed and paid have been examined and allowed.

GREEN B. RAUM,
Commissioner.

OFFICE OF INTERNAL REVENUE,
March 14, 1881.

An account for the payment of the claim so allowed was stated by the Fifth Auditor, but the First Comptroller rejected the claim, and thereupon this suit was brought.

We have set forth the facts and documents of this case more extendedly than we generally do in an opinion; for there seemed to us a necessity to do so in order to bring out distinctly the exact point involved. The case, as stated in the petition, is to recover money alleged to have been "erroneously and illegally collected" from the claimant, under a judgment rendered in favor of the United States against him, as Kropp's administrator, on the bond in which, as above stated, Kropp was surety. This was the only claim made by the claimant in the correspondence above set forth; it was the claim which the Commissioner laid before the Secretary of the Treasury for his advisement; it was the claim which the Secretary approved March 11, 1881; and, beyond doubt, it was the claim which, on the 14th of March, the Commissioner certified as having been examined and allowed by him. Had he certified it as for money erroneously and illegally collected under the judgment, we should not have needed to set forth the case so extendedly; but for convenience, we suppose, he placed the amount in "a schedule of claims for the refunding of *taxes erroneously assessed and paid*," and as such certified that it had been "examined and allowed." It is upon the fact of this allowance that the claimant rests his case. He does not claim that he ever paid any taxes that had been erroneously assessed; nor that he ever paid any taxes at all; but simply asks judgment for the amount allowed by the Commissioner, and demands it simply because of the Commissioner's allowance.

Were the schedule and certificate conclusive upon this court we should be bound to treat the claim as one for the refunding of "taxes erroneously assessed and paid," and, under our previous rulings, would not hesitate to give the claimant judgment for the amount allowed. (*Kaufman's Case*, 11 C. Cls., 659; *Woolner's Case*, 13 Ib., 355; *Bank of Greencastle's Case*, 15 Ib., 225; *Real Estate Savings Bank of Pittsburgh's Case*, 16 Ib., 335; *Barnett & Co.'s Case*, Ib., 515.) But we do not consider ourselves precluded by the schedule or the certificate or, by both together, from inquiring whether the claim certified in them was, in fact, one for "the refunding of taxes erroneously assessed and paid." We do not thereby interfere with or question the jurisdiction of the Commissioner to allow claims of that description, but merely inquire whether, as a matter of fact, he did exercise that jurisdiction. We sustain his jurisdiction, if at all, not according to the blank form on which his allowance was certified, but according to the actual exercise of the jurisdiction. Therefore it is that we go behind the schedule and certificate, and inquire what it was in reality that the Commissioner allowed; and we find it to be an amount which he considered to have been wrongfully recovered by the United States in the judgment rendered against

the claimant as surety in the bond of Carter, the distiller. If the Commissioner had jurisdiction to make that allowance, we would not inquire into the right or wrong of his decision; but if he had not such jurisdiction, it is our duty to say so, and to base no judgment on his unauthorized action.

This brings us to the main question, whether he had lawful authority to make that allowance. If he had, it must be found in the following words in section 3220 of the Revised Statutes, for there is no other provision giving him power to remit or refund moneys collected under the internal-revenue laws:

"The Commissioner of Internal Revenue, subject to regulations prescribed by the Secretary of the Treasury, is authorized, on appeal to him made, to remit, refund, and pay back all taxes erroneously or illegally assessed or collected, * * * and all taxes that appear to be unjustly assessed, or excessive in amount, or in any manner wrongfully collected."

There is not now, nor has there been, so far as appears, any pretense, in any quarter, that, *as against the distiller*, the taxes for which judgment was rendered against the claimant as administrator of the distiller's surety had been erroneously, illegally, or unjustly assessed, or were excessive in amount. Neither the distiller nor his surety appealed to the Commissioner to remit any part of the taxes so assessed. From the time when they were assessed, in February, 1871, till the 9th of July, 1878, when the claimant paid on execution the amount of the judgment and costs, a period of more than seven years, the distiller, and Kropp, his surety, and the administrator of Kropp, were, each and all, absolutely silent on the subject of the assessment; and when, in February, 1880, nine years after the assessment was made, and nearly two years after the claimant had paid the judgment, he appealed to the Commissioner, his appeal contained not one word charging that the taxes had been erroneously, illegally, or unjustly assessed, or that they were excessive in amount. Clearly, then, the Commissioner did not allow the claim of the claimant because the taxes had been erroneously assessed, nor did he at all have that matter before him.

The real and only ground presented by the claimant for the Commissioner's interposition of his remitting and refunding power was, that the United States had recovered judgment for a greater sum than they ought, and that the claimant having satisfied that judgment, the United States ought to refund to him the excess illegally and wrongfully collected over what was justly due.

At first the Commissioner answered that he had no authority to review the decision of the court which rendered the judgment; but subsequently said to the claimant's attorney that if the court should see fit to make an order amending and correcting the judgment, it would then be proper for him to consider the claimant's petition for refunding. And in order to promote by his official action the obtainment of such an order, he wrote to the United States district attorney the letter above set forth. Here, as it seems to us, was the first mistake in this business; but other and graver ones followed.

That a judgment rendered by a competent court on the merits of a controversy, after a fair trial, is, while unreversed by an appellate tribunal, absolutely final and conclusive upon the parties to the suit as to all matters involved therein, needs only to be said. The judgment against the claimant for taxes assessed against his principal, the distiller, was therefore absolutely conclusive that the taxes had been rightly assessed and were justly due to the Government.

That a court has no power, at a term subsequent to that at which a judgment was rendered, to set aside or change the judgment, on the motion of one party only, is to be considered settled law as to United States courts. (*Jackson* vs. *Ashton*, 10 Peters, 480; *Bank United States* vs. *Moss*, 6 Howard, 31; *Russell* vs. *United States*, 15 C. Cls., 168.)

That two men, plaintiff and defendant in a suit, might, by agreement, at a term subsequent to that at which a judgment was rendered, have the judgment set aside or changed, may be conceded.

That the same might be done in a case between the United States and an individual, there can, we think, be no question, provided a statute of the United States gave authority to any one to agree thereto, and the authority were exercised according to the law. Without such authority, so exercised, no United States court could have the least right to vacate, set aside, or change a judgment in favor of the United States after the end of the term at which it was rendered.

When, therefore, the district court of the United States in Tennessee, more than two years after the judgment against this claimant had been paid in full under execution, made the order of October 26, 1880, declaring that there was error in the judgment to the extent of $933.72, and directing that, to that extent, the judgment should be vacated and corrected, it did what it had no sort of jurisdiction to do, and its order was a mere nullity. No life was or could be imparted to it by its stating that the order was made "*by consent of attorneys, the district attorney acting with the consent and under the direction of the Commissioner of Internal Revenue;*" for the district attorney had not, in virtue of his office, any power to bind the Government by such a consent, nor had the Commissioner the least right to authorize him to give consent to any such

order. The whole proceeding was, on the part of attorneys and the court, probably as striking an instance of totally unauthorized and illegal judicial action as could be found in the records of any United States court in the country.

We purposely avoid any reference to the ground upon which the order vacating and correcting the judgment was made. The order recites that it appeared to the court that there was error in the judgment to the extent of $933.72; and therefore, to that extent, the judgment was vacated and corrected. How, or by what evidence, or on what ground the error was made to appear is a matter of not the least consequence here; for on no ground whatever could the court have had a right to vacate and correct the judgment at the time and in the way it did, unless the consent of the United States thereto had been given by one lawfully authorized to give it.

If the views we have expressed be correct—of which we entertain not the least doubt—then the judgment remains just as it was before the order was made, and is to-day just as conclusive of the right of the Government to the money as it was when it was rendered. Its existence is an insuperable barrier to any inquiry by the Commissioner of Internal Revenue, the Secretary of the Treasury, or any other officer of the Government into the legality of the assessment of the taxes for which the judgment was rendered. And when the claimant paid the judgment, he closed and barred the door against all attempts to reclaim through any Executive Department any part of the money. And when he seeks redress in this court, we have only to hold, as we do, that the Commissioner's allowance—on which alone this case rests—was made without any lawful authority, and is therefore void, and that the claimant's petition must therefore be dismissed.

It clearly appearing that by the excusable inadvertence of the claimant the judgment rendered in the district court of the United States for the middle district of Tennessee, on May 8, 1878, in favor of the United States, and against the claimant as administrator of Christian Kropp, was erroneous to the extent of $933.78, and that the full amount of said judgment was paid by the claimant and received by the United States, your committee is of the opinion that the sum of $933.78 should be returned to the claimant, and recommends that the bill do pass.

Amend the bill by striking out, in the eighth and ninth lines, the words "with interest thereon from July ninth, eighteen hundred and seventy-eight."

When so amended the committee recommend that the bill do pass.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1884.

SETTLERS IN THE WIND RIVER VALLEY, WYOMING TERRITORY.

APRIL 22, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WILLIAM WARNER, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 2920.]

The Committee on Claims, to whom was referred the bill (H. R. 2920) for the relief of certain settlers in the Wind River Valley, Wyoming Territory, having carefully considered the same, submit the following report:

This bill is for the relief of nine settlers who went upon public lands in what is known as the Wind River Valley, Wyoming Territory. It is shown that eight of these settlers went upon these lands when they belonged to the United States, and, in good faith, made their improvements thereon. That subsequently, in 1868, by treaty with the Shoshone and Bannock tribes of Indians (15 Statutes at Large, 673), the Government set aside the land upon which these improvements had been made as a reservation for these tribes of Indians. One of the settlers, William Jones, made improvements valued at $500 after the making of said treaty in 1868. The justice of the eight claims, amounting to $9,371.50, has been recognized by the Interior Department in numerous recommendations for the payment thereof. The Committee on Indian Affairs of the Forty-sixth, Forty-seventh, and Forty-eighth Congresses reported in favor of the payment.

The improvements made by said eight settlers was valued at said sum of $9,371.50 by an agent of the Interior Department.

The committee recommend that in the first and second lines of section 2 the words "eight hundred and seventy-one" be stricken out, and that the words "three hundred and seventy-one" be inserted in lieu thereof, and when amended that the bill do pass.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1885.

JOHN W. MEARS.

APRIL 22, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. TRIGG, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 5477.]

The Committee on Claims, to whom was referred the bill (H. R. 5477) to restore to John W. Mears a fine improperly imposed upon him, respectfully report:

The claimant was master of the schooner Briton M. Tilton, of Onancock, Va. On his return from James River to Chincoteague Bay, Virginia, on the evening of March 22, 1884, he ran his schooner into Wachapreague Inlet, to land some of the men who had gone to Norfolk with him. He anchored at least a mile above the anchorage for vessels, where the channel is not more than a hundred yards wide. He went ashore in the afternoon, expecting to return to the schooner by sunset, and omitted to tell the crew, who were new men, to place the lights in position. Claimant was detained on shore, and the crew, thinking the anchorage was not on a navigable stream, failed to place the lights upon the schooner, as required by Revised Statutes, section 4233. The schooner was without a light for a few hours in the early part of the night, and before the return of claimant on board. Whilst in this condition a small revenue-cutter (drawing 2 feet 6 inches of water), which had been detained in the bay above by the tide, passed by, and the schooner was reported for not having lights, and the fine of $200, provided by section 4234 Revised Statutes, was imposed upon claimant, and he was compelled to pay the same, and it was covered into the Treasury before he obtained judicial action in the premises.

George Toy, the collector at that point, in a letter of October 27, 1884, to the Secretary of the Treasury, says, "I am satisfied it was not the intention of Mr. Mears to violate the law in the premises;" and he recommends that the fine be remitted.

Your committee are of opinion that the fine should have been remitted, and they therefore recommend that the bill (H. R. 5477) which they have had under consideration do pass.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1886.

TRUSTEES OF ISAAC R. TRIMBLE.

APRIL 22, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SHAW, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 7048.]

The Committee on Claims, to whom was referred the bill (H. R. 7048) for the relief of the trustees of Isaac R. Trimble, have considered the same, and beg leave to report the bill back to the House, recommending its passage. The bill received favorable action in the Senate in the Forty-eighth Congress, when the annexed report was submitted by the Committee on Military Affairs, and as the facts connected with the claim of said trustees are fully set forth in said report, your committee adopt the same and annex it hereto.

[Senate Report No. 243, Forty-eighth Congress, first session.]

The Committee on Military Affairs, to whom was referred the bill (S. 91) for the relief of the trustees of Isaac R. Trimble, beg leave to report:

That they find all the facts of this case set forth in a report submitted by this committee to the Senate during the Forty-seventh Congress, and they adopt that report, hereto annexed, as expressing the views of the committee, and recommend the passage of the bill. The report is as follows:

The facts are as follows, as shown by the papers accompanying this report:

The trustees of Isaac R. Trimble claim that the United States are indebted to them for the use of Howe's patent truss in the construction of the "Long Bridge" over the Potomac River, at this city, in the years 1860, 1861.

Judge-Advocate Henry Goodfellow, under date July, 1876, in an official communication to the Secretary of War, reports the claim to have been theretofore at $6,081.88 for royalty on the Howe truss-bridge built on the Potomac River in 1861, 1862, and was first presented by Isaac R. Trimble himself. For a better understanding of the case as reported by Judge-Advocate Goodfellow, his letter is herein set forth, as follows:

WAR DEPARTMENT, *July*, 1876.

In the matter of the claim of the creditors of Isaac R. Trimble for royalty in the use of Howe's patent truss in the "Long Bridge" over the Potomac River.

To the honorable the Secretary of War:

This is a claim heretofore stated at $6,081.88 for royalty on the Howe truss-bridge, built over the Potomac River in 1861–'62, being a part of the "Long Bridge." The claim was first presented February 17, 1873, by Mr. Trimble himself, as owner of the patent, July 21, 1873. The Quartermaster-General reported the true amount of royalty at $3,500.45 (without interest), but cited an opinion of the Attorney-General, dated June 13, 1872, in the case of Smith & Woodruff, assignees of Hiram Sibley, for

royalty on the "Sibley tent," to the effect that Smith & Woodruff should not be paid by the War Department on account of Sibley's disloyalty.

Mr. Trimble having been a major-general in the rebel army, breaking up the railroad communications with Washington, and fighting against the Government of the United States, at the very time the claim originated, it was rejected by the Secretary of War January 5, 1874.

January 23, 1874, the claim was again presented in the name of Mrs. Ann C. Trimble and Miss Georgianna Presstman, who claimed under and by virtue of a "deed of trust" from Mr. Trimble made May 30, 1861, before his disloyal career.

This deed transferred all his property on the following trusts:

First, to pay all his debts; then to hold for the use and benefit of Mrs. Trimble; and thirdly, to convey to her appointees. Mr. S. T. Wallis, attorney for the Trimbles, begged that Mrs. Trimble should not suffer from any ill-advised action of her husband in presenting the claim in his own name, he having acted entirely upon his own motion without consulting the counsel of the trustees. Mr. Wallis further called attention to a recognition of the above-mentioned deed of trust by the Supreme Court of the United States in case of Railroad Company *v.* Trimble (10th Wallace, 397) and by the United States district court for the Maryland district, and the case of the United States *vs.* The Real Estate of Isaac R. Trimble.

Upon this application the Quartermaster-General reported February 17, 1874, that the new presentation of the case left apparently no room to doubt that Mrs. Annie C. Trimble and Georgianna Presstman were entitled to receive the amount of the royalty which was stated in his former report, provided they could establish their loyalty to the satisfaction of the War Department. Thereupon Mr. Wallis was informed in a letter from Colonel Dunn, assistant judge-advocate-general, by direction of the Secretary of War, that it was then in order to present evidence of the loyalty of the new claimants.

Nothing further was heard of the claim until January 30, 1875, when Mr. H. Stockbridge, attorney for Mr. Trimble's creditors, addressed the War Department, acknowledging that the decision arrived at, in the claim as as first presented, was undoubtedly correct under the principle established in the case of the Sibley tent, and declaring his readiness at an early day to furnish full proof of the right and interest of the "*cestui que trusts*" under the above-mentioned deed, and also of their loyalty.

In this presentation Mrs. Trimble and Miss Georgianna Presstman claim as heirs one-fifth each of the estate of Ann F. Presstman, to which Mr. Trimble is sworn to be indebted in the sum of $9,000. It does not, however, appear whether or not this indebtedness existed at the date of the deed of trust. As to loyalty, Trs. Trimble swears "that the said Anne C. Trimble was in favor of the union of the States, opposed to the late civil war, and never supplied the rebel States with material aid or comfort, nor their armies, save alone in nursing my husband when sick and wounded, as enjoined in my marriage vow"; and Miss Georgianna Presstman swears "that she, the said Georgianna Presstman, has not at any time taken part with the enemies of the U. S., was in favor of the Union, and opposed to the late civil war, and never supplied the rebel States or armies with aid or comfort, but lived quietly in the country from 1860 to 1865 in Baltimore County, Maryland."

These affidavits are supported by affidavits of J. Morrison Harris, of Baltimore County, to the effect "that he has been well acquainted with the parties in question both before and after the late civil war, and that their foregoing statements are entitled to full credit, to the best of his knowledge and belief."

* * * * * * *

(Here follow names of creditors who swear to stated sums owing them by I. R. Trimble, and present affidavits of loyalty vouched for by citizens of Baltimore.)

In the case as thus presented there would seem to be no question involved except such as belonged more especially to the jurisdiction of the accounting officers of the Treasury, if the proofs of loyalty are accepted as sufficient, as they seem to me to be. It may be remarked, however, that the Quartermaster-General is not entirely satisfied with his own statement of the account in his report of July 21, 1873, the "spans" having been measured from the center of pier instead of in the clear. He is of the opinion, however, that the true extent of the words, one cent per foot for each span, should be left to the decision of the accounting officer.

On the other hand, Mr. Trimble presented statement of the account June 23, 1876, which is rather larger than the original statement of the Quartermaster-Gen'l. Mr. Trimble's statement is $3,932. He further states that in similar cases those who use the patent without leave have been charged with royalty and interest. He therefore adds $2,830 interest to February 7, 1873; total, $6,762.

It is respectfully recommended that the claim be now referred to the accounting officers of the Treasury for such action as they may deem just and proper in the premises.

HENRY GOODFELLOW,
Judge-Advocate.

THIRD AUDITOR'S OFFICE,
February 23, 1882.

Extract copy of paper on file with claim No. 50683.

A. M. GANGEWER,
Deputy Third Auditor.

The claim $6,081.88 being	$3,535 96
With interest from 1861 to February, 1873, twelve years	2,545 92
	6,081 88

Was referred to War Department April 22, 1873, for report, and the following was made:

BARRACK AND QUARTERS BRANCH,
QUARTERMASTER-GENERAL'S OFFICE,
April 25, 1873.

Case of I. R. Trimble, for patent fees on Howe truss spans in Long Bridge over Potomac River, erected under the supervision of General McCallum, 1861, as per items enumerated	$3,535 96
Interest to February, 1873, twelve years	2,545 92
Total	6,081 88

Referred to War Department April 22, 1873, for report.

February 17, 1873, claimant addressed a letter to the Secretary of War, indorsing the above claim, with statement that the facts alleged can be substantiated by General McCallum, under whose supervision the rebuilding of the bridge was executed. The reason for not presenting the claim before was owing to the rightful ownership of the patent being in dispute since 1860, and only decided in claimant's favor by the court of final appeal in 1870 (Rep't, 10 Wallace, U. S. Sup. C.) (copy with papers). Since that decision no one has disputed claimant's rights, and he enumerates a list of R. R. companies, &c., who paid the patent fees on presentation, at the same rates which he has charged the Dep't. In support of this he incloses letters of Theo. Cuyler, esq., counsel of Penn'a R. R., and Strickland Kneass, esq., of city of Phil'a, and John L. Piper, manager of the Keystone Bridge Co., Pitts'g, Pa.

The letter was referred Feb. 21, '73, to the Chief of Engineers for report.

That office, Feb. 25, '73, referred to Major Babcock, inviting "attention to the copy of letter from the Keystone Bridge Co. (herewith), in which it is stated that the first payment was made by B. B. French, Com'r of Public Buildings.

"Please report any information that may be on the files of your office in relation to the construction of this bridge, contract for same, and payments."

Colonel Babcock, U. S. A., in charge of public buildings and grounds, returned April 9, '73, as follows:

"I find that $20,000 was appropriated for the repair of Long Bridge Aug. 6th, 1861 (vol. 12, pa. 327), and the money was expended by B. B. French, then Comm'r of Pub. B. & Grounds.

"Upon an examination of his vouchers for the expenditure I find that no part of it was paid for the use of Howe's patent for truss bridges. The records of this office fail to give any further information on the subject.

"Under date of February 5, 1866, Theo. B. Samo, esq., engineer in charge of Washington aqueduct, reported on the condition of Long Bridge, and a copy of the report is herewith transmitted. Attention is respectfully invited to Eng'r Samo's report, with the papers."

* * * * * * *

Gen'l Humphrey, Chief Eng'r, returned papers Ap'l 11, '73, inviting attention to Col. Babcock's report. Referred, as before stated, to this office for report.

Respectfully submitted to the Q'master Gen'l for instructions.

M. I. LUDINGTON,
Quartermaster, U. S. A.

THIRD AUDITOR'S OFFICE, *February* 21, 1882.

A true copy (extract) of paper on file with claim No. 50683.

A. M. GANGEWER,
Deputy Third Auditor.

The claimants state that the claim was laid before the Secretary of War as early as 1865, but was not urged, owing to litigation springing up as to ownership of the patent, until the termination thereof by the judgment of the Supreme Court of the United States at its December term, 1870—10 Wall., the Philadelphia, Wilmington and Baltimore Railroad Company vs. Isaac R. Trimble and Ann C. Trimble, his wife, and

Georgiana Presstman, p. 367. This suit was decided that the rights under the assignment of the patent vested in the trustees of I. R. Trimble.

An official copy of claimant's petition, and action thereon is here appended

Petition and claim of the trustees of I. R. Trimble for the use of "Howe's Patent Truss" in the "construction of the Long Bridge" over the Potomac Piver at Washington City, D. C., in 1860–'61.

This claim was laid before the Sect'y of War as early as 1865, but soon after, in consequence of litigation involving the rights under the original patent, it was not urged until after 1870. In that year, by a decision of the Supreme Court of the U. S. at the December term, it was decided that the rights under the assignment of Howe were vested in the trustees of I. R. Trimble. (See 10th Wallace.)

By 1876 the evidence substantiating the justice of the claimants was complete, as required by the War Department, when Mr. Henry Goodfellow, judge advocate, made a report, July, 1876, in which he sums up the evidence, inclusive of testimony establishing the loyalty of the trustees and of the creditors of I. R. Trimble, concluding his report in these words: "It is respectfully recommended that the claim be now referred to the accounting officers of the Treasury for such action as they may deem just and proper in the premises." No action was taken on this report until 1878, when Senator Whyte, of Maryland, procured an order from the Secretary of War, referring the claim to the Third Auditor of the Treasury for adjudication. The Third Auditor considered the claim, and disallowed it for "want of jurisdiction." On application this decision was reconsidered by an order of the Secretary of War February 15, 1881.

The Comptroller, W. W. Upton, on reconsidering the claim, thus concludes his decision: "The claimants must look to the courts or to Congress, as there is no evidence of any agreement to pay for the use of the patent."

Thus there is no resort for the claimants except through an act of Congress referring the subject to the Court of Claims, with authority to adjudicate the case on principles of equity. And your petitioners will ever pray.

ANNE C. TRIMBLE.
GEORGIANA PRESSTMANN.

Decision by Third Auditor upon a claim, made by trustees of Isaac R. Trimble, for royalty (with interest thereon) for the use of Howe's Patent Truss in building "Long Bridge" over the Potomac River at Washington, D. C., in 1861, 1862.

TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE,
December 19th, 1878.

It is not contended that any contract, arrangement, or undertaking was entered into on the part of the United States to secure the right to use the patent. The claim is therefore a claim for damages for alleged invasion of a patent right. Of such claims the accounting officers of the Treasury have no jurisdiction.

For want of jurisdiction the claim is disallowed.

The papers with this decision are respectfully transmitted to the Second Comptroller for consideration by him.

A. M. GANGEWER,
Acting Auditor.

TREASURY DEPARTMENT, SECOND COMPTROLLER'S OFFICE,
February 24th, 1879.

The within opinion of the honorable Third Auditor is concurred in.

W. W. UPTON,
Comptroller.

WAR DEPARTMENT,
December 9th, 1879.

The papers in the claim of the trustees of I. R. Trimble, of Baltimore, Md., for the use by the U. S. of a patented improvement described as "Howe's Patent Truss" for bridges, are, at the solicitation of claimant's counsel, respectfully returned to the accounting officers of the Treasury with a recommendation for reconsideration.

The claimant's counsel contend that it could not have been the intention of this Government to use the patent right in question without an implied engagement to pay for such use. This view entirely commends it to my judgment, but I must leave to the accounting officers the question of law whether the executive branch of the Government can now adjust this claim.

GEO. W. McCRARY,
Sec't'y of War.

To the SECOND COMPT.
of the Treas'ry.

TREASURY DEPARTMENT, SECOND COMPTROLLER'S OFFICE,
February 15th, 1881.

Respectfully returned to the Hon. Third Auditor.

As recommended by the honorable the Secretary of War, I have carefully reconsidered this claim, and admitting fully that the Government could not intend to use a patent right without compensation, still I cannot find evidence of any agreement to pay either a certain amount or the reasonable value.

If the facts show the use by the Government of the claimant's patent right, the amount to be paid therefor must be ascertained by the courts or by Congress. The decision of the accounting officers is therefore reaffirmed.

W. W. UPTON,
Comptroller.

THIRD AUDITOR'S OFFICE,
February 3, 1882.

A true copy of papers on file with claim No. 50683.

A. M. GANGEWER,
Deputy Third Auditor.

It will be observed that the Acting Auditor disallows the claim "for want of jurisdiction," and transmits to the Second Comptroller, who concurs.

It will be further observed that claimants' counsel asked a reconsideration, insisting "that it could not have been the intent of the Government to use the patent right in question without an implied engagement to pay for the same," and that this view is concurred in by the Hon. George W. McCrary, then Secretary of War, who, however, leaves to the accounting officers the question of law whether the executive branch of the Government can now adjust this claim.

The Comptroller, upon review, adheres to his former opinion with the following in addition: "If the facts show the use by the Government of the claimants' patent right, the amount to be paid therefor must be ascertained by the courts or by Congress." This last decision is February 15, 1881.

In the paper is the following copy of a letter from Hon. George W. McCrary, then Secretary of War, to the Hon. William Pinkney Whyte:

WAR DEPARTMENT,
Washington City, November 21, 1878.

Hon. WM. PINKNEY WHITE,
United States Senate:

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

GEO. W. McCRARY,
Secretary of War.

THIRD AUDITOR'S OFFICE,
February 21, 1882.

A true copy of paper on file with claim No. 50683.

A. M. GANGEWER,
Deputy Third Auditor.

From the papers presented to the committee, it appears that the right to the use of the truss passed from Isaac R. Trimble, assignee of Howe, to claimants; that the delay in prosecuting from 1865 to 1870 is accounted for by the litigation as to ownership of the patent; that since then the claimants appear to have been exerting themselves to have their claim allowed; that it was not allowed "for want of jurisdiction," as stated by the Second Comptroller. In the opinion of the committee, the claimants have a right to establish the use by the Government of their patent; that they have not been paid therefor, and the reasonable value of use, and to introduce evidence of ownership and loyalty. In short, the examination made by the committee shows a state of case which, in the judgment of the committee, entitles the claimants to a hearing in the Court of Claims.

Wherefore the committee report back Senate bill No. 1210, amended as therein shown, and recommend that the bill do, as amended, pass.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1887.

JUDICIAL DISTRICTS OF PENNSYLVANIA.

APRIL 22, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. BENNETT, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany bill H. R. 2124.]

The Committee on the Judiciary, to whom was referred House bill 2124, *beg leave to report:*

That the counties included in said bill comprise the greater part of the anthracite-coal region, having an area of 6,600 square miles and a population of over 500,000. While during thirty years, from 1850 to 1880, the population of the State increased 85 per cent., that of these ten counties increased 120 per cent. The territory named is in the extreme northeastern corner of the State, and those having business in the United States courts are obliged to traverse the entire State, a distance of 400 miles, to reach Pittsburgh, the principal seat of the court and the residence of all its officers. This is so burdensome to individuals as to amount to a denial of justice, and is further a source of serious expense to the Government on account of the heavy mileage fees of court officers, jurors, and witnesses in criminal cases.

The passage of this bill is requested by the bars of the several counties affected, and the proposed relief has been seriously needed for several years. The committee, therefore, unanimously recommend the passage of the bill, amended by striking out the last section thereof, and the words "Monroe" and "Carbon" wherever they appear.