

Millard F. Kepner to be postmaster at New Rockford, in the county of Eddy and State of North Dakota.

OHIO.

Milton B. Dickerson to be postmaster at Marion, in the county of Marion and State of Ohio.

John A. Koeper to be postmaster at New Bremen, in the county of Auglaize and State of Ohio.

Edmund L. McCalley to be postmaster at Middletown, in the county of Butler and State of Ohio.

William B. Wallace, to be postmaster at Oxford, in the county of Butler and State of Ohio.

PENNSYLVANIA.

R. C. Keefer to be postmaster at Clairton, in the county of Allegheny and State of Pennsylvania.

William P. McMasters to be postmaster at Munhall, in the county of Allegheny and State of Pennsylvania.

SOUTH DAKOTA.

William F. Bancroft to be postmaster at Wessington Springs, in the county of Jerauld and State of South Dakota.

VERMONT.

Lewis A. Skiff to be postmaster at Middlebury, in the county of Addison and State of Vermont.

WEST VIRGINIA.

Grace O. Montgomery to be postmaster at Tunnelton, in the county of Preston and State of West Virginia.

HOUSE OF REPRESENTATIVES.

FRIDAY, December 16, 1904.

The House met at 12 o'clock noon.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

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

SUNDRY BILLS TABLED.

The SPEAKER. The Chair desires to lay before the House certain bills on the House Calendar and also certain bills on the Union Calendar. Senate bills similar to the same were passed at the last session, by the Senate and by the House, and as the Chair is informed became law. These bills still remain on the Calendar and should be laid on the table.

The Clerk will report the following bills, by number:

The Clerk read as follows:

A bill (H. R. 14968) permitting the Ozark and Cherokee Central Railroad Company and the Arkansas Valley and Western Railroad Company, and each or either of them, to sell and convey their railroads and other property in the Indian Territory to the St. Louis and San Francisco Railroad Company, or to the Chicago, Rock Island and Pacific Railway Company, and for other purposes.

A bill (H. R. 2513) to further amend an act entitled "An act to reimburse the governors of States and Territories for expenses incurred by them in aiding the United States to raise and organize and supply and equip the Volunteer Army of the United States in the existing war with Spain," approved July 8, 1898, and amendment thereto, approved March 3, 1899, and for other purposes.

A bill (H. R. 1975) to amend section 1225 of Revised Statutes so as to provide for detail of retired officers of the Army and Navy to assist in military instruction in schools.

The House joint resolution (H. J. Res. 147) requesting the Secretary of the Interior to institute an investigation relative to the use of the waters of the Colorado River for irrigation, and to report to Congress thereon.

The SPEAKER. Without objection, the bills will lie on the table. [After a pause.] The Chair hears no objection.

The following bills are in Committee of the Whole House.

The Clerk read as follows:

The bill (H. R. 13130) for the relief of James T. Barry and Richard Cushion, executors of the last will and testament of Martin Dowling, deceased.

The bill (H. R. 5335) to provide an American register for the British ship *Pyrenees*.

The House joint resolution (H. J. Res. 122) permitting Maj. Thomas W. Symons, Corps of Engineers, to assist the State of New York by acting as a member of an advisory board.

The SPEAKER. Without objection, the Committee of the Whole will be discharged from further consideration, and the bills will lie on the table.

There was no objection.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. PLATT, one of its clerks, announced that the Senate had passed without amendment a bill of the following title; in which the concurrence of the House of Representatives was requested:

H. R. 16445. An act making appropriations to supply urgent deficiencies in certain appropriations for the fiscal year ending June 30, 1905, and for other purposes.

SENATE BILLS REFERRED.

Under clause 2, Rule XXIV, bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 2972. An act granting an increase of pension to Thomas Boyle—to the Committee on Invalid Pensions.

S. 3742. An act granting an increase of pension to Juliet A. B. Hoff—to the Committee on Invalid Pensions.

S. 4208. An act granting an increase of pension to Bessy Forsyth Bache—to the Committee on Invalid Pensions.

S. 2286. An act granting an increase of pension to James Thompson—to the Committee on Invalid Pensions.

S. 5738. An act granting an increase of pension to Enoch Russell—to the Committee on Invalid Pensions.

S. 2493. An act granting an increase of pension to Alfred Tichurst—to the Committee on Invalid Pensions.

S. 2890. An act granting an increase of pension to Andrew C. Kemper—to the Committee on Invalid Pensions.

S. 2333. An act granting a pension to Benjamin F. Hall—to the Committee on Invalid Pensions.

S. 4199. An act granting a pension to William Rufus Kelly—to the Committee on Invalid Pensions.

S. 316. An act granting an increase of pension to Elmore Y. Chase—to the Committee on Invalid Pensions.

S. 266. An act granting a pension to Emma S. Harney—to the Committee on Invalid Pensions.

S. 342. An act for the improvement of the Mount Rainier National Park, in the State of Washington—to the Committee on Appropriations.

STATUE OF JOHN J. INGALLS.

Mr. CURTIS. Mr. Speaker, I offer the following resolution, and ask unanimous consent for its present consideration.

The Clerk read as follows:

Resolved, That the exercises appropriate to the reception and acceptance from the State of Kansas of the statue of John J. Ingalls, erected in the old Hall of the House of Representatives, be made the special order for Saturday, January 21, 1905, at 3.30 o'clock p. m.

The SPEAKER. Is there objection to the present consideration? [After a pause.] The Chair hears none.

The question was taken, and the resolution was agreed to.

BILLS ON THE PRIVATE CALENDAR.

Mr. GRAFF. Mr. Speaker, I move that the House now resolve itself into the Committee of the Whole House on the state of the Union to consider bills on the Private Calendar, in accordance with the special order in that behalf.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House, with Mr. CAMPBELL in the chair.

The CHAIRMAN. The House is now in Committee of the Whole House for the consideration of bills on the Private Calendar under special order. The Clerk will report the first bill.

ILLINOIS CENTRAL RAILROAD COMPANY.

The Clerk read the bill, as follows:

A bill (H. R. 11664) to reimburse the Illinois Central Railroad Company for damage to union depot at Louisville, Ky., by blasting in the Ohio River.

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to the Illinois Central Railroad Company, out of any money in the Treasury not otherwise appropriated, the sum of \$60.82 for reimbursement of damages to the roof of the union depot and train shed at Seventh and River streets, Louisville, Ky., by blasting operations conducted by the Government in connection with the improvement of the Ohio River.

Mr. PAYNE. I would like to ask the gentleman from Illinois, the chairman of the committee, a question. I understand this bill calls for an appropriation of \$60. Why is this enormous sum asked of the United States by a great and rich corporation?

Mr. GRAFF. Because there is no other way to obtain it. [Laughter.] The parties are entitled to it; it is recommended by the Department because the damage was caused by the United States; because the railroad company suffered the loss or damage, and because the amount has been ascertained and because there is no question about the claim.

Mr. PAYNE. The gentleman states that the United States caused this great damage?

Mr. GRAFF. Yes.

Mr. PAYNE. And the gentleman has no doubt that the amount is not excessive? [Laughter.]

Mr. GRAFF. No, sir.

The bill was laid aside to be reported to the House with a favorable recommendation.

ADOLPH SPIEGEL.

The next business on the Private Calendar was the bill (H. R. 11802) for the relief of Adolph Spiegel, as the successor of the firm of Spiegel, Finkelstein & Co.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Adolph Spiegel, as the successor of the firm of Spiegel, Finkelstein & Co., the sum of \$530.08, out of any money in the United States Treasury not otherwise appropriated, to refund duties erroneously assessed and charged on merchandise shipped from New York to Porto Rico to the firm of Spiegel, Finkelstein & Co. after April 11, 1899.

Mr. GOLDFOGLE. Mr. Chairman, the firm of Spiegel, Finkelstein & Co., shipping merchants, shipped goods from New York to Porto Rico from time to time, and upon that shipment paid \$530.08 as customs duty collected by the Government. At the time that these goods were shipped the goods were not dutiable, and it is conceded by the Treasury Department that the moneys were improperly collected. The money was paid into the Treasury, and there it is withheld from one of our citizens. The recommendation of the Treasury Department appears on the second page of the report of the Committee on Claims. The receipts for the money are likewise embodied in the report of the committee. I move that the bill be laid aside with a favorable recommendation.

Mr. PAYNE. Mr. Chairman, I would like to ask a question. I believe there was a general law passed for the relief of this class of claimants?

Mr. GOLDFOGLE. That I do not know. The Treasury Department recommends the passage of this special act. The fact is the Government holds this money, and there is no question but that the Government ought to repay to its citizens money improperly collected.

Mr. PAYNE. Of course, Mr. Chairman, these duties were paid under the impression that the Government and the Treasury Department then had—that they were assessable under the Dingley law.

Mr. GOLDFOGLE. Certainly.

Mr. PAYNE. And the Supreme Court of the United States afterwards held that they were not assessable under that act, and that no duties could be collected until Congress took action on the subject.

Mr. GOLDFOGLE. Yes.

Mr. PAYNE. And that is the reason this claim comes here. Now, my recollection is that we passed a general statute for the refunding of these duties. Of course, if the gentleman has a certificate of the Treasury Department that these people have not had relief under that general act, there is no reason why they should not get the relief now. I presume that the reason is that the time elapsed before they presented their claims to the Treasury Department, and for that reason they did not get in under the general blanket decision?

Mr. GOLDFOGLE. Yes. I appreciate the gentleman's frankness and fairness.

The CHAIRMAN. The question is on the committee amendment.

The question was taken, and the amendment was agreed to.

The bill was ordered to be laid aside with a favorable recommendation.

NOAH DILLARD.

The next business on the Private Calendar was the bill (H. R. 3109) for the relief of Noah Dillard.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury of the United States of America be, and he is hereby, authorized and directed to pay to Noah Dillard, one-half out of any moneys not otherwise appropriated and one-half out of the revenues of the District of Columbia, the sum of \$303.12, or so much thereof as may be found due him, for labor performed and material furnished under contracts dated July, 1872, and August 7, 1873, and entered into by the board of public works of the District of Columbia and Noah Dillard and Parker Moulton, contractors, which contracts were numbered, respectively, No. 388 and No. 821, and now on file in the office of the Commissioners of the District of Columbia, together with all extensions and assignments of said contracts known and of record as aforesaid, numbered 388 and 821: *Provided*, That the acceptance by the claimant of the amount herein appropriated shall be taken and considered as a full discharge and acquittance of the District of Columbia of all and every obligation of whatsoever character under and on account of contracts numbered 388 and 821 as aforesaid, and every extension of the same.

Mr. PAYNE. Mr. Chairman, I did not quite catch the name of this claimant, but the language of the bill reminds me somewhat of an old friend we had in the House six or eight years ago. At that time the House rejected the claim. I don't know whether this is the same bill or not, but I shall have to ask for the reading of the report in my time in this case, so that the House can see whether this is the same.

Mr. GRAFF. Mr. Chairman, I think I can save the time of

the committee, if the gentleman will permit me to read the official letter pertaining to the subject, which is as follows:

OFFICE OF THE AUDITOR OF THE DISTRICT OF COLUMBIA,
Washington, February 13, 1902.

GENTLEMEN: I have the honor to submit the following report on bill H. R. 3728, Fifty-seventh Congress, first session, for the relief of Noah Dillard:

The records show that on August 17, 1873, the board of public works entered into contract, No. 821, with George W. Goodall, in part, for the construction of a 12-inch pipe sewer in square No. 624. Afterwards, under date of January 15, 1875, the contract aforesaid was assigned by George W. Goodall to Noah Dillard on condition that the latter comply "with all requirements as may be ordered by Lieut. R. L. Hoxie, engineer of the District of Columbia."

When the work under this contract was completed, July 20, 1875, certificates exchangeable for 3.65 bonds were duly issued in payment by the board of audit which, under the act of June 20, 1874, was charged with the settlement of all outstanding obligations of the board of public works at the time of its dissolution.

In the final adjustment of the accounts under contract 821, in square 624, on July 20, 1875, a retention amounting to \$144.93, which had been withheld as a temporary guaranty fund, was omitted, and a recent examination of the records fails to show any subsequent payment of the amount thus retained. I am therefore of opinion that the amount claimed by Mr. Dillard should be allowed; provided, however, that it be accepted by him as a full acquittance of all and every obligation of whatsoever character on the part of the District of Columbia under contract 821 and any extension of the same.

With this proviso, I have the honor to suggest that the bill hereinbefore mentioned be returned with a recommendation for favorable action thereon by Congress.

Very respectfully,

J. T. PETTY,
Auditor District of Columbia.

The COMMISSIONERS OF THE DISTRICT OF COLUMBIA.

I will state that the claimant is an old colored man, who came into the committee frequently, and finally Mr. Petty, the auditor, told me that this amount was upon the books, that the old man did not have anybody whom he could interest in the claim, and that it was clearly due him and ought to be passed. So Mr. HENRY, the gentleman from Connecticut, introduced the bill.

Mr. PAYNE. It has never been paid to the original contractor?

Mr. GRAFF. Oh, no.

Mr. PAYNE. Mr. Chairman, that is a different case from the one I had in mind.

Mr. GRAFF. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The question was taken; and the bill was ordered to be laid aside with a favorable recommendation.

A. M. SHORT.

The next business on the Private Calendar was the bill (S. 3199) for the relief of A. M. Short.

The bill was read, as follows:

Be it enacted, etc., That there be, and is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of \$100; and the Secretary of the Treasury is hereby authorized and directed to pay to A. M. Short, of Stillwater, Minn., the said sum of \$100.

Mr. PAYNE. Mr. Chairman, I would like to have some explanation of the reason for the payment of \$100 to Mr. Short.

Mr. STEVENS of Minnesota. Mr. Chairman, I can explain the matter. As I remember it, Mr. Short is the owner of a steam vessel plying on the Mississippi and St. Croix rivers. For some reason he was fined \$100 for some violation of the rules of the Steamboat-Inspection Service. Subsequently it was found that there was an error, and the Department recommended that the fine be remitted, but it was found that it could not be done for some reason. I have not read the report since last spring, and I do not now recall what that reason was. In any event, the Steamboat-Inspection Service found there was an error. They recommended that this fine be remitted, and this bill remits the fine and pays him back what he paid. That is the substance of it. The bill is favorably recommended by the Department and by the committee, and has already passed the Senate.

Mr. GRAFF. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The question was taken; and the bill was ordered to be laid aside with a favorable recommendation.

DAVID V. HOWELL.

The next business on the Private Calendar was the bill (H. R. 3619) for the relief of David V. Howell.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and empowered to return and repay to David V. Howell, of Monroe, Orange County, N. Y., the sum of \$1,742, being a part of the penalties assessed against the said David V. Howell for his alleged failure to complete in time certain contracts for work done at Bridgeport Harbor, Connecticut, light-house; Plum Island, New York, light-house, and at Point Comfort, New Jersey, light station; and that said sum of \$1,742 is hereby appropriated out of any other fund or funds in the Treasury not otherwise appropriated.

Mr. GOLDFOGLE. Mr. Chairman, this bill was introduced at the suggestion of the Secretary of the Treasury in the second session of the Fifty-sixth Congress. The Secretary of the

Treasury then recommended the passage of the bill. I send to the Clerk's desk the letter of the Secretary and ask that it be read.

Mr. HEPBURN. Mr. Chairman, I will ask that the whole report be read.

Mr. GOLDFOGLE. I have no objection.

The CHAIRMAN. The Clerk will read the report.

The Clerk read as follows:

The Committee on Claims, having had under consideration the bill (H. R. 3619) for the relief of David V. Howell, beg leave to report the bill favorably, without amendment, to the House with the recommendation that it do pass.

The report of the Committee on Claims in the same case, in the Fifty-seventh Congress, is made a part of this report, as follows:

"The Committee on Claims, to whom was referred the bill (H. R. 4233) for the relief of David V. Howell, beg leave to submit the following report and recommend that said bill do pass without amendment.

"As the present bill has been introduced in accordance with the language recommended by the Secretary of the Treasury, in the second session of the Fifty-sixth Congress, we append the report made on that bill and make it a part of this report.

[House Report No. 2356, Fifty-sixth Congress, second session.]

"The Committee on Claims, to whom was referred the bill (H. R. 6032) for the relief of David V. Howell, submit the following report and recommend that the bill do pass with the following amendment:

"Strike out all after the enacting clause and insert the following:

"That the Secretary of the Treasury be, and hereby is, authorized and empowered to pay David V. Howell, of Monroe, Orange County, N. Y., the sum of \$1,742, in full satisfaction of all claims of the said David V. Howell arising out of the contracts for work done at Bridgeport Harbor, Connecticut, light-house; Plum Island, New York, light-house, and Point Comfort, New Jersey, light station; and that said sum of \$1,742 is hereby appropriated out of any other fund or funds in the Treasury not otherwise appropriated."

"Mr. Howell's claim against the Government was for \$2,392, growing out of certain contracts for the building of walls, wharves, ripraps, and stone jetties at Point Comfort light station, New Jersey, and Bridgeport Harbor light-house, Connecticut, and landing wharf at Plum Island light-house, New York. The claim is for extra work and materials concededly ordered by the Treasury Department, and supplied and performed by Mr. Howell, and for demurrage charged against the contractor for delays which were the result of severe and unusual weather and unusual high seas which interfered with the work, while he, with his men, materials, and appliances, were ready to work.

"All of the work contracted for was well performed and properly done, to the satisfaction of the Government.

"The bill was introduced at the suggestion of the Secretary, because there was no appropriation available for the purpose of paying the claim.

"Your committee communicated with the Secretary of the Treasury in respect to the matter, and received in reply the following communication:

"TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,

"Washington, March 30, 1900.

"Sir: This Department has the honor to acknowledge the receipt of a letter from your committee, dated March 29, 1900, inclosing a copy of the bill (H. R. 6032) for the relief of David V. Howell, and requesting the facts and information relative to the matter and an opinion as to the merits and justice of the claim.

"The claim of Mr. Howell arises out of certain contracts made between himself and the Light-House Board, and the Board, to which the matter was referred, reports that all claims of Mr. Howell on account of work done under his several contracts with the Board have been very carefully considered at various times at regular meetings of the Board, with the result that the sum of \$1,742 has been found by the Board to be equitably due Mr. Howell on account of these claims, but that no appropriation is available for payment.

"It is the opinion of the Light-House Board, in which the Department concurs, that the bill (H. R. 6032) should be amended as follows: Strike out all after the enacting clause and insert the following:

"That the Secretary of the Treasury be, and hereby is, authorized and empowered to pay David V. Howell, of Monroe, Orange County, N. Y., the sum of \$1,742, in full satisfaction of all claims of the said David V. Howell arising out of the contracts for work done at Bridgeport Harbor, Connecticut, light-house; Plum Island, New York, light-house, and Point Comfort, New Jersey, light station; and that said sum of \$1,742 is hereby appropriated out of any other fund or funds in the Treasury not otherwise appropriated.

"Respectfully,

"L. J. GAGE, Secretary.

"The CHAIRMAN OF THE COMMITTEE ON CLAIMS,

"House of Representatives.

"Your committee consider the claim a just and equitable one, and recommend that the bill as amended be passed."

Mr. HEPBURN. Mr. Chairman, I would like to have some explanation about this. In what does this equitable claim arise?

Mr. GOLDFOGLE. It is not only an equitable claim, but it is assuredly a legal claim. Howell, the claimant, rendered the service upon the request of the Government authorities. It seems that the work that he performed and materials that he furnished were furnished and performed upon the express request of those in charge of the work for the Government. The Treasury officials, after having examined the work, found the bills rendered to be correct, approved the work, and recommended payment. For want of appropriation, of course, the claim comes here.

Mr. PERKINS. Mr. Chairman, will the gentleman allow me a question?

The CHAIRMAN. Will the gentleman from New York allow his colleague a question?

Mr. GOLDFOGLE. Certainly.

Mr. PERKINS. What authority had these light-house officials to order work in excess of the appropriation?

Mr. GOLDFOGLE. It was absolutely necessary, so says the claimant.

Mr. PERKINS. I have no doubt he does.

Mr. GOLDFOGLE. But it was absolutely necessary that this work should be properly performed, that this extra service not included in the contract should be rendered, else the work would be valueless to the Government. They had to finish the work and put the light-house in proper condition; they had to put these ripraps in proper condition.

Mr. PERKINS. If an appropriation is not sufficient for any Government work an additional appropriation is made by Congress.

Mr. GOLDFOGLE. Not if it was necessary to complete a work such as this. Not if the work was absolutely required for the efficient service. You could not delay this work, you could not delay the completion of the light-house, you could not delay the completion of the ripraps and wait until Congress met and a bill was passed through here.

Mr. PERKINS. The gentleman might just as well say if they were building a court-house and it was necessary to spend \$100,000 in excess of the appropriation that some Government official could give an order for work to be done in excess of the appropriation.

Mr. GOLDFOGLE. No, sir; building a court-house and building a light-house are two different things.

Mr. PERKINS. What is the difference?

Mr. GOLDFOGLE. You may delay the building of a court-house and the Government suffer no injury; court might be held anywhere; but if you delay the completion of a light-house that is absolutely necessary for the safety of those who sail upon the waters where danger may well be apprehended—

Mr. PERKINS. What have they done all these years when they did not have this light-house for a century or more?

Mr. GOLDFOGLE. They took risks that ought not to have been taken by the Government.

Mr. PALMER. This report says it is on account of unusual weather.

Mr. GRAFF. I can not see how there can be any serious objection to this claim for this reason. Everybody knows, at least it is my experience, the Departments are not unduly liberal about recommending the payment of claims, that come from my committee at least, and they always make known any valid objections that there might be to the payment of a claim. This recommendation is unusual in the fact that the Department itself, in reply to our inquiry as to the merits of the bill, a copy of which was sent them, sent back a proposed form of bill reducing the amount to the exact amount that the Department finds is due to the claimant and recommended unconditionally that it be paid. They say that the Government has received this extra work—it was for extra work and material—that the matter has been carefully examined, and then they recommend a change in the bill and the changes are made. The Government has had the advantage of the work and material, and this man was out for it.

Mr. PERKINS. But will the gentleman allow a question? I do not quite understand the facts as the gentleman has stated them. It says here the charge is for extra work and material.

Mr. GRAFF. Yes.

Mr. PERKINS. That is one of the items, the amount of which is not stated. Then comes the other item for demurrage lodged against the contractor for delays caused as the result of severe and unusual weather. What is there about that?

Mr. GRAFF. The demurrage is the amounts deducted from the contract price for delays in completion. Undoubtedly the Light-House Board which passed on those demurrage deductions is the same Board which, upon a reexamination, prompted the recommendations now made by the letter of the Secretary of the Treasury, written in 1902, and incorporated in the report.

Mr. PERKINS. Was this demurrage charged against him?

Mr. GRAFF. The Light-House Board is under the direction of the Secretary of the Treasury, and this letter undoubtedly was formulated and probably written in the Light-House Board itself and afterwards signed by the Secretary of the Treasury.

Mr. PERKINS. How much demurrage was charged against him?

Mr. GRAFF. I can not give the gentleman the amount; I can only give the facts stated here.

Mr. PERKINS (to Mr. GOLDFOGLE). Can you state how much it was?

Mr. GOLDFOGLE. I can not. This bill was introduced by the gentleman from New York [Mr. BRADLEY] and examined by us in the Committee on Claims.

Mr. BRADLEY. Mr. Chairman, David V. Howell is an old gentleman, about 83 years of age, who fifteen years ago built for the United States some three light-houses on the Atlantic coast. By reason of extraordinary weather and fierce storms he suffered great loss. At the conclusion of the work a considerable amount—thousands of dollars—were deducted for demurrage and delay. A bill was introduced in the House of Representatives some ten years ago asking for something between six and seven thousand dollars. It lingered along without action and was finally referred to the Treasury Department, and the recommendation of the Light-House Board was sent back to the Committee on Claims. The bill for the original sum was withdrawn and a bill introduced for exactly the amount that the Light-House Board—the representatives of the Government—say is owing to this old man. I do not appeal to this House for sympathy, but I merely state that if this little claim, which in my opinion is a just and honest and an equitable one, could have been paid at the last session of Congress this old man would have been enabled to save the old homestead in which he was born.

Mr. MADDOX. I want to ask the chairman of the committee a question, so that we may understand this proposition.

Mr. GRAFF. Very well.

Mr. MADDOX. This appropriation is to pay a debt that was created by order of the Light-House Board?

Mr. GRAFF. Yes.

Mr. MADDOX. Without any authority from Congress?

Mr. GRAFF. No.

Mr. MADDOX. That is what I want to find out.

Mr. GRAFF. I can not give the general bill of particulars which make up the \$1,700. It is partially for extra work and demurrage. I am just informed by the gentleman who introduced this bill that there was, some ten years ago, a bill introduced for \$6,000, and it was not acted upon. Some four years ago a bill was introduced and, in the usual order of things, we referred it to the Secretary of the Treasury, because that Department had the Light-House Board under it, and in reply to the inquiry that we made as to the merits of the bill we got this letter which is incorporated in the report.

Mr. MADDOX. I simply want to make this suggestion. This claim, which may be an equitable one, certainly is not a legal one. Now, as I understand, there is a large amount of work going on connected with the construction of locks and dams, and work which has already been done is going to destruction, and yet the officers in charge dare not spend a dollar until authorized to do so. Now, if we permit officers to incur these debts without being authorized, it looks to me that it is a bad precedent that we are about to set.

Mr. GRAFF. I think the gentleman is laboring under a misapprehension. The item in the bill that makes up most of the \$1,700 is for demurrage, which was unjustly held against the contractor at the time of the execution of the work.

Mr. MADDOX. Does this give that amount?

Mr. GRAFF. That was stated by the gentleman who introduced the bill a few minutes ago. This question of taxing this demurrage against the claimant was undoubtedly taken up by the Light-House Board when our letter was addressed to the Secretary of the Treasury, and this letter, which comes to us in reply and is incorporated in the report, emanates from the same Board, in which they concluded that they would not allow him the amount which he claimed, but they find the sum of \$1,700 is justly due. Of course, they could not take from an appropriation on a reexamination and readjustment of the case several years afterwards. They could not use legally the general appropriation for the purpose of paying a claim of that sort. I want to say to the gentleman from Georgia [Mr. MADDOX] that never in my experience has the Department shown any disposition to conceal any fact against any claimant. We write letters to the Department for the purpose of finding out whether there are any reasons for not allowing a claim.

Mr. MADDOX. I trust you did not understand me as suggesting anything of that sort.

Mr. GRAFF. How is that?

Mr. MADDOX. I did not suggest anything of that sort.

Mr. GRAFF. I want to suggest to the gentleman what I believe ought to be the force placed upon a recommendation of this character. The Light-House Board has all of the facilities for examining into the merits of this matter.

Mr. MADDOX. I admit all that. However, getting down to the gist of the matter, my point is this: I understand that these people had gone forward and contracted this indebtedness without the authority of the law.

Mr. GRAFF. That is not true. The gentleman from New York [Mr. BRADLEY] advises me it was made by demurrage.

Mr. CLARK. I would like to ask a question in relation to this damage business. Is this claim to recompense this man for money which he did not make or for the money he thought he was going to make?

Mr. GRAFF. No, sir; they simply deducted from the amount that was due him for the actual work that was done under the provisions of the contract. They were penalties for alleged delay in the work, which they found afterwards was due to stress of weather and things of that kind which surround the work of that nature in building light-houses. I am informed by the gentleman who introduced the bill, and who has just spoken, that this man lost his home last year and that he is a poor man. He had built three of these light-houses some ten years ago. The amounts fixed by the Light-House Board in making these arbitrary deductions under the head of demurrage for alleged delay, is not, of course, the amount he received. He did not obtain an extra amount, but it was a deduction of the regular amount.

Mr. CLARK. Then this contract provided that if he did not finish up this work by a certain day he could be fined a specified amount each day. That is the plain English of it, is it not?

Mr. GRAFF. That is the idea of it.

Mr. CLARK. And he did not do it?

Mr. GRAFF. Of course the question comes, as you will readily infer, as to whether it was his fault or not; whether it was possible for him to carry the contract out or not; that is all.

Mr. CLARK. There is a part of this money intended to pay some of his accounts because he made bad contracts?

Mr. GRAFF. It is simply to pay him that which they withheld from him on the contract.

Mr. CLARK. It is not like the Smithmeyer case, then?

Mr. BRADLEY. The claim for damage and delay, amounting to something between \$6,000 and \$7,000, is entirely abandoned. This bill simply asks for what the Light-House Board says this man is entitled to for extra work beyond his contract, and by the order of the Light-House Board in the name of the Government. There were extraordinary storms that changed the situation and which made this work necessary, and it was absolutely desirable that it be done quickly.

Mr. CLARK. I would like to ask the gentleman from New York [Mr. BRADLEY] a question. You put this claim on an entirely different ground from that upon which the chairman of the committee based it. Which is right?

Mr. BRADLEY. I am right.

Mr. CLARK. When doctors disagree, how do the laymen come out?

Mr. BRADLEY. I want to say to the gentleman from Missouri [Mr. CLARK] that the chairman of the Committee on Claims and the gentleman from New York do not disagree on the merits of this claim.

Mr. CLARK. I know you agree on the essential fact that he ought to get the money, but you put it on different grounds.

Mr. GRAFF. Well, I will say to the gentleman that the fact is that it was made up of several items, demurrage and extra work; but he had \$6,000 deducted as demurrage, and that is three times as much as this appropriation is.

Mr. CLARK. Has it been the custom to modify these contracts by what is called the act of God, or not?

Mr. GRAFF. Well, I do not know what the gentleman means.

Mr. CLARK. I mean bad weather, or earthquakes, or anything of that sort.

Mr. GRAFF. Usually. I have seen some of the contracts in examining claims before this, and they always have a provision covering cases where the delay occurs without the fault of the contractor. Of course, then it becomes a matter of evidence.

Mr. CLARK. Have you the report there in your hand?

Mr. GRAFF. Yes.

Mr. CLARK. I wish you would read it.

Mr. GRAFF. I have already read it, and I will say to the gentleman from Missouri that I really wish he would waste time on some other bill that is less meritorious.

Mr. CLARK. I am not certain that there is any merit in this one.

Mr. HEPBURN. Will the gentleman from Illinois yield to me for a moment?

Mr. GRAFF. I will.

Mr. HEPBURN. It seems to me that this claim is remarkable, looking at it from one point of view, namely, it is remarkable for the things that seem not to be known. The chairman of the committee [Mr. GRAFF] a little while ago said that he did not know how much of this aggregate of \$1,746 was for demurrage, and how much was for extra material, etc.

Mr. GRAFF. That is a fact.

Mr. HEPBURN. So he seems not to know about the facts.

Mr. GRAFF. I do not say I do not know generally about the facts.

Mr. HEPBURN. Now, the gentleman from New York [Mr. GOLDFOGLE] does not seem to know about the law, for he repudiates the idea suggested by his colleague [Mr. BRADLEY] that this is entirely or largely a claim of sentiment, resting on the fact that the old gentleman has been dispossessed of his home. He refuses to believe that it is an equitable claim, but he says that it is a legal claim against the United States. I think he is mistaken about the law.

Mr. GOLDFOGLE. Will the gentleman yield for a moment? I am afraid the gentleman misunderstood me when I had the floor. I meant to say this—

Mr. HEPBURN. Oh, well, now, I am not going to be limited by what the gentleman meant to say.

Mr. GOLDFOGLE. Well, I did say in substance that if the Treasury Department changed the plans or specifications, and directed certain work to be done, and certain materials to be furnished that were not called for in the original contract, and if such materials were furnished and such work was done by the claimant, then the claimant had a claim against the Government; especially, too, if it was necessary in consequence of stress of weather and unusual storms to proceed diligently with that work.

Mr. HEPBURN. Mr. Chairman, in the absence of information as to the facts in regard to this claim, I am not prepared to admit the last statement of the gentleman from New York [Mr. GOLDFOGLE]. I understand the situation to be about this: This man made a contract with the Government to do certain things, to complete work to be affected naturally and probably by weather conditions. The report says that because of storms he was compelled to go to additional expense, as contemplated by him. I assume under these statements of fact that some portion of the work during its progress was washed away, perhaps destroyed, and that additional materials were necessary in order that he might complete that work, and additional labor had to be performed, contingencies that ought to have been and probably were covered by his contract and the bid that he made. Now he comes to the Government and asks to recoup from the Government because of these losses, because he did not put his figures sufficiently high. Of course he had to complete his contract. Of course these additional materials he was required by the board to furnish; but does that create a legal obligation on the part of the Government to pay for that? I understand these matters are always taken into consideration when contracts are let and when bids are made. I think that this is the suggestion of a new principle, and that hereafter, whenever a man finds that he has made a bid which he discovers is too low, and that there are expenses which he has not contemplated, he can come to Congress and ask for the reformation of his contract and for the payment to him of an exaggerated sum.

Mr. GOLDFOGLE. That is not this case.

Mr. HEPBURN. If this is to be adopted as a rule, I am not quarreling with the equities of it. I am not responding to the sympathy-moving suggestion of the gentleman from New York [Mr. BRADLEY].

But if there is to be a new departure of this kind it is wise to have it advertised generally, because there may be other men who have been unfortunate in the contracts they have made for which work can be accomplished, or who have been guided too much by the Weather Bureau. I would like to know if the Government is to make good hereafter the prognostications of the Weather Bureau in its contracts.

Mr. GRAFF. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

Mr. MADDOX. Before that question is taken, Mr. Chairman, I want to ask the gentleman a question. Is the bill put in here for demurrage or for work done?

Mr. GOLDFOGLE. It is for both.

Mr. GRAFF. Both. I do not want to intimate that so distinguished gentlemen as the gentlemen here would waste the valuable time of the United States by trifling over so insignificant a measure that has been submitted in the usual form to the Department; the Department who decides and states in the letter that this man is justly entitled to a return of a portion of the \$7,000 which they withheld from him on a contract for alleged delays, having concluded that not the whole \$7,000 which was withheld from him under that contract ought to have been withheld, and which under this contract he would have been entitled to entirely, if it had not been for the alleged delay, and that he is entitled to the pitiful sum of \$1,700 out of the \$7,000.

Mr. PAYNE. May I ask the gentleman a question?

Mr. GRAFF. Certainly.

Mr. PAYNE. I see that the report says that Mr. Howell's claim against the Government was \$2,392, growing out of cer-

tain contracts for building the walls, wharves, ripraps, stone jetties, and so forth. The claim is "for extra work and material concededly ordered by the Treasury Department and supplied and performed by Mr. Howell, and for demurrage charged against the contractor for delays which were the result of severe and unusual weather and unusual high seas which interfered with the work, while he, with his men, materials, and appliances were ready to work."

Now, this was the whole sum of \$2,392. The committee recommends the payment of \$1,742. I want to ask if this reduction was made on account of demurrage, or on account of extra work, or on account of what?

Mr. GRAFF. It was made on account of an examination and conclusions by the Department.

Mr. PAYNE. That does not answer the question. The gentleman from New York [Mr. BRADLEY] says it was on account of demurrage.

Mr. GOLDFOGLE. Will the gentleman from New York read the second paragraph of the letter from the Secretary of the Treasury, which states it more clearly than I can?

Mr. PAYNE. I was not reading from the letter then, and I do not know what the gentleman refers to. However, I will read the paragraph the gentleman refers to:

The claim of Mr. Howell arises out of certain contracts made between himself and the Light-House Board, and the Board, to which the matter was referred, reports that all claims of Mr. Howell on account of work done under his several contracts with the Board have been very carefully considered at various times at regular meetings of the Board, with the result that the sum of \$1,742 has been found by the Board to be equitably due Mr. Howell on account of these claims, but that no appropriation is available for payment.

That would seem to bear out the statement made by my colleague, Mr. BRADLEY, and against the statement of the chairman of the committee, who perhaps had overlooked the statement in the letter of the Secretary of the Treasury.

Mr. HEPBURN. Mr. Chairman, it is important for another matter that the committee themselves base this claim entirely on equitable grounds. They disagree with the gentleman who made the report, who insists that it is a legal obligation on the part of the Government.

Mr. CLARK. Mr. Chairman, it is hard to tell on which of three grounds this claim arises, whether it is for demurrage or for extra work or whatever it is, or because the claimant did not make what he thought he was going to make. Now, if it is for demurrage, then somebody ought to explain what the contract was. If the contract provided against bad weather, etc., then he is undoubtedly entitled to anything that he can show by way of demurrage. If the proper authorities ordered extra work and stuff to be used, then he is entitled to that. But if it is the case where he did not make something when he thought he was going to make something and simply wants to recoup, then I am opposed to it or any other bill like it, and it ought not to be allowed to pass here. Because there is nobody else on the face of the earth that I ever heard of except the United States Government that was supposed by anybody that had any sense to be responsible where the contractor loses a contract that he has underbid.

Mr. GOLDFOGLE. The gentleman does not understand.

Mr. CLARK. If we ever enter on that line of conduct once, then you simply make an insurance company out of the United States Government every time a fellow takes a contract. There is no end to it—no bottom to it.

Mr. GRAFF. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The CHAIRMAN. The question is on the motion of the gentleman from Illinois.

The question was taken; and on a division (demanded by Mr. JAMES) there were—ayes 58, noes 7.

So the bill was ordered to be laid aside with a favorable recommendation.

The CHAIRMAN. The Clerk will report the next bill.

HANS PETER GUTTORMSEN.

The next business on the Private Calendar was House resolution No. 20, which the Clerk read, as follows:

Resolved, That the bill (H. R. 2053) entitled "A bill for the relief of Hans Peter Guttormsen," now pending in the House of Representatives, together with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims, in pursuance of the provisions of an act entitled "An act to provide for the bringing of suits against the Government of the United States," approved March 3, 1887; and the said court shall proceed with the same in accordance with the provisions of such act, and report to the House of Representatives in accordance therewith.

Mr. PAYNE. Mr. Chairman, I would like to have some explanation in respect to this.

Mr. GRAFF. Mr. Chairman, I yield to the gentleman from Wisconsin [Mr. COOPER], who introduced the bill.

Mr. COOPER of Wisconsin. Mr. Chairman, this is a resolu-

tion referring the bill (H. R. 2053) for the relief of Hans Peter Guttormsen to the Court of Claims for report. Hans Peter Guttormsen was for many years in the employ of the War Department as a laborer. He was employed at one time on a break-water of the Mississippi River near Moline, Ill. He was directed, in company with another laborer, to carry some heavy planks across a scaffolding about 40 feet from the ground. The scaffolding was made of defective material. It broke and precipitated him quite a distance below and he struck upon the edge of a mortar box, breaking five ribs, breaking his left leg in three places, and severely bruising his head, tearing the flesh on his face, and rendering him unconscious. He was in bed the better part of a year thereafter and has been a cripple ever since. He is to-day practically incapable of manual labor. He is a poor man. This resolution refers the bill, which proposes to give him \$5,000 for the injuries, to the Court of Claims, which court is to proceed in accordance with the provisions of the act entitled "An act to provide for the bringing of suits against the Government of the United States," approved March 3, 1887. I know Mr. Guttormsen well. He is a temperate, thoroughly honest, well-meaning man, and up to and at the time of this injury was a hard-working laborer. The claim is a just one, and I hope the resolution will be laid aside with a favorable recommendation.

Mr. DALZELL. Mr. Chairman, as I understand it, this is a claim for damages arising out of negligence.

Mr. COOPER of Wisconsin. Yes.

Mr. DALZELL. I ask for information. Has the Court of Claims jurisdiction in such a case?

Mr. COOPER of Wisconsin. I think it has, and the Committee on Claims, after investigation, finds that it has.

Mr. PERKINS. Does this resolution send it to the Court of Claims to pass upon the question of liability?

Mr. GRAFF. No; this resolution sends it to the Court of Claims, as I understand it, for the purpose of making findings of facts and reporting the same to Congress. Then Congress will take such action as it sees fit in the premises, after the facts have been ascertained by the court.

Mr. DALZELL. The gentleman is satisfied that the court has jurisdiction in such a case?

Mr. GRAFF. I think so.

Mr. HEPBURN. Would there be any objection to enlarging the power of the court and require it to report upon the question of the legal liability of the United States?

Mr. GRAFF. Well, the gentleman from Iowa [Mr. HEPBURN] is a very able lawyer, and he knows that the United States could not be sued in a personal-injury case unless there was special authority by law, because there is no general law permitting it.

Mr. HEPBURN. Well, suppose that suit might be brought, would the United States be liable, in the opinion of the gentleman, in a case like this, as he understands it?

Mr. GRAFF. I will ask the gentleman from Wisconsin [Mr. COOPER] to answer that.

Mr. HEPBURN. But I would like to have the opinion of the chairman of the committee.

Mr. GRAFF. Of course the question before us was not upon the question presented by the gentleman from Iowa [Mr. HEPBURN], but upon the question of whether the committee was willing to pass the resolution as introduced, and we could not see any objection to it, but could see a great many reasons why we should refer the case to the Court of Claims and have that court ascertain what the facts were, when the committee would be advised of the fact coming from a judicial inquiry. I have no objection to the bill being amended so as to include a request that the court find whether the United States would be liable if the United States stood in the place of a person or an ordinary corporation.

Mr. COOPER of Wisconsin. Mr. Chairman, I am willing to consent to that amendment.

Mr. GRAFF. If the gentleman from Iowa [Mr. HEPBURN] will propose an amendment of that kind, we will accept it.

Mr. HEPBURN. That would be to the bill, which is not here.

Mr. GRAFF. I think you can make the amendment to the resolution.

Mr. MADDIX. Is it not true that in the Ford's Theater case the House established a precedent by which it proposed to pay for the injuries done on that occasion, and we did so and tried those cases here by a commission established by Congress?

Mr. GRAFF. Yes; that is true in that case.

Mr. HEPBURN. Mr. Chairman, I would like to move to strike out the words "in accordance therewith" and insert "and report to the House of Representatives their findings of fact and law."

The CHAIRMAN. The question is upon the amendment of the gentleman from Iowa.

The question was taken; and the amendment was agreed to.

Mr. COOPER of Wisconsin. Mr. Chairman, I move that the resolution as amended be laid aside with a favorable recommendation.

The motion was agreed to.

The CHAIRMAN. The Clerk will report the next bill.

J. B. McRAE.

The Clerk read as follows:

A bill (H. R. 6351) to pay J. B. McRae \$99, for services as hospital steward, etc.

Be it enacted, etc., That the Treasurer of the United States is hereby authorized and directed to pay, out of any funds in the United States Treasury not otherwise appropriated, the sum of \$99 to J. B. McRae, of Jackson, N. C., for services rendered as hospital steward of the Second Regiment North Carolina Volunteers, from June 6, 1898, to July 31, 1898, in full satisfaction for services rendered.

Mr. PAYNE. Mr. Chairman, I hope we will have an explanation of this bill.

Mr. CLAUDE KITCHIN. Mr. Chairman, this is to pay J. B. McRae, who was appointed by the colonel of a volunteer regiment in the late war with Spain as hospital steward. He served two months, paid his traveling expenses, paid for his clothes, and when they went to go to Cuba it was decided he was too old, and he has never been paid anything for it. The affidavit and all proofs, from the colonel of the regiment down, are on file. I move that the bill be laid aside with a favorable recommendation.

The CHAIRMAN. The question is upon laying the bill aside with a favorable recommendation.

The motion was agreed to.

The CHAIRMAN. The Clerk will report the next bill.

CHARLES BLAKE.

The Clerk read as follows:

An act (S. 1753) for the relief of Pay Clerk Charles Blake, United States Navy.

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, directed to pay, out of any money in the Treasury not otherwise appropriated, to Charles Blake, pay clerk, United States Navy, the sum of \$700, said sum to be a payment in full of all losses of personal property incurred by him by reason of the destruction by fire of the Windsor House, at Yokohama, Japan, on the morning of February 8, 1886.

Mr. PAYNE. Mr. Speaker, I would like to hear the report of that case.

Mr. GRAFF. The gentleman from Pennsylvania will make an explanation—

Mr. BUTLER of Pennsylvania. Does the gentleman yield to me?

The CHAIRMAN. The gentleman from Pennsylvania is recognized.

Mr. BUTLER of Pennsylvania. The gentleman from New York yielded to me. I asked permission of the chairman of the committee to speak on the pending bill. Blake was a paymaster's clerk in the Navy and is still a paymaster's clerk in the Navy. He was assigned to duty with Paymaster Tolfree several years ago—as I recollect the testimony it was in 1886—to serve on the Asiatic Squadron. He was assigned to duty on a ship, I think the *Trenton*. Be it as it may, it was one of the American ships of war. He arrived at Yokohama with Paymaster Tolfree, and the officer in charge of the ship was unable to give to the paymaster and his clerk the accommodation that they should have on the ship. Indeed, the captain of the ship was unable to give the paymaster and his clerk any accommodation. That fact appeared satisfactorily proven to the Committee on Claims. They then took up their temporary residence in a hotel at Yokohama close by where the ship was lying; no other accommodation could be found and no other was afforded them. While they were living temporarily in this hotel a fire occurred which burned up all the property of the paymaster and his clerk Blake, whose bill is now presented for your consideration. It appeared to the Navy Department, and was reported to the Committee on Claims, that there had been no negligence whatever in either the paymaster or his clerk. That the property of the Government which was in their possession at the time of the conflagration was entirely destroyed and both of these men were relieved from responsibility. Two years ago in this House a bill was passed to pay to Paymaster Tolfree the amount of damage which occurred to him, paying him for the property, which he lost.

This bill was reported at the time, but was not reached for consideration. Paymaster-General Tolfree was paid by Congress for the loss of all his outfit, I think, four or five thousand dollars. The outfit of the clerk cost him \$700. That does not include his ordinary wearing apparel. The sum includes only his uniforms and such other paraphernalia as the rules of the

Navy Department required him to have. Secretary Whitney, in a communication addressed to Senator Cameron several years ago, exempted these officers from responsibility and stated that it was reported to him that all of their wearing apparel and everything necessary for their use as officers of the Navy were destroyed in this fire. The claim presented for the relief of Blake amounts to \$1,015. The amount included his civilian clothing, which has been deducted.

Secretary Whitney sets out in his letter to Senator Cameron that these men had provided themselves with a full outfit, according to the regulations of the Navy Department, for a cruise of three years. The cruise having just begun, you will readily understand that clerk's loss is not overstated in the sum of \$700, when you reflect that it includes his uniforms and every other article of wearing apparel he was required to have. This is not an unusual case, it is not an unusual request to make of Congress. Similar bills have frequently been paid. I am told bills for paymasters' clerks have been paid, for the reason that they are required by naval regulations to wear uniforms. Mr. Chairman, I should be glad to answer any question gentlemen may desire to ask.

Mr. GILLETT of Massachusetts. Supposing this man had been living on board a ship and the ship had been burned up, would he have had a claim?

Mr. BUTLER of Pennsylvania. I wish I could answer you more directly, but I undertake to say that he would.

Mr. GILLETT of Massachusetts. I do not see why the fact that he was on land should give him any special claim for damages over what he would have if the ship were destroyed.

Mr. BUTLER of Pennsylvania. I presume the statement was made in the letter addressed by Secretary Whitney to Senator Cameron because it was unusual for paymasters and paymasters' clerks to be ashore—that they can not remain ashore without orders from the Department; but we find that these men were compelled to be on shore and compelled to live in this hotel.

Mr. GILLETT of Massachusetts. Whenever a naval ship is destroyed in war, have the officers the right to recover for their uniforms, etc., destroyed?

Mr. BUTLER of Pennsylvania. I am very much pleased to answer my friend from Massachusetts from a suggestion made to me by the gentleman from Pennsylvania [Mr. PALMER], who says that the officers of the Ninth Pennsylvania Regiment were paid for their uniforms which were consumed by fire. Furthermore, this House generously and cheerfully passed a concurrent resolution paying the officers and men of the Navy for the uniforms destroyed with the *Maine* in Habana Harbor. All the men were paid for their losses sustained at that time. It is not an unusual claim and is entirely within the precedents of this House.

The CHAIRMAN. The question is on the motion of the gentleman from Illinois, that the bill be laid aside with a favorable recommendation.

The motion was agreed to.

WALES ISLAND PACKING COMPANY.

The next business on the Private Calendar was Senate joint resolution 45, directing inquiry into the claim of the Wales Island Packing Company.

The joint resolution was read, as follows:

Joint resolution (S. R. 45) directing inquiry into the claim of the Wales Island Packing Company.

Whereas the establishments and interests on Wales Island, in Portland Canal, of the Wales Island Packing Company, a corporation organized under the laws of the State of New York by citizens of the United States, have, by decision of the Alaskan Boundary Tribunal, been placed on the Canadian side of the boundary, and said company claims that under existing conditions it is thereby prevented from continuing its business and that its property is rendered valueless; and

Whereas the Department of State has earnestly invited the attention of Congress to the grounds upon which relief is sought by said company, set forth in the memorial transmitted to Congress by the Department of State (H. Doc. No. 510, 58th Cong. 2d sess.); and

Whereas the Secretary of the Department of Commerce and Labor is charged with the supervision and control of the Alaskan fisheries: Therefore, be it

Resolved, etc., That the Secretary of the Department of Commerce and Labor be, and he is hereby, directed to inquire into the effect the decision of said Alaskan Boundary Tribunal has had on the Wales Island Packing Company, and if it be found that said company under such decision is unable, as claimed, to continue its business as formerly conducted, or has otherwise suffered damage thereby, to report to Congress the amount of damages, if any, suffered by said company.

Mr. PAYNE. Mr. Chairman, I am opposed to Congress giving this claim any sort of status whatever. My attention was called to it by the attorney for the claimants a year or two ago, and the facts were stated then as they are stated in the preamble of the resolution. This packing company built their packing house on Wales Island while the United States was claiming title to that island. They were citizens of the United States, I believe; and by the award of the Alaskan tribunal it was found that Wales Island was within British territory, and,

being within British territory, they could not pursue their work of fishing on Wales Island. Now, this was in disputed territory all the time, and, of course, these gentlemen must have known it when they established their factory. I can not see on what principle of law or of justice the United States should ever be subject to any claim of liabilities because in the award of this tribunal it had been found that this territory, which the United States claimed, belonged to Great Britain, and the business of these gentlemen had been interfered with because of the adjustment of the dispute in that way. I do not know of any precedent or any law—none was cited to me at the time—that would make the United States liable. Of course, gentlemen will say that this is simply a bill to refer it to the Department of Commerce and Labor; but, as I understand, there is not and can not be any dispute about the facts in the case. I admit it. It is simply an entering wedge; an introduction of this claim to the Congress of the United States, with a subsequent report to be made the foundation for a claim of liability; and in the course of future generations, when the facts may not be fully fresh in the minds of our successors, the claim will come in here in its enlarged form, and a liability against the United States in some way guessed out of it, so that Congress will make an appropriation, and the attorney for the claimants, who is a young man—and, I will say, a very fine young man—will in the end benefit by it. But I do not think we ought to take this first step in the wrong direction.

Mr. GRAFF. Mr. Chairman, I wish to say that I am inclined to agree with the gentleman from New York [Mr. PAYNE] on the proposition that it is exceedingly doubtful whether this company would have a right to claim any damages suffered by reason of the decision of this Alaskan boundary tribunal; but that question was not gone into by the committee, and I am not prepared to give an opinion on the subject now that would be worth anything. But in order to pass intelligently upon this measure it is not necessary to discuss that question, because this measure is simply to ascertain the facts, and there is nothing about the bill which recognizes in any way the validity of any claim which might arise under the facts. But it is admitted by the gentleman from New York [Mr. PAYNE] that these people have been injured, and injured grievously, by the decision of the tribunal or by the sequences of it; and for a further statement on the subject I yield to the gentleman from Massachusetts [Mr. TIRRELL].

Mr. TIRRELL. Mr. Chairman, by the purchase of Alaska in 1867, Wales Island became as much a part of that Territory, so far as the Administration of our Government was concerned, as any other part of that Territory. There was no question raised about it. The United States Government built storehouses there, upon which were painted the letters "U. S." designating those storehouses as the property of the United States. Anyone going to that island had the same right to assume that it was a part of the Territory of Alaska, which was purchased by our Government, as they would have the right to assume, if they came here to the city of Washington, that it was under the jurisdiction of the United States. Administrative and executive acts of a government are recognized as the exercise of sovereignty, and no one is obligated to inquire any further than to know that the sovereignty is exercised.

That was the condition of things when a few years ago there was organized a corporation in the State of New York known as the "Wales Packing Company," for the purpose of establishing a fishery in Alaska. This company was composed entirely of American citizens and the stock was entirely owned by American citizens. For two years they searched the coast of Alaska to find a suitable spot, and the only spot south of Cape Fox which was open to American citizens for the establishment of a fishery—on account of the precipitous nature of the coast and on account of the fact that there was no harbor or fresh water anywhere else—was at Wales Island.

As I have stated, this island was under the jurisdiction of the United States at that time. So they built a great plant there, a plant which the year before the Alaska Boundary Commission passed upon these questions packed 30,000 cases of salmon, and had a capacity to and, if it had not been for this decision, would have packed 50,000 cases of fish.

But by that decision, which threw the boundary line west of Wales Island and made Wales Island and all the contiguous waters a part of the Dominion of Canada, this company, which had acted in good faith, which had the right to assume that the Government had jurisdiction over that island, which had invested a large amount of American capital in the enterprise, which had built up a great industry before being stopped by a peculiar condition of things, notwithstanding the most strenuous and vigorous opposition on the part of our representatives before that commission, was compelled to stop its business.

Now, this, Mr. Chairman, is a very peculiar condition of things. How is this great American company left? What are its rights? Should any further steps be taken by our Government to secure those rights? Has the company been damaged in any way? Has it been at fault in any way?

This is a joint resolution which comes to us from the other end of the Capitol. It has been duly considered there. In that body sits one of the commissioners who passed upon those questions and who knows all about them.

In answering the gentleman from New York [Mr. PAYNE] it is only necessary to call the attention of this House to the fact that this memorial begins with a communication from the Department of State, fully setting forth the facts that are stated in the memorial and earnestly inviting Congress to consider this situation—to consider the facts set forth in the memorial—that there shall be such action on the part of Congress as the equities of the case may warrant. This communication from the Department of State has been sent to both branches of Congress, and in accordance therewith the committee have presented this harmless bill, which does not appropriate a cent of the nation's money, which only sends to the Department of State what they have asked us to do, namely, the authority to investigate the facts. The Department of State may report that no action should be taken by Congress. They may report that this Wales Packing Company can not legally or equitably claim any damages.

Mr. PERKINS. How much does the Wales Packing Company claim its damages are?

Mr. TIRRELL. They have not set forth any figures.

Mr. PERKINS. Oh, well, the gentleman knows something about it. The damages claimed are very large, are they not?

Mr. TIRRELL. I would ask the gentleman, when the company has invested probably half a million of dollars in this enterprise, and by the action of the Alaskan Boundary Commission have been cut off entirely from transacting their business, and their business has been made valueless—

Mr. PERKINS. Then you claim their damage is half a million dollars?

Mr. TIRRELL. I do not know that there will be any damages allowed at all.

Mr. PERKINS. But let us assume that they claim half a million dollars.

Mr. TIRRELL. It is a question which the Department of State will investigate. Does the gentleman from New York suppose for one moment that the Department of State is going to report any other course than that which is founded in the law of justice or equity?

Mr. PERKINS. I want to ask the gentleman from Massachusetts, who is a very distinguished lawyer, a question of law. He would not for a moment claim in case a man located on a piece of land thinking it belonged to the apparent owner, and the apparent owner thought so, too, that the apparent owner would be liable for damages for that mistake? He does not claim by any possibility there would be any legal claim against the United States because a court of arbitration had decided that they did not own a certain piece of land? I know the gentleman from Massachusetts could not claim that.

Mr. TIRRELL. It is not a parallel case at all.

Mr. PERKINS. It is the case. It is not a parallel case; it is the case.

Mr. TIRRELL. The company asks that the Government of the United States shall be requested to see if there can be any relief granted according to the necessities of the case. If the Department of State is authorized to take this matter up, as it should be, then it may, by negotiations which they may enter into or by the presentation of facts connected with the whole case to the Canadian government or whoever has jurisdiction over that island, enter into relations with this company that may be entirely satisfactory.

Mr. PERKINS. We do not need a claim bill to be passed by Congress for that. The State Department does not have to procure the authority from Congress.

Mr. TIRRELL. The Department of State has requested this very thing.

Mr. PERKINS. What I fear is that this is going to be an entering wedge for claims for damages to the amount of half a million dollars which certainly rest on no legal basis.

Mr. TIRRELL. As to whether this damage ought to be paid can be determined by the Department of State after due investigation. What harm is there in the passage of this memorial to have an inquiry instituted? Is it possible that the citizens of New York who have invested large amounts of money in this enterprise can not have the matter investigated by the Department of State, which asks to have it done?

Mr. BELL of California. Is the gentleman from Massa-

chusetts acquainted with the rule that governs when territory is ceded by one country to another? Suppose this island had been ceded out and out by the United States, could you then claim that this company would be entitled to any damages that might result from that cession? Is that the rule which prevails governing commerce of citizens in the territory ceded by one country to another?

Mr. TIRRELL. If the gentleman has the law he can read it, and then it will not be necessary to ask me further questions about it. Mr. Chairman, I move the bill be laid aside for favorable consideration.

Mr. PAYNE. The gentleman from Massachusetts [Mr. TIRRELL] says that this is a harmless resolution. Well, Mr. Chairman, no one would have had the effrontery to bring into the House anything but a resolution that could be called harmless on this subject. No one would come in here and ask the House to pass a resolution referring this matter to the Court of Claims and allow them to make findings on the subject, or, least of all, would introduce a bill giving what might be called a legal status that Congress could be bound by. The proposition itself is so abhorrent to all principles of law that no one would think of bringing it in here. Why pass it? Why put the seal of the House upon this procedure? Why give it any standing here or in any future Congress? Why must we be embarrassed when this claim comes up again by saying that Congress has already adjudicated, or already conceded by its action, that the company has some claim?

We know certain facts. There is no doubt but what this company did build a cannery there. There is no doubt but that the United States claimed to own Wales Island. There is no doubt but that these people had a right to suppose that the United States did own Wales Island when they built the cannery there. It turns out that our title was defective. It was decided by a high tribunal that it was a part of the British territory. But, Mr. Chairman, we did not warrant the title. We were not privy in any way to their establishment of this cannery there on Wales Island. We are not liable either legally or equitably under the law. Why give it any status? Why not, Mr. Chairman, recommend that it lie on the table?

I move that the resolution be laid aside, to be reported to the House with the recommendation that it lie on the table.

Mr. KNOWLAND. Mr. Chairman, I want to make a suggestion that may bring consolation to the mind of the gentleman from Massachusetts [Mr. TIRRELL]. While this may result in some injury to the American company, yet if this rule were applied to Canada it would bankrupt that government to reimburse all the citizens of that country who found that they were not on Canadian soil, but were on American soil.

The CHAIRMAN. The gentleman from New York moves that the resolution be laid aside with the recommendation that it lie on the table.

The question was taken; and on a division (demanded by Mr. PAYNE) there were—ayes 25, noes 26.

Mr. PAYNE. I ask for tellers.

Tellers were ordered.

The gentleman from New York [Mr. PAYNE] and the gentleman from Massachusetts [Mr. TIRRELL] were appointed tellers.

The House again divided; and the tellers reported that there were—ayes 30, noes 30.

So the motion was lost.

The CHAIRMAN. The question now is on laying the resolution aside to be reported to the House with a favorable recommendation.

The question was taken; and on a division (demanded by Mr. TIRRELL) there were—ayes 46, noes 34.

So the resolution was laid aside to be reported to the House with a favorable recommendation.

JAMES F. M'INDOE.

The next business on the Private Calendar was the bill (S. 1501) for the relief of James McIndoe.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to James F. McIndoe, captain, Corps of Engineers, late first lieutenant, Corps of Engineers, United States Army, the sum of \$1,142.70, being the value of his personal effects destroyed by fire on the 13th day of February, 1901, through the destruction by fire of the engineer quarters at Fort Hancock, N. J., as determined by a board of survey which met by order of Major-General Brooke at Fort Hancock, N. J., on the 15th day of March, 1901.

Mr. PAYNE. Mr. Chairman, before I ask to have the report read, I want to make a parliamentary inquiry—whether it would not be in order for the chairman of the committee, or my friend from Massachusetts [Mr. TIRRELL], to ask unanimous consent to go back to the last case and give this packing company all they think they ought to have and make an end of it.

If the Chair is unable to answer that inquiry, I ask for the report to be read in this case.

The Clerk read the report (by Mr. MILLER), as follows:

The Committee on Claims, having had under consideration the bill (S. 1501) for the relief of James F. McIndoe, beg leave to report the same favorably to the House with the recommendation that the bill do pass.

The Senate report is herewith made a part of this report, as follows:

"The Committee on Claims, to whom was referred the bill (S. 1501) for the relief of James F. McIndoe, begs leave to report as follows:

"The purpose of this bill is to reimburse James F. McIndoe, captain, Corps of Engineers, in the sum of \$1,142.70, being the value of his personal effects destroyed by fire on the 13th day of February, 1901, through the destruction by fire of the engineer quarters at Fort Hancock, N. J., as determined by a board of survey which met by order of Major-General Brooke at Fort Hancock, N. J., on the 15th day of March, 1901.

"A bill similar to this was introduced in the first session Fifty-seventh Congress, S. 5531, was favorably reported by the Committee on Claims, and passed the Senate.

"The evidence in this case shows that while Captain McIndoe was serving the United States in charge of fortification work at Fort Hancock, and while residing in the building provided by the United States for the officer charged with said duties, the same was totally destroyed by fire on the morning of February 13, 1901, due to defective construction of a chimney and to inflammable materials entering into the construction of the house. It appears from the testimony in the case that the fire originated from a defect in the chimney of the house. The fire burned very rapidly, and, according to the testimony of the witnesses, in twenty minutes after the fire was discovered access to the second floor was impossible.

"Captain McIndoe testifies that every possible effort was made to save the building and property belonging to the United States; that owing to the efforts made to save the property of the United States the property of his own was destroyed of the value set out in this bill. The testimony of Captain McIndoe is corroborated by a number of other witnesses as to the origin of the fire and the speed with which it consumed the building occupied by him as a home. It further appears from the testimony of witnesses that owing to the high wind prevailing Captain McIndoe ordered the men under his control to desist from the efforts in saving his own property in order that their services might be used in preventing the ignition of other buildings belonging to the Government close at hand and in which valuable supplies were stored.

"In the opinion of the board of survey Captain McIndoe sacrificed his personal property, which could probably have been saved, since the fire started in the attic of the building which he occupied, to save the Government property. The board of survey fixes the value of the property destroyed at the amount claimed in this bill, and which they claim was an amount of personal property reasonably useful, necessary, and proper for the claimant to have in the public service in the line of duty, and had Captain McIndoe, instead of trying to save the Government property, cared for his personal belongings, he could have saved them. They were therefore, in the opinion of the board, lost while the claimant was protecting Government property, and they recommend that he be reimbursed in the amount of \$1,142.70.

"The claim was presented to the Auditor for the War Department and by him disallowed upon the ground that the destruction of the property for which reimbursement is claimed was not caused by an exigency of the military service, whereby the claimant was deprived of the control over said property which he would have had in civil life, or whereby the property was subjected to dangers not ordinarily incident to its use in civil life, and on the further ground that it did not appear that the destruction was caused by this claimant giving his attention to the saving of the property belonging to the United States.

"As pointed out above, it appears to your committee that the testimony in this case shows that this property was lost while this claimant was giving his attention to the saving of the property of the United States. The law authorizing a recovery in cases of this character provides that the proper officers of the Treasury shall 'determine the value of the private property belonging to officers and enlisted men in the military service of the United States which has been, or may hereafter be, lost or destroyed in the military service, under the following circumstances:

"First. When such loss or destruction was without fault or negligence on the part of the claimant.

"The second item has no application to this case.)

"Third. Where it appears that the loss or destruction of the private property of the claimant was in consequence of his having given his attention to the saving of the property belonging to the United States which was in danger at the time and under similar circumstances."

"The testimony in this case shows that the property of claimant was in an extra hazardous position by exigency of the military service. It appears from the testimony that the quarters occupied were the only quarters at Fort Hancock provided for the engineer officers on duty there. It further appears that the location of the building was outside of the limits of every protection provided at the post against fire, and beyond adequate water supply for extinguishing fires. The testimony also shows that Captain McIndoe and others who were assisting him in efforts to put out the fire were compelled to carry water in pails for that purpose.

"It appears to your committee that if Captain McIndoe had been at liberty to select his own place of residence he would have exercised ordinary care, and would have selected a place surrounded by the usual protection against fire.

"After considering all of the testimony presented and the findings of the board of survey, and noting the recommendation of the said board, your committee is of the opinion that the demand of this claimant is just and that this bill should pass."

Mr. PAYNE. Mr. Chairman, the report of the committee shows every reason why a prudent, reasonable man should have insured this property, there being so many insurance companies and the premiums so low. The report states that the building was exposed to fire more or less. There were no proper means of putting out a fire if one should occur. This man went there with his eyes open to all of those facts. The law is that he must be free from negligence on his own part. I fail to see that he was not negligent in not insuring this property when he went

there. Of course, in a case of this kind it is always found that the party has taken care of the Government property instead of his own. It does not appear that he saved much Government property. The Government would not have been the loser if he had left the Government property alone and saved his own, if we have to pay this bill for the loss. In fact, it makes the Government of the United States the insurer of the property of officers of the Army whenever they go into quarters, provided by the United States, at immense expense, for their residence in these forts or military reservations. I do not think such a bill ought to pass. Of course, I see around me a great many gentlemen who are interested in claims upon this Calendar. I notice that those gentlemen always find the case so clear when it comes to a vote that they are recorded on one side of the question. The House is slim and thin, and after the passage of the last claim through this committee—a claim more unjustifiable and without even the shadow of an excuse for going through than any I recall during my experience, and I have always given attention to claims that come before the House—I do not know that it is of any use to make any opposition to these claims at all, more than the mere uttering of a protest. It does not seem to me that the Government of the United States ought to insure the personal property of the Army.

Mr. LIND. Mr. Chairman, I just wish to say that I was a member of the committee when this bill was reported, and that the considerations that actuated the committee were the facts that the Congress has almost universally reimbursed officers in cases like this. I feel very much as the gentleman from New York [Mr. PAYNE] expressed himself on the general proposition, but I think the Congress should decisively say whether or not it will continue to pay these claims. Other claims no more meritorious than this have been paid right along every session of Congress, and of identically the same character. That is the best and strongest argument which can be made in favor of this one.

Mr. PAYNE. Because we have done wrong a great many times before this, we should continue doing so?

Mr. LIND. Oh, I do not say that.

Mr. PAYNE. I think it is time to give these officers notice that they should get their property insured and pay a little insurance money, as ordinary people do, instead of relying upon the Government to become an insurer of their property.

Mr. LIND. Then we ought to say so. I agree with the gentleman in that.

Mr. PAYNE. And I think we would say so pretty emphatically if we sat down on this claim.

Mr. MADDOX. Did the gentleman ever hear of a private being paid anything for the loss of his clothing or anything else, in battle or elsewhere?

Mr. PAYNE. I do not recall. Perhaps the gentleman from Minnesota [Mr. LIND] can say.

Mr. LIND. No; I never did, and I don't think there is an instance of that kind on record.

Mr. LACEY. Oh, yes; we paid for the loss of privates in shipwrecks—made a full invoice of everything they lost and paid them.

Mr. LIND. But they can not procure insurance.

Mr. MILLER. Mr. Chairman, I feel, as a member of the subcommittee that reported this bill, that I ought to say this in respect to the matter: This entire matter was referred to the board of survey, and that board recommended the payment of the claim and put it upon the ground of the fact that this man in attempting to save the Government property sacrificed his own. He would have saved his own property had it not been for this attempt that he made to save the Government property. The evidence is clear and conclusive on that proposition.

Mr. PAYNE. What was the Government property—a house or buildings?

Mr. GRAFF. Buildings. I call the attention of the gentleman to the sentence at the end of the first page of the report:

It further appears from the testimony of witnesses that owing to the high winds prevailing Captain McIndoe ordered the men under his control to desist from the effort in saving his own property in order that their services might be used in preventing the ignition of other buildings belonging to the Government close at hand, and in which valuable supplies were stored.

Mr. BAKER. Would the gentleman consider that the saving of his property—by taking men away from the protection of the property of the United States to save his own property—to be justifiable?

Mr. GRAFF. The gentleman is right, save that he is wrong. Mr. BAKER. I thank the gentleman. That is usually the case, I assume. [Laughter.]

Mr. GRAFF. If that is the gentleman's normal condition, I am sure that it is not intentionally so.

Mr. BAKER. Certainly that was my construction.

Mr. GRAFF. The sentence I attempted to read correctly says that he turned his back to his own property and neglected that, and ordered his men to save—

Mr. BAKER. His men?

Mr. GRAFF. That is, the men under him.

Mr. BAKER. Exactly.

Mr. GRAFF. Under his command, to prevent the ignition of United States buildings adjoining, which contained valuable Government stores.

Mr. BAKER. Which were not actually then ignited.

Mr. GRAFF. And which had not yet started to burn.

Mr. BAKER. The fire had not yet reached them.

Mr. GRAFF. The fire had not yet reached them; yes.

Mr. MILLER. I will say, in addition to what has already been said, that so far as the statement made by the gentleman from New York is concerned I agree with him in reference to this class of claims, but there is no reason why this particular individual should be singled out and we should say he should not be permitted to recover when every claim of this character that has been presented to the Congress of the United States has been allowed; and this committee has just reported with favorable recommendation a bill allowing a clerk to a captain pay for his loss sustained in a case almost similar to this, and I think there is no reason why this claim should not be laid aside with a recommendation that it should be passed.

Mr. PAYNE. May I ask my friend from Kansas—

Mr. MILLER. Certainly.

Mr. PAYNE. How are we ever going to stop this thing?

Mr. MILLER. The probabilities are it is going to stop some time, but I do not think it ought to stop on this particular case, which in my judgment is one of the most meritorious cases that has ever been presented here. It is not only simply a case of his losing his property by fire, but he lost it because he was engaged in trying to save the property of the United States Government.

Mr. PAYNE. It is true there is some statute on the subject.

Mr. MILLER. There is a statute on the subject.

Mr. PAYNE. Why would it not be well for this Committee on Claims, being perfectly familiar with the facts, to bring a bill in here disallowing any claim under the statute where the party failed to get insurance on his property?

Mr. MILLER. I will say to the gentleman from New York, so far as I am concerned, I would be glad to agree with my colleagues on that committee on a proposition of that kind. I want to say further to him, so far as the question he raises with reference to insurance of property is concerned, there is some hardship in that. If every officer, whether captain or private, was required to insure his property, moving from place to place as he is, insuring property to-day in New York, tomorrow in Kansas, and the next week in San Francisco—

Mr. PAYNE. Well, they do not move quite as rapidly as that. When they get a good berth they generally stay for three years, and when they accumulate property they seldom stay less than a year, and the usual time for insurance is from one to three years, so that would not be any great hardship.

Mr. MILLER. That is true in many instances, but in many instances they are required to change from place to place, and frequently, too; and I say the most meritorious case presented in this Congress of this kind is the one presented here, and every one of the others have been favorably reported to the House and passed.

Mr. PAYNE. Well, my friend from Kansas removes all glimmer of hope that we can ever stop this thing, because when I suggest that we put the statute that allows the board of survey to pay these claims in some instances the further provision that no claim should be paid when the officer neglects to get insurance he presents the astounding obstacle to anything of that kind that because sometimes these gentlemen move often and at short notice it would be a hardship to require them to insure their property rather than to have the Government of the United States insure it, so I suppose we will go on in the same old hopeless way in regard to this matter.

Mr. MILLER. Mr. Chairman, in order that the last glimmer of hope may not be taken away from the gentleman from New York I want to say to him frankly that if he will formulate legislation such as suggested it will receive my hearty indorsement and active support.

The CHAIRMAN. The question is on laying aside the bill with a favorable recommendation.

The question was taken; and the Chairman announced that the yeas seem to have it.

Mr. MILLER. Division, Mr. Chairman.

The committee proceeded to divide.

Mr. MADDOX. Mr. Chairman, it looks to me there ought to

be a hundred men to see this fun going on—at least a hundred.

The CHAIRMAN. The Chair will count.

Mr. PAYNE. If the gentleman will allow me, I hope that we shall not get into any tangle over the question of no quorum at this time.

Mr. MADDOX. I believe we ought to have it.

Mr. PAYNE. That question can come up when we get out of committee. A number of gentlemen have come to me very anxious to know whether we are going to adjourn over until Monday. I told them I was going to make that motion, and some gentlemen have gone away from the House on account of the assurance that I have given them, and I ask the gentleman to withdraw the point of no quorum, so that the committee may rise, and then I will make the motion, and the House can go back into committee.

Mr. MADDOX. I did not make the point to obstruct business. I think the other gentlemen ought to be here.

Mr. PAYNE. Will the gentleman withdraw his point temporarily, and allow the chairman of the committee to move the committee rise?

Mr. MADDOX. I withdraw it.

Mr. GRAFF. I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and Mr. PALMER having assumed the chair as Speaker pro tempore, Mr. CAMPBELL, Chairman of the Committee of the Whole House, reported that that committee had had under consideration sundry bills upon the Private Calendar and had come to no resolution thereon.

ADJOURNMENT OVER UNTIL MONDAY.

Mr. PAYNE. Mr. Speaker, I move that when the House adjourn to-day it adjourn to meet on Monday next.

The question was taken; and the motion was agreed to.

ORDER OF BUSINESS.

Mr. GRAFF. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House for the consideration of bills on the Private Calendar.

The motion was agreed to.

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

JAMES F. M'INDOE.

The CHAIRMAN. The gentleman from Georgia makes the point that a quorum has not voted.

Mr. MADDOX. I withdraw it, as I see some others have come in.

The CHAIRMAN. The gentleman withdraws the point of order; the yeas have it, and the bill is laid aside with a favorable recommendation.

AGNES W. HILLS AND SARAH J. HILLS.

The next business on the Private Calendar was the bill (H. R. 8113) for the relief of Agnes W. Hills and Sarah J. Hills.

The bill was read, as follows:

A bill (H. R. 8113) for the relief of Agnes W. Hills and Sarah J. Hills. *Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Agnes W. Hills and Sarah J. Hills the sum of \$7,561.80, out of any money in the Treasury not otherwise appropriated, the value of personal property belonging to Albert G. Hills and Alfred C. Hills, both deceased, taken and converted to the use of the United States by the military forces of the United States.

Mr. PAYNE. I call for the reading of the report, Mr. Chairman, in my time.

The report, by Mr. TIRRELL, was read as follows:

The Committee on Claims, to whom was referred the bill (H. R. 8113) for the relief of Sarah J. Hills and Agnes W. Hills, report as follows:

It appears from the papers in the case, which are very voluminous, that General Butler, while in command at New Orleans, suppressed and took possession of the True Delta newspaper for a violation of a proclamation, and that the property was occupied and used for printing purposes for the Army, and a paper issued publishing orders, proclamations, etc.

General Butler was finally succeeded in command at New Orleans by Gen. N. P. Banks, who, by Special Order No. 40, dated February 9, 1863, granted permission to the workmen employed on the Daily Delta to continue its publication until further orders, under the management of its foreman, one Henry Green.

On the following day, by Special Orders, No. 41, General Banks directed:

"Paragraph 10. The newspaper and job office of the Daily Delta, together with the presses, paper, type, ink, materials, etc., will be turned over to Lieut. Col. Alfred C. Hills, Fourth Regiment Louisiana Native Guards, and to Albert G. Hills, esq., who are charged with the publication of the Daily Delta newspaper and the management of the job office from this date."

On March 5, 1863, by Special Orders, No. 64, General Banks directed: "Paragraph 6. Lieut. Col. Alfred C. Hills, Fourth Louisiana Native Guards, and First Lieut. Albert G. Hills, Fourth Louisiana Native Guards, are detailed for special duty in this city (New Orleans) to take charge of the Era newspaper and job office, to date, the former from the 23d and the latter from the 20th ultimo (February)."

It appears from the papers that these officers remained in the service,

one until May, 1863, and the other until July, 1863, at which dates they resigned their commissions. But they continued in the management and charge of the Era. The Era was the same establishment as the Daily Delta, the name only having been changed.

In October, 1863, under the orders of the President of the United States directing captured and abandoned property, not required for military purposes, to be turned over to the military authorities to the special agents of the Treasury Department, General Banks's quartermaster, Colonel Holabird, turned over this property to B. F. Flanders, special agent of the Treasury Department, but on the 25th of October, 1863, General Banks, by a letter to Mr. Flanders, setting forth the necessity of having a newspaper for the publication of his proclamations, orders, etc., withdrew the property from Flanders, revoking Colonel Holabird's action.

On the 16th of March, 1864, General Banks, by Special Orders, No. 67, directed:

"Paragraph 3. The editors of the Era, Messrs. Hills & Hills, being unable to continue the business of publication together, are relieved from the operations of the order issued in regard to the management of the Era. The conducting of the paper is hereby assigned to Messrs. J. W. Fairfax and T. G. Tracy, employees in the office, to be conducted under the same general regulations and instructions given to the Messrs. Hills by paragraph 10 of Special Order 41, of 1863, from these headquarters, and by letter dated February, 1863. Capt. Stephen Hoyt, mayor; Col. Frank E. Howe, and James T. Tucker are hereby appointed to settle the affairs of the concern, and will report their judgment to these headquarters for confirmation."

On the 7th of April, 1864, the Commission named above made a report, which is as follows:

"The undersigned, appointed a Commission by Special Order 67, Department of the Gulf, a copy of which is herewith inclosed, to settle the affairs of the Era concern, have the honor to respectfully report that, after an investigation into the affairs of the Era, they recommend that the management and conducting of the paper known as the Era be turned over to Messrs. J. W. Fairfax and T. G. Tracy, now and for a long time past employees of the Era; it, however, being understood that the status of the Government in regard to the management of the paper and the office is in no way changed by the action of the Commission, or rather by its recommendation. We do this because we believe that it is impossible and impracticable to settle the differences between the Messrs. Hills & Hills. To do this it seems to be necessary for the Government to advance to the Messrs. Hills & Hills, as due them at the date of the order (March 16, 1864), for stock in the office as below mentioned, exclusive, of course, of all the type and material in the office belonging to the Government, or as left by Messrs. Clark & Brown at the time of the possession given to Hills & Hills, the sum of \$7,561.80."

Mr. PAYNE (interrupting the reading). Mr. Chairman, I did not hear the bill read; but from what has been read of the report it appears that this is a war claim, and I make the point of order that this bill is not in order to-day, although it is reported from the Committee on Claims. I do not know that the point is well taken, looking at the order which provides that bills reported from the Committee on Claims are in order to-day. It is reported by that committee, but I do not see why the point of order would not be tenable under that language. The rule, I want to say, Mr. Chairman, to-day, under this special order, is for bills reported from the Committee on Claims. Under the call of committees a bill is in order that is on the House Calendar, and when it is found that it is improperly on the House Calendar and a point of order is made that it should be considered in Committee of the Whole, it immediately goes to the Committee of the Whole. From the reading of the report thus far it appears that this is a war claim and ought not to come here under this order.

Mr. GRAFF. I think if the gentleman from New York will look into it more fully he will see that it is not a claim arising out of property seized in consequence of the war; but it arose—

Mr. PAYNE. It arose under the military occupation of New Orleans by the army under General Butler.

Mr. GRAFF. A sort of contractual relation existed between the claimants and the Government.

Mr. PAYNE. Yes.

Mr. GRAFF. And the officers were under the command of the Government; and that being true, it would not be a war claim.

Mr. PAYNE. Was not this property taken and the men put in charge?

Mr. GRAFF. It was retained.

Mr. PAYNE. It was retained by the Government.

Mr. GRAFF. The property was not seized. It was retained.

Mr. PAYNE. By the Government?

Mr. GRAFF. Yes.

Mr. PAYNE. That is a war claim.

Mr. GRAFF. I think there would be a distinction.

Mr. TIRRELL. This bill has been before Congress a number of times in both branches and has been referred to the Committee on Claims, the reports have been made, and no objection heretofore of this character has ever been raised against the bill.

Mr. PAYNE. Has the bill ever been reached before?

Mr. TIRRELL. It has been passed upon by this House and failed, because of lack of time, to be passed upon by the other branch, and vice versa. I will call the attention of the gentle-

man from New York to the fact that during the last Congress the ice bill, which was for ice furnished the military authorities during the war, was a bill on which he argued so ably and vigorously.

Mr. PAYNE. And so unavailingly.

I want to call the gentleman's attention to the distinction between this and the ice bill. There was no claim that the Government had ever retained the ice. In fact, it was dubious whether there was any ice at all. But in this case these gentlemen furnished the material with which to run this printing office in the military district under the command of General Butler. Then, as the chairman of the committee says, and the report seems to indicate, the United States authorities retained the property and converted it to their own use. Now, does the gentleman see the distinction between the ice, in the bill to which he has referred, and the paraphernalia for a newspaper office, under these circumstances?

Mr. TIRRELL. And if the gentleman was more familiar with the bill, he would know that both of these claims arose under contracts which were made with civilians.

Mr. PAYNE. But the Government took possession of the property. It does not make any difference whether the property came in pursuance of a contract made by the Government or was the property of a resident of New Orleans during the war. The claim is for the Government detaining the property.

The CHAIRMAN. It appears by the reading of the bill that it is a war claim. Reference to the Committee on Claims under the precedents of this House does not give jurisdiction to that committee. It appears that the precedent is as follows:

The erroneous reference of a private bill to a committee not entitled to jurisdiction does not confer it, and a point of order is good when the bill comes up for consideration, either in the House or in Committee of the Whole.

So it is evident that the bill can not be considered at this time, and will have to be sent back.

Mr. TIRRELL. Will the Chair hear me for a moment on that question?

The CHAIRMAN. What is the question of the gentleman from Massachusetts?

Mr. TIRRELL. That of the ground upon which the decision is based, that it is a war claim; the report has presented to the House the facts in this case which determine that fact.

The CHAIRMAN. The Chair bases his decision that this is a war claim upon the language in the bill beginning in line 8, "belonging to Albert G. Hills and Alfred C. Hills, both deceased, taken and converted to the use of the United States by the military forces of the United States."

Mr. GRAFF. May I say a word in reference to the point of order?

The CHAIRMAN. Answering further the gentleman from Massachusetts [Mr. TIRRELL], the rule of jurisdiction over claims arising out of any war in which the United States has been engaged is that they must be referred to the Committee on War Claims.

Mr. GRAFF. Mr. Chairman, may I make a single suggestion to the Chair? That is, I understand the precedents are that when there has been debate intervening between the reading of the bill and the point of order, the point of order is not well taken. The facts in this case are that when the bill was read the gentleman from New York arose and asked that the report be made in his time, which would be tantamount to the gentleman from New York making a speech upon the merits of the claim, and during the reading of the report there was an interruption, made, I believe, by the gentleman from Massachusetts [Mr. TIRRELL], and the gentleman from Massachusetts took part in the debate on the merits of the claim, and I think the record will show that he was followed by the gentleman from New York, who again participated in the debate.

Mr. PAYNE. The gentleman from Illinois [Mr. GRAFF] is not quite right about the facts. I asked for a reading of the report. I did not find that the bill was a war claim until I heard a part of the report read.

Mr. GRAFF. At all events there had been debate upon the subject.

Mr. PAYNE. I want to say to the gentleman that no objection of this kind was made, and the Chair has already decided that the bill is out of order. It is too late now to change that.

The CHAIRMAN. The Chair will say to the gentleman from Illinois [Mr. GRAFF] that that is the general rule; but it would only have been fair to the Chair to have called his attention to that fact prior to his decision. The decision of the Chair was made upon what the Chair understands to be the precedents of the House, and on the case that was made upon the floor. The point of order made by the gentleman from Illinois

[Mr. GRAFF] was not made in time. The Chair stands by his ruling.

LINDLEY C. KENT AND JOSEPH JENKINS.

The next business on the Private Calendar was the bill (S. 1352) for the relief of Lindley C. Kent and Joseph Jenkins as the sureties of Frank A. Webb.

The bill was read, as follows:

Be it enacted, etc., That Lindley C. Kent and Joseph Jenkins, sureties upon the bond of Frank A. Webb for the faithful performance of his contract for the construction, erection, and delivery of buildings for the new Port Penn light station, Delaware (fourth light-house district), having, by failure on the part of said Webb, been obliged to complete said contract themselves for said Webb, but at their own expense, and having by such unexpected failure of said contractor not only been put to great extra cost in such work, but also been, by the terms of the contract, subjected to a very heavy penalty for delayed completion of the work, due to the said Webb's failure and not to any fault of their own, a penalty far in excess of the actual extra expense thereby caused to the United States, be, and they are hereby, released from so much of said penalty as is in excess of the actual extra expense to the United States by reason of said delays; and that the engineer of the fourth light-house district be, and he is hereby, authorized and directed to pay to the said Lindley C. Kent and Joseph Jenkins the unpaid balance of the full amount of said contract, less the aforesaid actual extra expense to the United States by reason of said delays: *Provided, however,* That such payment shall not be made until said engineer is satisfied that all materials used and all labor employed in the construction of said buildings have been duly paid for.

Mr. LIND. Mr. Chairman, instead of calling for the reading of the report, I trust the gentleman from New York [Mr. PAYNE] will accept a brief statement of the facts.

A gentleman by the name of Webb took the contract to build a light-house at Port Penn, Del. The contract price was some \$4,400. The contractor gave the usual bond, with two sureties. Shortly after taking the contract he absconded. The bondsmen proceeded to complete the building, and, as returned by the Government engineers, actually expended over \$6,000 in completing the structure. They were delayed beyond the contract period seventy-seven days. The contract called for a penalty of \$20 a day, which the accounting officer of the Government exacted. The Government was put to no extra expense on account of this delay, except in the sum of \$500. Now, the sureties of the absconding contractor simply ask that the portion of the penalty withheld be allowed them, less the extra expense incurred by the Government for delay, supervision, and examination.

The bill is so eminently fair that I do not believe anyone can object to its payment.

Mr. PAYNE. How much were they delayed by the absconding principal?

Mr. LIND. Seventy-seven days.

Mr. PAYNE. They were delayed by reason of his absence seventy-seven days?

Mr. LIND. He absconded.

Mr. PAYNE. They went at it as quickly as they reasonably could?

Mr. LIND. They went at it and expended nearly \$2,000 of their own funds and materials in excess of the contract price.

On motion of Mr. GRAFF, the bill was ordered to be laid aside and be reported to the House with a favorable recommendation.

W. R. AKERS.

The next business on the Private Calendar was the bill (H. R. 3950) for the relief of W. R. Akers, of Alliance, Nebr.

The bill was read, as follows:

Whereas the register and receiver of the United States land office at Alliance, Nebr., were duly authorized by the honorable Commissioner of the General Land Office of the United States to employ a stenographer and typewriter operator as a contest clerk in said United States land office at Alliance, Nebr., in 1892, and pursuant thereto did employ one W. G. Buehner as such, and said W. G. Buehner earned the sum of \$79.50 by the performance of such duties for one quarter, and W. R. Akers, as receiver of said United States land office, rightfully paid to said W. G. Buehner said sum of \$79.50 for said services, but overlooked obtaining a voucher therefor, and the whereabouts of said W. G. Buehner are unknown, and said register and receiver did not keep a record showing the precise number of words reduced to writing by said W. G. Buehner as such contest clerk during his service; and

Whereas the honorable Commissioner of the General Land Office of the United States, under the rules and regulations governing him, has declined to reimburse the said W. R. Akers for the payment of said \$79.50 to said W. G. Buehner, by reason of the nonproduction of a voucher, duly executed by said W. G. Buehner, for such payment to him by said W. R. Akers, and for the further reason that said register and receiver did not keep a record of the precise number of words reduced to writing by said contest clerk in each particular case, and the honorable Commissioner of the General Land Office of the United States grant that said W. R. Akers is entitled to equitable relief in the full amount of his claim for \$79.50: Therefore,

Be it enacted, etc., That the accounting officers of the Treasury be, and they are hereby, authorized to pay, out of any moneys not otherwise appropriated, to the said W. R. Akers the sum of \$79.50, to reimburse and satisfy him for that amount paid by him for the Government to W. G. Buehner for his salary as contest clerk in the United States land office at Alliance, Nebr., for salary for a one-quarter service in the year 1902.

Mr. PAYNE. I hope we will have an explanation of this bill.
Mr. GRAFF. I yield to the gentleman from Nebraska [Mr. KINKAID].

Mr. KINKAID. Mr. Chairman, the bill explains itself. It is for the relief of a receiver of the United States land office, who paid a debt of the Government and now desires to be reimbursed by this method. It came about under these circumstances: The law authorizes the receiver and register to employ contest clerks when the business of the office will justify it, and there was no question but that the business of the office justified it in this case. This contest clerk was employed. The litigants, the contestants, and contestees pay for the services of the contest clerks. The money thus paid goes to the credit of the Government, and the officers are authorized by the law to pay out of this fund the salary of the contest clerk. That was done in this case; there is no question about that; but the rules and regulations of the Department require that an account must be kept of the exact number of words written by the contest clerk, and that was not observed in this case. That could have been remedied if a voucher could have been furnished, signed by the contest clerk. That voucher could not be furnished, because the contest clerk removed to parts unknown, and his whereabouts have not since been ascertained.

Mr. GRAFF. May I ask the gentleman from Nebraska a question?

Mr. KINKAID. Yes.

Mr. GRAFF. This contest clerk is an officer of the Government? He is not a private employee of the official?

Mr. KINKAID. He is a servant of the Government.

Mr. GRAFF. Now, under the law it is the duty of the official who has the authority to appoint the contest clerk to report to the Government the amount of work that he does, so that the Government can make up his account and pay him?

Mr. KINKAID. Yes, sir; he would have done that in this case, except that the contest clerk left too soon for him to secure from him a voucher as to the number of words, and the Department requires a voucher from its clerks as to the number of words.

Mr. GRAFF. Do I understand that the claimant here is the contest clerk?

Mr. KINKAID. No, sir; it is the receiver of the land office that is the claimant here. He paid the contest clerk. There is no doubt about that; but he did not secure the voucher of the contest clerk, overlooking it. When he thought of it the contest clerk had gone.

Mr. GRAFF. This is simply to reimburse him for money he paid out for the United States Government for which he was unable to obtain a voucher in the regular way because the employee had left before he could secure a voucher.

Mr. KINKAID. Yes; before he could secure a voucher.

Mr. BUTLER of Pennsylvania. The Land Commissioner concedes all that.

Mr. KINKAID. The Department recognizes this fact and recommends this relief which is now sought by this bill of \$79.50.

Mr. GRAFF. I move that the bill be laid aside to be reported to the House with a favorable recommendation.

The motion was agreed to.

GEORGE M'GHEHEY.

The next business on the Private Calendar was the bill (H. R. 9758) for the relief of the heirs of George McGehey for services rendered as mail contractor.

The clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, directed to pay to the heirs of George McGehey, deceased, the per balance to credit of said George McGehey, for service found due tractor on routes No. 7870 and No. 7871, Arkansas, during 1861, as per balance to credit of said George McGehey, for service found due from January 1 to March 31, 1861, the date to which said service was certified.

Mr. HERMANN. Mr. Chairman, I wish to make a very brief explanation as to this small amount allowed in this bill, \$137.39. The account arises upon a mail contract which was in existence as far back as 1858 and continued until July 1, 1861, when the war opened up and the Postmaster-General discontinued and canceled all contracts previous to May 31, 1861. This party had received his pay for his contract up to January 1, 1861. So that there remains from that time, May 31, 1861, a balance due him; the Department only had certified to a balance for the first quarter of that year—that is, from January 1 to March 31, amounting to \$137.39. This has been reported favorably by the Postmaster-General, who states that the records of his Department show that George McGehey, of Powhatan, Ark., was contractor

on routes 7870, Powhatan to Batesville, and 7871, Powhatan to Gainesville, Ark., for the contract term beginning July 1, 1858. By an order of the Postmaster-General all service on these and other routes in the Southern States was discontinued May 31, 1861.

The matter was referred to the Treasury Department, and the Acting Auditor also certified that the records of his office show that George McGhehey, of Powhatan, Ark., was the contractor for carrying the mails on routes 7870 and 7871, Arkansas, during 1861, and that there is a balance of \$137.39 standing to the credit of his account for service from January 1 to March 31, 1861, the date to which the service was certified.

There is also, Mr. Chairman, an affidavit from the claimant to the effect that no portion of this amount has been received by him.

Mr. GRAFF. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The question was taken; and the bill was ordered to be laid aside with a favorable recommendation.

ITALIAN-SWISS AGRICULTURAL COLONY.

The next business on the Private Calendar was the bill (H. R. 11370) to relieve the Italian-Swiss Agricultural Colony from the internal-revenue tax on certain spirits destroyed by fire.

The clerk read the bill, as follows:

Be it enacted, etc., That the Italian-Swiss Agricultural Colony, a corporation organized and existing under the laws of the State of California, be relieved from the payment of an assessment, or any part or portion thereof, made against the aforesaid corporation by the Commissioner of Internal Revenue, amounting to the sum of \$956.89, said assessment having been placed against said corporation on account of the accidental destruction by fire of ten barrels of spirits, commonly called grape brandy, while being transported by rail from fruit distillery No. 108, located at Asti, Cal., to winery No. 109, located near Madera, Cal., and before said spirits could be used in said winery for fortifying pure sweet wine. The Commissioner of Internal Revenue is hereby authorized and directed to cancel the said assessment without the payment of the aforesaid tax or any part or portion thereof.

SEC. 2. That this act shall take effect immediately after its passage and approval.

Mr. BELL of California. Mr. Chairman, the object of this bill is plainly stated in the body of the measure. This grape brandy withdrawn from the company's distillery at Asti, Cal., was shipped by the Italian-Swiss colony from that place to Madera for the purpose of fortifying sweet wines. On its arrival at Madera, and before it was removed from the car, some 10 barrels were destroyed by fire. One of the barrels dropped to the floor, broke open, and when a train hand went into the car with his lantern it ignited the gas and an explosion occurred and 10 barrels were destroyed. Under the law this brandy would not have been required to pay a tax if it had been used for the purpose of fortifying their wine. It has been destroyed by fire, and there is no way by which the Internal-Revenue Commissioner can relieve them, as they are informed, from this assessment without an act of Congress. The present Commissioner of Internal Revenue recommends the passage of this measure. The United States will not suffer any loss, but these people will be simply relieved from the damage they have sustained.

Mr. GRAFF. The goods were shipped in bond, were they not?

Mr. BELL of California. Yes.

Mr. GRAFF. So that there was no tax actually paid by them, but if the goods had reached their destination and were used for the purpose for which they were intended there would never have been any tax paid or due.

Mr. BELL of California. No tax would have been collectible at all.

Mr. GRAFF. The bond was given simply as an assurance that the goods would not be taken and used for some other purpose.

Mr. BELL of California. That is the exact situation.

Mr. PAYNE. Had the brandy passed out of the custody of the officers?

Mr. BELL of California. Of the internal-revenue officers?

Mr. PAYNE. Yes.

Mr. LIND. The goods were in a bonded car.

Mr. BELL of California. Of course constructively it was still in the possession of the internal-revenue officers.

Mr. PAYNE. Is there any recommendation that the bill should pass from the Secretary of the Treasury or the Commissioner of Internal Revenue?

Mr. BELL of California. Yes; from the Commissioner of Internal Revenue.

Mr. PAYNE. Does he recommend the passage of this bill?

Mr. BELL of California. Yes.

Mr. PAYNE. In cases of this kind the Treasury Department

has always made a distinction when the spirits were out of the control of the United States Government and under the control of the individual. If the spirits were under the control of the Government at the time the fire occurred, then we have always paid the claim or remitted it, but we have refused to pay where the goods have passed out of the control of the Government and into the hands of the individuals. Of course they have then to become their own insurers.

Mr. LIND. These barrels were in a bonded car.

Mr. PAYNE. I think that is under the control of the Government, because under the law the Government has to have an agent there at the winery, as I understand.

Mr. BELL of California. Yes.

Mr. GRAFF. I desire to go on record at this time by saying that it has been the disposition of the committee, so far as I have served on it, to refuse to report bills—and there have been a number of them—where the goods have been taken out of the distillery and the tax paid and where they were in the possession of the parties who were shipping them, and shipping them away for the purposes of use. In those cases we have refused to remit the taxes in case of destruction.

Mr. LIND. This is not a refundment.

Mr. BELL of California. This simply cancels the assessment that now stands against the spirits. It is not to refund anything.

Mr. GRAFF. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The bill was ordered to be laid aside with a favorable recommendation.

RAMON O. WILLIAMS AND JOSEPH A. SPRINGER.

The next business on the Private Calendar was the bill (H. R. 2052) for the relief of Ramon O. Williams and Joseph A. Springer.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Ramon O. Williams, late consul-general at Habana, the amounts necessarily expended by him for clerk hire in excess of his allowances between July 1, 1892, and June 5, 1896, \$2,222.08; and to Joseph A. Springer, late vice-consul-general at Habana, the amounts necessarily expended by him for clerk hire in excess of his allowances between October, 1892, and June 30, 1895, \$200.54; both amounts as shown on the records of the State Department and as recommended for payment by the State Department to the Fifty-fifth and Fifty-sixth Congresses, and reported to the House and passed by the Senate in the Fifty-seventh Congress.

Mr. PAYNE. Mr. Chairman, I would like to hear the report on this bill.

The Clerk read the report, as follows:

The Committee on Claims, to whom was referred the bill (H. R. 2052) for the relief of Ramon O. Williams and Joseph A. Springer, have carefully examined the same and now report it back to the House with the recommendation that it do pass without amendment, and make the report of the Senate in the Fifty-eighth Congress on a bill (S. 747) of the same tenor a part of this report, as follows:

"The bill provides for the payment of the following sums to the two claimants named:

To Ramon O. Williams.....	\$2,222.08
To Joseph A. Springer.....	200.54

"These claims were proposed in the Senate as amendments to the deficiency appropriation bills of the second and third sessions of the Fifty-fifth Congress, and in both of said sessions the amendments were favorably reported and passed the Senate, but were stricken out in conference. A bill covering the same claims was introduced in the Senate in the first session of the Fifty-seventh Congress, was favorably reported (S. Rept. No. 1261, 57th Cong., 1st sess.), passed the Senate, and was favorably reported from the Committee on Claims of the House of Representatives. (H. Rept. No. 1832, 57th Cong., 1st sess.) A similar bill which had been introduced in the House in the same session was also favorably reported. (H. Rept. No. 1705, 57th Cong., 1st sess.)

"In addition to the favorable history of these claims, as cited above, your committee submit, as further support of their action, the following estimate from the Treasury Department, as set forth in House Document No. 354, Fifty-eighth Congress, second session:

"TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, January 5, 1904.

"SIR: I have the honor to transmit herewith for the consideration of Congress a communication from the Secretary of State of the 4th instant, recommending certain increases in the estimates and items for insertion and consideration in connection with the diplomatic and consular appropriation bill for the fiscal year ending June 30, 1905.

Respectfully,

H. A. TAYLOR, Acting Secretary.

"The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

"DEPARTMENT OF STATE,
Washington, January 4, 1904.

"SIR: I have the honor to request that the following recommendations be communicated to Congress for insertion in the estimates submitted by this Department for the diplomatic and consular service for the fiscal year beginning July 1, 1904:

"CLAIMS.

"An appropriation of \$2,222.08 to Ramon O. Williams while consul-general of the United States at Habana, Cuba, for expenditures necessarily incurred by him for extra clerical assistance during the years 1892 to 1896, and to Joseph A. Springer \$200.54 for the same purpose while he was in charge of the Habana office at various times from 1892 to 1895. In this connection attention is called to a letter of this Department of February 21, 1902, to the Committee on Claims, House of Representatives, and one of March 6, 1902, to the Committee on Claims, United States Senate. These letters contain a full statement with reference to these two claims, the payment of which is earnestly urged by this Department.

"FRANCIS B. LOOMIS,
"Acting Secretary.

"THE SECRETARY OF STATE:

"The letters of February 21, 1902, and March 6, 1902, above referred to, contained a full and complete statement of the facts in the case, and were identical in substance. Your committee quote the letter addressed to their chairman, which was as follows:

"DEPARTMENT OF STATE,
"Washington, March 6, 1902.

"SIR: I have the honor to acknowledge the receipt of your letter, dated the 4th instant, requesting a statement with reference to Senate bill No. 3967 for the relief of Ramon O. Williams and Joseph A. Springer.

"In reply I have to say that the amounts named in the bill were paid by Mr. Williams when consul-general of the United States at Habana, Cuba, and by Mr. Springer, vice-consul-general, when in charge of the office during the absence of Mr. Williams, for clerical assistance over and above that for which allowances had been regularly made. Extra clerical help was absolutely necessary, largely on account of the reciprocity agreement between the United States and Spain, which gave the official at Habana an immense amount of work, especially in connection with the claims and protests presented by importers of American products (who were entitled to certain franchises under the said agreement) against the errors and misinterpretations due to mutual delay in publishing the joint repertory agreed upon by the two Governments.

"Acting under the instructions of this Department the consul-general at Habana received all such protests, not only those presented at Habana, but also those presented to other consular officers of this Government in Cuba. The reception of these protests, the preliminary consultations in connection therewith, the recording, filing, and translation of the documents and the correspondence with the fiscal authorities of Cuba, which was conducted mostly in two languages, gave the office such a vast amount of work that it was impossible to carry it on with the regular force employed.

"All the protests and claims made by importers to Cuba of American products, under the reciprocity agreement, were presented to our consular officers, and not in any case to Spanish notaries.

"It is proper to add in this connection that not a dollar was charged for any service connected with the business named, either for an official fee or for any personal service of an unofficial notarial or clerical character, nor for extra hours of labor, the sole purpose of the office being to aid in every possible way the development of our commerce with Cuba. Moreover, had not the consul-general employed tried and capable clerical assistance the detriment to American commerce would have been marked.

"On account of the long distance of Cuba from Spain the consul-general at Habana performed many services involving diplomatic or semidiplomatic functions, and the number of such services during the period covered by the claim in question was unusually large. No extra compensation was given the consul-general for work of this character done by him, which involved extra clerical help.

"In view of the foregoing facts the Department is decidedly of the opinion that the claim of Mr. Williams for \$2,222.08 and of Mr. Springer for \$200.54 is just and reasonable and should be allowed by Congress.

"I have the honor to be, sir, your obedient servant,

"JOHN HAY.

"HON. FRANCIS E. WARREN,
"Chairman Committee on Claims, United States Senate."

Mr. PAYNE. I did not notice the date of the letter from the Secretary of State. Can the gentleman tell me whether that letter was before the conference committee and before the House when this was struck out of the appropriation bill?

Mr. GRAFF. No; it was not.

Mr. PAYNE. It would seem, according to the report, that the Senate put it in the appropriation bill and that it came over to the House and was voted out. It then went to conference and finally went out.

Mr. GRAFF. I find the date of this is March 6, 1902.

Mr. PAYNE. What was the date of the conference?

Mr. GRAFF. That must have been three or four years ago. The letter of the Secretary of State sets out very clearly that it was necessary to have this clerical help on account of the reciprocity treaty with Spain at the time and that these amounts were absolutely paid out by the consul-general and vice-consul for necessary help incurred at that time. They have received no fees for their services, and the Secretary of State states that it was a proper bill of expense.

Mr. PAYNE. I do not think anyone who knows him would question a statement made by Mr. Williams.

Mr. GRAFF. It is simply a question of reimbursing them for this money which was paid out by them necessarily for the Government.

Mr. PAYNE. I do not like to encourage the practice of consuls incurring extra expense, and then coming to Congress for

an appropriation to reimburse them. There might have been a necessity for it in this case.

Mr. GRAFF. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The bill was laid aside with a favorable recommendation.

R. D. ASHFORD.

The next business on the Private Calendar was the bill (H. R. 10089) for the relief of R. D. Ashford, of Lockport, Niagara County, N. Y.

The Clerk read the bill, as follows:

A bill (H. R. 10089) for the relief of R. D. Ashford, of Lockport, Niagara County, N. Y.

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to R. D. Ashford, of Lockport, Niagara County, N. Y., out of any money in the Treasury not otherwise appropriated, the sum of \$420, that sum being for the rent of three parlors of the American Hotel, at Lockport, N. Y., and damage to carpets and furniture of said three parlors while they were occupied for post-office purposes at the time of the destruction of the Hodge Opera House, at Lockport, N. Y., on the morning of January 5, 1881, which was then partly occupied under lease by the Post-Office Department as a post-office.

Mr. PAYNE. I would like to have some statement or a reading of the report. I call for a reading of the report, if no one volunteers a statement.

Mr. GRAFF. If the gentleman from New York insists upon a reading of the report, I will ask that the bill be laid aside without prejudice.

Mr. PAYNE. Can not the gentleman make a statement?

Mr. GRAFF. The bill was introduced by Mr. WADSWORTH of New York. Mr. Hubbard, postmaster of Lockport, makes an affidavit setting forth the facts, as follows:

Richard D. Ashford filed with the Post-Office Department, at Washington, in March, 1881, for use, rent, etc., of parlors A, B, and G, in the American Hotel, in said city of Lockport, as an emergency post-office during the month of January, 1881, occasioned by the burning of the Opera House Building, in which the post-office was located.

I, as postmaster, was compelled at that time to take the first place that I could procure for the sorting and distributing of the United States mails. I procured the parlors in said hotel—as mentioned herein—of Mr. Ashford, only expecting to use them or remain there for one day; but circumstances made it necessary for me to occupy the rooms from January 5 to February 1. The reason for such occupancy for so long a time was—

First. The burning of the building in which the post-office was located.

Second. Being unable to obtain suitable rooms elsewhere at once and fit them up, I remained in the hotel until February 1.

Third. The store which was afterwards (March 1) moved into was No. 1, Central block, and had to be vacated and fitted up for the purposes of the post-office, which fitting up took January and part of February of said year.

The rental of the general post-office in this city was \$600 per year. That was the amount of rent paid to Mr. Hodge for many years for the use of the post-office in the Hodge Opera House building and in No. 1 Central Block, which he furnished and fitted up. He had nothing to do with the procuring of the rooms in the American Hotel for the use of the post-office; there was no part of the money coming into my hands for rent or other purposes paid to R. D. Ashford for the use of his premises, and no money was ever sent to me or allowed by the Post-Office Department from which I could pay for the use of the same, which use was approved by me at the time and by affidavits submitted by me since that time.

I can see no reason why Mr. Ashford should not receive his pay for the use and accommodation he furnished to the United States post-office in his hotel, which occupied three of his most eligible rooms in the hotel, and which were furnished with carpets, besides the inconvenience to the people of the hotel, the rush and scramble of seekers for their mail, which was no doubt owing to the post-office being contained in said hotel for more than one day, and Mr. Ashford suffered more loss in his business and inconvenience than he could realize by his receiving the payment of his bill by the United States.

Mr. PAYNE. I see the gentleman from New York who introduced the bill is here, and I would like to ask him a question or two.

Mr. WADSWORTH. I will be very glad to answer.

Mr. PAYNE. I would like to ask if the owner of this hotel ever received any rent from the Government?

Mr. WADSWORTH. Not that I know of. I rely entirely in this matter upon the report of the Postmaster-General.

Mr. PAYNE. Does the Postmaster-General say so?

Mr. WADSWORTH. I think he does. I will say to the gentleman I have not looked at this report for a year.

Mr. PAYNE. I understand the gentleman said the Postmaster-General so reports.

Mr. MILLER. The language of the Postmaster-General, if the gentleman from New York pleases, is:

So far as the records of this office show, no claim was made by Mr. Ashford for rent of the rooms in the hotel, and it was not until January 15, 1891—nearly ten years afterwards—that Mr. Ashford filed a claim for rent. This claim was rejected by the Department apparently on the ground that it had not been presented at the proper time, and that the appropriation had lapsed and been covered into the Treasury.

Mr. PAYNE. Now, the amount of this bill is based on the \$600 rental. I will ask the gentleman from Illinois, as I have

not gotten much information, how is that amount arrived at in this bill? Are we paying for carpets or for rent. How do you arrive at the amount carried in this bill?

Mr. GRAFF. I suggest that the gentleman get into a controversy with his colleague from New York about that.

Mr. WADSWORTH. I stated that I relied absolutely upon the report of the Postmaster-General. I have no knowledge whatever of the details other than it. Here is what the Postmaster-General says:

The records show conclusively that no rent was paid Mr. R. G. Ashford for rent of the three rooms in the hotel building for the month of January, 1881; and while there is no question that he was entitled to compensation, it is not possible at this time (twenty-one years afterwards) for this Department to determine the rental value of the rooms and the amount to which he is entitled. The rental paid for permanent quarters for the office at that time was at the rate of \$600 per annum, increased to \$1,000 per annum April 1, 1882, and it is therefore for the committee to decide what amount should be paid for rent of the three rooms, including damage to carpets and furniture, from January 5 to February 1, 1881, and whether the claimant is entitled to interest.

That is the whole thing in a nutshell, as far as the knowledge I have.

Mr. PAYNE. And this committee did not give him interest?

Mr. WADSWORTH. No; they did not.

Mr. PAYNE. Did they give him any more than the rental value?

Mr. WADSWORTH. I think not. Mr. Johnson, the First Assistant Postmaster-General, in his report says: "I will say in this connection, however, that this claim is undoubtedly meritorious, and if referred to this office will receive favorable consideration."

Mr. GRAFF. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The CHAIRMAN. The question is on the motion of the gentleman from Illinois, that the bill be laid aside with a favorable recommendation.

The motion was agreed to.

HANNAH S. CRANE AND OTHERS.

The next business on the Private Calendar was the bill (H. R. 10558) referring the claim of Hannah S. Crane and others to the Court of Claims.

The bill was read, as follows:

A bill (H. R. 10558) referring the claim of Hannah S. Crane and others to the Court of Claims.

Be it enacted, etc., That jurisdiction be, and the same is hereby, conferred on the Court of Claims to hear the claim of Hannah S. Crane and others for the rent and value of certain real property in the city of San Francisco, in the State of California, in which they claim an undivided one-sixth interest, upon the evidence already filed in said court and such additional legal evidence as may be hereafter presented on either side; and if said court shall find that said parties acquired a valid title to said real property as claimed, said court shall award the said parties a fair and reasonable rent for the use of the undivided one-sixth part of said property for the time, if any, the same has been occupied by the United States as a branch mint, or otherwise, and also a suitable indemnity for said undivided one-sixth part of said property; and the receipt of such rent and indemnity shall thereafter bar any further claim by said parties for the use of said property, or for the value thereof. And before receiving the same, all of said parties shall execute a release to the United States for all right, title, and interest whatsoever in and to the said property, and any defense, set-off, or counterclaim may be pleaded by the United States, as defendants, as in cases within the general jurisdiction of the court, and either party shall have the same right of appeal as in such cases.

Mr. PAYNE. Mr. Chairman, it appears that this claim has been before the Court of Claims before. I hope the report is not so long but that we can get information from that, because the evidence, the oral evidence, of the living witnesses seems to be a little shaky. I do not mean in any improper sense; but gentlemen do not seem to be able to give us the facts.

Mr. GRAFF. I accept the apology of the gentleman from New York, and refer him to the gentleman from California.

Mr. NEEDHAM. Mr. Chairman, the facts in this case are briefly that in 1852 Congress passed an act for the building of a branch mint in San Francisco, and appropriated \$300,000 therefor. The Secretary of the Treasury entered into a contract providing for the building of this mint in the city of San Francisco. There was also a provision in the contract which provided that an additional piece of ground, of about 20 feet, immediately adjoining where the building was being constructed, might also be acquired, with the provision that the contractor should give a good title to the United States within ninety days. This additional ground was also found to be necessary, and the Government obtained the property in this way: It was owned by three gentlemen in partnership—the contractor was one of these persons. His name was Curtis, and he executed a deed to the Government. One of the partners was on the sea at that time, and it seems that he died and his interest was never conveyed to the Government, although the Government accepted title. Subsequently the successors in interest of this partner that died brought an action in ejectment in the courts of Cali-

fornia and also in the United States court, and their title was sustained, and it was determined by the supreme court of California, and also by the United States court, that their title was good, and they have never parted with the title—one-sixth interest in the land upon which this mint is situated.

The case was referred to the Court of Claims once before by Congress, and the Court of Claims also found that the title was in these people; but the language of the former act was not sufficiently broad to determine what damages the claimants were entitled to, and this bill is simply to re-refer, so that the claimants shall obtain the amount they are entitled to, together with whatever indemnity they are entitled to receive.

Mr. PERKINS. What damages do they claim?

Mr. NEEDHAM. They have never received anything; and also what is right for a quitclaim deed.

Mr. PERKINS. Do they claim one-sixth interest in the land?

Mr. NEEDHAM. One-sixth in the property attempted to be conveyed.

Mr. PAYNE. Is the building on that?

Mr. NEEDHAM. The United States Government occupies it to-day.

Mr. PERKINS. Is the purpose of the bill to allow them the value of this land as it is to-day, with the building on it, or the value of the land as the Government took it?

Mr. NEEDHAM. The language of the bill is:

If said court shall find that said parties acquired a valid title to said real property as claimed, said court shall award the said parties a fair and reasonable rent for the use of the undivided one-sixth part of said property for the time, if any, the same has been occupied by the United States as a branch mint.

Mr. PERKINS. What becomes of the fee?

Mr. GRAFF (reading from the bill). "And also a suitable indemnity for said undivided one-sixth part of said property."

Mr. NEEDHAM. The provision of the bill is that they should convey suitable title.

Mr. GRAFF. I do not think there is any doubt but what the court in that case will simply ascertain what the value of the property was at the time that it was taken by the United States Government, with interest, probably, from that time.

Mr. PERKINS. Then the bill providing for rent will give these people for over fifty years the rental value that has come by the erection of that building by the United States Government.

Mr. GRAFF. Oh, no; the rental of the property which they own—the ground rental value.

Mr. NEEDHAM. Of one-sixth part?

Mr. GRAFF. One-sixth part.

Mr. PERKINS. It seems to me there ought to be an amendment that will make this clear, because these people ought not to recover an unjust sum from the Government.

Mr. CRUMPACKER. This bill seems to be in conflict with the common practice for settling that kind of cases. It provides for rent up to the present time and is to determine the value of the property up to this time. This implies the value of the property at that time. The value of the property at the time it was appropriated, with interest at the legal rate, seems to be the compensation asked in this claim.

Mr. PERKINS. And just that, it seems to me.

Mr. CRUMPACKER. That is the usual rule when property is taken.

Mr. GRAFF. I think the gentleman from Indiana [Mr. CRUMPACKER] is right about that.

Mr. PAYNE. I would like to ask the chairman of the committee why this question could not be better settled by condemnation proceedings?

Mr. NEEDHAM. These people have a judgment in ejectment.

Mr. PAYNE. But suppose the Government should take proceedings to defend this title?

Mr. GRAFF. But suppose the Government does not?

Mr. NEEDHAM. They can not compel the Government to do that.

Mr. PAYNE. And they can not eject them.

Mr. GRAFF. There would be no relief for them.

Mr. PAYNE. Then, certainly, this bill ought to have safeguards to it to recover anything for the use of the betterments put on there by the United States, and also of the value of their title when the Government took it, it seems to me.

Mr. GRAFF. Mr. Chairman, I move the bill be amended by striking out all after the word "parties" in line 12, page 1, of the bill, up to and including the word "property" in line 3, page 2, and insert in lieu thereof the following: "the market value of the undivided one-sixth of said property at the time possession was taken of it by the United States, together with legal interest thereon;" and then that there be stricken out after that, all after and including the word "and," on page 2, in line 3, down to and including the word "thereof," on line 5.

Mr. PERKINS. What is the rate meant by "legal interest of California?"

Mr. BELL of California. Seven per cent.

Mr. PERKINS. Then I suggest the amendment read "7 per cent." That is enough interest for fifty years.

The CHAIRMAN. The gentleman from Illinois will please restate the latter part of the amendment, with the words to be stricken out.

Mr. GRAFF. Strike out commencing before the word "and," and including that word, and all thereafter down to and including the word "thereof" in line 5, page 2.

Mr. PERKINS. I ask that the Clerk be requested to report the entire bill with the suggested amendment, so that we can understand it.

The Clerk read as follows:

A bill (H. R. 10558) referring the claim of Hannah S. Crane and others to the Court of Claims.

Be it enacted, etc., That jurisdiction be, and the same is hereby, conferred on the Court of Claims to hear the claim of Hannah S. Crane and others for the rent and value of certain real property in the city of San Francisco, in the State of California, in which they claim an undivided one-sixth interest, upon the evidence already filed in said court and such additional legal evidence as may be hereafter presented on either side; and if said court shall find that said parties acquired a valid title to said real property as claimed, said court shall award the said parties the market value of the undivided one-sixth of said property at the time possession was taken of it by the United States, together with legal interest thereon. And before receiving the same, all of said parties shall execute a release to the United States for all right, title, and interest whatsoever in and to the said property, and any defense, set-off, or counterclaim may be pleaded by the United States, as defendants, as in cases within the general jurisdiction of the court, and either party shall have the same right of appeal as in such cases.

Mr. GRAFF. I also offer another amendment which I think would affect the bill.

Mr. PAYNE. Did I understand you to say that that is another amendment?

Mr. GRAFF. Yes. I offer another amendment, to strike out the words "for rent," on page 1, in line 5.

The CHAIRMAN. The question is on the first amendment offered by the gentleman from Illinois.

Mr. BELL of California. Mr. Chairman, I would like to have the attention of the committee during the discussion of this amendment. I am quite sure the committee will not vote to adopt this amendment after being fully advised as to the facts in the case.

Now, we are simply confronted with this situation: Hannah S. Crane and a number of other individuals in the State of California own an undivided one-sixth interest in certain land upon which the United States mint stands in the city and county of San Francisco. This one-sixth interest which they own has been adjudicated by the highest court of the State of California. After the decision of the supreme court of the State of California the United States Government sued out a writ of error and took the case to the United States Supreme Court, where the Attorney-General of the United States, after a full investigation of all the facts and circumstances, dismissed that appeal; so that Hannah S. Crane and these other parties to-day own an undivided one-sixth interest in that property.

Now, instead of pursuing the course that was plainly open to them, instead of appealing to the court of California for a writ of possession to put them in possession of their interest in this property, these people have seen fit to come to the United States Congress, and in a decent way, one that conforms to the highest duties of citizenship, and ask for relief at the hands of the United States.

Now, you undertake to say that you shall go back to 1854 and ascertain the bare value of that land at that time. Then you take one-sixth of it, and you compute the legal interest of California at 7 per cent and pay these people that amount. I want to ask you first if you take this step, if you turn this claim over to the Court of Claims to make such an award, do you as business men believe that Hannah S. Crane and her co-owners will accept such terms as that? Of course they are not entitled in equity, in morals, or in good faith to the benefit of any improvement that has been placed upon that property, and no honest man or woman would contend for that; but they have certain rights there, and I believe that we can well leave it to the Court of Claims to determine those rights under the provisions of this bill.

Now, let me go over the facts in this case very briefly, in order that you may be advised of the exact situation. The United States Government appropriated \$300,000 in 1854 to establish this mint at San Francisco. The land upon which they desired to establish the mint was owned by the firm of Curtis, Perry & Ward, a copartnership. Mr. Curtis, a member of that firm, carried on the negotiations with the United States Government in his own name. He held powers of attorney from his two absent partners, but some question was

raised as to the form of that power. So he conducted these negotiations. He entered into a contract with the United States Government to turn over the property, with buildings suitable for mint purposes, for the sum of \$259,000. Now, at the time that contract was signed, one of these partners had died, although no one on that day, the date of the contract, knew that he was dead.

The last will and testament of Ward, the third partner, was filed for probate. He had named his other two partners, Perry and Curtis, executors of that last will and testament. One of them, Mr. Perry, qualified, but Mr. Curtis failed to qualify. In his will Ward left his wife nine-tenths of his property. The court proceeded to probate his estate, and Perry, as executor, applied to the court for an order to sell the one-third interest of Ward in the property. It was appraised at \$40,000. The executor proceeded to sell out to his other partner, Curtis, the man who was negotiating with the United States, at the rate of \$40,000 for the entire property, making \$13,333 for the interest of Ward. Now, it is true that Mrs. Ward accepted that money, having full knowledge of all the proceedings of the court; but the law of the State of California at that time provided that Ward could not devise this property, but only one-half of it. Under the laws of the State of California one-half of this property went absolutely to the widow, and the other was subject to testamentary disposition.

The widow then ascertained that there had been some collusion or corruption in this transaction, and she immediately filed an action in the district court of the United States for the State of California, setting forth the facts of fraud and collusion, and before the United States Government had paid that man Curtis a balance of \$183,000 upon his contract the United States Government was placed in possession of all these facts. Their attention was called to it. They had made one payment of \$100,000 to this man Curtis, but the balance was not paid until after the United States Government was fully apprised of the claims of the widow. Now, under the law—

Mr. GRAFF. Will the gentleman permit me to interrupt him? I think the temper of the House is in favor of this measure, as far as I can see. The only question is whether these parties shall obtain rent for a long period or whether their measure of damages shall be the value of the land at the time it was appropriated, together with interest thereon from that time down to the present. What objection have you to that measure of damages?

Mr. BELL of California. I will state that—

Mr. LIND. Interest at that rate amounts to 350 per cent.

Mr. BELL of California. I will not stop to figure whether it amounts to more or less. I will state first that I do not know these people at all or anything about whether they would be disposed to accept this; but it seems to me that there is just one proposition here, and that is for the United States to clear its title to the sixth sixth of this real estate, on which the United States mint at San Francisco stands. Now, why adopt a measure—

Mr. GRAFF. This bill does not seek to deal with that question at all.

Mr. BELL of California. That is the purpose of this bill.

Mr. GRAFF. This bill is simply for the purpose of recompensing the one-sixth interest.

Mr. BELL of California. Does it not require a conveyance from these people to the United States, in order that the title may be perfected?

Mr. GRAFF. Yes.

Mr. BELL of California. Now, should we pass the measure as you suggest, with your amendment, how do you know that these people will accept this? How do you know that you are going to accomplish what we are endeavoring here to do, clear the title of the Government to that property?

Mr. GRAFF. I do not suppose we are compelled to accept the proposition of these people. We have a right to make a part of the proposition ourselves, and it seems to me that a reasonable view of it is that the same measure of damages ought to be made in this case as would be made in all other cases where property was wrongfully taken, or taken under a misapprehension of the title, and possession was taken; that the value should be determined at the time of the appropriation of the property, and interest computed thereon from that date until now.

Mr. BELL of California. Do you contend that that applies to real property?

Mr. GRAFF. I think that would be a fair way.

Mr. BELL of California. The gentleman would not contend as a principle of law that that has any application to real property?

Mr. MANN. Will the gentleman from California yield for a question?

Mr. BELL of California. Certainly.

Mr. MANN. I suppose no taxes have been paid on this property for the last fifty years?

Mr. BELL of California. Does the gentleman mean by the people that are claiming this one-sixth?

Mr. MANN. By anyone?

Mr. BELL of California. I presume not.

Mr. MANN. Under the law of California, the title having been ascertained to be in these people, can they go back and assess and collect taxes for the past fifty years?

Mr. BELL of California. I do not think they can.

Mr. MANN. I think they could in most States, but I did not know how it was in California. If they could, it would make a great difference.

Mr. LIND. There is a limitation of seven years, I think.

Mr. BAKER. I would like to ask the gentleman a question directly bearing on this matter. If the State can not recover any taxes it would have received on this land, why should the people claiming ownership in it, as they have not had to pay taxes, come here and ask the United States Government for the full value of the land and all interest which they claim to have lost during this period of years? Is that a just proposition?

Mr. BELL of California. If the gentleman from New York will pardon me, and take time to read the bill, he will find that there is no proposition to pay a certain sum. It is left to the Court of Claims to fix such indemnity as it thinks proper.

Mr. BAKER. Then I would like to ask the gentleman from California if, in his judgment, he thinks it proper to pay these people the full value of the land and interest?

Mr. BELL of California. No; that is a consideration that should be borne in mind in determining their indemnity. Now, I want to reply to the gentleman from Illinois. I will state to the gentleman that you are confronted by this situation: These people to-morrow can go into the courts of California and take out a writ of possession and claim possession of their one-sixth interest in the mint property.

Mr. PERKINS. But does not the gentleman know that the Government can take proceedings to condemn this property?

Mr. BELL of California. Let me ask the gentleman a question. Suppose the Government to-morrow institutes proceedings to condemn one-sixth interest of these people, what will be the basis of computing the amount they are to be paid?

Mr. PERKINS. I will answer the gentleman. It will be the present value of the land, but it will not be fifty-two years' rent accrued in the past and interest at 7 per cent from 1854. The gentleman must know that these people would have no right in any court to be allowed for rental further than the period provided by the statute of limitations. They could not get a rental for fifty years, and that is why they introduce this bill, which gives them more than any court would give them.

Mr. BELL of California. Under what theory of law could they not claim rent?

Mr. PERKINS. Because of the statute of limitations.

Mr. BAKER. Mr. Chairman, I understood that the gentleman from California had five minutes.

Mr. BELL of California. I will state to the gentleman from New York, who never does any talking upon the floor—

Mr. BAKER. I refuse to be insulted by the gentleman from California.

Mr. BELL of California. I beg the gentleman's pardon.

Mr. BAKER. The gentleman from California has now had the floor over twelve minutes.

The CHAIRMAN. The gentleman from New York makes the point of order that the gentleman from California has occupied more than five minutes, and the Chair sustains the point of order.

Mr. BAKER. Mr. Chairman, I ask for five minutes, in order to discuss this question.

Mr. PAYNE. If the gentleman from New York will pardon me, I want to ask three minutes for the gentleman from California. I ask unanimous consent that the gentleman from California may proceed for three minutes, and then that my colleague from New York [Mr. BAKER] may have five minutes.

The CHAIRMAN. The gentleman from New York asks that the gentleman from California may proceed for three minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. BELL of California. Now, Mr. Chairman, I want to state my position in this matter. It is entirely a disinterested one. I do not know one of these parties. I am not interested in the bill. It was not introduced by me.

I desire simply to determine some method here by which the claims of these parties may be gotten rid of and the full title to this property vested in the United States. Now, under the provisions of this bill the Court of Claims, in making the contem-

plated award, may consider all these things that have been embraced in the amendment of the gentleman from Illinois. They may take into consideration the value of the property at the time it was appropriated, with interest at the legal rate in the State of California. They may take its value at that time and they may allow rental, or they may take its value at the present time without improvements. Certainly we can leave it to the Court of Claims to make such award in this case as may seem fit and proper in the premises. These people own this one-sixth interest. They could take possession to-morrow unless condemnation proceedings were begun, and if condemnation proceedings were begun to obtain their title on behalf of the United States the Government would be compelled to pay the present value of that property. So all I say is this, that we may now provide sufficient ways and means of entirely getting rid of this question by leaving it to the Court of Claims and letting that court give such award and compensation, such rent or interest, as it may deem fit and proper. I trust this amendment will not prevail.

Mr. BEALL of Texas. Mr. Chairman, will the gentleman from California yield for a question?

Mr. BELL of California. I do.

Mr. BEALL of Texas. What does the gentleman estimate would be the probable value of that property now without any improvements upon it?

Mr. BELL of California. Oh, I do not know. That property since 1854 has increased one hundredfold in value, probably.

Mr. LIND. You get 350 per cent.

Mr. BELL of California. I get 350 per cent?

Mr. LIND. In interest at 7 per cent—three and a half times.

Mr. BELL of California. Yes. I did not understand your mathematics.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. BAKER. Mr. Chairman, this is one of the countless thousands of cases which are occupying the time of the courts of this country, taking up the time of the courts of the various States, entailing expenses and fees aggregating millions of dollars, and undoubtedly many of such cases are before the courts of the United States at this time. Now, what is the basis of this claim? The basis of this claim is that some one did not get a full recompense for his or her interest in a piece of land in the city of San Francisco some fifty years ago. No one claims that there was any labor value upon that land. No one claims that one day's energy had been expended by anyone in the production of wealth and that wealth created by labor had been taken by the people of the United States in this way. Nothing of that kind. A ground rent had been created there in the city of San Francisco by the people then residing in San Francisco. That ground rent has been enormously increased since that time. It is not the result of individual human effort.

The people who have the title to that land, or who claim title to that one-sixth of a 20-foot strip, did not create any of that land value. Nor did those from whom they claim to inherit it create one dollar more of that land value than any of the rest of the people of San Francisco, and the scores of thousands of dollars of value that may have been added since that time to that land is the direct result of increase in population; of increase in invention; of improvements in government; of improvements in transportation and exchange—in other words, all of the things which we call "civilization." Now, because the people of this country were so foolish fifty years ago as not to see the wisdom and justice of taking, in taxation, that value which they had created, therefore we who now constitute the people of the United States are called upon to go down into our pockets, the pockets of the people—we call it "taking from the Treasury," but it is delving down into the pockets of the people—and take out money to recompense these individuals for a claim that they have no justification for in morals. If the single tax had been in operation in the United States at that time this claim would never have arisen, could never have come before Congress, because there would be no margin of ground rent to sell.

The people would, by taxation, have taken every year the value of the rental, the annual value of the land, into the public treasury; and it would make no difference to Mrs. Jones or Mrs. Smith, or whatever the name of the lady may be, whether she owned a one-sixth interest or not, because she would have no margin of rent to sell and therefore would not be able to rob present day labor—for ground rent is a tax upon the laborer of to-day and not upon his predecessor of a decade or more ago, and is paid out of wealth created now, from day to day. That is the policy that ought to have been put into operation at that time. It is the policy that should be put into operation now—the quicker the better—and when once that is done you remove

all such claims as this from the State courts and the courts of the United States; you clear up litigation all over the country. By thus reducing litigation you reduce the number of lawyers, and you turn the energy of those lawyers who come into this House and argue in favor of claims of this kind, in which, of course, they are not interested, into useful channels, turn them toward useful avocations, instead of having them use their brains and energy in endeavoring to convince us that there is justice in a claim which has no moral justification whatever. [Applause on the Republican side.]

The CHAIRMAN. The question is on the first amendment offered by the gentleman from Illinois.

The question was taken; and the amendment was agreed to.

The CHAIRMAN. The question now is on the second amendment offered by the gentleman from Illinois.

The question was taken; and the amendment was agreed to.

Mr. GRAFF. Mr. Chairman, I move that the bill as amended be ordered to be laid aside with a favorable recommendation.

The question was taken; and the motion was agreed to.

AMERICAN REGISTER FOR STEAMER BROOKLYN.

The CHAIRMAN. The Clerk will report the next bill.

The Clerk read as follows:

A bill (H. R. 5392) to provide an American register for the steamer Brooklyn.

Be it enacted, etc., That the Commissioner of Navigation is hereby authorized and directed to cause the foreign-built steamer Brooklyn, wrecked in Cuban waters and purchased by a citizen of the United States, and now under repair in a shipyard in the United States, to be registered as a vessel of the United States whenever it shall be shown to the Commissioner of Navigation that the repairs made upon said vessel have amounted to three times the purchase price of said vessel.

Mr. PAYNE. Mr. Chairman, that is a bill reported from the Committee on Merchant Marine and Fisheries, is it not? Well, I make the point of order upon it. I withdraw the point. I think it has been decided to be in order.

Mr. GRAFF. Well, I renew the point of order. I ask unanimous consent that the bill be passed without prejudice.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that the bill be passed without prejudice. Is there objection? [After a pause.] The Chair hears none, and it is so ordered. The Clerk will report the next bill.

HENRY LEE.

The Clerk read as follows:

A bill (H. R. 6375) for the relief of the executors of the estate of Henry Lee, deceased.

Be it enacted, etc., That there be paid, out of any money in the Treasury not otherwise appropriated, to the executors of the estate of Henry Lee, late a merchant in the city of Boston, in the State of Massachusetts, the sum of \$3,750, being an excess of taxes improperly levied and collected on legacies and distributive shares of the personal property of the said estate, which tax was paid by the executors on March 15, 1899; said payment to be in full for all claims by reason of such assessment and collection.

Mr. GRAFF. Mr. Chairman, I ask that it be laid aside with a favorable recommendation.

Mr. PAYNE. Let us hear the report read.

Mr. GRAFF. I will ask the gentleman from New York if he will not be willing to hear from the gentleman from Massachusetts [Mr. TIRRELL]?

Mr. PAYNE. I am always glad to hear from the gentleman from Massachusetts; but he has a manner which is most persuasive.

Mr. TIRRELL. I am sure I can satisfy the gentleman from New York in this case. Under the act of Congress of June 13, 1898, making provision for the war revenue, it was provided that legacies for one's own children should be taxed, and the Treasury Department, by an erroneous construction of the law, decided that in ascertaining the per cent which should be taken out for that tax the total amount of the personal property which was left by the will should be the guide in determining the per cent instead of taking the separate legacies and determining the per cent from those legacies. Under that erroneous construction of the law in the case of the estate of Henry Lee, of Boston, which was over \$1,000,000, and which by his will was distributed in part by legacies to his children, the tax upon those legacies to his children was determined by the high rate of per cent which the million-dollar estate or whole personal property would determine, so that, instead of paying a graduated rate upon the different legacies from a dollar and a fraction to a hundred up to two twenty-five, they paid the highest amount which could be paid on the total estate. Now, there were other cases of that character, and those cases went to the Supreme Court of the United States, which decided, in 178 United States Reports, in the case of Knowlton v. Moore, that—

The amount of each particular legacy or distributive share, and not the sum of the whole personal estate of a decedent, is the amount on which the progressive rate of tax is imposed by the war-revenue act of June, 1898, sections 29, 30, and by which the rate is determined.

Now, then, the executor—

Mr. PAYNE. I will ask the gentleman right there—perhaps we can cut that shorter, and of course I am always anxious to save the time of the House—as I understand it, the revenue law provided for a higher rate where the estate was large?

Mr. TIRRELL. Yes.

Mr. PAYNE. And a lower rate where it was smaller, and this estate was assessed for the total amount of the estate at the higher rate and tax paid on it, and the courts afterwards decided and the Internal Revenue Commissioner decided that the tax should be graduated upon the legacy to each person?

Mr. TIRRELL. That is right.

Mr. PAYNE. And that was to be the amount, and if it had been properly assessed at the lower rate they would have paid a less amount than was paid, and this bill is for the difference between the two rates?

Mr. TIRRELL. Exactly.

Mr. PAYNE. I am satisfied as far as I am concerned.

Mr. TIRRELL. I move that the bill be ordered to be laid aside with a favorable recommendation.

The CHAIRMAN. The question is upon the motion of the gentleman from Massachusetts that the bill be laid aside with a favorable recommendation.

The question was taken; and the motion was agreed to.

UNITED STATES REGISTRY FOR STEAMER SUCCESS.

The next business on the Private Calendar was the bill (H. R. 9090) to provide United States registry for the steamer Success.

Mr. DUNWELL. Mr. Chairman, I was to have an opportunity for a few minutes to address the House when this bill came up for consideration. The bill was introduced by my colleague from the State of New York [Mr. GOULDEN]. He is not here to take charge of the bill, and I request that I be allowed to say a few words with regard to it.

Mr. PAYNE. The gentleman has the right.

The CHAIRMAN. When the bill has been reported the Chair will recognize the gentleman.

Mr. LIND. Mr. Chairman, this kind of claim is not entitled to consideration at this time.

The CHAIRMAN. The Chair understands the rule to be that on this day all bills may be considered except war claims and pensions and bills from the Committee on Invalid Pensions.

Mr. LIND. I was misinformed.

The bill was read, as follows:

A bill (H. R. 9090) to provide United States registry for the steamer Success.

Be it enacted, etc., That the Commissioner of Navigation is hereby authorized and directed to cause the foreign-built steamer Hero wrecked at Colon, United States of Colombia, and purchased and wholly owned by John W. Chittenden, of New York City, and repaired by the Baltimore Shipbuilding and Dry Dock Company, to be registered as a vessel of the United States under the name of Success whenever it shall be shown to the Commissioner of Navigation that the repairs on the vessel amount to three-fourths of the actual cost of the wreck to her owner.

The CHAIRMAN. The Chair recognizes the gentleman from New York.

Mr. DUNWELL. Mr. Chairman, the company interested in these bills is the Merritt-Chapman Wrecking Company, of the city of New York. It is a company engaged in the salvage of ships and the saving of life. It is a company which stands in the relation to people calling upon it for their work as a physician does to his patient. They do not feel that they can refuse any request that is made upon them, and they never do. This plant, in which they have invested \$1,000,000, and in which 500 skilled workmen are constantly employed, stands ready at any moment, day or night, to answer any call which is made upon them from any part of the United States coast.

Now, the only thing which is lacking in this particular case and in the one following it is the fact that these vessels were not saved in the waters of the United States. In every other particular they came within the statute; and I claim that as American citizens, having saved these ships, having spent more money upon them by many times than the value of the ships or the amount which they paid for them, they are entitled to this consideration at our hands; and I move, Mr. Chairman, that this bill be laid aside with a favorable recommendation.

Mr. PAYNE. I would like to ask my colleague this question.

Mr. DUNWELL. Certainly.

Mr. PAYNE. Who is the owner of this vessel?

Mr. DUNWELL. The owner is the Merritt-Chapman Wrecking Company, of New York.

Mr. PAYNE. Why is it that it can not be registered under the general law?

Mr. DUNWELL. Because this vessel was wrecked on the coast of Panama. They went down there, raised it, and brought it to the Baltimore Shipbuilding and Dry Dock Company's

yard, where it was repaired. The underwriters were obliged to take the vessel, because the owners abandoned it to them, and in order to save themselves and their wrecking charges this corporation had to purchase the vessel from the underwriters, which they did at an expense of \$20,000, and it has cost this company nearly \$70,000 for the repairs to place it in seagoing condition.

Mr. PAYNE. I understand the bill provides that it shall receive the registry when the Commissioner of Navigation is satisfied they have met the requirements of the present law in regard to the amount of repairs on that vessel.

Mr. DUNWELL. That is right.

Mr. STEVENS of Minnesota. Mr. Chairman, as a member of the Committee on Merchant Marine and Fisheries, I have consistently opposed bills like the one now under consideration. There were five bills of this kind before our committee at the last session of Congress, these two and three others. I think minority reports were filed in each one of these cases. As to whether or not a minority report was filed in this case I do not remember. I have sent for the report. The minority of the committee have uniformly opposed the passage of this sort of bill for this reason: For nearly one hundred years it has been the policy of our Government, under Republican and Democratic Administrations, that the coastwise trade of the United States should be reserved for American vessels, constructed in the United States out of our domestic material and by domestic labor.

These bills changed that policy, but since three of them have been passed by this House, after a discussion, I do not propose to offer any objection to this one.

I find that the minority have filed their views in this case, and they are contained in the report. They state as follows:

Her purchase price was about \$20,000; repairs, \$68,998, and the present value of the vessel for purposes of coastwise trade about \$120,000.

The law provides that three-fourths of the value of the vessel must be expended in the shipyards of the United States. I take it that part of the requirements have been complied with, so that the only question for this committee to decide is as to whether or not it proposes to change the policy of nearly one hundred years. It has decided so before, and I do not apprehend there will be any difference now. I just wished to inform the committee concerning the action of the minority of the Committee on Merchant Marine and Fisheries.

Mr. SCUDDER. I would like to ask the gentleman whether, as a matter of fact, or whether he knows it to be a fact, that Congress has passed bills similar to this under conditions similar to those prevailing here, awarding American registry to upward of 150 vessels?

Mr. STEVENS of Minnesota. I think that is right.

Mr. SCUDDER. Then I should like to ask the gentleman whether, in view of that Congressional practice which seems to have prevailed, provided it is deemed wise to reverse the practice, it would not be better to effect the change by some affirmative legislative enactment which will provide distinctly that American registry, as asked for in this bill, shall not be accorded. Affirmative notice, which such legislation would afford, would warn American citizens not to go ahead and expend large sums of money, as was done in this case, where as much as \$68,000 was expended on the repairs.

The vessel, the subject of this bill, was wrecked on the coast of Panama. Had it been wrecked this year, instead of three years ago, it might have been held to have been wrecked on American territory and have come within the provisions of the general law. I wish, indeed, that Panama was United States territory. It should be. Having been wrecked on Panama, and three years ago, it can not be claimed for the vessel that it is entitled to the benefit of the general statute allowing American registry to foreign vessels meeting certain conditions. The vessel was premature in being wrecked. The point I desire to make is right here. Would it not be better to have a general statute enacted prohibiting this practice of granting American registry than to now quit granting it, after American citizens have incurred great expense, anticipating Congressional favor to be exercised in their behalf, as has been the practice?

Mr. STEVENS of Minnesota. Mr. Chairman, I am very glad that the question was raised. There is sufficient statute law now prohibiting this practice. I do think, since it has been somewhat general, that it be thought to be good public policy to continue the practice, to do so by amending the statute, after full and fair discussion. If the question was fairly presented to a Republican Congress to let no coastwise trade be done by foreigners, I do not believe any of this class of vessels would be admitted. If this Congress or any other Congress proposes to let into the coastwise trade all the vessels constructed abroad

by foreign labor and built out of foreign material, we ought to say so squarely and make that a general policy instead of making it a policy of favoritism, as we do now, to encourage lobbying in the Halls here and in the committee rooms. This has been the policy for quite a number of years. This species of favoritism is injurious and of bad policy, giving public favors worth many thousands of dollars to these self-seekers. In this case this bill will be worth \$40,000 or so to the owners of this vessel. The result is that there are quite a number of old wrecks in the coastwise business of the United States that ought not to be there, but which displace the vessels constructed by our own good mechanics and by our own capital and out of our own material. Now, these vessels in the coastwise trade ought to be constructed in our own yards, and the fact that they are not is the one thing we object to, and in changing the policy the Members must understand that fact, and that if the policy should be changed it ought to be changed by a general bill instead of by these special bills. We advocated that at the last session of Congress in discussing one of the other bills which appeared then.

Mr. SCUDDER. At the present time the only way it can be done is by special bills, such as this one under consideration, of which 150 have already been passed by the Congress.

Mr. STEVENS of Minnesota. One hundred and fifty have passed in about fifty years—since the law was enacted allowing any foreign-built vessels to enter our domestic trade. While I have been a member of that committee, for about six years, we have only let through a few—about five or ten—five of them at this Congress, and more than at any time previous.

Mr. PAYNE. I think this is the worst course in regard to admitting foreign vessels to American registry that could be pursued. The general law is that when a foreign vessel is wrecked in the American waters and repairs have been put on in American shipyards to the extent of three-quarters of the value, the Commissioner of Navigation can give her an American registry. This practice has let in a good many vessels, and I do not think it is good policy for the United States, because it encourages the repairing of many old wrecks and hulks that ought to be destroyed instead of trying to make vessels out of them for our coastwise trade. Now, Congress, as it has already been said, passed generally all these bills that came before it from the committee giving American registry to these vessels that had been repaired in American shipyards, and that had been wrecked in foreign waters—waters not of the United States.

A few years ago, when I had the honor to be chairman of that committee, we kept out all those bills that we could, and very few of them got in during the four years that I was in the committee. We were against that policy. I think the House has always passed these bills when they came before it; but I should dislike to see the policy of the House made any more liberal by a general law, as is proposed. I do not want to advertise to vessel owners that the hulks that are wrecked all over the globe can get into the coastwise trade of the United States if they can only keep them afloat long enough to get them into American shipyards and spend a certain amount of money on them.

I would rather see our shipyards build new ships from beginning to end. But inasmuch as we have passed these bills when reported by the committee, I shall interpose no particular objection; and especially I shall not do so in view of the fact that my ideas so seldom prevail in regard to private bills which come before the House.

Mr. SCUDDER. Mr. Chairman, will the gentleman yield for a question?

Mr. PAYNE. Yes.

Mr. SCUDDER. I think the gentleman from New York will notice that the report in this case recites the fact that this vessel was a comparatively new one. It is not one of the old hulks to which the gentleman refers.

Mr. PAYNE. I am glad to hear that, because we used to turn down vessels that were old hulks when I was connected with the committee. I am sorry to say that some of them finally got through afterwards. We turned them down because they were old hulks, and I remember that one of them, on its first voyage after it was repaired, turned over.

Mr. HUGHES of New Jersey. Turned itself down.

Mr. PAYNE. Turned turtle, or something of that kind. They finally got it upright and got it in and got it through the committee and through Congress, and an American register was given it. I can not remember the name of that vessel.

Mr. BOUTELL. The name of this one is the *Success*.

Mr. PERKINS. That is a good name.

On motion of Mr. DUNWELL, the bill was ordered to be laid aside to be reported to the House with a favorable recommendation.

UNITED STATES REGISTRY FOR STEAMER MARIE.

The next business on the Private Calendar was the bill (H. R. 9091) to provide United States registry for the steamer *Marie*. The bill was read, as follows:

Be it enacted, etc., That the Commissioner of Navigation is hereby authorized and directed to cause the foreign-built steamer *Euskaro*, wrecked at Calbarien, island of Cuba, and purchased and wholly owned by the Merritt & Chapman Derrick and Wrecking Company, of New York, and now under repair by the Newport News Shipbuilding and Dry Dock Company, to be registered as a vessel of the United States under the name of *Marie* whenever it shall be shown to the Commissioner of Navigation that the repairs on the vessel amount to three-fourths the actual cost of the wreck to her owner.

Mr. DUNWELL. Mr. Chairman, this is another bill of precisely similar character to the one that has just passed the committee, and I move that it be laid aside to be reported to the House with a favorable recommendation.

Mr. PAYNE. I want to inquire if there are any more vessels of this fleet wrecked at Panama?

Mr. DUNWELL. No; and they were not wrecked at the same time, either.

Mr. PAYNE. This is the last one?

The motion of Mr. DUNWELL was agreed to.

Accordingly the bill was laid aside to be reported to the House with a favorable recommendation.

JOSEPH B. SARGENT.

The next business on the Private Calendar was the bill (S. 351) for the relief of Joseph B. Sargent.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Treasury is hereby authorized and directed to pay to Joseph B. Sargent, out of any money in the Treasury not otherwise appropriated, the sum of \$583.67, the same being the value of property belonging to the said Joseph B. Sargent and illegally seized and for money improperly and unlawfully collected from him as alleged duties and penalties by United States officials at the port of El Paso, Tex.

Mr. GOLDFOGLE rose and was recognized.

Mr. PAYNE. Mr. Chairman, I hope my colleague will direct his attention especially to this assault upon the United States officers in the assertion that they unlawfully collected this money.

Mr. GOLDFOGLE. Mr. Chairman, the circumstances, as the committee understand them, are of a peculiar character. It appears that the claimant, Mr. Sargent, in the spring of 1900 was traveling through Mexico with his wife, and while on his travels he purchased some small articles of Mexican ware—I think principally Mexican drawn work. The articles were intended for the use of the claimant's family at home, purchased as these articles usually are purchased, for the purpose of presenting them to members of the family as mementos. The total value of the articles was something in the neighborhood of \$75. I forget the precise amount. When Mr. Sargent, the claimant, reached a place called Laredo, a customs station, he was halted by the customs inspector.

Mr. PERKINS. Is that in this country?

Mr. GOLDFOGLE. Laredo, Tex. He was halted by the inspector and was asked whether he had any Mexican work. He admitted that he had. He made no attempt at concealment at all. Mr. Sargent was very sick indeed, and it was necessary that he should proceed on his journey as rapidly as possible. He left his goods with the customs inspector, the inspector having said that he had no authority to receive payment of the duties, and Mr. Sargent says in his deposition before the committee that he believed he would receive the bill for the duty at San Antonio. He left his address with the inspector, so that the inspector might have known how and where to communicate with him. He was much surprised, however, when he was arrested at San Antonio, charged with the crime of smuggling. Not understanding the law, fearing the consequences of indictment in a strange place and amid strangers, he submitted to the exactions of the Government officials and paid not only the amount demanded as duty, but paid additional penalties demanded.

I am not familiar with the language of the statute with regard to penalties, but it is claimed that the penalties were largely in excess of those that could have been exacted if the charge against Mr. Sargent could have been sustained. However, a penalty of \$100 was exacted and other penalties were also exacted by the collector. Had Mr. Sargent known how to reach this matter on appeal he probably would have had the errors corrected. He was unfamiliar with the law and unfamiliar with the method of appeal in customs cases concerning the exaction of imposts by the United States authorities. He now comes to Congress for relief. There is an affidavit appended to the report of the Committee on Claims which is quite full and clear.

Now, instead of saying anything further, I much prefer that

the gentleman from Connecticut [Mr. SPERRY], who has been very urgent in the advocacy of this claim and who made a very clear statement of it before the Committee on Claims, should make a statement, and I yield to the gentleman from Connecticut.

Mr. SPERRY. Mr. Chairman, this claimant, Joseph B. Sargent, is well known to me. He is an aged gentleman 80 years of age. He was traveling with his wife in Mexico, in an enfeebled condition, and while in Mexico procured some Mexican drawn work for little gifts here and there to his daughters and other relatives in the family. When he was passing from Mexico into this country his trunk was examined. Before this examination he was asked if there was anything dutiable in that trunk. He said not that he was aware of; that there was some Mexican drawn work there, but whether it was dutiable or not he did not know. After the examination he passed along and was arrested because of his attempt to smuggle goods into this country, as claimed by the custom-house official.

Mr. Sargent makes a sworn statement in an affidavit which is appended to the report, stating all the facts connected with it. The idea that this man, 80 years of age, in an enfeebled condition, should attempt to smuggle goods at that time and place is preposterous. The customs officer made that claim and fined him more than five times the cost of the goods, amounting to five hundred and some odd dollars.

Mr. Sargent was indignant and did what he could to show that he was wrongfully and unjustly dealt with. After he got home the customs officers claimed that they had made a mistake and that he ought to pay them \$100 more. Mr. Sargent, as I say, was in this feeble condition, and after conferring with the attorneys, instead of bothering with the matter further, he sent forward the \$100. He now asks Congress to make that good. I can assert, Mr. Chairman, with all fearlessness and with truthfulness, that Mr. Sargent, 80 years of age or so, traveling in an enfeebled condition, with his wife, would not have dreamed of such a thing as smuggling these goods. The collector of our own port in New Haven says that it is perfectly preposterous and outrageous the way and manner in which he was dealt with.

Now, this bill comes from the Senate, was passed by the Senate, passed, I think, unanimously, and I know that some of the members of that body were very indignant at the time of its passage at the way in which this elderly gentleman was treated. I ask that the bill be laid aside with a favorable recommendation.

Mr. PAYNE. Mr. Chairman, this case comes here and the report is based entirely on the affidavit of Mr. Sargent. There is nothing to show that the matter has been referred to the Treasury Department, or that the Secretary of the Treasury or anyone else has made any recommendation about it. Now, I notice that there are several affidavits here, and some of the statements in them are contradictory to the statement made by Mr. Sargent, who is undoubtedly a respectable gentleman and who is 80 years of age. For instance, here is the affidavit of José Benavides, which reads as follows:

THE STATE OF TEXAS, County of Webb:

Before me, the undersigned authority, personally appeared José Benavides, who, being by me duly sworn, deposes and says that he is an inspector of customs at the port of Laredo, and as such inspected the passenger train from Mexico on the morning of the 4th of May, 1900, with the assistance of Inspector William Simpson; that while said Simpson was examining the baggage of Mr. J. B. Sargent he called me to him and told me that he had found some drawn work, while Mr. Sargent had previously declared that he had nothing that was dutiable. Inspector Simpson then, before removing the drawn work from the trunk, asked Mr. Sargent: "Have you anything dutiable in your trunk?" To which Mr. Sargent replied: "Nothing on which you can charge duty."

We then proceeded to take out the contents of the trunk, and when we reached the drawn work Mr. Sargent said, "I have a little drawn work, and here is the memorandum," and gave us a list of it and wanted to pay the duty on it, but was told that it was a seizure and that he could not pay us the duty. He refused to give me his name or address until he was informed that we would be obliged to detain him until the matter was arranged, when he gave me his name and address written on the memorandum or list of the drawn work.

We then took the drawn work and delivered it at the custom-house and reported the facts fully to the collector.

JOSÉ BENAVIDES,
Inspector of Customs.

Sworn to and subscribed before me this 22d day of September, A. D. 1900.

W. H. MOWRY,
Notary Public, Webb County, Tex.

Then here is a letter from the collector, which I will read:

OFFICE OF THE COLLECTOR OF CUSTOMS,
Port of Corpus Christi, Tex., July 9, 1900.

Messrs. BEACH & FISHER,
New Haven, Conn.

GENTLEMEN: Your letter of June 27 received, and in reply I have to say that Mr. Sargent attempted to evade payment of duty on the articles in question, having denied possession of any dutiable merchan-

dise when questioned by the inspector. After the inspector found the drawn work in the bottom of the trunk, Mr. Sargent produced a memorandum of the articles, which showed the Mexican value to be \$217.50. This did not include 2½ dozen dollies and two centerpiece found in his baggage. The total appraised value of the merchandise was \$223.25 Mex. cy., t 47.3 equals \$106, which, with duty added, makes \$170. We do not count fractions of dollars in computing dutiable value.

The law requires payment of a fine equal to treble the value of the merchandise, which is the foreign value with duty added. Mr. Sargent did not claim any discount, nor does his invoice show that said discount was allowed in Mexico. Through a clerical error I collected \$410 instead of \$510, which is the amount due the United States by Mr. Sargent. I have no authority to change that amount. Mr. Sargent is still indebted to the United States in the sum of \$100, which must be paid. After paying the \$100 still due he can ask the Secretary of the Treasury to remit the fine, but I have no option in the matter. I hope Mr. Sargent will not force me to collect the \$100 through the courts.

Respectfully, yours,

JAMES J. HAYNES, Collector.

I think the House ought to have these facts from the other side as well as the letter and the affidavit of Mr. Sargent. I will now read the letter from the collector:

OFFICE OF THE COLLECTOR OF CUSTOMS,
Laredo, Tex., September 22, 1900.

Honorable SECRETARY OF THE TREASURY,
Washington, D. C.

SIR: I have the honor to acknowledge receipt of your letter dated September 11, 1900, and in reply beg to submit the following report:

On the morning of May 4, 1900, Mr. José Benavides, one of the inspectors whose duty it is to examine the baggage of passengers coming from Mexico, brought to the custom-house a package of linen drawn work and stated he had seized same from a Mr. Sargent who arrived on the train from Mexico that morning. On being asked for particulars concerning the seizure, he said that Inspector Simpson had called to him to come over where he was examining the trunk of Mr. Sargent. Mr. Sargent was then arranging to close his trunk. Simpson asked Sargent in my presence, "Have you anything dutiable in your trunk?" Sargent replied, "Nothing on which you can collect duty." We then took the clothes out of the trunk and found on the bottom the drawn work, 37 centers and scarfs, 12 handkerchiefs, and 2½ dozen dollies.

When we found the drawn work, Mr. Sargent said, "I have a little drawn work there on which I wish to pay the duty; here is a list of it," at same time taking a paper from his pocket and giving it to us. Simpson replied, "You can not pay the duty, as you denied having any dutiable articles in your trunk, and the drawn work is seized." I then asked Mr. Sargent for his name and address; he refused to give either. I then told him "I would have to arrest him or detain him and take him before the collector for attempting to smuggle the drawn work." Mr. Sargent then wrote his name and address on the paper containing a list of the articles. I then sent for Inspector Simpson, who confirmed the statement of Inspector Benavides, and also said that before opening the trunk he had asked Mr. Sargent the usual question put to all passengers, "Have you anything dutiable in your baggage?" Mr. Sargent replied that he had nothing subject to duty. I then informed the inspectors that they should have detained Mr. Sargent, as under section 2802, Revised Statutes, he was liable to a fine of treble the value of the drawn work, and under section 3082, to prosecution by the district attorney.

I then had charge filed with the United States commissioner for attempted violation of section 3082, Revised Statutes, and warrant wired to United States marshal at San Antonio, Tex., who arrested Mr. Sargent on his arrival there. I also had the drawn work appraised, using the list and prices given by Mr. Sargent and the wholesale price list furnished by special Treasury agent from Aguas Calientes, Mexico, as a basis of value. A comparison of the prices on Mr. Sargent's list with the wholesale market value, as given by the special agent, shows that Mr. Sargent's claim of a 30 per cent discount is not probable, as wandering tourists rarely buy such articles at a lower price than the dealers who buy in large quantities and for sale at a profit, nor was any such discount shown on the memorandum of articles and prices thereof, which Mr. Sargent produced after the drawn work had been discovered. I inclose the original memorandum, by which you will see that no discount was allowed, nor was any such claim made by Mr. Sargent until after he returned to New Haven. I went to San Antonio on May 5 and found Mr. Sargent at the hotel, he having given bond to appear that day before the United States commissioner.

I explained to him the penalty he had incurred, and stated that if he would pay the fine of treble the value of the goods I thought the United States attorney would dismiss the charge against him of violation of section 3082, Revised Statutes.

We went to the office of the commissioner, where Mr. Sargent agreed to pay the fine and the attorney had the charge dismissed. Through a clerical error I only collected \$410 from Mr. Sargent, when it should have been \$510. I asked Mr. Sargent to give me his street address in New Haven, so I could send him a receipt for the money paid. He refused to give his address and said he wanted no receipt; that should he want one he would write for it. Mr. Bell, an agent in the Secret Service Department, said to me, "Here is the card of the United States marshal of Connecticut; send the receipt to him and he will deliver it to Mr. Sargent and will also send Sargent's address," at the same time handing me a card of Edson S. Bishop, United States marshal, which I inclose. I did not discover the error in the amount I should have collected until I returned to Laredo, on the 6th of May. On the 7th I wrote Mr. Bishop, the marshal, inclosing receipt for the \$410, and requested him to explain the error to Mr. Sargent and collect the \$100 still due. After a lot of correspondence and loss of time Mr. Sargent paid the \$100, for which receipt was sent to him.

On page 8 of Mr. Sargent's affidavit he states he was given no opportunity to declare the articles until he asked an inspector to examine his baggage, when he mentioned the articles before they were seen by the inspector. This statement is false. He denied having any dutiable articles in his baggage when questioned by the inspector. He had no intention of paying duty on the drawn work if he could smuggle it through, and did not produce the list until after the inspectors had discovered the drawn work concealed in the bottom of his trunk. He did not leave the memorandum with the inspector expecting that duty would be collected and the goods released, because the inspector informed him that the work had been seized and duty could not be paid thereon. He did not write his name on the paper or give his address until the inspector said he would be arrested and taken before the collector for attempting to smuggle the goods.

In fact, nearly all the statements contained in the affidavit are untrue, and appear to have been concocted by some lawyer for the purpose of collecting a fee from Mr. Sargent.

The fact that Mr. Sargent has been able to amass an enormous fortune under the protection of our tariff laws does not justify him in attempting to violate said laws and defraud the revenue, nor should that fact relieve him of the penalty he has incurred. Hardly a day passes but some poor unfortunate is punished by fine and imprisonment for smuggling small quantities of merchandise across the Rio Grande for the purpose of earning a few dollars to support their wives and children; but when a rich man is caught he always sets up his wealth, social position, or political influence as a reason why he should be allowed to go free and as evidence of his not intending to defraud the revenue, etc. It is my opinion that men like Mr. Sargent should be most severely punished, because they can not plead either necessity or ignorance in extenuation of their guilt, and I respectfully urge that his petition for relief be not granted. I inclose affidavits of Inspectors Simpson and Benavides and card of Marshal Bishop, given me by Mr. Bell, and list of drawn work.

I have the honor to be, very respectfully, yours,

JAMES J. HAYNES, Collector.

So that it would seem that the committee has taken the ex parte affidavits of Mr. Sargent and has paid no attention to the officers of the Government, whose duty it was to collect these customs duties upon these goods. If the affidavits of these collectors and inspectors are to be taken as true, why Mr. Sargent was trying to smuggle these goods.

Mr. SPERRY. No person who knows Mr. Sargent would dream of his doing such a thing as that.

Mr. PAYNE. It is a rather hard charge to make against a good citizen, but anybody who has ever come across the Atlantic knows that the offense is not an unusual one, and even good citizens sometimes indulge in it for the purpose of evading the revenue laws. It seems to me this committee ought not to report such a bill as this nor the House to pass it.

Of course if Mr. Sargent had been unjustly treated, we have provided ample means for him to right himself before the courts and before the appraisers. There is no question but what he could have done so. He employed lawyers very early, and of course I must infer that they were eminent and skillful lawyers, because he was a man of means, and the lawyers were in the city of New Haven. He employed them at the very outset of this case. They might have obtained full satisfaction for him in the courts, and if they did not it is his own fault. Now, to come here on ex parte affidavits and ask the House to pass this bill, it seems to me, is all wrong.

Mr. SPERRY. Mr. Chairman, I will send up a statement under oath from Mr. Sargent in order that it may be read in contradiction of the statements which have just been read by the gentleman from New York [Mr. PAYNE].

Mr. PAYNE. I think in justice to Mr. Sargent that ought to be done.

Mr. SPERRY. But I will withhold the reading of it for a few moments in order to give opportunity to the gentleman from New York [Mr. PERKINS], who desires to make a statement.

Mr. PERKINS. Mr. Chairman, I would like to speak a word or two in reference to this claim—not only in reference to this claim, but to a certain branch of the business of the Government which it illustrates. I never heard of this claim until this moment, but it so happens that I have known Mr. Sargent for years. He is a man of the very highest standing; a man who has not only accumulated wealth, but who has accumulated it honorably. He has been the mayor of the city in which he lives; a man who has paid out millions of dollars to his employees, and who, as is shown in this case, was stopped and arrested—insulted—on a charge made by some obscure official down at El Paso or Laredo that a man of his standing wanted to cheat the Government out of \$70. The gentleman who reported the bill, the gentleman from New York [Mr. GOLDFROG], has done honorable work in protesting against the treatment which people of his own race and persuasion meet when they seek to return to Russia.

I think that the citizens of the United States are often treated with as much ignominy when they return to their own land as are the Jews when they seek to enter Russia. They are treated in a manner which, if it occurred in Turkey, in Russia, in France, would cause earnest protests to be sent to every representative of the United States that proper reparation should be made for the insults to which respectable, honorable, upright citizens are exposed. What happens when a man lands in the port of New York? Does this Government—does this Congress approve the proposition that there is a presumption that every American citizen commits perjury? You are first asked to make your oath. Certainly it is decent to presume that an American citizen, when he makes an oath, makes it honestly. But, on the contrary, the moment an official at some port gets your affidavit, he turns round, and with the imputation that you are a smuggler and a perjurer, having first compelled you to make your oath, seeks to show how far your oath is false.

Mr. STEPHENS of Texas. Mr. Chairman, I would like to ask

the gentleman a question. I would like to ask the gentleman if it is not at least a presumption that the present Administration would appoint an honest man as collector of customs, and if that honest man was appointed is it not the presumption that he would appoint competent men under him to see that nothing is smuggled into the United States?

Mr. BUTLER of Pennsylvania. Oh, that is the treatment from all officers.

Mr. PERKINS. No; it is not. Anyone who has traveled knows that when he goes to any foreign country he is not subjected to indignities—to insult—if he makes the smallest mistake, as, for instance, was the case with Mr. Sargent. He is not immediately charged and threatened with arrest. In no other country would a man like Mr. Sargent, the moment that his trunk was opened, have it said to him, "I will arrest you, and you will be fined 300 per cent."

I say these are outrages, and when it comes to getting revenues for this great Government, these small impositions cost ten dollars for one that they bring. They are imposed, not to protect any large interests, but to protect a few greedy retailers in the city of New York. This bill, of which I knew nothing until this moment, I think is certainly a most meritorious measure, and deserves to be passed by Congress, not only because Mr. Sargent is entitled to his money, but in a small way as a reproof for the manner in which the revenue laws of this country are too often administered at ports of entry.

Mr. STEPHENS of Texas. Will the gentleman yield? I desire to ask a question of the gentleman who has just taken his seat.

The CHAIRMAN. Will the gentleman from New York yield?

Mr. PERKINS. Of course I yield.

Mr. STEPHENS of Texas. I would ask the gentleman from New York if he is acquainted with Mr. Pat Garrett, the present collector of customs at the city of El Paso?

Mr. PERKINS. I have not that pleasure.

Mr. STEPHENS of Texas. I have to state that I have the honor of knowing this gentleman, and I know of his integrity and that he attends to the duties of his office as closely as any man in the United States, and I care not who it is, if he should overhaul him and find drawn work being smuggled into the United States Mr. Garrett would arrest that man and see that he paid the duty.

Mr. PERKINS. Why, the treatment Mr. Sargent has received is the treatment that has been received by thousands and tens of thousands of respectable American citizens.

Mr. MANN. Does the gentleman from New York think we ought to pass a special bill for this case and leave the statute stand for everybody else?

Mr. GOLDFOGLE. The gentleman from New York [Mr. PAYNE] has suggested that there was ample remedy given to Mr. Sargent and that he might have had recourse to litigation in the court. The gentleman forgets that Mr. Sargent is a resident of Connecticut, that he was 80 years of age, that in order to recover, if indeed he could recover under the law, he would have had to bring his action in a Federal court located in Texas. He could not have tried his suit in the district where he resides, and he would have had to travel all across the country with his witnesses in order that he might have secured redress against this outrage. Now, the least that the inspector could have done at El Paso was to treat this old gentleman, a citizen of this country, with respect, a respect to which he was entitled, not because of his age and infirmities, but because of the fact that he was one of our citizens.

Mr. SLAYDEN. Will the gentleman permit me to make an inquiry?

Mr. GOLDFOGLE. Certainly.

Mr. SLAYDEN. As I understand it, his case arose at a different port—not at El Paso, but at Laredo—before a different collector, an intervening customs district.

Mr. GOLDFOGLE. Well, wherever it arose, Sargent would have been compelled to go to this foreign jurisdiction in order to secure redress, which the gentleman from New York says the statute affords Mr. Sargent.

Mr. McCARTHY. Is it not a fact that cases in a Federal court are brought on depositions, and that he could have made his deposition at his home and sent it on to the jurisdiction where the case was brought in Texas?

Mr. GOLDFOGLE. In some cases depositions made have been taken and read in the court.

Mr. McCARTHY. It would not have necessitated a trip to Texas for him or his witnesses in order to properly try the case.

Mr. GOLDFOGLE. That depends again upon circumstances, and, pardon me, if the collector of the district down there was as earnest and as zealous in pursuing Sargent in litigation, such

as you suggest, as he appears to have been zealous and earnest in making the affidavit which he did, you can well imagine how Mr. Sargent would have been compelled to go down into Texas and not rest simply on the simple making of a deposition.

Mr. MANN. Will the gentleman yield for a question?

Mr. GOLDFOGLE. Certainly.

Mr. MANN. What was the value of this drawn work?

Mr. GOLDFOGLE. It is said to be a matter of seventy-odd dollars. Am I right?

Mr. PAYNE. Two hundred and seventy.

Mr. GOLDFOGLE. That is what the customs officers say, in order to protect themselves against the charge that we now make here on the floor of this House, that the seizure was an outrage. That is just precisely the kind of work that the customs inspectors did down there; after finding seventy-odd dollars' worth of work they appraise it at \$270 to cover up their own offense.

Mr. PAYNE. But wait a moment. Does the gentleman not know in his very report is exhibited a memorandum furnished by Mr. Sargent, showing the value of these goods, and it was appraised at his own appraisal?

Mr. GOLDFOGLE. And the affidavit of Mr. Sargent states that these articles were of too small a value, that they were intended for gifts to be distributed among the members of his family, just as gifts are brought by those traveling abroad into this country and distributed and which always pass through the custom-house.

Mr. MANN. Will the gentleman permit me a question?

Mr. GOLDFOGLE. Certainly.

Mr. MANN. Is not this case dependent upon the value of these goods; that if these goods were of the value of two or three hundred dollars Mr. Sargent probably knew he ought to pay the duty, and if they were of small value he knew that he ought not to pay duty?

Mr. GOLDFOGLE. The committee is not prepared to concede that.

Mr. MANN. May I ask the gentleman what business Mr. Sargent was engaged in?

Mr. PERKINS. He is a manufacturer of iron goods.

Mr. MANN. He was acquainted, therefore, with the tariff question?

Mr. PERKINS. I do not know that he was.

Mr. MANN. Any man engaged in the manufacture of iron goods for years that does not know about the tariff question needs a conservator.

Mr. GOLDFOGLE. I hold the floor for the present.

Mr. MACON. Will the gentleman allow me to ask him a question?

Mr. GOLDFOGLE. I yield to the gentleman for a question.

Mr. MACON. Did Mr. Sargent make an affidavit to the effect that he had no dutiable goods in his trunk?

Mr. GOLDFOGLE. No, sir. It appears from his affidavit that he said he had goods in his trunk that he bought in Mexico, and having suffered from an acute disease and being compelled to hurry along, he left his address with the inspector and told him that if the goods were dutiable to send him a memorandum. Instead of doing that, the inspector at once secured a warrant and arrested him at San Antonio.

Mr. MACON. That is Sargent's statement?

Mr. GOLDFOGLE. And that is the statement the committee believes.

Mr. MACON. And that is the statement the committee believes?

Mr. GOLDFOGLE. Yes, sir.

Mr. MACON. You disbelieve the officer?

Mr. GOLDFOGLE. We believe, in view of the peculiar conduct of the inspector, that the affidavit of Mr. Sargent is entitled to the highest respect.

Mr. MACON. In what way was the conduct of the inspector so peculiar?

Mr. GOLDFOGLE. It was certainly so.

Mr. MACON. In what way?

Mr. GOLDFOGLE. I will take the inspector's statement. Here is what the inspector says. Inspector Simpson says after he removed the drawn work from the trunk he asked Sargent: "Have you anything dutiable in your trunk?" Mr. Sargent replied: "Nothing on which you can charge duty." Now, assuming that that statement is true, it was an expression of Mr. Sargent on the law.

Mr. Sargent believed at that time that the goods were not chargeable with duty. Take the inspector's own words. Mr. Sargent answered, "Nothing on which you can charge duty." Now, if it was Mr. Sargent's belief that these goods were not chargeable with duty, should not the inspector at least, under

the peculiar circumstances of the case, assuming for the sake of argument that the goods were dutiable, have sent to Mr. Sargent at the place designated by him, namely, San Antonio, a statement of the charges due, and no doubt the amount would have been remitted, and then the question as to whether they were dutiable or not might have been litigated or not litigated according to the choice of Mr. Sargent?

Mr. MACON. If Mr. Sargent denied that he had dutiable goods in his trunk was he not as much bound to take knowledge of the law as the ordinary criminal would be when he commits a crime without knowing that he has violated the law?

Mr. GOLDFOGLE. If it be true that Mr. Sargent was of the opinion that the goods were not worth more than a hundred dollars, and they were intended for the use of himself and family, he was justified in declaring that the goods were not chargeable with duty.

Mr. MACON. I understood that he stated he got them for the purpose of making present to some one in this country when he came home.

Mr. GOLDFOGLE. I have always understood, and so has every other traveler that ever crossed the Atlantic, from this country to Europe and returned with goods purchased in the way that Sargent did, for the purpose of distributing the goods among the members of his family as gifts, they were then within the meaning of the words "personal effects," and therefore not chargeable with duty if they did not exceed \$100 in value.

Mr. MACON. On that hypothesis a man might bring in diamond rings that his family could put on their fingers, if he makes the statement that he wants to make them gifts.

Mr. GOLDFOGLE. They would have to be very small to be worth less than \$100.

Mr. MACON. Many of them are worth less than \$100.

Mr. GOLDFOGLE. That might be five diamonds. What difference does it make, five diamonds or two diamond rings, or a brass ring, so long as the goods are not worth more than \$100 in the aggregate?

Mr. MACON. Now, one other question I would like to ask you and then I will let you alone.

Mr. GOLDFOGLE. You may go on.

Mr. MACON. It has been stated here that the reason suit was not brought by Mr. Sargent for the return of this money was that he would have had to go all the way to El Paso or Laredo, wherever the transaction took place, before he sued the officer.

Mr. GOLDFOGLE. He would have had to institute his suit there.

Mr. MACON. Then I will ask this question: Why was it that he, being in New Haven, Conn., gave up the \$100 for which they wrote to him, and that they did not collect from him down there by reason of a mistake, when they would have had to sue him at home for the \$100?

Mr. GOLDFOGLE. His experience justified him in the belief that they would have sent on another warrant and taken a citizen from the State of Connecticut under the process of criminal proceeding and have taken him down South for trial.

Mr. SULLIVAN of Massachusetts. How do you explain the fact that at his own home at New Haven, after making his statement to his own attorney, on the advice of that attorney, he then paid the \$100, where if any suit were brought it would have had to be brought in his own town?

Mr. SPERRY. If you could see the affidavit, you would know.

Mr. GOLDFOGLE. I did not know that he conferred with an attorney; but if he did his attorney may have told him that he was subject again to criminal arrest, and therefore desired to avoid being taken down South.

Mr. SPERRY. In his affidavit he explains the whole matter.

Mr. SULLIVAN of Massachusetts. Knowing the statement of his own client and believing his statement to be true, he advised that client not to incur criminal action.

Mr. SPERRY. No; that is not true.

Mr. GOLDFOGLE. The gentleman from Connecticut [Mr. SPERRY] says it is not true, and I think the gentleman from Massachusetts [Mr. SULLIVAN] will agree with me that whatever the gentleman from Connecticut [Mr. SPERRY] says will be accepted as the truth in this House.

Mr. SPERRY. I call now, in view of the statements which have been made, for the reading of Mr. Sargent's affidavit.

Mr. PAYNE. I wish to ask my colleague a question.

Mr. SULLIVAN of Massachusetts. It has been said here that something I have stated is not the truth, and I think I ought to be permitted to call attention to the testimony as a matter of courtesy. I made the statement upon the strength of the statement of the gentleman from Connecticut [Mr. SPERRY] himself,

that Mr. Sargent employed the attorney and on his advice paid the \$100.

The CHAIRMAN. The gentleman from Connecticut [Mr. SPERRY] is entitled to the floor, and asks for the reading of the affidavit in his time.

Mr. PAYNE. How did my colleague get off the floor? I wanted to ask him a question.

Mr. GOLDFOGLE. The Chair seemed to take me off the floor.

Mr. PAYNE. The gentleman from Massachusetts [Mr. SULLIVAN] was asking me a question.

Mr. GOLDFOGLE. Mr. Chairman, in order that we may be regular in this discussion, I yield to the gentleman from Connecticut [Mr. SPERRY].

Mr. SPERRY. I now renew my request for the reading of the affidavit of Mr. Sargent.

The CHAIRMAN. The Clerk will read the affidavit.

The Clerk read as follows:

NEW HAVEN, January 16, 1902.

STATE OF CONNECTICUT, County of New Haven, ss:

Joseph B. Sargent, of the city and county of New Haven and State of Connecticut, being duly sworn, deposes and says:

I am the person referred to in Senate bill 2393, for the relief of Joseph B. Sargent, and the facts are, briefly, as follows:

In the spring of 1900, while traveling with my wife in Mexico and intending to return by sea, I was seized with a severe attack of acute diarrhea, which reduced me to a weak condition and excited apprehension lest I should become seriously ill at a distance from home. I abandoned the balance of my proposed trip and started for my brother's home, in Georgia, by rail. In the course of our journey we had bought specimens of Mexican drawn work, for which I paid \$73.67 United States money. These articles were intended to be given away to the members of our family, and I did not know whether they were dutiable or not.

At Laredo, the custom-house station, I declared the goods, which were packed loosely in the trunk without concealment; was informed that they were dutiable, and offered to pay the duty. The exact course of this part of the transaction was as follows: The trunk had been opened and partially examined without any questions having been asked me. While the examination was in progress the inspector said: "Is there anything dutiable here?" I replied, "There are some articles which may be dutiable, but I do not know whether you will charge duty on them." He immediately asked, "Is there anything made in Mexico?" and I promptly replied, "Yes; there is some Mexican drawn work." Then the inspector, after further turning over the contents of the trunk, drew out the drawn work. I asked him if it were dutiable, and he replied that it was, and I then produced the original invoice, and said that I would pay the duty.

At no time was there the slightest concealment on my part, in fact or intention. The inspector stated that he could not receive duties himself except in small amounts; that the goods must be taken to the custom-house for appraisal, and that this would involve my remaining over night at Laredo. At that time my illness had continued for some weeks, and was then acute, and my desire to continue the journey was so great that I told him that I would rather abandon the goods than lose my train. The inspector then asked for my address, but gave no reason for his request. I supposed it was for the purpose of giving me a future opportunity to pay the duty, and so wrote my name and address on the invoice. I proceeded by train to San Antonio, leaving the goods with the inspector, expecting to pay the duties when advised of their amount, and to have the goods forwarded.

During the examination at Laredo and throughout the whole transaction, ending with my departure, no suggestion was made that I had violated any customs regulations; and the first intimation of that sort which I received was when I was arrested at San Antonio, later on the same day, for smuggling, by a deputy United States marshal, and only escaped imprisonment by securing bail. Next morning I met the collector and the district attorney and his assistant, at the office of the latter, at San Antonio, and was informed by the collector that I had violated the United States statutes and was liable to a penalty, which he figured at \$410, and also liable to imprisonment for smuggling; but, if I would pay the money demanded, I should be released from arrest and the charge of smuggling dismissed.

I was sick and anxious to get without delay to the home of my brother in Georgia, where I could rest before going home. I was without legal advice and ignorant of the law on the subject, except as advised by the collector and assistant district attorney. I was told by the assistant district attorney that the only thing for me to do was to settle or to go before the grand jury, which was not then in session, on the criminal charge of smuggling. I was not told and did not know that by filing a proper protest at the time of payment I could have laid the foundation for a civil action to set myself right. I was not acquainted in San Antonio except as I had made myself known to a customer of Sargent & Co.

My arrest was a great shock, and the additional scandal and the publicity of the threatened criminal action weighed heavily on me, in my weakened condition of health, and I paid to the collector the demanded penalty of \$410, taking his receipt. I paid it under pressure of the threat of criminal procedure and to procure my release from arrest, because I was too sick to resist or to make the effort to properly understand the matter.

After my return home the collector demanded, by mail, an additional \$100, claiming that he had made a mistake of that amount in calculating the penalty. I consulted counsel with the idea of making him sue for it, and so getting an opportunity to vindicate myself, but was advised that my failure to file a protest left no issues open which I could contest in the courts, except the correctness of the collector's calculations.

I then paid the additional sum of \$100 under protest, and petitioned the Secretary of the Treasury for relief, which was refused on the mistaken ground that I still had the goods. When this error was pointed out, my petition was again rejected on the ground that there was no authority for refunding the money.

I have seen copies of affidavits and of a letter from the collector filed with the Secretary of the Treasury, and I declare that they are untrue in every material respect. The facts in detail are as already

stated, and I will add that there was but one inspector present when the drawn work was taken out of my trunk.

I respectfully call attention to the fact that whatever occurred at Laredo happened before I left; that no new evidence against me is claimed to have been discovered after I went away. Therefore the very circumstance that I was allowed to leave Laredo corroborates my story, and, as it seems to me, hopelessly discredits the theory that I was caught in the act of smuggling.

I am now 79 years old, and though for some years partially retired, have lived an active business life in New Haven for forty years, and have been the mayor of the city for four years.

This arrest on criminal charge and the publicity given to the matter in the newspapers has subjected me to an indignity entirely undeserved, and at my age peculiarly humiliating. It seems that the only way that I can obtain vindication is by the action of your honorable committee, and I respectfully ask for the relief stated in the bill.

The amount of relief asked for is made up as follows:

Net cost of goods seized.....	\$73.43
Paid to the collector at San Antonio.....	410.00
Paid to the collector, by mail, under protest.....	100.00
Total.....	583.43

JOSEPH B. SARGENT.

Subscribed and sworn to before me this 16th day of January, 1902.
[SEAL.] M. OLIVE WILLIAMS, Notary Public.

Mr. HILL of Connecticut. Mr. Chairman, I want to say from my own personal knowledge that the statement which has been read I believe to be absolutely correct from beginning to end. Mr. Sargent is a man above reproach. There is no more distinguished or honored citizen in the State of Connecticut. He is the employer of several thousand people and has an exceedingly large business in the city of New Haven, and is a man of ample fortune to whom the payment of \$100 under protest to relieve himself from embarrassment or anxiety is of no moment whatever. This man has done just exactly what I think anybody would do under the circumstances, at 80 years of age and under the conditions that existed; a man of whom it is absolutely unthinkable to believe for one single moment that he would attempt to defraud the Government of the United States or anybody else of one penny. I believe absolutely every word he has stated in that affidavit, and that a mistake was made by the revenue officials there in their eagerness to collect duties, pursuing the course which is often taken with people who try to come through occasionally and bring in some little trinkets. I believe Mr. Sargent acted honorably.

Mr. MADDOX. Has there ever been any complaint made to the President of the conduct of these gentlemen down there?

Mr. HILL of Connecticut. I do not know.

Mr. MADDOX. If your statement is true, that they have treated this man in this way, they ought to be removed.

Mr. HILL of Connecticut. I will say to the gentleman from Georgia [Mr. MADDOX] that I do not wish to go into that question. I simply wanted to add my statement as to the respect and esteem in which Joseph B. Sargent is held in the State of Connecticut. It would be impossible to convince anybody in the State of Connecticut, no matter what his business, no matter what his politics, that Mr. Sargent was anything but a man of the highest character. His statement, signed by himself, I would rely upon for any amount of money.

Mr. STEPHENS of Texas. You are acquainted with the claimant in this matter?

Mr. HILL of Connecticut. I have met him.

Mr. STEPHENS of Texas. Is he an attorney at law?

Mr. HILL of Connecticut. Oh, no.

Mr. STEPHENS of Texas. I believe the gentleman is an attorney.

Mr. HILL of Connecticut. Myself?

Mr. STEPHENS of Texas. Yes.

Mr. HILL of Connecticut. Oh, no.

Mr. STEPHENS of Texas. You heard the affidavit read a moment ago, did you not?

Mr. HILL of Connecticut. Yes.

Mr. STEPHENS of Texas. Don't you think that affidavit was drawn by a very shrewd lawyer?

Mr. HILL of Connecticut. I will say to my friend that I have had some experience with customs officers, and I can realize exactly the position in which Mr. Sargent was placed. I know the eagerness of our customs officials to discover and detect frauds. I have witnessed these things several times, when returning to this country. I can understand, without Mr. Sargent's statement, how a man 80 years of age and sick should have said just what he said, should have left his goods there, should have paid his money, making a protest at the time he made the second payment, and should have come in an honorable, square, straightforward way before this committee in Congress and stated his case and asked for relief. Gentlemen, we ought to give it to him. In my judgment, we ought fairly

to give it to him as an honest and honorable transaction on our part. If a mistake was made, it is our business to correct it. The mistake was not made by Mr. Sargent.

Mr. MANN. Will the gentleman yield for a question?

Mr. HILL of Connecticut. Certainly.

Mr. MANN. Can the gentleman tell us what mistake the customs officers made?

Mr. HILL of Connecticut. I think they should have told Mr. Sargent the exact situation at the time, that his goods were dutiable, and that he would make a mistake in leaving the goods in their hands. I should have stayed right by them, if I had been there.

Mr. MANN. Does not the law provide—

Mr. HILL of Connecticut. He was sick, and he was a man 80 years of age.

Mr. MANN. Does not the law provide that when a person brings in goods without declaring them it is the duty of the customs officers to seize them?

Mr. HILL of Connecticut. As I understand the statement, he went and hunted up the inspector himself, just as I have done again and again, in a desire to get baggage inspected and passed.

Mr. MANN. He came in on the train, I suppose; but even admitting that to be the case, he did not declare the articles, and the customs officers seized the goods under the law. The reason I ask the gentleman this question is because he is on the committee that frames this kind of tariff legislation.

Mr. HILL of Connecticut. I want to say that just such cases as this are what to do more to bring the protective tariff system into disrepute than almost anything else that could be done—just exactly such things. I have had experiences myself which have convinced me of this fact.

Mr. MANN. Does not the gentleman think that instead of relieving one case out of tens of thousands—

Mr. HILL of Connecticut. If this is wrong it ought to be corrected, no matter what the others are. If the others did not apply to have the wrong corrected, I do not see what can be done about it. This gentleman has made application.

Mr. MANN. Does not the gentleman think that instead of relieving this one case, which he speaks of, out of thousands of others he ought to help report a new tariff bill covering the question?

Mr. HILL of Connecticut. I am ready for that proposition.

Mr. MANN. We will await with interest the time when the gentleman reports a tariff bill.

Mr. SIMS. I thought the foreigner paid the tax anyway.

Mr. GRAFF. Mr. Chairman, I have risen to my feet for the purpose of moving that the committee rise; but for the purpose of securing some action on this bill I move that it be laid aside to be reported to the House with a favorable recommendation.

Mr. PAYNE. Mr. Chairman, one single word. The bill appropriate, to be paid to Mr. Sargent, some \$580. He paid \$510. That is all he claims he paid, even after he paid this \$100, after his attorneys in New Haven had been written to by the collector, asking for the payment of the hundred dollars, and after he had paid it, of course, under their advice.

I have been unable to find out on what theory, if he is to be paid anything, it is proposed to pay him a premium on this sort of thing. I understand from my colleague [Mr. GOLDFOGLE], who reported the bill and whom I do not see at this moment, that it is done on the theory that these centerpieces and doilies were wearing apparel, and were therefore exempt.

But of course they are wrong and Mr. Sargent was in regard to that. There can be no theory on which they are exempt. The value of the goods was found in a memorandum which Mr. Sargent himself presented to the inspectors, and added to that the report they had from the consul in Mexico, where the goods were purchased. There seems to have been no mistake from beginning to end. I do protest against any committee of the House or the House itself coming in here and trying to arrange these matters out of court. It seems that this committee has been prevailed upon because Mr. Sargent is a respectable gentleman, and my friend from Connecticut [Mr. SPERRY] appeared before the committee—

Mr. SPERRY. I appeared before the committee, but I have not spoken to anyone else.

Mr. PAYNE. Oh, Mr. Chairman, I didn't yield to my friend from Connecticut. I am afraid of him, for he could bring tears to my eyes any time. [Laughter.] But, Mr. Chairman, we are not to decide upon tears or sympathy; we are to enforce the law, and it ought to be enforced against Mr. Sargent, who is an employer of men, as it would be against the weakest and humblest of his employees. I am for dealing in these matters with exact justice. In Mr. Sargent's case, he had the means to command the best ability that money would purchase. He could

have made his protest and done whatever was necessary in regard to righting this wrong; he could have taken all the evidence in the city of New Haven that he desired to take; he could have employed lawyers in Texas or New Haven to enforce his rights. We ought not to sit here as a court in such a case as this.

Mr. SPERRY. I want to say to the gentleman from New York that Mr. Sargent may have had the means, but he didn't have the health.

The CHAIRMAN. The question is on the motion of the gentleman from Illinois that the bill be laid aside with a favorable recommendation.

The question was taken; and on a division (demanded by Mr. PAYNE) there were—ayes 35, noes 24.

So the bill was ordered to be laid aside with a favorable recommendation.

Mr. GRAFF. Mr. Chairman, I move that the committee do now rise and report the several bills to the House.

The motion was agreed to.

Accordingly the committee determined to rise; and the Speaker having resumed the chair, Mr. CAMPBELL, Chairman of the Committee of the Whole House, reported that that committee had had under consideration the bill H. R. 8133, which was found to have been reported from a committee not having jurisdiction; that the committee also had had under consideration sundry bills and joint resolutions and had directed him to report the same back, some with amendment and some without, with the recommendation that the amendments be adopted and that the bills do pass.

The SPEAKER. House bill 8113, reported by the committee that did not have jurisdiction, will, without objection, be referred to the Committee on War Claims.

There was no objection.

Mr. GRAFF. Mr. Speaker, I ask for the previous question upon all the bills and amendments thereto.

The SPEAKER. The gentleman from Illinois asks unanimous consent that the previous question may be considered as ordered upon the various bills with and without amendment.

Mr. PAYNE. Mr. Speaker, I object to that, so far as it relates to Senate joint resolution 45, directing inquiry into the claim of the Wales Island Packing Company, and the bill S. 351, an act for the relief of Joseph B. Sargent.

The SPEAKER. Does the gentleman from Illinois modify his request for the previous question by excepting the two bills just mentioned?

Mr. GRAFF. I do.

The SPEAKER. Is there objection to the modified request? [After a pause.] The Chair hears none, and it is so ordered.

The Clerk reported the title of the first bill.

Mr. MADDOX. Mr. Speaker, I would like to ask the gentleman from Illinois if he proposes to pass these bills this evening?

Mr. GRAFF. I will state to the gentleman that I think these bills, to which there is no serious objection, might be disposed of at this time, and we could allow those to which there is any objection to be passed over until Monday.

Mr. PAYNE. Having the previous question ordered, what is the particular point in having these bills passed at this time?

Mr. GRAFF. Well, so much would be done.

Mr. PAYNE. That can be done Monday just as well. It is now after 5 o'clock.

Mr. GRAFF. Then I will not insist upon it.

URGENT DEFICIENCY BILL.

Mr. HEMENWAY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 16445) making appropriations to supply urgent deficiencies in certain appropriations for the fiscal year ending June 30, 1905, and for other purposes, with certain Senate amendments, and move that the Senate amendments be concurred in.

The SPEAKER. The gentleman from Indiana asks unanimous consent to take from the Speaker's table the urgent deficiency bill, with certain Senate amendments. Is there objection?

There was no objection.

The Senate amendments were read.

The SPEAKER. The question is on concurring in the Senate amendments.

The question was taken, and the motion was agreed to.

On motion of Mr. HEMENWAY, a motion to reconsider the last vote was laid on the table.

ENROLLED BILLS SIGNED.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill

and joint resolution of the following titles; when the Speaker signed the same:

H. R. 6498. An act to amend an act entitled "An act to authorize Washington and Westmoreland counties, in the State of Pennsylvania, to construct and maintain a bridge across the Monongahela River, in the State of Pennsylvania," approved February 21, 1903; and

H. J. Res. 158. Joint resolution for the relief of Julius A. Kaiser.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 1994. An act granting an increase of pension to Isabella Chivington;

S. 1421. An act granting an increase of pension to Charles L. Houghton;

S. 216. An act granting an increase of pension to Nelson Wells;

S. 183. An act granting an increase of pension to John W. Courrier;

S. 922. An act granting an increase of pension to William S. Devlin.

S. 1576. An act granting an increase of pension to Emily M. J. Cooley; and

S. 2414. An act granting an increase of pension to Elise Habercom.

ADJOURNMENT.

Mr. PAYNE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Accordingly (at 5 o'clock and 3 minutes p. m.) the House adjourned until Monday, December 19, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of James Kizer, administrator of estate of R. M. Glover, against The United States—to the Committee on War Claims, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting estimates of appropriations for defraying the expenses of collecting the revenue from customs—to the Committee on Appropriations, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. STEVENS of Minnesota, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 16160) granting to Farwell, Ozmun, Kirk & Co. license to make excavations and place footings in the soil of certain land belonging to the United States at St. Paul, Minn., reported the same without amendment, accompanied by a report (No. 3142); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. DAVEY of Louisiana, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 10313) for the construction of a steam revenue cutter for service in the Gulf of Mexico and tributary waters, headquarters at New Orleans, La., reported the same without amendment, accompanied by a report (No. 3143); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. MANN, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 15981) to authorize the Mississippi Central Railroad Company to bridge Pearl River, in the State of Mississippi, reported the same with amendment, accompanied by a report (No. 3144); which said bill and report were referred to the House Calendar.

Mr. DAVEY of Louisiana, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 15810) to authorize Caldwell Parish, La., to construct a bridge across the Ouachita River, reported the same with amendment, accompanied by a report (No. 3145); which said bill and report were referred to the House Calendar.

Mr. WM. ALDEN SMITH, from the Committee on Foreign Affairs, to which was referred the bill of the Senate (S. 5704) to incorporate the American National Red Cross, reported the same without amendment, accompanied by a report (No. 3146); which said bill and report were referred to the House Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles; which were thereupon referred as follows:

A bill (H. R. 16580) granting a pension to Kate Cushman—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 16607) granting an increase of pension to Margaret Drum—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 16622) granting a pension to William H. Bogle—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. BOWERS: A bill (H. R. 16716) for improving the harbor at Biloxi, Miss.—to the Committee on Rivers and Harbors.

By Mr. FORDNEY: A bill (H. R. 16717) providing for an additional appropriation for the public building at Owosso, Mich.—to the Committee on Public Buildings and Grounds.

By Mr. PEARRE: A bill (H. R. 16718) for the extension and improvement of Massachusetts and Boundary avenues N.W., Washington, D. C.—to the Committee on the District of Columbia.

By Mr. BUTLER of Pennsylvania: A bill (H. R. 16719) to increase the limit of cost for the purchase of site and the erection of a public building at Westchester, Pa.—to the Committee on Public Buildings and Grounds.

By Mr. STEENERSON: A bill (H. R. 16720) permitting the building of a railroad bridge across the Red River of the North from a point on section 6, township 154 north, range 50 west, Marshall County, Minn., to a point on section 36, township 155 north, range 51 west, Walsh County, N. Dak.—to the Committee on Interstate and Foreign Commerce.

By Mr. SWANSON: A bill (H. R. 16721) to refund certain excess duties paid upon importations of absinthe and kirschwasser from Switzerland between June 1, 1898, and December 5, 1898—to the Committee on Claims.

By Mr. CHARLES B. LANDIS: A bill (H. R. 16722) to increase the limit of cost for the purchase of site and the erection of a public building at Crawfordsville, Ind.—to the Committee on Public Buildings and Grounds.

By Mr. MCGUIRE: A bill (H. R. 16723) to provide for the purchase of a site and the erection of a public building thereon at Muscogee, Ind. T.—to the Committee on Public Buildings and Grounds.

By Mr. LIVINGSTON: A resolution (H. Res. 400) asking for all data in detail upon report made December 3, 1904, upon cotton acreage and production—to the Committee on Agriculture.

By Mr. CUSHMAN: A resolution (H. Res. 402) providing for the consideration of Senate bill 3728—to the Committee on Rules.

By Mr. BAKER: A resolution (H. Res. 403) asking information from the Attorney-General in regard to the so-called "beef trust"—to the Committee on the Judiciary.

By Mr. HEARST: A resolution (H. Res. 404) relating to political activity of letter carriers and the dismissal of James C. Keller, Frank Cunningham, Warren Tumber, and H. W. Aldrich from the public service—to the Committee on Reform in the Civil Service.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. BADGER: A bill (H. R. 16724) for the relief of the widows of Union soldiers, sailors, or marines—to the Committee on Invalid Pensions.

By Mr. BRANTLEY: A bill (H. R. 16725) granting an increase of pension to Gates D. Parish—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16726) granting a pension to Joseph Matthews—to the Committee on Invalid Pensions.

By Mr. BROWNLOW: A bill (H. R. 16727) to pay heirs of John Sevier, sr., for certain military services rendered to the United States by said John Sevier, sr.—to the Committee on Claims.

By Mr. BURNETT: A bill (H. R. 16728) granting a pension to Mary Stuart—to the Committee on Pensions.

Also, a bill (H. R. 16729) granting an increase of pension to Martha C. Balcomb—to the Committee on Invalid Pensions.

By Mr. CALDERHEAD: A bill (H. R. 16730) granting an increase of pension to Daniel Smith—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16731) granting an increase of pension to W. W. Hicks—to the Committee on Invalid Pensions.

By Mr. CAMPBELL: A bill (H. R. 16732) granting a pension to Andrew M. Stamm—to the Committee on Pensions.

By Mr. COOPER of Wisconsin: A bill (H. R. 16733) granting an increase of pension to Charles G. Turney—to the Committee on Invalid Pensions.

By Mr. CROFT: A bill (H. R. 16734) for the relief of Charles E. Danner & Co.—to the Committee on Claims.

By Mr. DAVIS of Minnesota: A bill (H. R. 16735) granting an increase of pension to John Haack—to the Committee on Invalid Pensions.

By Mr. DAYTON: A bill (H. R. 16736) granting an increase of pension to J. R. Clifford—to the Committee on Invalid Pensions.

By Mr. DRAPER: A bill (H. R. 16737) granting a pension to Daphna Ketcham—to the Committee on Invalid Pensions.

By Mr. EVANS: A bill (H. R. 16738) granting an increase of pension to Joseph S. Lee—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16739) granting an increase of pension to Samuel Shoup—to the Committee on Invalid Pensions.

By Mr. FOSTER of Vermont: A bill (H. R. 16740) granting an increase of pension to Laura Coleman—to the Committee on Invalid Pensions.

By Mr. GIBSON: A bill (H. R. 16741) granting a pension to H. Edwin Goetz—to the Committee on Pensions.

Also, a bill (H. R. 16742) granting an increase of pension to Henry Finger—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16743) granting an increase of pension to John Glass—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16744) granting an increase of pension to Henry Blevens—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16745) granting an increase of pension to John W. Davis—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16746) granting an increase of pension to James J. Summers—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16747) granting an increase of pension to Alfred H. Martine—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16748) granting a pension to Frona J. Wooten—to the Committee on Pensions.

Also, a bill (H. R. 16749) granting a pension to George W. Cowan—to the Committee on Pensions.

By Mr. GOULDEN: A bill (H. R. 16750) for the relief of Charles Uerkvitz—to the Committee on Claims.

By Mr. HAMLIN: A bill (H. R. 16751) granting a pension to Joseph J. Bodenhamer—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16752) granting a pension to John Ross—to the Committee on Invalid Pensions.

By Mr. HEMENWAY: A bill (H. R. 16753) granting an increase of pension to Eli W. Knowles—to the Committee on Invalid Pensions.

By Mr. HERMANN: A bill (H. R. 16754) granting a pension to Gustave Triinter—to the Committee on Invalid Pensions.

By Mr. HINSHAW: A bill (H. R. 16755) granting an increase of pension to Layard E. Benton—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16756) granting an increase of pension to James H. Riddle—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16757) granting an increase of pension to George M. Fowler—to the Committee on Invalid Pensions.

By Mr. KNAPP: A bill (H. R. 16758) granting an increase of pension to Florence M. Baker—to the Committee on Invalid Pensions.

By Mr. CHARLES B. LANDIS: A bill (H. R. 16759) granting an increase of pension to George W. Dunlap—to the Committee on Invalid Pensions.

By Mr. MAYNARD: A bill (H. R. 16760) for the relief of William Edward Bailey—to the Committee on Pensions.

By Mr. MCCARTHY: A bill (H. R. 16761) granting a pension to Jennie A. Gibson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16762) granting an increase of pension to Elias H. Funk—to the Committee on Invalid Pensions.

By Mr. RICHARDSON of Alabama: A bill (H. R. 16763) granting an increase of pension to William P. Shelton—to the Committee on Invalid Pensions.

By Mr. RIXEY: A bill (H. R. 16764) for the relief of administrator of James B. Beavers, deceased, of Fairfax County, Va.—to the Committee on War Claims.

By Mr. SHEPPARD: A bill (H. R. 16765) for the relief of the legal representatives of Jonathan Holmes, deceased—to the Committee on War Claims.

Also, a bill (H. R. 16766) for the relief of F. P. Brower—to the Committee on Claims.

By Mr. SHERLEY: A bill (H. R. 16767) granting an increase of pension to James McPherson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16768) granting a pension to G. W. Finley—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16769) granting a pension to Mary I. Dav-enport—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16770) granting a pension to Annie B. Lee—to the Committee on Invalid Pensions.

By Mr. SMITH of Kentucky: A bill (H. R. 16771) granting an increase of pension to George W. Kinzly—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16772) granting an increase of pension to Buford P. Moss—to the Committee on Invalid Pensions.

By Mr. SNAPP: A bill (H. R. 16773) granting a pension to John Mather—to the Committee on Invalid Pensions.

By Mr. VANDIVER: A bill (H. R. 16774) granting an increase of pension to John J. James—to the Committee on Invalid Pensions.

By Mr. WILLIAMS of Illinois: A bill (H. R. 16775) granting an increase of pension to Abraham Stine—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16776) granting an increase of pension to John W. Sanders—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16777) granting an increase of pension to David W. Reed—to the Committee on Invalid Pensions.

By Mr. LLOYD: A bill (H. R. 16778) granting a pension to Jennie E. Keown—to the Committee on Invalid Pensions.

By Mr. GIBSON: A bill (H. R. 16779) for the relief of the estate of Charles Baum, deceased—to the Committee on War Claims.

Also, a bill (H. R. 16780) for the relief of William Tellett's personal representatives—to the Committee on War Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ADAMS of Pennsylvania: Resolution favoring a sea-level canal across the Isthmus of Panama, unanimously adopted by the board of directors of the Philadelphia Bourse, December 14, 1904—to the Committee on Interstate and Foreign Commerce.

By Mr. BARTHOLDT: Petition of Grand Army of the Republic post, in favor of placing Maj. Gen. P. I. Osterhaus on the retired list of the Army—to the Committee on Military Affairs.

Also, petition of the St. Louis Fruit and Produce Exchange, in favor of amending the interstate-commerce laws as to regulating indiscriminate freight rates—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Simmons Hardware Company, in favor of the Boutell bill (H. R. 9302)—to the Committee on Ways and Means.

Also, petition of the board of directors of the Merchants' Exchange of St. Louis, opposed to bill S. 4596—to the Committee on Interstate and Foreign Commerce.

By Mr. BATES: Petition of Edinboro (Pa.) Grange, No. 947; Waterford (Pa.) Grange, and Springsboro Grange, Patrons of Husbandry, against changing the antioleomargarine law—to the Committee on Agriculture.

By Mr. BURKETT: Resolution of the Nebraska Conference of the Epworth Assembly, on sundry matters, looking to the regulation of the Post-Office Department, the Philippines, Sunday working on Government works, to forbid the sale of intoxicants in all Government buildings, favoring the Hepburn-Dolliver bill, against interstate telegraphing of race gambling bets, against gambling by guessing on newspaper coupons, and for expelling Senator Zmoo—to the Committee on the Judiciary.

By Mr. BURLEIGH: Petition of John Dority Grange, No.

381, of Hancock County, Me., in favor of a Bureau of Public Highways—to the Committee on Agriculture.

By Mr. BURTON: Resolution of the council of the city of Cleveland, Ohio, recommending use of granite in Federal building at Cleveland—to the Committee on Public Buildings and Grounds.

By Mr. DAVIS of Minnesota: Petition of New Prague Flouring Mill Company, relative to customs-drawback law—to the Committee on Ways and Means.

By Mr. FITZGERALD: Resolutions of the International Press Association of Oklahoma and Indian Territories, urging the removal of all restrictions from the sale of Indian lands excepting homesteads—to the Committee on Indian Affairs.

Also, petition of the Interstate Commerce Law Convention, urging legislation to regulate freight rates—to the Committee on Interstate and Foreign Commerce.

By Mr. FOSTER of Vermont: Petition of St. Johnsbury Woman's Club, in favor of a constitutional amendment prohibiting polygamy—to the Committee on the Judiciary.

By Mr. FULLER: Petition of the Independent Cigar Manufacturing Association, of Chicago, protesting against a reduction of tariff on Philippine cigars—to the Committee on Ways and Means.

By Mr. HASKINS: Petition of the Woman's Club of St. Johnsbury, Caledonia County, Vt., for a constitutional amendment prohibiting polygamy—to the Committee on the Judiciary.

By Mr. HEARST: Petition of members of the Omaha (Nebr.) Grain Exchange, favoring the enactment into law of bill H. R. 13778, known as the "Hearst bill"—to the Committee on Interstate and Foreign Commerce.

Also, petition of the citizens of Madison, Wis., favoring the enactment of bill H. R. 13778, known as the "Hearst bill"—to the Committee on Interstate and Foreign Commerce.

By Mr. HERMANN: Memorial of the Grand Camp of the Arctic Brotherhood, for a Delegate in Congress from Alaska—to the Committee on the Territories.

Also, resolution of the Alaska Club, of Seattle, Wash., for representation in Congress for Alaska Territory—to the Committee on the Territories.

By Mr. KNAPP: Papers to accompany bill granting an increase of pension to Florence M. Baker—to the Committee on Invalid Pensions.

By Mr. MANN: Memorial to Congress from the executive council of the Public Education Association of Washington, D. C., indicating some needs of public education in the District of Columbia—to the Committee on the District of Columbia.

By Mr. MAYNARD: Papers to accompany claim of Edward W. Bailey for injuries inflicted upon his person by United States marines while at target practice—to the Committee on War Claims.

By Mr. NEEDHAM: Resolutions of the Bar Association of San Francisco, asking for better court facilities in the district Federal courts of California—to the Committee on the Judiciary.

By Mr. OVERSTREET: Petition of citizens of Indianapolis, in favor of bill H. R. 13778—to the Committee on Interstate and Foreign Commerce.

By Mr. PUJO: Resolution of Headquarters of United Confederate Veterans, of New Orleans, La., with reference to bill S. 2081—to the Committee on Military Affairs.

By Mr. SHEPPARD: Petition of Thomas J. Holmes and James H. Holmes, heirs of Jonathan Holmes, to be paid for stores and supplies taken by United States Army, as provided by the bill for the relief of the legal representatives of Jonathan Holmes, deceased—to the Committee on War Claims.

By Mr. SHERLEY: Papers relative to claim for pension of G. W. Finley—to the Committee on Invalid Pensions.

Also, papers to accompany claim for pension of Mary I. Dav-enport—to the Committee on Invalid Pensions.

Also, petition of James McPherson, asking for an increase of pension from \$12 to \$40 per month—to the Committee on Invalid Pensions.

Also, petition of Mrs. Annie Lee, in support of claims for pension as soldier's widow—to the Committee on Invalid Pensions.

By Mr. SMITH of Kentucky: Affidavit in support of pension claim of J. H. Page—to the Committee on Invalid Pensions.

Also, papers to accompany bill for increase of pension of Buford P. Moss—to the Committee on Invalid Pensions.

Also, papers to accompany bill to increase the pension of George W. Kingsley—to the Committee on Invalid Pensions.

By Mr. WM. ALDEN SMITH: Petition of William J. Rainey, Ralph Janssen, and W. C. Hall, asking for an amendment to the United States Constitution making polygamy a breach of the Federal law—to the Committee on the Judiciary.

Also, petition of R. H. Hartley, Dr. C. D. Woodruff, and A. C. Dickenson, in favor of a constitutional amendment prohibiting polygamy—to the Committee on the Judiciary.

By Mr. SNOOK: Resolution of the Loyal League of the United States, favoring the placing of Maj. Peter I. Osterhaus on the retired list of the Army with the rank he held at the close of the rebellion—to the Committee on Military Affairs.

By Mr. VAN DUZER: Petition of James C. Dahlman and 9 other shippers of live stock, members of the South Omaha Live Stock Exchange, favoring the enactment into law of bill H. R. 13778, known as the "Hearst bill"—to the Committee on Interstate and Foreign Commerce.

By Mr. VANDIVER: Papers to accompany bill granting an increase of pension to John J. James—to the Committee on Invalid Pensions.

By Mr. WEEMS: Petition and papers to accompany bill H. R. 16713, granting a pension to William Cannon—to the Committee on Invalid Pensions.

By Mr. WYNN: Petition of 10 members of the South Omaha (Nebr.) Live Stock Exchange, favoring the enactment into law of bill H. R. 13778, known as the "Hearst bill"—to the Committee on Interstate and Foreign Commerce.

SENATE.

MONDAY, December 19, 1904.

Rev. EDWARD E. HALE, the Chaplain of the Senate, offered the following prayer:

*They shall call His name Jesus, for he shall save His people from their sins * * *. His name shall be called Emmanuel, which, being interpreted, is God with us.*

Let us pray. Even so, Father, He comes to save us from our sins. Thou art pleased to reveal Thyself to us in Him. And to-day we pray Thee for our homes and for this festival which we are to celebrate together, the festival of home, that Thou wilt be with Thy servants wherever they go, wherever they are, in this commemoration of a Savior's birth. With our fathers and mothers, our brothers and sisters, our little children, with all that makes home glad and happy, be present, Thou, the Father, in the midst of Thy children, that we may have Thy love for our love, Thy strength for our weakness, Thy wisdom for our direction. Go with us wherever we go; stay with us wherever we are.

And for this country we pray, that she may know what are the blessings of a Christian State, that these States may be bound together as brothers and sisters are bound together in one tie, that our rulers may be peace, that our exactors may be righteousness, and this that loving country whose God is the Lord. We ask it in Christ Jesus.

Our Father who art in heaven, hallowed be Thy name. Thy kingdom come, Thy will be done on earth as it is done in heaven. Give us this day our daily bread, and forgive us our trespasses as we forgive those that trespass against us. And lead us not into temptation, but deliver us from evil, for Thine is the kingdom and the power and the glory, forever. Amen.

NAMING A PRESIDING OFFICER.

Mr. PERKINS called the Senate to order and the Secretary read the following communication:

WASHINGTON, December 16, 1904.

To the United States Senate:

I hereby appoint the senior Senator from California, Mr. PERKINS, to perform the duties of the chair during my absence.

WILLIAM P. FRYE,
President pro tempore.

Mr. PERKINS thereupon took the chair as Presiding Officer and directed that the Journal be read.

THE JOURNAL.

The Secretary proceeded to read the Journal of the proceedings of Friday last, when, on request of Mr. GALLINGER, and by unanimous consent, the further reading was dispensed with.

ADJOURNMENT TO WEDNESDAY.

Mr. GALLINGER. I move that when the Senate adjourns to-day it adjourn until Wednesday next.

The motion was agreed to.

[A message in writing from the President of the United States was delivered to the Senate by Mr. FORSTER, one of his secretaries.]

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the Speaker of the House had signed the following enrolled bills and joint resolution:

An act (S. 183) granting an increase of pension to John W. Currier;

An act (S. 216) granting an increase of pension to Nelson Wells;

An act (S. 922) granting an increase of pension to William S. Devlin;

An act (S. 1421) granting an increase of pension to Charles L. Houghton;

An act (S. 1576) granting an increase of pension to Emily M. J. Cooley;

An act (S. 1994) granting an increase of pension to Isabella Chivington;

An act (S. 2414) granting an increase of pension to Elise Habercorn;

An act (H. R. 6498) to amend an act entitled "An act to authorize Washington and Westmoreland counties, in the State of Pennsylvania, to construct and maintain a bridge across the Monongahela River, in the State of Pennsylvania," approved February 21, 1903; and

Joint resolution (H. J. Res. 158) for the relief of Julius A. Kaiser.

Mr. KEAN. I move that the Senate adjourn.

The motion was agreed to; and (at 12 o'clock and 4 minutes p. m.) the Senate adjourned until Wednesday, December 21, 1904, at 12 o'clock meridian.

CONFIRMATIONS.

Executive nominations confirmed by the Senate December 12, 1904.

POSTMASTERS.

ILLINOIS.

Moses C. Thomas to be postmaster at Homer, in the county of Champaign and State of Illinois.

MICHIGAN.

William T. Hosner to be postmaster at Romeo, in the county of Macomb and State of Michigan.

William C. Mertz to be postmaster at St. Charles, in the county of Saginaw and State of Michigan.

Louis H. Tovatt to be postmaster at Standish, in the county of Arenac and State of Michigan.

Herman A. Wyckoff to be postmaster at Pontiac, in the county of Oakland and State of Michigan.

HOUSE OF REPRESENTATIVES.

MONDAY, December 19, 1904.

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of the proceedings of Friday, December 16, 1904, was read and approved.

ADJOURNMENT UNTIL WEDNESDAY.

Mr. PAYNE. Mr. Speaker, I move that when the House adjourns to-day it adjourn to meet on Wednesday next.

The question was taken, and the motion was agreed to.

HOUSE BILLS WITHOUT AMENDMENT PASSED.

The following House bills, reported from the Committee of the Whole House, were ordered to be engrossed and read a third time, read the third time, and passed:

H. R. 11664. A bill to reimburse the Illinois Central Railroad Company for damage to union depot at Louisville, Ky., by blasting in the Ohio River;

H. R. 3109. A bill for the relief of Noah Dillard;

H. R. 3619. A bill for the relief of David B. Howell;

H. R. 6351. A bill to pay J. B. McRae \$99 for services as hospital steward, etc.;

H. R. 3950. A bill for the relief of W. R. Akers, of Alliance, Nebr.;

H. R. 9758. A bill for the relief of the heirs of George McGhehey for services rendered as mail contractor;

H. R. 11370. A bill to relieve the Italian-Swiss Agricultural Colony from the internal-revenue tax on certain spirits destroyed by fire;

H. R. 2052. A bill for the relief of Ramon O. Williams and Joseph A. Springer;

H. R. 6375. A bill for the relief of the executors of the estate of Henry Lee, deceased;

H. R. 10089. A bill for the relief of R. D. Ashford, of Lockport, Niagara County, N. Y.;

H. R. 9091. A bill to provide United States registry for the steamer *Marie*; and

H. R. 9090. A bill to provide United States register for the steamer *Success*.