IN SENATE.

FRIDAY, *March* 31, 1876.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

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

HOUSE BILLS REFERRED.

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

A bill (H. R. No. 1100) relative to the redemption of unused stamps; and

A bill (H. R. No. 2800) to enable the Secretary of the Treasury to pay judgments provided for in an act approved February 15, 1876, entitled "An act providing for the payment of judgments rendered under section 11 of chapter 459 of the laws of the first session of the Forty-third Congress."

The bill (H. R. No. 2817) to regulate the pay and allowances of Army officers was read twice by its title, and referred to the Committee on Military Affairs.

REPORTS OF UNITED STATES GEOGRAPHICAL SURVEYS.

The PRESIDENT *pro tempore* laid before the Senate the following concurrent resolution of the House of Representatives; which was referred to the Committee on Printing:

Resolved by the House of Representatives, (the Senate concurring,) That the following distribution shall be made of the reports of the United States geographical surveys west of the one hundredth meridian, published in accordance with acts approved June 23, 1874, and February 15, 1875, as the several volumes are issued from the Government Printing Office, to wit, nine hundred and fifty copies of each to the House of Representatives, two hundred and fifty copies of each to the Senate, and eight hundred copies of each to the War Department for its uses.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of War, transmitting, for the information of the Committee on Commerce, a communication from the Chief of Engineers, submitting a copy of a letter from Major J. M. Wilson, Corps of Engineers, explaining why the survey of the mouth of Nehalim River and of Alsea River and bar, Oregon, contemplated in the act of March 3, 1875, has not been made, and recommending, for reasons stated, the postponement of that survey; which was ordered to lie on the table and be printed.

PETITIONS AND MEMORIALS.

Mr. McCREERY presented a petition of workingmen of Boyd County, Kentucky, praying that the tariff laws may remain undisturbed for the present; which was referred to the Committee on Finance.

He also presented the petition of Lena Bensinger, praying to have restored to her certain money alleged to have been wrongfully taken from her late husband, Nathan Bensinger, as surety on the bond of Dohn & Marks, brewers, of Louisville, Kentucky, charged with violating the internal-revenue laws; which was referred to the Committee on Finance.

Mr. SHERMAN presented a petition of workingmen of Mahoning County, Ohio, praying that the tariff laws may remain undisturbed for the present; which was referred to the Committee on Finance.

Mr. CONKLING presented two petitions of workingmen of Erie County, New York, and a petition of workingmen of Clinton County, New York, praying that the tariff laws may remain undisturbed for the present; which were referred to the Committee on Finance.

Mr. McMILLAN. I present a memorial of Irish-American citizens of Saint Paul, Minnesota, in mass-meeting assembled, signed by their officers, relative to the imprisonment in England of Edward O'Meagher Condon. The officers who presided over the meeting are highly respectable gentlemen. The chairman of the meeting is one of our best citizens. I ask that the memorial be read.

The PRESIDENT *pro tempore*. It will be reported.

The Chief Clerk read as follows:

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

Your memorialists, citizens of the United States, residing at Saint Paul, Minnesota, respectfully call the attention of your honorable body to the case of Edward O'M. Condon, a citizen of the United States, and a brave soldier in the Army of the Union during the late war, who has for the last nine years been confined under, and is now undergoing, a life-sentence, passed upon him by one of the English courts at Manchester, in that country.

The offense for which he was convicted grew out of and was intimately connected with an alleged insurrection against the English government, then occurring at Manchester, and which was in this instance manifested by an attempted rescue in the streets of that city of some political prisoners.

In the excitement that followed a large number of suspected persons were arrested and tried by a special commission, and among those convicted was Edward O'M. Condon.

During the last nine years an opportunity has been given for a calm and dispassionate review of the evidence upon which he was convicted, and many facts recently brought to light have led your memorialists to believe that he was wholly innocent of the alleged crime for which he is now being punished and that his conviction was in a great measure, if not wholly, due to the intense political excitement then existing in England.

To the end therefore that justice may be still done or a justifiable mercy exercised, and that the life of a brave and patriotic Union soldier, which has been freely periled in her behalf, may by a grateful country be permitted to terminate in peace and honor and relieved from the odium of an alleged felony, we ask that your honorable body may cause the Department of State to cause the case of Edward O'M. Condon to be investigated, to the end that, if innocent, his release may be required, or that a judicious mercy may be exercised in his behalf.

And your memorialists as in duty bound will ever pray, &c.

Saint Paul, March 17, 1876.

The Irish-American citizens of Saint Paul, Minnesota, in mass meeting assembled, by—

PATRICK H. KELLY,
Chairman.
HENRY O'GORMAN,
Secretary.

The PRESIDENT *pro tempore*. The memorial will be referred to the Committee on Foreign Relations.

Mr. WRIGHT. I present the petition of O. M. Barrett, Charles Allen, and some thousand or twelve hundred other citizens of Northwestern Iowa, reciting that by act of Congress approved May 12, 1864, a grant of land was made to aid in the construction of a railroad from McGregor, in that State, on or near the forty-second parallel, to intersect a line of road running from Sioux City to the northern line of Iowa, in O'Brien County; reciting also that that road is completed to Algona, in that State, but that the lands granted by Congress are largely located west of that point; and that settlements have been made upon the expectation that that road was to be constructed from Algona to the point named in the act of May 12, 1864, but that they understand propositions are made to change the route of that road; and also the terminus upon the road from Sioux City to the northern line of the State. They remonstrate against any change or diversion of the line of the road by Congress. I move the reference of the petition to the Committee on Railroads.

The motion was agreed to.

Mr. BOUTWELL. I present the memorial of the Boston Board of Trade, remonstrating against any alteration of the Light-House Board. As that subject has been reported on by the Committee on Commerce, I move that this memorial lie on the table.

The motion was agreed to.

Mr. SARGENT. I present a memorial of the representative Baptist ministers on the Pacific coast, among which are the names of the Baptist pastors in the city of San Francisco, who state that they believe that "all just government is founded on civil and religious liberty, and that it is unjust to tax, for the support of any sectarian or religious institution, those who are conscientiously opposed thereto," and they pray that this body will adopt a resolution proposing an amendment to the Constitution, "to be ratified by the States, that neither the United States, nor any State, Territory, or other civil jurisdiction therein, shall appropriate any money or property for any purpose, directly or indirectly, to any religious body or sect." I move the reference of the memorial to the Committee on the Judiciary.

The motion was agreed to.

Mr. WALLACE presented a memorial of workingmen of Allegheny County, Pennsylvania, remonstrating against any change in the present tariff laws; which was referred to the Committee on Finance.

Mr. CAMERON, of Wisconsin, presented the petition of J. W. Toms & Co. and other importers and dealers in china, glass ware, and crockery, praying that a uniform duty of 30 per cent. be levied upon earthen ware, crockery, glass ware, and china, exclusive of packages, inland freight, shipping charges, and commissions; which was referred to the Committee on Finance.

JAMES B. SINCLAIR.

Mr. CLAYTON. The other day in making some reports from the Committee on Military Affairs I erroneously reported adversely upon the bill (S. No. 216) for the relief of Lieutenant James B. Sinclair, United States Army, under the impression that the Committee had directed me to report that bill. That was a mistake. I move that the bill be recommitted to the Committee on Military Affairs.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. DAWES. I am instructed by the Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. No. 485) for the relief of Julia E. Seeley, postmaster at Great Barrington, Massachusetts, to report it with amendments; and as it relates to a matter that has been passed upon several times in the Senate upon similar bills, I ask that it may be acted upon now.

Mr. EDMUNDS. You had better let it go until to-morrow.

Mr. DAWES. There is a written report which explains the case. The bill is merely to pay for stamps. The safe was blown up by professional burglars from the city of New York, and the Post-Office Department report that the postmaster exercised all due care and that she ought to be paid.

Mr. EDMUNDS. I have almost always opposed these bills, but without any particular success, and perhaps I should not attempt fruitless opposition in this instance, which is probably as good as any of them; but still I think we ought to see the report in print and see that the case comes fully up to the rule, as I dare say it does.

Mr. DAWES. It will only take one moment to pass the bill.

Mr. EDMUNDS. It will not make any special difference to wait until we can have the report printed. There will be no objection to taking it up then.

The PRESIDENT *pro tempore*. Does the Senator from Vermont object to the present consideration of the bill?

Mr. EDMUNDS. Let it go over.

The PRESIDENT *pro tempore*. Objection being made, the bill will be placed on the Calendar.

Mr. BOOTH, from the Committee on Pensions, to whom was referred the bill (S. No. 38) granting a pension to Charles C. Daniels, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 1455) granting a pension to Griffin Chavers, late a private in Company C, Ninth Regiment of United States Heavy Artillery, (colored,) submitted a report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. HITCHCOCK, from the Committee on the District of Columbia, to whom was referred the bill (H. R. No. 1345) revising and amending the various acts establishing and relating to the Reform School in the District of Columbia, reported it without amendment.

Mr. CHRISTIANCY, from the Committee on Territories, to whom was referred the bill (S. No. 483) to regulate elections and the elective franchise in the Territory of Utah, reported it with amendments.

He also, from the Committee on Private Land Claims, to whom was referred the petition of Ephraim P. Abbott, praying for the entry and purchase of a piece of land as a second or back concession in rear of private land claim No. 667, Wayne County, Michigan, submitted a report accompanied by a bill (S. No. 678) for the relief of Ephraim P. Abbott.

The bill was read and passed to the second reading, and the report was ordered to be printed.

Mr. MORRILL, of Vermont, from the Committee on Public Buildings and Grounds, to whom was referred a resolution directing that committee to inquire and report whether the monuments erected by order of the Senate to the memory of deceased Senators have been placed over the remains of those Senators and suitably inscribed, and also whether there are any deceased Senators not honored by the erection of monuments, reported a bill (S. No. 679) relating to interments in the Congressional Cemetery; which was read and passed to the second reading.

Mr. DORSEY, from the Committee on the District of Columbia, to whom was referred the resolution of the Senate of the 15th February, instructing that committee to inquire into the necessity of repaving Pennsylvania avenue from the Capitol grounds to Fifteenth street, and to ascertain the best material to be used, &c., submitted a report accompanied by a bill (S. No. 680) authorizing the repavement of Pennsylvania avenue.

The bill was read twice by its title, and, on motion of Mr. DORSEY, recommitted to the committee.

The PRESIDENT *pro tempore*. Does the Senator ask that the report be printed?

Mr. DORSEY. Yes, sir.

Mr. EDMUNDS. Reports are always printed under the rule.

BILLS INTRODUCED.

Mr. DAWES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 681) for the relief of Marie Barton Greene; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

Mr. CLAYTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 683) for the relief of the officers and privates of the Fourth Arkansas Cavalry Volunteers; which was read twice by its title, referred to the Committee on Military Affairs, and ordered to be printed.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. HAMILTON, it was

Ordered, That the papers in the case of Edward T. Ryan, late a lieutenant, United States Army, be withdrawn from the files.

On motion of Mr. McDONALD, it was

Ordered, That James Coloway have leave to withdraw his petition and papers from the files of the Senate.

PROPOSED ADJOURNMENT TO MONDAY.

Mr. WHYTE. I move that when the Senate adjourn to-day it be to meet on Monday next.

Mr. MORTON. I hope before that motion is adopted we shall see what we can get through with to-day. I hope we shall not agree to adjourn over until the pending business is disposed of.

Mr. WHYTE. I withdraw the motion for the present if there is objection.

Mr. EDMUNDS. Very likely there will not be by and by.

JOINT RULE ON APPROPRIATION BILLS.

Mr. ANTHONY. I offer a joint rule for the consideration of the Committee on Rules:

The general appropriation bills shall be confined to appropriations necessary to carry into effect existing laws, and shall not be open to legislative provisions, except such as relate to the expenditure of the moneys therein appropriated.

I move the reference of this proposed joint rule to the Committee on Rules; and as I have the chairman of the committee [Mr. FERRY] right before me, where he cannot get away, I wish to say a word upon the reason of the rule proposed.

I am encouraged by the debate in the Senate, a few days ago, to offer this amendment to the rules, which I had already intended to propose. Of course I do not suppose that it can be made applicable to the present session, for the business is too far advanced; but the evil which it proposes to arrest is one that has been brought especially to the attention of the Senate, on the last appropriation bill; and I think there can hardly be but one opinion upon it.

The general appropriation bills are necessary to carry on the Government. They are, therefore, sure to pass; and however they may be overloaded with objectionable legislation, very few Senators are willing to take the responsibility of voting against them upon the question of their passage. Therefore it is liable to happen that the friends of several measures, neither of which alone could command a majority of the Senate, will combine, and put the whole upon an appropriation bill which carries itself and them with it. This vicious mode of legislation has long been a matter of complaint, and has been met by several restrictive rules, which partially restrain, but do not altogether prevent it. By our rule, it is forbidden to move upon an appropriation bill an amendment to pay a private claim, or to make additional appropriations, unless it be to carry out the provisions of some existing law, or some act or resolution previously passed by the Senate, during that session, or moved by direction of a standing or select committee of the Senate, or in pursuance of an estimate from the head of a Department. These exceptions allow a very wide latitude. Yet the restraint upon amendments for appropriations moved by individual Senators, on their own responsibility alone, is healthful, and makes a great saving of time, by cutting off the discussion on propositions that are sure to fail.

We have another rule to that effect which allows a motion to be made to lay on the table an amendment to an appropriation bill without carrying the bill with it. But the facility with which estimates can be extorted from the heads of Departments and recommendations wrung from committees open the bills to enormous additions.

A greater evil has been the passage of legislation on the appropriation bills, often legislation that had no connection with the subject of the bill. This, too, has been restricted by special rules, adopted for the passing session and generally toward the close, when it became apparent that otherwise the necessary business could not be transacted. The Senate has not, however, adopted a standing rule to that effect.

The true idea of an appropriation bill is a bill to provide the money necessary to carry into effect existing laws, without amendment of those laws, except so far as relates to the expenditure of the sums therein appropriated. This would reduce the appropriation bills to simple business statutes; it would confine the discussion to the character and amount of the appropriations, and to their economical and judicious expenditure. It would subject them to a more rigid scrutiny, and, by relieving them from all extraneous matters, would place in a clearer view the cost of each branch and each department of the public service.

It is the purpose of this rule to give this character to the appropriation bills. Another modification I would like; a limit of every appropriation to the estimates of the Treasury, so that every officer charged with the control of the expenditures would act under the responsibility of his own recommendations. This I believe is the rule of the British Parliament. I do not, however, venture to propose this, fearing that it would be regarded as too great a departure from the existing system, and as a limitation upon the power of Congress. Yet if such a provision were made, applicable to the general appropriation bills alone, it would not prevent supplemental bills making original appropriations or increasing those in the general bills. But there should be no question of the equal right of either House to originate such measures. Indeed there is no question now, although by custom the appropriation bills have originated in the House. Once, in the Thirty-sixth Congress, when the Senate, weary of the delay of the House, passed several appropriation bills and sent them to the House, the House laid them on the table, and sent back other bills. The Senate raised no question on the subject, but I suppose no Senator doubts the right of the Senate to originate appropriation bills. In fact, we do it every day in private bills.

Mr. EDMUNDS. And in many public bills of small amounts.

Mr. ANTHONY. The Senator from Vermont suggests that it is so with many public bills of small amounts, like bills for the erection of light-houses, and other appropriations of various kinds. If it should be thought, however, that in the emergencies of the closing session, it might be sometimes quite necessary to legislate upon an appropriation bill, one bill might be excepted from the rule, as the sundry civil bill, the omnibus bill as it is generally called, although my opinion is that the advantages to be gained by a rigid adherence to this rule would more than compensate for all its inconvenience.

I move the reference of the proposed rule to the Committee on Rules, and that it be printed.

The motion was agreed to.

THE MISSISSIPPI ELECTION.

The Senate resumed the consideration of the resolution submitted by Mr. MORTON December 15, 1875, as modified by him on the 27th instant, namely:

Whereas it is alleged that the late election in Mississippi (in 1875) for members of Congress and State officers and members of the Legislature was characterized by great frauds committed upon and violence exercised toward the colored citizens of that State and the white citizens disposed to support their rights at the election, and especially that the colored voters, on account of their color, race, or previous condition of servitude, were, by intimidation and force, deterred from voting, or compelled to vote, contrary to their wishes, for candidates and in support of parties to whom they were opposed, and their right to the free exercise of the elective franchise, as secured by the fifteenth amendment to the Constitution,

thus practically denied and violated, and that such intimidation has been since continued for the purpose of affecting future elections; and whereas the people of all the United States have an interest in and a right to insist upon the enforcement of this constitutional amendment, and Congress, having the power to enforce it by appropriate legislation, cannot properly neglect the duty of providing the necessary legislation for this purpose: Therefore,

Resolved, That a committee of five Senators be appointed by the Chair to investigate the truth of these allegations, and to inquire how far these constitutional rights have in the said election been violated by force, fraud, or intimidation, and to inquire and report to the Senate, before the end of the present session, whether any, and, if so, what, further legislation is necessary to secure to said colored citizens the free enjoyment of their constitutional rights; and that said committee be empowered to visit said State, to send for persons and papers, to take testimony on oath, and to use all necessary process for these purposes.

Mr. BRUCE Mr. President, I had hoped that no occasion would arise to make it necessary for me again to claim the attention of the Senate until at least I had acquired a larger acquaintance with its methods of business and a fuller experience in public affairs; but silence at this time would be infidelity to my senatorial trust and unjust to both the people and the State I have the honor in part to represent.

The conduct of the late election in Mississippi affected not merely the fortunes of partisans—as the same were necessarily involved in the defeat or success of the respective parties to the contest—but put in question and jeopardy the sacred rights of the citizen; and the investigation contemplated in the pending resolution has for its object not the determination of the question whether the offices shall be held and the public affairs of that State be administered by democrats or republicans, but the higher and more important end, the protection in all their purity and significance of the political rights of the people and the free institutions of the country. I believe the action sought is within the legitimate province of the Sentate; but I shall waive a discussion of that phase of the question, and address myself to the consideration of the importance of the proposed investigation.

The demand of the substitute of the Senator from Michigan proceeds upon the allegation that fraud and intimidation were practiced by the opposition in the late State election, so as not only to deprive many citizens of their political rights, but so far as practically to have defeated a fair expression of the will of a majority of the legal voters of the State of Mississippi, resulting in placing in power many men who do not represent the popular will.

The truth of the allegations relative to fraud and violence is strongly suggested by the very success claimed by the democracy. In 1873 the republicans carried the State by 20,000 majority; in November last the opposition claimed to have carried it by 30,000; thus a democratic gain of more than 50,000. Now, by what miraculous or extraordinary interposition was this brought about? I can conceive that a large State like New York, where free speech and free press operate upon intelligent masses—a State full of railroads, telegraphs, and newspapers—on the occasion of a great national contest, might furnish an illustration of such a thorough and general change in the political views of the people; but such a change of front is unnatural and highly improbable in a State like my own, with few railroads, and a widely scattered and sparse population. Under the most active and friendly canvass the voting masses could not have been so rapidly and thoroughly reached as to have rendered this result probable.

There was nothing in the character of the issues nor in the method of the canvass that would produce such an overwhelming revolution in the sentiments of the colored voters of the State as is implied in this pretended democratic success. The republicans—nineteen-twentieths of whom are colored—were not brought, through the press or public discussions, in contact with democratic influences to such an extent as would operate a change in their political convictions, and there was nothing in democratic sentiments nor in the proscriptive and violent temper of their leaders to justify such a change of political relations.

The evil practices so naturally suggested by this view of the question as probable will be found in many instances by the proposed investigation to have been actual. Not desiring to anticipate the work of the committee nor to weary Senators with details, I instance the single county of Yazoo as illustrative of the effects of the outrages of which we complain. This county gave in 1873 a republican majority of nearly two thousand. It was cursed with riot and bloodshed prior to the late election, and gave but seven votes for the republican ticket, and some of these, I am credibly informed, were cast in derision by the democrats, who declared that republicans must have some votes in the county.

To illustrate the spirit that prevailed in that section, I read from the Yazoo Democrat, an influential paper published at its county seat:

Let unanimity of sentiment pervade the minds of men. Let invincible determination be depicted on every countenance. Send forth from our deliberative assembly of the eighteenth the soul-stirring announcement that Mississippians shall rule Mississippi though the heavens fall. Then will woe, irretrievable woe, betide the radical tatterdemalions. Hit them hip and thigh, everywhere and at all times.

Carry the election peaceably if we can, forcibly if we must.

Again:

There is no radical ticket in the field, and it is more than likely there will be none; for the leaders are not in this city, and dare not press their claims in this county.

Speaking of the troubles in Madison County, the Yazoo City Democrat for the 26th of October says:

Try the rope on such characters. It acts finely on such characters here.

The evidence in hand and accessible will show beyond peradventure that in many parts of the State corrupt and violent influences were brought to bear upon the registrars of voters, thus materially affecting the character of the voting or poll lists; upon the inspectors of election, prejudicially and unfairly thereby changing the number of votes cast; and, finally, threats and violence were practiced directly upon the masses of voters in such measure and strength as to produce grave apprehensions for their personal safety, and as to deter them from the exercise of their political franchises.

Lawless outbreaks have not been confined to any particular section of the country, but have prevailed in nearly every State at some period in its history. But the violence complained of and exhibited in Mississippi and other Southern States, pending a political canvass, is exceptional and peculiar. It is not the blow that the beggared miner strikes that he may give bread to his children, nor the stroke of the bondsman that he may win liberty for himself, nor the mad turbulence of the ignorant masses when their passions have been stirred by the appeals of the demagogue; but it is an attack by an aggressive, intelligent, white political organization upon inoffensive, law-abiding fellow-citizens; a violent method for political supremacy, that seeks not the protection of the rights of the aggressors, but the destruction of the rights of the party assailed. Violence so unprovoked, inspired by such motives, and looking to such ends, is a spectacle not only discreditable to the country, but dangerous to the integrity of our free institutions.

I beg Senators to believe that I refer to this painful and reproachful condition of affairs in my own State not in resentment, but with sentiments of profound regret and humiliation.

If honorable Senators ask why such flagrant wrongs were allowed to go unpunished by a republican State government, and unresented by a race claiming 20,000 majority of the voters, the answer is at hand. The civil officers of the State were unequal to meet and suppress the murderous violence that frequently broke out in different parts of the State, and the State executive found himself thrown for support upon a militia partially organized and poorly armed. When he attempted to perfect and call out this force and to use the very small appropriation that had been made for their equipment, he was met by the courts with an injunction against the use of the money, and by the proscriptive element of the opposition with such fierce outcry and show of counter-force, that he became convinced a civil strife, a war of races, would be precipitated unless he staid his hand. As a last resort, the protection provided in the national Constitution for a State threatened with domestic violence was sought; but the national Executive—from perhaps a scrupulous desire to avoid the appearance of interference by the Federal authority with the internal affairs of that State—declined to accede to the request made for Federal troops.

It will not accord with the laws of nature or history to brand the colored people as a race of cowards. On more than one historic field, beginning in 1776 and coming down to this centennial year of the Republic, they have attested in blood their courage as well as love of liberty. I ask Senators to believe that no consideration of fear or personal danger has kept us quiet and forbearing under the provocations and wrongs that have so sorely tried our souls. But feeling kindly toward our white fellow-citizens, appreciating the good purposes and offices of the better classes, and, above all, abhorring a war of races, we determined to wait until such time as an appeal to the good sense and justice of the American people could be made.

A notable feature of the outrages alleged is that they have referred almost exclusively to the colored citizens of the State. Why is the colored voter to be proscribed? Why direct the attack upon him? While the methods of violence, resorted to for political purposes in the South, are foreign to the genius of our institutions as applied to citizens generally—and so much is conceded by even the opposition—yet they seem to think we are an exceptional class and citizens, rather by sufferance than right; and when pressed to account for their bitterness and proscription toward us they, with more or less boldness, allege incompetent and bad government as their justification before the public opinion of the country. Now, I declare that neither political incapacity nor venality are qualities of the masses of colored citizens. The emancipation of the colored race during the late civil strife was an expression alike of the magnanimity and needs of the nation; and the subsequent and early subtraction of millions of industrial values from the resources of the insurrectionary States and the presence of many thousand additional brave hearts and strong hands around the flag of the country vindicated the justice and wisdom of the measure.

The close of the war found four millions of freedmen, without homes or property, charged with the duty of self-support and with the oversight of their personal freedom, yet without civil and political rights! The problem presented by this condition of things was one of the gravest that has ever been submitted to the American people. Shall these liberated millions of a separate race, while retaining personal liberty, be deprived of political rights? The practical sense of the American people definitely settled this delicate and difficult question, and the demand for a more pronounced loyal element in the work of reconstruction in the lately rebellious States furnished an opportunity for the recognition of the political rights of the race, both in the interest of justice and good government.

The history of my race since enfranchisement, considered in connection with the difficulties that have environed us, will exhibit hopeful progress and attest that we have been neither ungrateful for the civil

and political privileges received nor wanting in appreciation of the correspondingly weighty obligations imposed upon us.

As evidence, not only of our aptitude for improvement but of our actual progress since 1865, I submit a partial but nevertheless illustrative statistical statement gathered from the census of 1860 and 1870 and from data obtained by the State authorities in the interval between these periods. The statistics cover the questions of marriage, churches, and industrial pursuits. I avail myself of exhibits and comments on these points found in the annual message of my colleague, an ex-slaveholder, to the Legislature of Mississippi, session of 1871:

Marriage statistics.

Class.	Population in 1860.	Marriage licenses issued.					
		1865.	1866.	1867.	1868.	1869.	1870.
White	189,645	2,708	3,129	2,829	2,546	2,655	2,204
Colored	239,930	564	3,679	3,524	2,802	3,584	3,427

The percentages of those white marriages to the total number of the whites, and of those colored marriages to the total number of the colored, are as follows, namely:

Class.	1865.	1866.	1867.	1868.	1869.	1870.
White	1.43	1.64	1.49	1.34	1.40	1.16
Colored	0.23	1.53	1.47	1.17	1.49	1.43

Governor ALCORN, in commenting on the marriage statistics that represent fully thirty-one counties of the State, says:

A people trained under circumstances precluding the marriage contract stood exposed, when released from restraints of force, to the danger of running into extreme sexual license. Our constitution anticipated such a social evil, and therefore dignified all who had been living together in the intercourse of the sexes under slavery by giving them in law the status of husband and wife. * * *

These figures are full of encouragement to men who doubted the practicability of educating the great body of our labor to the moral level of freedom. They will be read with surprise, when taken in connection with the fact that up to the close of the war the negro was incapable of making a contract of marriage. They prove conclusively that the colored people are striving to rise to the moral level of their new standing before the law, to the extent of a strict adherence to, at all events, the formularies of sexual propriety.

But the marriage contracts of the negroes are not mere formularies. Taking the production of children as an evidence of marital fidelity—which it is held to be—the census of the six counties selected as a basis of my inquiries bears the following evidence to the general good faith of the colored people in contracts of marriage:

Population by ages.

Class.	Total number.	Under 1 year.	From 1 to 5 years.	From 5 to 10 years.	From 10 to 60 years.	Over 60 years.
White	33,092	6.09	10.52	13.13	66.92	3.38
Colored	43,748	7.31	11.16	14.57	63.25	3.70

The table of population embraces six counties, and is submitted to show the purity of the marriage relations among the colored people. The governor in commenting thereon adds:

The fact remains on the face of the national inventory that the colored people show in the proportion of their infants a rate of production which constitutes an incontestable proof that negro marriages are, as a rule, observed with encouraging fidelity.

Number of churches.

Class.	Population in 1860.	Years.					
		1865.	1866.	1867.	1868.	1869.	1870.
White	138,991	510	505	528	531	548	563
Colored	179,677	105	125	165	201	235	288

Number of preachers employed.

Class.	Population in 1860.	Years.					
		1865.	1866.	1867.	1868.	1869.	1870.
White	125,629	328	339	343	349	373	354
Colored	162,733	73	102	134	177	194	262

These tables embrace returns from twenty-two counties, and the governor commenting says:

The religious progress among the negroes shown in this table, in corroboration of that shown in the table next preceding, is full of good omen for the perfection of the work you, gentlemen, have inaugurated for crowning the State of Mississippi with the peace and prosperity of a well-ordered society of free labor.

Number of shoemaker's shops.

Class.	Population in 1860.	Years.					
		1865.	1866.	1867.	1868.	1869.	1870.
White	105,023	99	104	101	94	93	99
Colored	165,169	21	28	24	49	54	63

Number of smith's shops.

Class.	Population in 1860.	Years.					
		1865.	1866.	1867.	1868.	1869.	1870.
White	105,896	128	128	145	152	157	182
Colored	156,556	40	63	74	83	98	113

The exhibit shows not only the enterprise of the colored man under great embarrassment, but his aptitude for skilled and diversified labor, and is so far favorable, not only to his diligence, but intelligent capacity.

Tenant-farming.

Class.	Bales produced.	
	1869.	1870.
White	27,075	20,893
Colored	40,561	50,978

The governor very appropriately selects this form of agricultural endeavor as illustrative of the thrift of the negro, and in connection therewith adds:

Tenant-farming has expanded among the whites since 1860 about 100 per cent. In that year it was, of course, unknown among the negroes.

* * * * * *

The improvidence of the negro is another subject of popular apprehension as to his future under freedom. The laws of 1865 had excluded him from putting that accusation to trial by having made him a pariah.

A military government is certainly not a very favorable school for the development of industry and thrift. And yet the inauguration of that rule was the first moment at which the negro had, in fact, had the opportunity of realizing wealth. Four years have passed since that time, and but one of four years has been blessed with civil government; and now, at the expiration of that brief period, what evidence do we find on which to found an opinion as to the future identity of the negro with the direct interests of property?

Negro property owners in the seven counties.

69 colored people own real estate to a gross value of	$30,680
3,798 colored people own personalty to a gross value of	630,860
178 colored people own both realty and personalty to a gross value of	22?,700

The governor adds:

Among the forty-three thousand negroes of Washington, Madison, Holmes, Rankin, Neshoba, Jones, and Lauderdale, who had been plucked pennyless four short years ago from the clutches of the unwise legislation of 1865, three thousand four hundred and forty-one accumulated wealth—what the economists hold to represent the political virtue of "denial"—to the enormous amount of $882,240! And here again is undoubted proof that the industry and thrift of the negro are developing with extraordinary rapidity the production of a mass of property-owners who constitute an unimpeachable guarantee that reconstruction goes forward to the consolidation of a society in which the reward of labor goes hand in hand with the safety of property.

The data here adduced, though not exhaustive, is sufficiently full to indicate and illustrate the capacity and progress of this people in the directions specified, and the fuller statistics, derived from subsequent and later investigations, and exhibiting the operation of the more liberal and judicious legislation and administration introduced since 1870, will amply sustain the conclusion authorized by the facts I have adduced. I submit that the showing made, relative to the social, moral, and industrial condition of the negro, is favorable, and proves that he is making commendable and hopeful advances in the qualities and acquisitions desirable as a citizen and member of society; and, in these directions, attest there is nothing to provoke or justify the suspicion and proscription with which he has been not infrequently met by some of his more highly favored white fellow-citizens.

Again, we began our political career under the disadvantages of the inexperience in public affairs that generations of enforced bondage had entailed upon our race. We suffered also from the vicious leadership of some of the men whom our necessities forced us temporarily to accept. Consider further that the States of the South, where we were supposed to control by our majorities, were in an impoverished and semi-revolutionary condition—society demoralized, the industries of the country prostrated, the people sore, morbid, and sometimes turbulent, and no healthy controlling public opinion either existent or possible—consider all these conditions, and it will be seen that we began our political novitiate and formed the organic and statutory laws under great embarrassments.

Despite the difficulties and drawbacks suggested, the constitutions formed under colored majorities, whatever their defects may be, were improvements on the instruments they were designed to supersede;

and the statutes framed, though necessarily defective because of the crude and varying social and industrial conditions upon which they were based, were more in harmony with the spirit of the age and the genius of our free institutions than the obsolete laws that they supplanted. Nor is there just or any sufficient grounds upon which to charge an oppressive administration of the laws.

The State debt proper is less than a half million dollars and the State taxes are light. Nor can complaint be reasonably made of the judiciary. The records of the supreme judicial tribunal of the State will show, in 1859–'60, 266 decisions in cases of appeal from the lower courts, of which 169 were affirmed and 97 reversed. In 1872–'73 the records show 328 decisions rendered in cases of appeal from below, of which 221 were affirmed and 107 reversed; and in 1876, of appeals from chancellors, appointed by Governor Ames, up to date, 41 decisions have been rendered, of which 33 were affirmed and 8 reversed. This exhibit, whether of legislation or administration, shows there has been no adequate provocation to revolution and no justification for violence in Mississippi. That we should have made mistakes, under the circumstances, in measures of both legislation and administration, was natural, and that we have had any success is both creditable and hopeful.

But if it can be shown that we have used the ballot either to abridge the rights of our fellow-citizens or to oppress them; if it shall appear that we have ever used our newly acquired power as a sword of attack and not as a shield of defense, then we may with some show of propriety be charged with incapacity, dishonesty, or tyranny. But, even then, I submit that the corrective is in the hands of the people, and not of a favored class, and the remedy is in the honest exercise of the ballot, and not in fraud and violence.

Mr. President, do not misunderstand me; I do not hold that all the white people of the State of Mississippi aided and abetted the white-league organizations. There is in Mississippi a large and respectable element among the opposition who are not only honest in their recognition of the political rights of the colored citizen and deprecate the fraud and violence through which those rights have been assailed, but who would be glad to see the color line in politics abandoned and good-will obtain and govern among all classes of her people. But the fact is to be regretted that this better class of citizens in many parts of the State is dominated by a turbulent and violent element of the opposition, known as the White League—a ferocious minority—and has thus far proved powerless to prevent the recurrence of the outrages it deprecates and deplores.

The uses of this investigation are various. It will be important in suggesting such action as may be found necessary not only to correct and repair the wrongs perpetrated, but to prevent their recurrence. But I will venture to assert that the investigation will be most beneficial in this, that it will largely contribute to the formation of a public sentiment that, while it restrains the vicious in their attacks upon the rights of the loyal, law-abiding voters of the South, will so energize the laws as to secure condign punishment to wrong-doers, and give a security to all classes, which will effectively and abundantly produce the mutual good-will and confidence that constitute the foundations of the public prosperity.

We want peace and good order at the South; but it can only come by the fullest recognition of the rights of all classes. The opposition must concede the necessity of change, not only in the temper but in the philosophy of their party organization and management. The sober American judgment must obtain in the South as elsewhere in the Republic, that the only distinctions upon which parties can be safely organized and in harmony with our institutions are differences of opinions relative to principles and policy of government, and that differences of religion, nationality, or race can neither with safety nor propriety be permitted for a moment to enter into the party contests of the day. The unanimity with which the colored voters act with a party is not referable to any race prejudice on their part. On the contrary, they invite the political co-operation of their white brethren, and vote as a unit because proscribed as such. They deprecate the establishment of the color line by the opposition, not only because the act is unwise and wrong in principle, but because it isolates them from the white men of the South, and forces them, in sheer self-protection and against their inclination, to act seemingly upon the basis of a race prejudice that they neither respect nor entertain. As a class they are free from prejudices, and have no uncharitable suspicions against their white fellow-citizens, whether native born or settlers from the Northern States. They not only recognize the equality of citizenship and the right of every man to hold, without proscription, any position of honor and trust to which the confidence of the people may elevate him; but owing nothing to race, birth, or surroundings, they, above all other classes in the community, are interested to see prejudices drop out of both politics and the business of the country, and success in life proceed only upon the integrity and merit of the man who seeks it. They are also appreciative—feeling and exhibiting the liveliest gratitude for counsel and help in their new career, whether they come from the men of the North or of the South. But withal, as they progress in intelligence and appreciation of the dignity of their prerogatives as citizens, they, as an evidence of growth, begin to realize the significance of the proverb, "When thou doest well for thyself, men shall praise thee;" and are disposed to exact the same protection and concession of rights that are conferred upon other citizens by the Constitution, and that, too, without the humiliation involved in the enforced abandonment of their political convictions.

We simply demand the practical recognition of the rights given us in the Constitution and laws, and ask from our white fellow-citizens only the consideration and fairness that we so willingly extend to them. Let them generally realize and concede that citizenship imports to us what it does to them, no more and no less, and impress the colored people that a party defeat does not imperil their political franchise. Let them cease their attempts to coerce our political co-operation, and invite and secure it by a policy so fair and just as to commend itself to our judgment, and resort to no motive or measure to control us that self-respect would preclude their applying to themselves. When we can entertain opinions and select party affiliations without proscription, and cast our ballots as other citizens and without jeopardy to person or privilege, we can safely afford to be governed by the considerations that ordinarily determine the political action of American citizens. But we must be guaranteed in the unproscribed exercise of our honest convictions and be absolutely, from within or without, protected in the use of our ballot before we can either wisely or safely divide our vote. In union, not division, is strength, so long as White League proscription renders division of our vote impracticable by making a difference of opinion opprobrious and an antagonism in politics a crime. On the other hand, if we should, from considerations of fear, yield to the shot-gun policy of our opponents, the White League might win a temporary success, but the ultimate result would be disastrous to both races, for they would first become aggressively turbulent, and we, as a class, would become servile, unreliable, and worthless.

It has been suggested, as the popular sentiment of the country, that the colored citizens must no longer expect special legislation for their benefit, nor exceptional interference by the National Government for their protection. If this is true, if such is the judgment relative to our demands and needs, I venture to offset the suggestion, so far as it may be used as reason for a denial of the protection we seek, by the statement of another and more prevalent popular conviction. Back of this, and underlying the foundations of the Republic itself, there lies deep in the breasts of the patriotic millions of the country the conviction that the laws must be enforced, and life, liberty, and property must, alike to all and for all, be protected. But I allege that we do not seek special action in our behalf, except to meet special danger, and only then such as all classes of citizens are entitled to receive under the Constitution. We do not ask the enactment of new laws, but only the enforcement of those that already exist.

The vicious and exceptional political action had by the White League in Mississippi has been repeated in other contests and in other States of the South, and the colored voters have been subjected therein to outrages upon their rights similar to those perpetrated in my own State at the recent election. Because violence has become so general a quality in the political canvasses of the South and my people the common sufferers in each instance, I have considered this subject more in detail than would, under other circumstances, have been either appropriate or necessary. As the proscription and violence toward the colored voters are special and almost exclusive, and seem to proceed upon the assumption that there is something exceptionally offensive and unworthy in them, I have felt, as the only representative of my race in the Senate of the United States, that I was placed, in some sort, upon the defensive, and I have consequently endeavored to show how aggravated and inexcusable were the wrongs worked upon us, and have sought to vindicate our title to both the respect and good-will of the just people of the nation. The gravity of the issues involved has demanded great plainness of speech from me. But I have endeavored to present my views to the Senate with the moderation and deference inspired by the recollection that both my race and myself were once bondsmen, and are to-day debtors largely to the love and justice of a great people for the enjoyment of our personal and political liberty. While my antecedents and surroundings suggest modesty, there are some considerations that justify frankness, and even boldness of speech.

Mr. President, I represent, in an important sense, the interest of nearly a million of voters, constituting a new, hopeful, permanent, and influential political element, and large enough to affect in critical periods the fortunes of this great Republic; and the public safety and common weal alike demand that the integrity of this element should be preserved and its character improved. They number more than a million of producers, who, since their emancipation and outside of their contributions to the production of sugar, rice, tobacco, cereals, and the mechanical industries of the country, have furnished nearly forty million bales of cotton, which, at the ruling prices of the world's market, have yielded $2,000,000,000, a sum nearly equal to the national debt; producers who, at the accepted ratio that an able-bodied laborer earns, on an average $800 per year, annually bring to the aggregate of the nation's great bulk of values more than $800,000,000.

I have confidence, not only in my country and her institutions, but in the endurance, capacity, and destiny of my people. We will, as opportunity offers and ability serves, seek our places, sometimes in the field of letters, arts, sciences, and the professions. More frequently mechanical pursuits will attract and elicit our efforts; more still of my people will find employment and livelihood as the cultivators of the soil. The bulk of this people—by surroundings, habits, adaptation, and choice—will continue to find their homes in the

South, and constitute the masses of its yeomanry. We will there probably, of our own volition and more abundantly than in the past, produce the great staples that will contribute to the basis of foreign exchange, aid in giving the nation a balance of trade, and minister to the wants and comfort and build up the prosperity of the whole land. Whatever our ultimate position in the composite civilization of the Republic and whatever varying fortunes attend our career, we will not forget our instincts for freedom nor our love of country. Guided and guarded by a beneficent Providence, and living under the genial influence of liberal institutions, we have no apprehensions that we shall fail from the land from attrition with other races, or ignobly disappear from either the politics or industries of the country.

Mr. President, allow me here to say that, although many of us are uneducated in the schools, we are informed and advised as to our duties to the Government, our State, and ourselves. Without class prejudice or animosities, with obedience to authority as the lesson and love of peace and order as the passion of our lives, with scrupulous respect for the rights of others, and with the hopefulness of political youth, we are determined that the great Government that gave us liberty, and rendered its gift valuable by giving us the ballot, shall not find us wanting in a sufficient response to any demand that humanity or patriotism may make upon us; and we ask such action as will not only protect us in the enjoyment of our constitutional rights, but will preserve the integrity of our republican institutions.

Mr. KEY. Mr. President, much has been said during this session of Congress in regard to the condition, opinions, and purposes of the people in the Southern States. As yet, little has been said by their immediate representatives on this floor. In this, I think, they have shown most commendable good taste and wise discretion, for they are placed in a situation of great embarrassment which restrains or should restrain hasty and inconsiderate speech and, on many questions, demands of them silence. They do not stand and cannot stand on this floor with equal position and advantage with the representatives of the Northern States. That we feel and know. This does not result from any want of courtesy toward us; for I must say that there is no ground of complaint on that account, but it arises from the peculiarity of our position and that of our constituencies in regard to our late civil strife. I think, however, that the Senate and the country should know something of the nature of our respective views upon the peculiar questions growing out of our present somewhat anomalous conditions. And, sir, I believe, notwithstanding some of the fearful utterance which we heard yesterday in the heat of this debate, that at least some regard will be paid to what we say and some respect to the facts we state. It is a mistaken magnanimity which would permit us seats on this floor and yet allow us to represent nothing but deceit, treason, falsehood, and hypocrisy.

The issues of the late contest between the North and the South were decided, for all time, against the people and States of the South. The South must abide by this decision, and dare not question it. The quarrel was almost as old as the Government and for almost a century had, with increasing intensity, been transmitted from father to son, and could never have been settled in the enfranchisement of the slaves but by a war. The conflict was "irrepressible." It had to be determined by us or by our children. It was a fair trial of strength, and was bravely fought. It is determined, and let us thank Heaven that it is over. The Southern States were not entirely to blame certainly for this unfortunate controversy. Property in slaves existed long before our Government was established. Our Constitution recognized this and threw around slavery guarantees special and peculiar in their character. By it the legal right was given to own slaves and under it remedies were provided for the maintenance of the right. Both sections of the country framed and ratified this Constitution. No man who engaged in the rebellion had introduced slavery into the country or aided in establishing the Constitution. This generation inherited this Constitution and slavery. The South alone became the heir of slavery; to the whole country belonged the Constitution. It would have been far better for the nation, and especially for the South, if slavery had not been provided for in this instrument. One section, finding warrant for it in the organic law and accustomed to slavery all their lives, were educated to believe and did believe that it was right. Its people had been taught so to believe by those who ministered at their altars and by their trusted statesmen. The other section was educated to believe and did believe that slavery was wrong; that it was the sin of the age and a blot most foul upon the character of the nation. It was a war of education and of the ideas resulting from education. It followed necessarily and inevitably that free States sought, by unfriendly legislation, to discourage and weaken slavery, so that its ultimate destruction might be assured. The slave States very naturally, under the circumstances, finding this species of property assailed, undertook to secure their title to it by strong legal enactments. The quarrel grew in intensity and the antagonism between the sections increased until they came to blows. The sword was appealed to to determine the controversy and the justice of the quarrel. The questions put in issue were all decided against the South. Its slaves became freemen and citizens. Their owners are entitled to no compensation for them; debts created in aid of the rebellion are void; the soldiers of the armies in rebellion, having fought against this Government, have no claim and never can have for pensions or other bounties for such service.

A State has no right to secede from the Union. The South has no ground to complain of the loss of what it risked on this result. It must accept, it does accept and abide by the amendments to the Constitution, and the legislation under them, which establish and enforce this determination and result of the conflict. By this decision the people of the South stand. They feel that not only patriotism but honor and manhood demand that they should do so. All that I claim for this people in this regard is that they engaged in the rebellion from motives which were honest, and, while the result establishes beyond contradiction and controversy as a legal fact that the South only was in the wrong, I insist as a moral and historical truth that it was not altogether to blame for the cause of controversy; for if slavery had never existed under our Government this war would never have been waged. The people of the South do not believe that slavery ought to or can again exist. They do not wish it to exist. They have no disposition to deprive the colored people of any of their rights of citizenship or of their free exercise. Trained to look upon the colored man as an inferior, they were reluctant to acknowledge his political equality and opposed conferring upon him the higher rights of citizenship, and loyal as well as disloyal men South agreed in this; but now they submit to be governed by the existing laws upon this subject and do not seek their change. Such, I am sure, is the general sentiment of the southern people with whom I have been brought in contact. Unfortunately for them there are some exceptions to this rule among individuals and communities, and the utterances of these are magnified to the prejudice of all. The colored man has the sympathy of his former master, and deserves it. He was the innocent and harmless cause of the contest. The quarrel was about him, not with him, and he was not a party to it. He knew his feeedom was involved in the struggle, and he desired liberty, yet in most instances he remained true and faithful to his master's fortune and family until a superior force intervening in his favor set him free. He was affectionate, generous, and obedient to the end. Though there were four millions of these people in the slave States yet there was no insurrection, insubordination, or incendiarism. History furnishes no example of such forbearance under like circumstances.

The new relations of the white and colored races toward each other at the close of this revolution were to them so strange, so contrary to their education, habits, and previous ideas, as to lead to mutual distrust. This feeling of distrust is passing away, and as it disappears there is a nearer approach to agreement. In my State, and in others, many colored men are now democrats and vote that ticket—a thing almost unheard of some years ago. The master, in many instances, was sour and sullen at the close of the war, and would not vote with his late slaves. Time and suffering have mellowed his acerbity. He has grown into a better disposition, is taking an interest in public affairs, and now votes in elections, so that republican majorities are often transformed into democratic majorities, not by fraud or intimidation, but because of an improved feeling of patriotism.

The northern States no doubt are impatient under what they conceive to be the tardy progress made by their southern brethren under their new departure. The southern people have much to do to repair their shattered fortunes. The white and colored races are beginning to better appreciate and comprehend their changed relations, and, in consequence, are co-operating more harmoniously. A great societary revolution such as the South has undergone, a revolution which has torn up at once and by the roots the habits, modes of living, and the very thoughts and ideas of the people, demands time, study, experience, and use before there can be an adjustment of the various disturbed, disordered, and scattered elements evolved by it. When the foundations of society have been overturned, time must be allowed its population to accommodate themselves to the change. The South is passing through this process, and it is a difficult one, but it is marching through it manfully, and better than it hoped.

No section of the Union is more interested in the enforcement of the laws than is the South. It is poor and weak. Beaten in the late conflict, it has neither the desire or the ability to resist the authority of the Government. It needs peace. It needs the protection of the law, the security that its enforcement gives. Sir, the South wants repose, peace, fraternity. It is time for us to forget that we have a North or a South. It is time to forget the bitterness of past controversies, remembering only their lessons, so that we may become as undivided in affection as in government. The union of our States is indissoluble; let the hearts of our citizens be knitted together by ties as strong.

The victory over the rebellion was complete. Those who gained this victory have the right to enjoy their triumph, and to exult in their success. I have no fault to find with the terms they gave. They were more liberal and magnanimous, I am free to admit, than I, for one, expected in the event of our defeat. I expected terms would be dictated to us, and hard terms at that. I have no quarrel with the terms given. I want no quarrel about anything. I want an amity that is heartfelt. On the part of the South I desire to see a full and unreserved submission to and acquiescence in the terms imposed. Cannot the North, while condemning our rebellion, sympathize with us under the woes, untold and undefinable, which it has brought upon us, and continue to exercise toward us a magnanimity which, by reason of its magnitude, shall be known as American, surpassing any recorded in history? Let it be of the very highest type, that shown by brave men to brave men under defeat.

Our distinguished President, in his annual message to Congress, in

vigorous and truthful language, has called to our minds the glories of our nation's centennial year. Our hearts glow with pride and swell with pleasure as we gaze upon this splendid picture. Sir, shall we not make this centennial year a year of jubilee also, so that a general joy may pervade the land from lakes to gulf and ocean to ocean. Why, sir, God has given us the best country upon the face of the earth. A pure and healthful atmosphere surrounds us. Fertile plains and valleys are spread out before us. All about us are rivers, lakes, and oceans ready to bear our commerce. The earth under our feet is full of the most useful and of the richest minerals. And this magnificent country is peopled by those whose ancestors came, or who have come themselves, from nations which, together with our own, control the destinies of the world. England, the German states, Ireland, Holland, France, and Spain laid the foundations of our population upon which we have builded as never a nation did before. Let us be men and do our duty. Let us lighten the burdens which press upon the shoulders of the people, and give them a fair field and good opportunity for work. Let us encourage them, and not appal them with the hoarse cry of blood, nor paralyze their efforts by magnifying the obstacles which lie in their path. If we shall do these things, if we fail not in our duty, the people will come out of our present difficulties, as they have those in the past, grandly, gloriously. Sir, American genius, industry, energy, and perseverance, properly directed and encouraged, can and will overcome anything which men can subdue and erect anything which men can build.

Mr. President, as I have said already, the South has neither the means nor the ability to resist the authority of the Government. It needs the protection of the law, the security which its enforcement gives. If there have been violations of the law, if colored voters have been prevented from voting by fraud, intimidation, or violence, let the violators of the law be punished. The judiciary of the State of Mississippi, State and Federal, belongs to the party defeated in the late election in that State. If the laws have been so flagrantly broken, why sit these judges idle? For one I say frankly that I have no fear of the proposed investigation so far as its developments may be concerned; but if the facts be as alleged, they ought to be exposed and punished; and for myself, and for myself alone, I speak when I say that I feel it my duty, a most disagreeable duty, too, to vote for this resolution, for in doing so I may be the only member of my party who shall do so. I do not so vote because I believe the investigation is deserved by the people of that State. I am free to say that if I represented a State which had not been in the rebellion, perhaps if I had taken no part in that rebellion myself, I should vote against it. Before Heaven I assert that in my judgment there is no necessity or just occasion for this investigation. On the contrary, I believe it will be productive of no good. These investigations of elections are confined to one section of the country, and that the feeblest one. They are evidence of want of confidence in the people of that section and postpone complete and harmonious reconciliation. But frequently on this floor, and even in this debate, I have heard Senators from northern States who have spoken kind words of the people of the South denounced as greater enemies of the Government than those who engaged in the rebellion, and for no other or better reason which I could discover than that they had some faith in the southern people. If I have offended, if my people have offended, against the laws of the country, I want and my people want no vicarious punishment administered on that account. "Let no guilty man escape," but in God's name punish not the innocent. Sir, we are not believed. Our statements are of no effect. Our testimony is discredited and opposition to this investigation is construed to mean a desire to conceal deeds of infamy.

For one I desire to relieve our friends of all embarrassment on our account; and for that reason and with the hope that the distinguished Senator from Indiana [Mr. MORTON] and the distinguished Senator from Massachusetts, [Mr. BOUTWELL,] for both of whom I have very great admiration and respect, will learn from it that the people of the South are not so bad as to them they seem. I deal in no harsh epithets. There is no man anywhere against whom I bear malice, and I can sit with temper unruffled and mind serene and listen to these denunciations; for, while I know that they are unmerited, I know also that these distinguished gentlemen believe them deserved, or they would not utter them. They are hardly competent jurors, in the eye of the law, to try the people of the South, as they have not only formed but expressed an opinion against our innocence. Still, for one, I am willing to waive their incompetency, and let them try us, find us guilty if they want to, and hang us if they will, and then I trust that the country and the women and children of the South will have peace. Let every man whose misfortune it was to own a slave be punished with death, and that may end the cry of slave aristocracy. Invite not such to your approaching Centennial, for there is no hope for them here or hereafter, and their presence would destroy the joy of my distinguished friends on that occasion, and of that great multitude who shall follow them to the glorious triumph they declare they must obtain in the November elections. If what they say be true, there is no joy in the centennial year for the Southern States, and they would be unwelcome guests at the feast which shall celebrate it.

The Senator from Indiana refers, or has referred heretofore, to the majorities given in the various elections in Mississippi for the last few years as evidence of fraud and intimidation. He tells us that in 1869 the republicans gave 76,186 and the democrats 38,097 votes; that in 1872 the republicans gave 82,175 and the democrats 47,288; that in 1873 the republicans gave 73,662 and the democrats 44,286 votes; and that in 1875 the republicans gave 66,659 and the democrats 96,906 votes, and from this great revolution in majorities we are to infer that fraud and intimidation were used to produce it. This is certainly quite a change, but do not such changes frequently occur in other States? The democrats were never charged with carrying Massachusetts by fraud and intimidation, and how has it voted? In 1868 the republicans cast 136,477 and the democrats 59,408 votes, a republican majority of 77,069; in 1872 the republicans gave 133,472 and the democrats 59,260 votes, a republican majority of 74,212 votes; and yet in 1874 the republicans gave 89,344 and the democrats 96,376 votes, a democratic majority of 7,032 votes. The change in Mississippi in 1873 and 1875 between the majorities was 59,623 votes, and in Massachusetts from 1872 to 1874 was 81,244 votes, that is, greater by more than 21,000 votes than in Mississippi, and yet no one proposed to investigate the Massachusetts election. Other examples might be given. This shows that though such transformations are remarkable, they are not so uncommon as to be very marvelous.

But, sir, the distinguished Senator from Indiana, for whom, as I have said, I have much admiration and great respect, lives at a distance from this "sea of troubles." He "looks through a glass darkly" at the people of the Southern States. With him all presumptions are against this people. His resolution, as shown on its face, is predicated on mere allegation. He acts in this matter, as he frankly tells us, upon information derived from "documents, affidavits, and statements," some of which are of an "official character." Yes, sir, "there's the rub." Like the Babylonian king, the officials of the State of Mississippi, who have long rioted in the oppression of her people, see the handwriting on the wall, and their knees do smite together. Their kingdom is divided. They have been weighed in the balance and found wanting, and sinking beneath the waves their madness has raised, they reach out their hands stained and blackened with extortion and oppression and crime and cry to the Senator from Indiana for help. The colored people of the State are not alarmed. It is those whose glory of official station has gone, and who are too proud to work and are ashamed to beg, and have fallen so low in the public estimation that the colored people whom they have duped no longer give them countenance or do them reverence.

And now, sir, permit me to say that in the war of words which has followed the battles of the rebellion I believe there is much of blame to be attached to some of our southern orators and southern newspapers. Many things have been said by them calculated to provoke retort and recrimination, and to make such response, in many cases, justifiable. That southern man who, failing to appreciate the results of the late bloody contest, and to recognize the rights which victory gives in such a case, stirs in the hearts of his people the fires of hate or disloyalty, is a much worse enemy of his section and of his people than he who rails at them from a northern stand-point. He holds out to them hopes which must be dashed to pieces, teaches opinions which bring with them unmixed evil, and excites discord and dissatisfaction which bring only disappointment and distress. It is more necessary that there should be, in this time of the South's trial and peril, no provocation on the part of her people and her representatives than it has ever been. Southern effort should be directed to heal the gaping wounds and not to re-open them, and the man of the South who forgets his high and discreet duty in this respect does more injury to the interests of his people and to their peace, prosperity, and happiness than any northern man can do. He furnishes those opposed to him their most effective means of war, for which he is without justification or excuse.

Mr. CHRISTIANCY. Mr. President, I do not propose to go over the entire field of this debate, but merely in the briefest possible manner to answer some of the legal objections urged by the Senator from Delaware, for whose legal opinions when he coolly and dispassionately examines a subject I have always entertained a very high respect and whose patriotism I never doubted, for, though we may disagree in our opinions upon many questions of law and of policy, I accord to him the same purity of motive by which I claim to be actuated. But I think he is entirely mistaken in supposing that there is any force in the objection he makes to the competency of the Senate to institute any inquiry it may see fit to ascertain whether any and what legislation may be required upon any subject whatever within the constitutional power of Congress to legislate upon. Each House must of necessity be at liberty to adopt its own mode of obtaining information upon such questions. How often, for instance, have the Judiciary Committees of each House, separately, been directed by resolution to inquire whether any and what legislation was necessary upon a particular subject? And if that committee may be directed so to inquire, is it any less competent to direct a special committee, raised for the very purpose, to make the like inquiry? I am satisfied the Senator, upon reflection, will yield this objection as wholly untenable.

The next objection, if I understood him correctly, was that such an inquiry and any legislation to be founded upon it were an improper interference with the rights of the States, by which he must mean either that it was an improper interference under the Constitution as it was before the amendment or that the fifteenth amendment was invalid, which expressly gives to Congress the power to enforce it by the appropriate legislation; and, if I understood him correctly, he

holds (and claims that such is the recent decision of the Supreme Court in the case from Kentucky) that Congress have no power to adopt any legislation at all for carrying that amendment into effect, for, as I understood his construction of that decision, it was to the effect that the Federal Government was only authorized by that amendment to see that no legislation of any State should disfranchise or prevent from voting any person on account of race, or color, or previous condition of servitude, or which should make a discrimination on this ground. If this were so then the judiciary of the Federal Government alone would have the right to exercise any power under the fifteenth amendment. But unfortunately the language of that amendment knocks out the very teeth of such an argument; for, while it is silent as to the judiciary it expressly provides that "Congress shall have power to enforce the article," and Congress can only enforce it by legislation, and not judicially. So that the result of this argument of the Senator, and his construction of the decision of the Supreme Court in this Kentucky case, is, when reduced to its final analysis, that the fifteenth amendment of the Constitution is unconstitutional.

It may be that the Senator's ingenuity may enable him to escape this absurd conclusion from his argument, but he has yet shown us no mode of escape from it.

Mr. President, the substitute which I had the honor of presenting was prepared last December and so also were the remarks which I made here the other day upon its presentation, and though I was neither "a prophet nor the son of a prophet," and was not even aware of the pendency in the Supreme Court of this Kentucky case or the Louisiana case just decided—which happened to be decided on the very day I submitted my substitute, and of which I only heard the next day—I could not, if I had already seen the decision in the Kentucky case and prepared my substitute with reference to it, have more accurately placed it upon the true ground of that decision, nor more clearly have shown the propriety and necessity of the proposed inquiry than their propriety and necessity have now been demonstrated by that decision.

And now, Mr. President, having examined a little more carefully, that decision since the argument of the Senator last evening, the Senator from Delaware will permit me frankly to say that, unless I am wholly incapable of understanding the language in which that decision is expressed, he has wholly misapprehended its meaning, its effect, and its scope. And I propose to show by the decision itself, in connection with the very few comments I shall make upon it, that it fully admits the power of Congress to prohibit and make penal the very acts charged in the indictment and any and all other acts calculated and intended to prevent any colored man from voting on account of race, color, or previous condition of servitude, provided the acts of Congress prohibiting and punishing such acts shall confine its operation to acts and omissions calculated or intended to prevent the exercise of the elective franchise on the special ground of "race, color, or previous condition of servitude."

The question, it is true, is a nice one, and it requires some care and attention to understand exactly the meaning and intent of the decision; but, with that care and attention, and a careful examination of the act of Congress under which the case arose, its meaning and effect seem to me to be very clear.

The ground of the decision in the Kentucky case is that the provisions of the law under which the indictment was found did not limit the offense to the cases provided for by the fifteenth amendment, namely, acts done to prevent persons from voting "on account of race, color, or previous condition of servitude," but was general, applying to all citizens, and imposing the penalty for any act preventing any citizen from voting for any cause, or that the sections under which the indictment was framed related to acts done or required to be done anterior to the offering of the vote. But, as I understand the decision upon a mere cursory examination, without taking time carefully to analyze and test the whole, as I would like to do, I think it fully admits "the power of Congress to punish the very acts complained of, if Congress had appropriately made the offense consist of the doing of those acts for the purpose of depriving, and with the intent to deprive, any person of his vote on account of his race or color or previous condition of servitude," this being the only ground under the fifteenth amendment upon which such prevention can be rendered criminal. And the power of Congress to render this criminal, and to punish it, is, it seems to me, distinctly admitted throughout the opinion. And, if I am right in this view of the decision, I think the court were right, to this extent at least; and I am not yet ready to say that after a careful study of the opinion I might not agree with the entire opinion of the court, though at present, but for this decision, I might have been inclined to say that the principle up to this time, I think, almost always admitted in the construction of a statute upon the question of its constitutionality would have saved the act by limiting it to a constitutional construction. This principle is that where an act is susceptible of two constructions, one of which would be warranted by the Constitution and the other prohibited by it, the Legislature shall be presumed to have intended the provision to be understood in the sense authorized by the Constitution rather than in the sense which would violate its provisions, which the legislators were sworn to support; in other words, that an act of Congress and its framers, when arraigned for a violation of the Constitution, are entitled at least to the same favorable presumption of innocence as an ordinary criminal on trial for a crime, and should be presumed innocent until proved to be guilty. I am not entirely sure that I may not finally come to the conclusion that this presumption of innocence in favor of the Congress who passed the act has not been violated or reversed by the construction of the statute adopted by the court; but as yet my respect for that court forbids my drawing this conclusion without a more thorough examination. I know how easy it is upon a hasty reading to draw erroneous conclusions from a judicial opinion; and I have as much confidence in the ability, the integrity, and fidelity of that court as in any now sitting or which ever sat here or elsewhere; though being composed of men, they may like other men err, and we must bow to their errors till they see fit to correct them. But upon the question whether Congress can under the fifteenth amendment make any act tending to prevent a citizen from exercising the elective franchise, except when that act is proposed for the purpose or with the intent to keep up a discrimination between colored and white citizens—in other words, for the purpose of excluding the vote on the ground of color or previous condition of servitude—I entirely concur with the court.

Mr. President, I propose to take up, after these few preliminary remarks, the decision itself, and to show that by the reading of it, in the light of the remarks which I have made here, those remarks are entirely justified. The court proceed in this way:

In this court the United States abandon the first and third counts, and expressly waive the consideration of all claims not arising out of the enforcement of the fifteenth amendment of the Constitution.

After this concession—

Say the court—

the principal question left for consideration is, whether the act under which the indictment is found can be made effective for the punishment of inspectors of elections who refuse to receive and count the votes of citizens of the United States, having all the qualifications of voters, because of their race, color, or previous condition of servitude.

Whether that can be done under this act.

If Congress has not declared an act done within a State to be a crime against the United States, the courts have no power to treat it as such. (United States *vs.* Hudson, 7 Cranch, 32.) It is not claimed that there is any statute which can reach this case, unless it be the one in question.

They proceed to analyze this statute:

Looking, then, to this statute, we find that its first section provides that all citizens of the United States who are or shall be otherwise qualified by law to vote at any election, &c., shall be entitled and allowed to vote thereat, without distinction of race, color, or previous condition of servitude, any constitution, &c., of the State to the contrary notwithstanding.

This—

Say the court—

simply declares a right, without providing a punishment for its violation.

It will be noticed that this section was limited to the very purpose of protecting voters against discrimination on account of race and color. The race-and-color clause was made the distinctive point in the first section. They refer to that afterward, and discuss the question whether that limitation applies to an inspector of election.

They finally hold that it does not:

The second section provides for the punishment of any officer, charged with the duty of furnishing to citizens an opportunity to perform any act which by the constitution or laws of any State is made a prerequisite or qualification of voting, who shall omit to give all citizens of the United States the same and equal opportunity to perform such prerequisite and become qualified on account of the race, color, or previous condition of servitude of the applicant.

This section was limited by the race-and-color count, but the difficulty was, as the court point out immediately, that it did not extend to the act of voting at all, and therefore did not apply to the case they had in hand, which was against one of the inspectors of the election.

This—

The court say—

does not apply to or include the inspectors of an election, whose only duty it is to receive and count the votes of citizens designated by law as voters, who have already become qualified to vote at the election.

It referred only to an act previous to that time, and therefore they could not punish him for that. The questions that arise all turn upon the third and fourth sections of the act which are set out.

The third section is to the effect that whenever, by or under the constitution or laws of any State, &c., any act is or shall be required to be done by any citizen as a prerequisite to qualify or entitle him to vote, the offer of such citizen to perform the act required to be done, "as aforesaid," shall, if it fail to be carried into execution by reason of the wrongful act or omission "aforesaid" of the person or officer charged with the duty of receiving or permitting such performance or offer to perform, or acting thereon, be deemed and held as a performance in law of such act; and the person so offering and failing as aforesaid, and being otherwise qualified, shall be entitled to vote in the same manner and to the same extent as if he had in fact performed such act; and any judge, inspector, or other officer of election, whose duty it is to receive, count, &c., or give effect to the vote of any such citizen, who shall wrongfully refuse or omit to receive, count, &c., the vote of such citizen, upon the presentation by him of his affidavit stating such offer, and the time and place thereof, and the name of the person or officer whose duty it was to act thereon, and that he was wrongfully prevented by such person or officer from performing such act, shall for every such offense forfeit and pay, &c.

Here comes now the real objection to the act, which the court point out. It is not limited at all by the purpose required by the fifteenth amendment, but applies to all citizens everywhere, to any interference with their rights, not because they may be white or black, but on any ground whatever: that all should be permitted to vote. That is the objection which the court make to this act.

Mr. FRELINGHUYSEN. Six words would have made it all right,

Mr. CHRISTIANCY. Again:

The fourth section provides for the punishment of any person who shall, by force, bribery, threats, intimidation, or other unlawful means, hinder, delay, &c., or shall combine with others to hinder, delay, prevent, or obstruct, any citizen from doing any act required to be done to qualify him to vote or from voting at any election.

There is the same objection again. It is not confined to the purposes of the fifteenth amendment, but it is general, usurping in fact or attempting to usurp powers that properly belong to the State. In that I fully agree with the court. I see nothing to complain of on that point, if this could not have been met by construction and be limited by the first section, which it seems to me might have been done by a little ingenuity at least. The court proceed:

The second count in the indictment is based upon the fourth section of this act and the fourth upon the third section.

Rights and immunities created by or dependent upon the Constitution of the United States can be protected by Congress. The form and the manner of the protection may be such as Congress, in the legitimate exercise of its legislative discretion, shall provide. These may be varied to meet the necessities of the particular right to be protected.

The fifteenth amendment does not confer the right of suffrage upon any one.

Upon that I wish to make a remark here. The meaning of the court, from what follows, evidently is that it does not directly do it:

It prevents the States or the United States, however, from giving preference, in this particular, to one citizen of the United States over another on account of race, color, or previous condition of servitude. Before its adoption this could be done. It was as much within the power of a State to exclude citizens of the United States from voting on account of race, &c., as it was on account of age, property, or education. Now it is not. If citizens of one race having certain qualifications are permitted by law to vote, those of another having the same qualifications must be. Previous to this amendment there was no constitutional guarantee against this discrimination. Now there is.

See what follows:

It follows that the amendment has invested the citizens of the United States with a new constitutional right which is within the protecting power of Congress.

I see no reason for any misapprehension in that.

That right is exemption from discrimination in the exercise of the elective franchise on account of race, color, or previous condition of servitude This, under the express provisions of the second section of the amendment, Congress may enforce by "appropriate legislation."

This leads us to inquire whether the act now under consideration is "appropriate legislation" for that purpose. The power of Congress to legislate at all upon the subject of voting at State elections rests upon this amendment. The effect of article 1, section 4, of the Constitution in respect to elections for Senators and Representatives is not now under consideration.

Of course they therefore say nothing upon that.

It has not been contended, nor can it be, that the amendment confers authority to impose penalties for every wrongful refusal to receive the vote of a qualified elector at State elections.

Of course it does not.

It is only when the wrongful refusal at such an election is because of race, color, or previous condition of servitude, that Congress can interfere and provide for its punishment. If, therefore, the third and fourth sections of the act are beyond that limit, they are unauthorized.

They are clearly beyond that limit, for they are not limited by the first section, because the phrase is not used in them which is used in the fifteenth amendment.

The third section—

Now they are discussing the question whether this can be limited by the third section—

The third section does not in express terms limit the offense of an inspector of elections, for which the punishment is provided, to a wrongful discrimination on account of race, &c.

The act provided for punishing him, but did not provide for punishing him for the only offense he could commit under this constitutional amendment. That is all.

This is conceded, but it is urged, that when this section is construed with those which precede it, and to which, as is claimed, it refers, it is so limited. The argument is that the only wrongful act on the part of the officer whose duty it is to receive or permit the requisite qualification, which can dispense with actual qualification under the State laws, and substitute the prescribed affidavit therefor, is that mentioned and prohibited in section 2, to wit, discrimination on account of race, &c., and that consequently section 3 is confined in its operation to the same wrongful discrimination.

We now ought to have a close and strict construction.

This is a penal statute and must be construed strictly; not so strictly, indeed, as to defeat the clear intention of Congress, but the words employed must be understood in the sense they were obviously used. (United States *vs.* Wiltberger, 5 Wheaton, 85.) If, taking the whole statute together, it is apparent that it was not the intention of Congress thus to limit the operation of the act, we cannot give it that effect.

The statute contemplates a most important change in the election laws. Previous to its adoption, the States, as a general rule, regulated in their own way all the details of all elections. They prescribed the qualifications of voters and the manner in which those offering to vote at an election should make known their qualifications to the officers in charge. This act interferes with this practice and prescribes rules not provided by the laws of the States. It substitutes, under certain circumstances, performance wrongfully prevented for performance itself. If the elector makes and presents his affidavit in the form and to the effect prescribed, the inspectors are to treat this as the equivalent of the specified requirement of the State law. This is a radical change in the practice, and the statute which creates it should be explicit in its terms. Nothing should be left to construction if it can be avoided. The law ought not to be in such a condition that the elector may act upon one idea of its meaning and the inspector upon another.

And so through the whole opinion, as I understand the language—and it seems to me to be expressed in very plain English—the power is distinctly and fully admitted to cover the entire field of legislation intended by the fifteenth amendment.

Mr. MERRIMON. Will my friend allow me to interrupt him a moment? I am very much interested in his argument; and before he passes from this subject, I wish to ask him a question, which I will put after I call his attention particularly to the first section of the fifteenth amendment. The language of the fifteenth amendment is in these words:

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State—

That is a material word to my question—

on account of race, color, or previous condition of servitude.

There are three causes for which the State cannot make a discrimination. The question I wish to put to my honorable friend now is this: In the case of Mississippi their constitution and their law, as I understand, comply exactly with this provision of the Constitution. There is no discrimination on account of race, color, or previous condition of servitude touching suffrage. The State, therefore, has complied with the fifteenth amendment of the Constitution of the United States in that respect. Now suppose that John Smith and William Jones and many other evil-disposed citizens in Mississippi shall undertake to deprive half a dozen colored citizens of their right to vote, can the Congress of the United States pass an act to punish those citizens for thus interfering with the rights of colored men? That is the question I put.

Mr. CHRISTIANCY. I am ready to answer the question. I have made but a slight examination and was commenting entirely on this opinion; but I say that, in my judgment, Congress has the very power to which the Senator from North Carolina refers, and I say that, without thus holding, that provision, authorizing Congress to adopt the appropriate legislation, is the sheerest nonsense—empty words and nothing else; because, as I have just demonstrated, the construction suggested by the Senator leads to the conclusion that it is only the Federal judiciary of the United States which can exercise any power under the fifteenth amendment, whereas that amendment provides specially that Congress shall have power to adopt appropriate legislation. Under the other idea suggested by the Senator, what appropriate legislation could be adopted? None whatever. That is, I hope, sufficient on that point.

But, Mr. President, I only intended to say enough to disabuse the minds of some Senators, I think, on both sides, as to what is the real tenor and effect of that decision of the Supreme Court; that, so far from its standing in the way of the inquiry which we seek to make here, it shows the very best ground in the world why that inquiry should be made.

JAIL ON JUDICIARY SQUARE.

Mr. MORRILL, of Vermont. Mr. President, I have received a communication from the District commissioners which shows that some legislative action ought to take place to-day; and I have the consent of the chairman of the Committee on Privileges and Elections to bring the matter before the Senate now. I report a bill by consent of the members of the Committee on Public Buildings and Grounds.

The bill (S. No. 682) to suspend the sale of the jail on Judiciary Square, and for other purposes, was read the first time. It directs the Chief Engineer of the Army to suspend the sale of the jail on Judiciary Square, in the city of Washington, and to turn the same over to the use of the authorities of the District temporarily, or until other jail facilities are provided; and makes it lawful for the courts of the District of Columbia to confine prisoners therein.

Mr. MORRILL, of Vermont. I will merely say that it was expected that when the new jail was completed there would be sufficient accommodation for both the United States and the District of Columbia. But it is found that the capacity of the new jail is limited to two hundred and seventy-two cells, each for a single person, and they now have there two hundred and eighty-nine. The sale that is spoken of in the bill is provided for under an existing law of June, 1874, and must take place, unless it is stopped, on Tuesday next, the 4th of April. So that the District police court will be entirely deprived of any place to send their prisoners. They have temporarily used what is called the Washington Asylum for the purpose of confining malefactors, and also as a work-house for those guilty of minor offenses. But that building is already overloaded. At one time during the present month there were in it two hundred and fifteen poor and two hundred and nineteen prisoners. It would seem, therefore, indispensable that the old jail building should be allowed to remain until some other suitable accommodation can be obtained. I suppose that there will not be a dissenting voice to the passage of the bill, which merely suspends temporarily the sale.

The bill was read the second time and considered as in Committee of the Whole.

The bill was reported to the Senate without amendment.

Mr. WRIGHT. I suggest to my friend that the concluding part of the bill would be better if he would provide that the courts of the District of Columbia shall have power to order the confinement of prisoners therein. As it is now it seems as if the court itself confined prisoners therein, whereas I suppose it means that they shall have power to order their confinement.

Mr. MORRILL, of Vermont. I have no objection to the amendment, but I believe under existing laws they have that power.

Mr. WRIGHT. I understand that; but the language of this bill

seems now to provide that the courts shall confine them, whereas it perhaps means that they shall have power to order their confinement.

Mr. MORRILL, of Vermont. I have no objection.

Mr. WRIGHT. I move to amend the bill so as to make the last clause read:

And that it shall be lawful for the courts of the said District of Columbia to order the confinement of prisoners therein.

The amendment was agreed to.

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

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. G. M. ADAMS, its Clerk, announced that the House had passed the following bills; in which the concurrence of the Senate was requested:

A bill (H. R. No. 522) to define the tax on fermented or malt liquors;

A bill (H. R. No. 1344) directing method of annual estimates of expenditures to be submitted from Navy Department;

A bill (H. R. No. 1585) to authorize the Commissioner of Internal Revenue to designate and fix the points at which collectors and supervisors of the revenue shall hold their offices;

A bill (H. R. No. 1823) to change the name of the pleasure-yacht Ella to that of Myra;

A bill (H. R. No. 2951) to provide for the separate entry of express packages contained in one importation; and

A bill (H. R. No. 2450) to provide for a deficiency in the Printing and Engraving Bureau of the Treasury Department, and for the issue of silver coin of the United States in place of fractional currency.

The message also announced that the House had concurred in the amendment of the Senate to the bill (H. R. No. 2143) for the sale of the arsenal and lot at Stonington, Connecticut.

The message further announced that the House had passed the bill (S. No. 595) for the relief of Charles E. Hovey.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolution; and they were thereupon signed by the President *pro tempore:*

A bill (S. No. 644) to authorize the printing and distribution of the eulogies delivered in Congress on the announcement of the death of the late Orris S. Ferry, a Senator from the State of Connecticut;

A bill (H. R. No. 356) concerning cases in bankruptcy commenced in the supreme courts of the several Territories prior to the 22d day of June, 1874, and now undetermined therein;

A bill (H. R. No. 1343) to relieve S. J. Gholson, of Mississippi, of political disabilities imposed by the fourteenth amendment of the Constitution;

A bill (H. R. No. 2589) to supply a deficiency in the appropriations for certain Indians;

A bill (H. R. No. 2821) to supply a deficiency in the appropriation for the manufacture of postal cards for the fiscal year ending June 30, 1876; and

A joint resolution (H. R. No. 86) for relief of Turtle Mountain band of Chippewa Indians.

THE MISSISSIPPI ELECTION.

The Senate resumed the consideration of the resolution in regard to the appointment of a committee of five Senators to investigate alleged frauds in the late election in the State of Mississippi for members of Congress, members of the Legislature, and State officers.

The PRESIDENT *pro tempore.* The question is on the passage of the resolution.

Mr. MERRIMON. I move to strike out in the second line of the preamble the words "and State officers and members of the Legislature."

The PRESIDENT *pro tempore.* The question is on the amendment of the Senator from North Carolina.

Mr. MERRIMON. Mr. President, I propose to trouble the Senate with but a very few remarks upon the amendment which I have offered to the preamble to this resolution. I admit that Congress, or either branch of Congress, has power to raise a committee to obtain information touching any matter of legislation that comes within the purview of its jurisdiction. For example, Congress has power to pass a revenue law and to establish a revenue system. We have an internal-revenue system at this moment. It is competent, in some conditions of the country it might be very important, that the Senate should raise a committee and send it out into the country with a view to see how that system operates, to learn its advantages and defects, and whether or not a new system ought to be adopted by Congress in substitution for it, or whether it ought to be modified or amended. And many such examples might be given. I will advert to one or two others.

By the Constitution Congress has jurisdiction to pass laws regulating the manner of holding the elections for members of Congress in every respect. The clause of the Constitution to which I refer is in these words:

The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; *but the Congress may at any time by law make or alter such regulations except as to the places of choosing Senators.*

So that the whole subject of that election is within the jurisdiction of Congress. And if a proper case were presented requiring an inquiry as to how a particular law of Congress regulating the election of members of Congress operates, whether well or ill, it would be competent for Congress to send out a committee to gather information on that subject in order that the judgment of Congress might be informed as to whether some modification of the existing law or the substitution of some new law were necessary. I say a case might possibly exist in which it would be proper to raise such a committee—it might possibly be necessary.

So I admit that Congress, wherever it has jurisdiction of a subject, has a right to raise a committee to take all necessary steps to inform its judgment by gathering proper information, and in the State of Mississippi as well as in the State of Massachusetts or California or North Carolina, or anywhere else within the limits of the Union.

This resolution, however, in my judgment, does not pretend that there is any necessity for gathering information for the purpose of informing the judgment of Congress touching the enactment of a law regulating congressional elections or touching the passage of an internal-revenue law or the formation of an internal-revenue system, or any other thing that comes within the jurisdiction and power of Congress.

It is sought by the distinguished and venerable Senator from Michigan [Mr. CHRISTIANCY] to avoid this difficulty by suggesting that in the State of Mississippi great irregularities have prevailed in the elections there and particularly the election of 1875, and that fraud and intimidation and bribery were practiced to a great extent, as is alleged, and more particularly with the view—for he saw the point and saw the difficulty—to give the Senate jurisdiction to raise this committee, he has inserted these words:

And especially that the colored voters, *on account of their color, race, or previous condition of servitude,* were, by intimidation and force, deterred from voting or compelled to vote contrary to their wishes for candidates and in support of parties to whom they were opposed.

That Senator believed that these words or words tantamount to them were essential in order to give the Senate jurisdiction to raise this committee; they were inserted to bring this case within the purview of the three last amendments to the Constitution. Now, sir, with great deference to his opinion and great respect for him as a Senator, I must be permitted to venture to dissent from the construction which he has put upon the fifteenth amendment. I maintain, with all due respect to all who contend otherwise, that the construction which he has contended for and which he gave in words when I propounded the question to him a few moments ago cannot be sustained by any fair construction of the words used in the fifteenth amendment, or by reason, or by inference; and I maintain furthermore that there is no decision of any court in this country giving that amendment such a construction as he assigns to it. The fifteenth amendment is in these words:

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

In the first place let us consider who is to be affected by this fifteenth amendment. It is plain the person is to be a citizen of the United States. But that necessarily implies more than that he must be a citizen of a State as well, because by virtue of being a citizen of the United States he is a citizen of the State wherever he may be, and that by virtue of the fourteenth amendment. His right wherever he may be shall not be denied by the State for any of three reasons, to wit, because of his *color,* because of his *race,* because of his *previous condition of servitude.* For any other cause a State may make a discrimination against him. It may discriminate, as it does, I believe, in the State of Connecticut, and perhaps also in the State of Massachusetts, because the citizen has not capacity or information whereby he can read or write, or because he cannot read the Constitution of the United States or the State within which he resides, or by reason of want of property, or by reason of any other consideration whatsoever in the discretion of the State, except the three causes just mentioned.

The right of a citizen of the United States and of any one of the several States—because he is a citizen of the United States by virtue of his citizenship in a State—to vote in the State shall not be denied or abridged upon any one of these three accounts; but be denied or abridged by whom? That is the material question. The amendment provides that such right "shall not be abridged by the *United States.*" That is, first, Congress can pass no law which prohibits a citizen of the United States from voting in any one of the several States. And therefore if Congress should undertake to pass a law providing that colored men, citizens of the United States in the State of North Carolina, should not be entitled to vote there, such a law would be absolutely null and void, and by virtue of the express provision of the Constitution as contained in the fifteenth amendment. But it provides further that this right shall not be denied or abridged by any *State.* Now what is the State? Can anybody doubt what is meant in the Constitution by the word State? It manifestly necessarily means one of those organized political bodies that make up the constituent parts of the Union; one of those political organizations which are what we commonly call State governments—a government consisting of executive, legislative, and judicial co-ordinate departments; the State of North Carolina, for example, or the State of Massachusetts, or the State of New York. That is what is meant by "the State," and wherever the term "State" is used in the Constitution it

implies just one of those bodies, no more and no less. I cannot conceive of any case where the term "State" is used, when it is used in a sense otherwise than that which I have assigned to it.

If that is true, then this amendment provides, secondly, that no State, no one of the political organizations making up the Union—making a constituent part of it—shall by its legislative authority or in any other authoritative way as a State pass any law or ordinance or do anything, by its convention, through its Legislature, through its judiciary, or through any one of its officers, which shall abridge the right of any man to vote at its elections because of his color, because of his race, or because of his previous condition of servitude.

In order to give this amendment such construction as will confer on the Senate jurisdiction to raise the committee for the cause assigned in the preamble to the resolution under consideration, it is necessary to construe the word "State" there as applying to individuals—natural persons; which it seems to me, with all respect to everybody who contends otherwise, is an absurdity. How the word "State" can be construed to apply to John Smith, John Jones, A B, and C D, is something I cannot comprehend. It is beyond my comprehension, and I never heard it seriously contended before.

Therefore I say that if North Carolina shall provide by her constitution, or by legislative enactment, that no one entitled to vote in that State shall be denied the right to vote on account of his race, color, or previous condition of servitude, that State will have, in that case, complied with the fifteenth amendment to the Constitution, and the legislation of that State, either by its constitution or by its legislative enactment, would in such a case be in entire harmony, so far as that goes, with the Constitution of the United States.

Suppose, in the case of Mississippi, for that is the State now under consideration, that the constitution—and I understand such is the fact—there provides that there shall be no discrimination in the manner of voting on account of race, color, or previous condition of servitude, then the State is in harmony with this provision of the Federal Constitution. Suppose, however, that the State had passed a law—suppose that the constitution of that State provided, or that an act of assembly provided, there being no provision in the constitution upon the subject, that no colored man because of his color or race should be allowed to vote, or that no man who had been a slave because he had been a slave should be allowed to vote, that would be a clear violation of the fifteenth amendment. But how it can be construed or seriously contended that if one or more evil-disposed persons of that State shall undertake to deprive a colored man of his right to vote because of his color or race, after the State law or the State constitution has provided and guaranteed that right under the Constitution of the United States, that Congress in such a case may pass a law to protect him in that respect I cannot understand. That is plainly a right protected by the State law, and Congress has no right or power to extend protection.

The Senator from New Jersey [Mr. FRELINGHUYSEN] yesterday saw this difficulty, and he undertook to avoid it by saying that this right was protected by the fourteenth amendment of the Constitution. He seemed to concede by his argument—and I paid attention to it—that although it could not be protected by legislation under the fifteenth amendment without putting this absurd construction on the word "State," still it was protected by the fourteenth amendment, and therefore Congress had power to raise the proposed committee and inquiry. The argument that has been offered to support the construction placed upon the fifteenth amendment by the distinguished Senator from Michigan [Mr. CHRISTIANCY] is that, unless the construction is given to the word "State" that it applies to citizens, natural persons, interfering with the right to vote because of race, color, &c., the second section of the fifteenth amendment is meaningless—answers no purpose. It goes upon the idea that that second section is inoperative and void and absurd unless you give the word "State" in the first section the construction that is contended for by him. I say *non sequitur*. No such consequence follows at all; because, if a State should pass a law prohibiting any one from voting on account of his race, color, or previous condition of servitude, it would be competent for Congress to pass an act providing that every officer holding an election in that State should receive such a vote; and that, it seems to me, is the way and the only way Congress should legislate to give the fifteenth amendment operative affect. There is no reason why you should resort to the absurd construction of requiring the word "State" to mean "persons or citizens" in order to make the second section of the fifteenth amendment operative; because it would be competent for Congress now to pass a general law that would operate on all the States providing that if any State should declare, by statute or otherwise, that a negro, because of his race, should not vote, or because he had been a slave, should not vote, all the officers essential in conducting the elections in that State should receive the negro's vote, should receive the freedman's vote. And I think I may say, that such an act is the act which the Supreme Court suggests, though not in terms, as necessary to effectuate the purpose of the fifteenth amendment; and I do maintain that no other logical view of this subject can be taken, whether you refer to the words of the amendment, or whether you resort to the ordinary rules of construing constitutions, or whether you resort to fair inference and deduction.

This subject is, indeed, important. It is one that we cannot consider too much, and one which we cannot become too familiar with; and therefore I beg to repeat the view which I have endeavored to make plain. I say that in the fifteenth amendment the terms "or by any State" cannot be construed to mean any other thing than one of the several States of the Union in its corporate capacity; that the phrase cannot receive the construction that it means "citizen" or "natural person;" and I say, furthermore, that the power of Congress consists in its power, under the second section of the fifteenth amendment, to pass a general law, and perhaps it ought to be done, providing in terms that if any State shall provide that any citizen of the United States shall not be allowed to vote because of his race, because of his color, or because of his previous condition of servitude, the officers of the several States required by the laws of those States to hold the election shall be required to receive every such vote, being otherwise lawful, which shall be tendered at proper places and times. That, I think, is the legislation which Congress can do in this behalf, and it can do no other. In that way it provides by appropriate legislation for the enforcement of the fifteenth amendment, and thus both sections of that amendment may become operative and useful. But for the second section, Congress could not probably pass such an act as I have suggested.

Mr. CHRISTIANCY. Will the Senator from North Carolina allow me to ask a question?

Mr. MERRIMON. Certainly.

Mr. CHRISTIANCY. Would not that be making the legislation of Congress operate on the individuals just as in the other case?

Mr. MERRIMON. It would be making the law of Congress operate on the individual officers of the State, certainly not on the citizen as a citizen merely; and if any one should interfere to prevent a freedman from voting, he would be amenable to the jurisdiction of the several States—not to that of the United States—for thus having deprived a lawful voter of his lawful right. If you take that view, it is consistent, it is logical, and the whole Constitution harmonizes, and the fifteenth amendment has complete and lawful and logical and reasonable sense; and it seems to me, with all respect, that to give it any other construction is to treat it as containing the absurd provision that "State" means natural person or individual.

The Senator from New Jersey yesterday, as I said a moment ago, seeing this difficulty in his way I have no doubt, insisted that he had a right under the fourteenth amendment, in connection with the subject of voting, that Congress was bound by proper laws to protect, and I beg leave to advert to that subject for a moment or two. So much of the fourteenth amendment as is necessary for my purpose is in these words:

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.

That is the first clause, and it does what was not done in terms in the Constitution before the adoption of this amendment; it expressly defines who is a citizen of the United States. It goes further than that. It provides that any one who is a citizen of the United States shall be a citizen of the State where he shall reside. That is the purpose of that section, and it would seem to be the sole purpose, and there is no difficulty in construing it. The next clause is the more difficult one. It is the one upon which the Senator to whom I last alluded seemed to rest his argument. It is in these words:

> No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States—

Not citizens of the United States or of any State, but citizens of the United States—

> nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

The ground-work of the Senator's argument is that a citizen of the State is a citizen of the United States; that the citizen of the State has a right to vote, and therefore the United States have jurisdiction and authority to guarantee to him that right. The Senator goes upon the idea that the citizenship of the United States and of the State are identical, that they are one for that purpose, and in this clause they are protected as one. I insist that that is not so. To be a citizen of the United States is one thing, and he has certain rights, benefits, and advantages as a citizen of the United States that are not essential to him as a citizen of the State. To be a citizen of the State is another thing, and he has a different and a much larger class of rights invested in him by virtue of his citizenship as a citizen of the State than he has as a citizen of the United States. This clause of the amendment to the Constitution provides *in terms* that his privileges and his immunities as a citizen of the *United States* shall be protected by the United States; but there is no provision in it which provides by terms, or even possible inference, that his privileges and immunities as a citizen of a State shall be so protected; nor can these words be strained and distorted into meaning to say that his rights and privileges and immunities as a citizen of a State shall be so protected by the United States.

This, it seems to me, conforms to the proper and reasonable construction of the language used in the fourteenth amendment; but I am not left to grope my way in the dark upon this subject. The Supreme Court in the Slaughter-house cases has given a construction to this very clause and settled it, it seems to me, as clearly as a question arising upon any clause of the Constitution could be settled. The purpose of these amendments to the Constitution, that is the

thirteenth, fourteenth, and fifteenth, was mainly that of freeing the negro race from slavery in this country, every one held to bondage, and putting him upon an exact civil equality with every other citizen of the country. That was the grand leading purpose. The thirteenth amendment simply freed the negro and placed him exactly where the decision of the Supreme Court in the Dred Scott case placed a free negro. It did not invest him with citizenship. He was no better off than a foreigner who had landed on our shores. By virtue of the thirteenth amendment he had no right to vote. He could exercise very few rights. He was in a very poor and deplorable condition, and hence it became necessary to pass the fourteenth amendment investing him with the rights of citizenship, the rights of citizenship as a citizen of the United States, the rights of citizenship in the State where he might happen to reside. This was the leading purpose of these amendments. I believe I can venture to say that, except as is provided in the fifteenth amendment, no other purpose was effected by the three amendments to the Constitution, that is the thirteenth, fourteenth, and fifteenth amendments. Their object was to make all men in this country free and equal, to establish universal civil equality among men; not political, for there is a wide difference between civil and political equality. The right to vote or hold office is not a civil, but a political right. By virtue of this clause a man has civil rights, but by virtue of the Constitution of the United States a man has not the political right of suffrage. The Constitution of the United States knows nothing of suffrage for the purpose of conferring it on any one. Anterior to the fifteenth amendment Congress had no power to confer suffrage upon any human being. It did not pertain to the United States at all to confer suffrage, or to interfere with it, or to prescribe it at all. Every man in the United States anterior to the adoption of the fifteenth amendment got his right in every respect to vote by virtue of his citizenship as citizen of some State, and in no other way. Nor does the fifteenth amendment undertake to confer suffrage upon anybody. It only provides that the States in the exercise of their powers upon the subject of suffrage and political rights shall not deprive any person of the political right to vote for any one of three causes, to wit, race, color, or previous condition of servitude.

I beg to call the attention of the Senate to the decision of the Supreme Court in the Slaughter-house cases, and as it is so important, as this subject is an important one, I beg to read extracts from that opinion somewhat at length. First, as to the purpose of these amendments. The court says:

We repeat, then, in the light of this recapitulation of events, almost too recent to be called history, but which are familiar to us all, and on the most casual examination of the language of these amendments, no one can fail to be impressed with the one pervading purpose found in them all, lying at the foundation of each, and without which none of them would have been even suggested; we mean the freedom of the slave race, the security and firm establishment of that freedom, and the protection of the newly made freeman and citizen from the oppression of those who had formerly exercised unlimited dominion over him. It is true that only the fifteenth amendment, in terms, mentions the negro by speaking of his color and his slavery. But it is just as true that each of the other articles was addressed to the grievances of that race, and designed to remedy them, as the fifteenth.

We do not say that no one else but the negro can share in this protection. Both the language and the spirit of these articles are to have their fair and just weight in any question of construction. Undoubtedly while negro slavery alone was in the mind of the Congress which proposed the thirteenth article, it forbids any other kind of slavery, now or hereafter. If Mexican peonage or the Chinese cooly labor system shall develop slavery of the Mexican or Chinese race within our territory, this amendment may safely be trusted to make it void. And so if other rights are assailed by the States which properly and necessarily fall within the protection of these articles, that protection will apply though the party interested may not be of African descent. But what we do say, and what we wish to be understood, is that in any fair and just construction of any section or phrase of these amendments, it is necessary to look to the purpose which we have said was the pervading spirit of them all, the evil which they were designed to remedy, and the process of continued additions to the Constitution, until that purpose was supposed to be accomplished as far as constitutional law can accomplish it.

Thus, I say, we have from the Supreme Court of the United States a fair and just and disinterested account of the history and purposes of these amendments. This is the groundwork of them. It furnishes much light in ascertaining their true meaning and giving them a fair construction. Now let us see what construction this court have put upon the fourteenth amendment and what they say of it. I read again from the same opinion of the court:

The first section of the fourteenth article, to which our attention is more specially invited, opens with a definition of citizenship—not only citizenship of the United States, but citizenship of the States. No such definition was previously found in the Constitution, nor had any attempt been made to define it by act of Congress. It had been the occasion of much discussion in the courts, by the Executive Departments, and in the public journals. It had been said by eminent judges that no man was a citizen of the United States except as he was a citizen of one of the States composing the Union. Those, therefore, who had been born and resided always in the District of Columbia or in the Territories, though within the United States, were not citizens. Whether this proposition was sound or not had never been judicially decided. But it had been held by this court in the celebrated Dred Scott case, only a few years before the outbreak of the civil war, that a man of African descent, whether a slave or not, was not and could not be a citizen of a State or of the United States. This decision, while it met the condemnation of some of the ablest statesmen and constitutional lawyers of the country, had never been overruled; and if it was to be accepted as a constitutional limitation of the right of citizenship, then all the negro race who had recently been made freemen were still not only not citizens, but were incapable of becoming so by anything short of an amendment to the Constitution. To remove this difficulty primarily, and to establish a clear and comprehensive definition of citizenship which should declare what should constitute citizenship of the United States, and also citizenship of a State, the first clause of the first section was framed.

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside."

The first observation we have to make on this clause is that it puts at rest both the questions which we stated to have been the subject of differences of opinion. It declares that persons may be citizens of the United States without regard to their citizenship of a particular State, and it overturns the Dred Scott decision by making *all persons* born within the United States and subject to its jurisdiction citizens of the United States. That its main purpose was to establish the citizenship of the negro can admit of no doubt. The phrase "subject to its jurisdiction" was intended to exclude from its operation children of ministers, consuls, and citizens or subjects of foreign states born within the United States.

The next observation is more important in view of the arguments of counsel in the present case. It is, that the distinction between citizenship of the United States and citizenship of a State is clearly recognized and established. Not only may a man be a citizen of the United States without being a citizen of a State, but an important element is necessary to convert the former into the latter. He must reside within the State to make him a citizen of it, but it is only necessary that he should be born or naturalized in the United States to be a citizen of the Union.

It is quite clear, then, that there is a citizenship of the United States and a citizenship of a State, which are distinct from each other and which depend upon different characteristics or circumstances in the individual.

I come now to those clauses of this opinion which clearly point out the distinction that I have contended for, and to them I invite special attention:

We think this distinction and its explicit recognition in this amendment of great weight in this argument, because the next paragraph of this same section, which is the one mainly relied on by the plaintiffs in error, speaks only of privileges and immunities of citizens of the United States, and does not speak of those of citizens of the several States. The argument, however, in favor of the plaintiffs rests wholly on the assumption that citizenship is the same and the privileges and immunities guaranteed by the clause are the same.

The language is, "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States." It is a little remarkable, if this clause was intended as a protection to the citizen of a State against the legislative power of his own State, that the words "citizens of the State" should be left out, when it is so carefully used, and used in contradistinction to citizens of the United States in the very sentence which precedes it. It is too clear for argument that the change in phraseology was adopted understandingly and with a purpose.

Of the privileges and immunities of the citizen of the United States, and of the privileges and immunities of the citizen of the State, and what they respectively are, we will presently consider; but we wish to state here that it is only the former which are placed by this clause under the protection of the Federal Constitution, and that the latter, whatever they may be, are not intended to have any additional protection by this paragraph of the amendment.

If, then, there is a difference between the privileges and immunities belonging to a citizen of the United States as such and those belonging to the citizen of a State as such, the last must rest for their security and protection where they have heretofore rested, for they are not embraced by this paragraph of the amendment.

The first occurrence of the words "privileges and immunities" in our constitutional history is to be found in the fourth of the articles of the old Confederation.

It declares that the better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this Union the free inhabitants of each of these States, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all the privileges and immunities of free citizens in the several States; and the people of each State shall have free ingress and regress to and from any other State, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions, and restrictions as the inhabitants thereof respectively.

In the Constitution of the United States, which superseded the Articles of Confederation, the corresponding provision is found in section 2 of the fourth article, in the following words: "The citizens of each State shall be entitled to all the privileges and immunities of citizens of the several States."

There can be but little question that the purpose of both these provisions is the same and that the privileges and immunities intended are the same in each. In the article of the confederation we have some of these specifically mentioned, and enough perhaps to give some general idea of the class of civil rights meant by the phrase. It would be the vainest show of learning to attempt to prove by citations of authority that, up to the adoption of the recent amendments, no claim or pretense was set up that those rights depended on the Federal Government for their existence or protection, beyond the very few express limitations which the Federal Constitution imposed upon the States—such, for instance, as the prohibition against *ex post facto* laws, bills of attainder, and laws impairing the obligation of contracts. But, with the exception of these and a few other exceptions, the entire domain of the privileges and immunities of citizens of the States, as above defined, lay within the constitutional and legislative power of the States, and without that of the Federal Government. Was it the purpose of the fourteenth amendment, by the simple declaration that no State should make or enforce any law which shall abridge the privileges and immunities of citizens of the United States, to transfer the security and protection of all the civil rights which we have mentioned from the States to the Federal Government? And where it is declared that Congress shall have the power to enforce that article, was it intended to bring within the power of Congress the entire domain of civil rights heretofore belonging exclusively to the States?

All this and more must follow if the proposition of the plaintiffs in error be sound. For not only are these rights subject to the control of Congress whenever in its discretion any of them are supposed to be abridged by State legislation, but that body may also pass laws in advance, limiting and restricting the exercise of legislative power by the States in their most ordinary and useful functions, as in its judgment it may think proper on all such subjects. And still further, such a construction, followed by the reversal of the judgment of the supreme court of Louisiana in these cases, would constitute this court a perpetual censor upon all legislation of the States on the civil rights of their own citizens, with authority to nullify such as it did not approve as consistent with those rights as they existed at the time of the adoption of this amendment. The argument we admit is not always the most conclusive which is drawn from the consequences urged against the adoption of a particular construction of an instrument. But when, as in the case before us, these consequences are so serious, so far-reaching and pervading, so great a departure from the structure and spirit of our institutions; when the effect is to fetter and degrade the State governments by subjecting them to the control of Congress in the exercise of powers heretofore universally conceded to them of the most ordinary and fundamental character; when in fact it radically changes the whole theory of the relations of the State and Federal governments to each other, and of both these governments to the people, the argument has a force that is irresistible, in the absence of language which expresses such a purpose too clearly to admit of doubt.

We are convinced that no such results were intended by the Congress which proposed these amendments, nor by the Legislatures of the States which ratified them.

Now, Mr. President, could there be a more thorough, a more reasonable, a more logical, a more satisfactory exposition of the fourteenth amendment than that? Sir, that decision was not made without due consideration. It was made after thorough discussion on the

part of counsel and after long and most solemn deliberation on the part of the court. They well understood the importance of what they were doing, and that they were laying the groundwork of a course of construction to be placed on these amendments to the Constitution that was to go down to the latest generations. They did their work deliberately, in the light of reason and right, and they have steadily kept up that construction of it from the time of the decision of the "Slaughter-house cases" until this moment.

Another case decided shortly after the "Slaughter-house cases" follows up the line of construction adopted in them, and I will read a paragraph or two from the case, the name of which I do not now remember; but it was the case where a female in one of the Northwestern States, perhaps in Illinois, insisted that she had a right under the fourteenth amendment to be permitted to practice law in the courts of the State. She insisted that to practice law was a right enjoyable by any citizen of the United States, and that as such a citizen she was well entitled under the fourteenth amendment under discussion to practice law in the State courts where she might happen to be. In deciding that case the court say:

In regard to that amendment, counsel for the plaintiff in this court truly says that there are certain privileges and immunities which belong to a citizen of the United States as such; otherwise it would be nonsense for the fourteenth amendment to prohibit a State from abridging them; and he proceeds to argue that admission to the bar of a State of a person who possesses the requisite learning and character is one of those which a State may not deny.

In this latter proposition we are not able to concur with counsel. We agree with him that there are privileges and immunities belonging to citizens of the United States in that relation and character, and that it is these, and these alone, which a State is forbidden to abridge. But the right to admission to practice in the courts of a State is not one of them. This right in no sense depends on citizenship of the United States. It has not, as far as we know, ever been made in any State or in any case to depend on citizenship at all. Certainly many prominent and distinguished lawyers have been admitted to practice, both in the State and Federal courts, who were not citizens of the United States, or of any State. But on whatever basis this right may be placed, so far as it can have any relation to citizenship at all, it would seem that, as to the courts of a State, it would relate to citizenship of the State, and as to Federal courts it would relate to citizenship of the United States.

The opinion just delivered in the Slaughter-house cases renders elaborate argument in the present case unnecessary; for, unless we are wholly and radically mistaken in the principles on which those cases are decided, the right to control and regulate the granting of license to practice law in the courts of a State is one of those powers which are not transferred for its protection to the Federal Government, and its exercise is in no manner governed or controlled by citizenship of the United States in the party seeking such license.

After that decision we find the opinions delivered but a day or two ago, following up the same views and giving in effect the same construction to the thirteenth, fourteenth, and fifteenth amendments of the Constitution.

So that I say the construction placed on these amendments, whether you refer to one of them or to another, whereby it is proposed to give the Senate jurisdiction to raise this committee, is a false construction. It is a construction not warranted by the letter of the Constitution; it is not warranted by a fair construction of the thirteenth, fourteenth, and fifteenth amendments to it, or by a fair or reasonable inference, and that such a construction is expressly contravened and denied by repeated decisions of the Supreme Court of the United States, which ought to be a law unto us here as it must be when any act which we may pass shall come to be when the courts come to take jurisdiction.

I confess, Mr. President, that I have no personal knowledge about the manner of conducting the late election in the State of Mississippi; and I agree with everybody who takes that view, that if colored men were deprived of their right to vote by fraud, intimidation, or by other means, it was a criminal act, one reprehensible in the highest degree; and I insist furthermore that whosoever was guilty of it ought to be punished, but he ought to be punished according to law; he ought to be punished by that tribunal which our system of government—and by that I mean both State and Federal combined—has provided for that purpose. If it shall be suggested that the means provided are not sufficient, I reply that that is the misfortune of the country. Congress has no powers except the powers conferred by the Constitution, and we are bound by that, and we cannot go beyond it if we would.

So far as my information goes, (and all that I have is hearsay,) there were no such irregularities in the late election as to warrant the complaints, the parade, and the tirade of abuse heaped on the people of Mississippi, and the declamation which I have heard in the Senate Chamber and elsewhere from time to time. According to accounts given by respectable gentlemen of both parties in the State of Mississippi, the election was conducted with remarkable quiet and fairness. The vote, as I understand, was large, and the irregularities were exceptional; they were as great probably on the one side in party politics as on the other; and the election was infinitely better conducted in that State than elections are usually conducted in some of the great States of the Union, and particularly in some of the great cities of the North.

So that it seems to me that the purpose here is not a legitimate one. It is not to ascertain facts to inform the judgment of Congress, to the end that Congress may pass the laws that are necessary and essential to protect the rights of citizens, but for the purpose of manufacturing political capital for the election which comes off in November next. Entertaining that view, as well as the view just mentioned, that we have not the constitutional power to pass this resolution, I shall not hesitate to vote against it.

If it were alleged that the laws regulating congressional elections were insufficient and it were proposed to gather information with a view to ascertain whether it would be wise to change or modify existing laws on that subject, then, if such a state of facts were presented as to warrant the exercise of that power, I should not hesitate to do it. But it is not pretended that there is any such purpose in view. It is expressly provided in this resolution that we are to inquire, not whether the State has passed a law denying to any citizen a right because of his color, his race, or his previous condition of servitude to vote, but whether John Smith, John Jones, and hundreds of others have not committed an offense cognizable only in the State courts. That is the proposition here, and there is no other presented by the resolutions before us. The Senate has no lawful power to raise a committee for any such purpose, and therefore I shall not vote for these resolutions.

But, sir, if the resolution is to pass, let us pass it in such a shape as that it will at least conform to the letter of the Constitution, that it will have some semblance of ground to rest upon. We have no right or power to inquire whether the election in Mississippi was conducted fairly or otherwise. That is a matter exclusively within the jurisdiction of the State of Mississippi. If frauds were practiced, if intimidation was practiced, if votes were bought and sold, that is a matter to be inquired into by the State authorities, and by them alone; certainly not by the Senate. It is not pretended that we can regulate their elections. It is suggested—I believe that phrase has been amended in the substitute—that the Legislature chosen at that election has elected a United States Senator, that his credentials are now in the Senate, and that he will be here on the 4th of March next claiming admission. It will be time enough for us to inquire into that election, and the means by which it was secured, when we shall get complete jurisdiction of the matter, when the time comes to give us lawful jurisdiction of the matter. We cannot inquire into that now. But when that time shall come, if half the members of the Legislature were elected by buying electors' votes, if negroes in Mississippi were driven from or to the polls by thousands by force, it has been conceded even by the Senator from Indiana, [Mr. MORTON,] and must be conceded by every intelligent man, that the Senate has no power to inquire into that. As to how the members of the Legislature were elected, whether they were elected lawfully or otherwise, by what means they were elected, is a matter completely and exclusively within the jurisdiction of the Legislature of Mississippi. We cannot go behind the organization of that Legislature; our inquiry is limited to whether or not the Senator-elect when he shall apply, if his right shall be questioned, was elected according to the laws of the United States and the constitution and laws of Mississippi. We can inquire then whether he bought the vote of a member of the Legislature, or whether he intimidated a member and forced him to vote for him; but we cannot go back of his election by the Legislature and ascertain whether the members of the Legislature were elected by one means or another at the ballot-box. So I say, Mr. President, looking at this whole matter, and taking every reasonable view of it, that Congress has no jurisdiction to raise this committee. Therefore the substitute which takes the place of the original resolutions ought not to be adopted, and I will not support it by my vote. In my judgment it ought not to pass—it cannot lawfully pass, and if it shall, it will be a bad precedent.

Mr. FRELINGHUYSEN. Mr. President, I had occasion yesterday to say that under the first clause of the fourteenth amendment, which declares that every one born in the United States shall be a citizen thereof, taken in connection with the last clause of that amendment, which gives Congress the power by legislation to enforce the foregoing, a citizen of the United States had the right of being protected in the exercise of suffrage where it had been conferred upon him. To that my friend from North Carolina [Mr. MERRIMON] takes exception, and he tells us that the Supreme Court have decided otherwise. I beg my friend's pardon. The Supreme Court have never touched that question. There have been four cases decided in reference to the three amendments. One was the Slaughter-house case, to which he has referred, where the question was whether the fourteenth amendment did not secure every citizen against business monopolies. It did not relate in any manner to the question of suffrage. The next case was that of Minor *vs.* Happersett, the case alluded to by the Senator, where a female applied for the license to practice in the Supreme Court of the United States, found in 21 Wallace. That had no reference to the question of suffrage. The next case was the Grant Parish case, which was this: A number assembled at Colfax, in Grant Parish, Louisiana; a mob took away their arms, broke up the meeting, and murdered thirty of the number. This case has recently been decided by the Supreme Court. It involves the construction of the sixth section of the enforcement act, which is directed against conspiracies to deprive citizens of rights granted or secured by the Constitution of the United States. The court does not dispute the constitutionality of the sixth section of that act; but the decision reached is that the indictment did not charge that any one had interfered with rights which, in the opinion of the court, were granted and secured by the Constitution. That indictment, which I had occasion to look at, contained thirty-two different counts. The rights under the Constitution which it was charged had been violated were the right of peaceably assembling according to the first article of amendments, the right of bearing arms, and other rights named in the ten amendments to the Constitution. The Supreme Court de-

cided within the last week that those amendments, as has been understood by us all, were only inhibitions and restrictions on Congress, and did not confer any rights on citizens.

There was another count in the indictment charging a violation of the fourteenth amendment, in that citizens had been deprived of life and property without due process of law. The court took the view which has been suggested by the Senator from North Carolina, that the fourteenth amendment, when it says that no State shall abridge the privileges and immunities of citizens of the United States, is a prohibition on State legislation and not on individuals. From this view I dissent, as the amendment further provides that the State shall not deny to any person the equal protection of the laws. The only case under these amendments which has ever been decided by the Supreme Court in reference to suffrage that I am aware of is the recent case of United States *vs.* Reese and Foushee. And what was that case? There was an indictment against inspectors of election for refusing the vote of a colored man on account of his race and color. It was refused because he did not present evidence of having paid his tax, which was a prerequisite to voting, but he did present his affidavit to the effect that he had offered to pay his tax, and that the wrongful act of the tax-collector had prevented his tax from being paid.

In this case the court say in brief that the first section of the enforcement act is only declaratory, there being no sanction annexed; that the second section does not apply to inspectors of election, and these defendants were inspectors; that the third section is a general regulation, and does not make the crime to depend upon depriving one of a vote on account of race, color, or previous condition of servitude—which is an essential quality to a crime under the fifteenth amendment—and that therefore there was no case. If there had been six more words in the act of Congress, to wit, "on account of race or color," the law would have described a crime under a constitutional law.

I do not see that any one can much object to that decision.

Mr. MERRIMON. The court do not say so. The court say expressly that Congress has as yet not legislated in such a way as to execute the fifteenth amendment, and what legislation is necessary for that purpose the court do not undertake to say or suggest.

Mr. FRELINGHUYSEN. I have read that decision. I repeat what I have said. The clear effect of the decision is that the objection to the law is that it is a general regulation, applicable to the rejection of any vote, instead of only making it a crime, as does the amendment, to deprive one of a vote on account of race, color, or previous condition of servitude. The entire reasoning of the court takes that view. It considers the question whether the first section, with the third and fourth taken together, amounts only to a prohibition against rejecting a vote on account of race and color; but, being a penal statute, the court decide that the statute is not capable of being so construed. I think my friend will agree with me that, if there had been six more words in the statute, the court would have given judgment for the plaintiffs in error. But that is not important to my purpose.

One thing is certain: the question whether Congress has not by legislation the right to protect the citizen, who has been invested with the right to vote, from being deprived of his vote by violence or fraud has never been adjudicated against in this country. The court say in express words in the only decision they have made relative to voting since the amendments were adopted that their whole decision rests upon the fifteenth amendment, counsel for the plaintiffs in error having given up all claim that the case was to be sustained under the fourteenth. Whether that was wise is not now the question.

Mr. MERRIMON. Passing by what the court said—in fact, they said nothing on that subject—I beg my honorable friend to explain to the Senate how he derives the power from the fifteenth amendment that he claims?

Mr. FRELINGHUYSEN. I will. There is, then, we see, nothing in the decisions of the Supreme Court, upon which my friend has placed himself, declaring that suffrage when conferred and as conferred upon a citizen is not a right of a citizen, which Congress may by proper legislation under the first and last clauses of the fourteenth amendment protect. Now let us go on a step further. Is the right to vote a natural right?

Mr. MERRIMON. No, sir.

Mr. FRELINGHUYSEN. No; we agree. And yet it comes very near to it. Where does the right come from? From the Constitution. How does it get into the Constitution? It is placed there by the convention. Who make the convention? The people. How is their will made known? Only by voting. So, sir, while I agree voting is not a natural right, government could not exist without it and could not be formed without it. It is the initial step in civilization.

Mr. MERRIMON. Voting is not a civil right.

Mr. FRELINGHUYSEN. It is not a natural right. And now I ask, is voting a necessary incident to citizenship?

Mr. MERRIMON. No, sir.

Mr. FRELINGHUYSEN. No, of course it is not; if it were, every woman and child would have the right to vote. Neither one of these two propositions, however, conflicts with my position, that when by law the right to vote is given to a citizen it is right to be protected from being violently and fraudently taken from the citizen. Unless the right of citizenship was a mere decoration, it carries with it protection to its incidents, protection in the exercise of that suffrage which the law has conferred. The proposition is too plain to be questioned. My friend will not question that North Carolina has the right to protect its citizen from being deprived by fraud and violence of the right the law has conferred upon him. He will not deny that it is the duty of his State thus to do, and that, too, because of the citizenship of him who claims the protection. It is the same with a citizen of the United States.

Citizenship of a State confers all the rights that grow out of the constitution and laws of the State. Citizenship of the United States confers all the rights that grow out of the Constitution and laws of the United States. That is clear. Does not the right to vote for Representatives grow out of the Constitution of the United States?

Mr. MERRIMON. It does not.

Mr. FRELINGHUYSEN. I insist that it does, sir.

Mr. MERRIMON. Then we are at issue.

Mr. FRELINGHUYSEN. But for the Constitution of the United States no man would have a right to vote for a Representative. The Constitution of the United States in express terms creates United States voters, United States electors, and specifies their qualifications.

Mr. MERRIMON. It provides that the State may provide them, expressly.

Mr. FRELINGHUYSEN. The Constitution of the United States says:

> The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

This Constitution provides that there shall be United States electors, and specifies as their qualifications that they shall have the same that are required in the State for the most numerous branch of the Legislature. Not only that, but this Constitution further provides, by the fourth section of the first article, that Congress shall have the right to regulate the manner in which those United States electors shall cast their votes.

Before the recent amendments to the Constitution I agree that United States citizenship was a very vague thing. One article of the Constitution declared "that citizens in each State should be entitled to all the privileges and immunities of citizens of the several States." That only created an equality of right; that only said that there was to be no discrimination. In the Dred Scott case it was established that every State had the right to fix and determine upon the qualification of its own citizens; that it had a perfect right to say that one of African blood should not be a citizen. Such was the condition of the law when the fourteenth amendment was adopted, and that changed all this and established it that every person born or naturalized in the United States and subject to the jurisdiction thereof should be a citizen of the United States and of the State in which he resides. Before that amendment citizenship of the United States, except in the single case of naturalization, was derivative from State citizenship, and the State could exclude one-half or nine-tenths of all her people from being citizens of the United States.

Then we have this case: Before the amendment there were United States electors with specified qualifications. Before the amendment Congress had the right to regulate the manner in which those electors should cast their votes. The Constitution has since placed a restriction even on the States as to what qualifications United States electors shall possess, and has said that they shall be exempt from discrimination on account of race or color. We have then under the Constitution United States electors, we have their qualifications fixed, we have modified those qualifications, and the nation has declared in express words that there shall be a United States citizenship, and has declared that Congress shall have all power by appropriate legislation to carry into effect this grand declaration of United States citizenship. This is the sublime rescue of the war. Can it now be denied that, where the citizen has by law the right to vote, Congress has the power to protect this right from fraud and violence? Sir, it is to accuse this nation of an imbecility with which no nation on the earth can be charged. Is it true that this nation alone of all the world, with a written Constitution declaring that there shall be a national citizenship which should give protection in every nook and corner of the world, is unable to afford its citizens any succor? Is it true that the proud cry "I am an American citizen" is to become a shame and a hissing in the earth?

No, sir, we have the right and the power, too, to protect American citizenship at home and abroad.

Mr. BAYARD. Mr. President, I did not know that the Senator from New Jersey had adverted to the decision of the Supreme Court of the United States in the case of Minor *vs.* Happersett, in 21 Wallace, at the time he was considering his proposition.

Mr. FRELINGHUYSEN. I am perfectly familiar with it, and I referred to it.

Mr. BAYARD. His argument was that the amendments to the Constitution had in some way conferred on Congress power to protect the right of voting in any man, provided that right had been given by the law of a State. The Supreme Court have spoken so distinctly upon this subject that it seems to me that when we legislate in the light of their decisions and still propose to pass laws which have been adjudicated invalid, to say the least, we are executing a very useless task. It is a labor lost, time spent in vain, to say the least, and perhaps it would be more proper to designate it as willfully spent

in vain. If the adjudications of the court of last resort are not in any respect to form the guide for those who legislate, then there was little use in the creation of the judiciary as a co-ordinate and independent branch of our Government. I believe in the right of conscientious opinion. We may comply with the decisions of a court against our will; but that as legislators we are justified in continuing to repeat legislation of a character and nature based upon principles which have been declared to be invalid by the Supreme Court of the United States, I think is utterly unjustified and unjustifiable.

Here was a case in 1874, decided at the October term, to be found on page 171 of the twenty-first volume of Wallace, in which the court declares, in speaking of the fourteenth amendment:

> The amendment did not add to the privileges and immunities of a citizen. It simply furnished an additional guarantee for the protection of such as he already had. No new voters were necessarily made by it. Indirectly it may have had that effect, because it may have increased the number of citizens entitled to suffrage under the constitution and laws of the State, but it operates for this purpose—

And I commend this language to the Senator from New Jersey.

Mr. FRELINGHUYSEN. That was the case where some female applied for admission to the bar, was it not?

Mr. BAYARD. I believe so.

Mr. FRELINGHUYSEN. I do not differ from that case at all. I think it was right.

Mr. BAYARD. I am speaking of the principles the court lay down:

> It operates for this purpose, if at all, through the States and the State laws, and not directly upon the citizen.
>
> It is clear, therefore, we think, that the Constitution has not added the right of suffrage to the privileges and immunities of citizenship as they existed at the time it was adopted. This makes it proper to inquire whether suffrage was co-extensive with the citizenship of the States at the time of its adoption. If it was, then it may with force be argued that suffrage was one of the rights which belonged to citizenship, and in the enjoyment of which every citizen must be protected. But if it was not, the contrary may with propriety be assumed.

And after reciting the history of the constitutions of the various States on the subject they declare:

> Being unanimously of the opinion that the Constitution of the United States does not confer the right of suffrage upon any one, and that the constitutions and laws of the several States which commit that important trust to men alone are not necessarily void, we affirm the judgment.

In the case of The United States *vs.* Reese and Foushee, decided three or four days ago by the Supreme Court, the statement is distinctly made that no right of suffrage was conferred by the fifteenth amendment to the Constitution, much less by the fourteenth; and therefore to assert that there was a substantive grant of power by those two amendments which under the suggestion that the creation of a citizenship carried with it some of the privileges which may or may not attend citizenship, which are not essential for the existence of citizenship, which may be granted or withheld to or from certain classes at the discretion of the law-making power of the State, it seems to me that to so claim now, and to say that the United States can create this privilege, or that they can in any way protect it if the States should have created it beforehand, is certainly to argue in the face of the direct letter and spirit of the adjudications of the Supreme Court on this subject. They tell you distinctly that, "if even indirectly it may have the effect of making new voters, it is through the States and the State laws," and that the amendment does not act directly upon the citizen. What do they mean by that? It does not act directly upon the citizen. It may be inhibitory of the State. If the Constitution does not act directly on the citizen in this respect, surely it is competent for Congress to legislate and by its laws act directly on the citizen. Therefore it will be found after this scheme of legislation may be pursued according to the theory of the Senator from New Jersey, if he and those who think like him shall be able to place on the statute-book laws of the same character and reaching the same results as those which they have so elaborately prepared and enacted before, when they have applied to them the touch-stone of judicial construction as given in these cases, they will meet the same fate; they will be found invalid, because it will be an attempted infringement by the Congress of the United States upon the reserved rights of the States and the people of the States.

This course of decision has not been a sudden one upon the part of the Supreme Court. They have seen the tide of centralization rushing with a fearful and a fatal force until it has become necessary to arrest it, and to recall the spirit of this country and the spirit of this legislation back to the true character of the federal system of government under which we live. They see that the States are as essential to our form of government as is the Federal power over them to our form of government; that, to use the language of the late Mr. Justice Nelson, of New York, if you strike down the State governments you annihilate the Government of the United States and cause it to disappear from among the family of nations. Therefore I say, in respect of this most important of all questions, that, if this be a government, it is a voluntary government, of which the whole motive power is suffrage. Every operation of our Government has its basis upon the exercise of suffrage. We vote for everything that becomes a law in every stage, from the primary meeting of the people to the final vote in the Legislature, which has the power to enact a law. It is a question of votes. It is a question of volition. If that power has been or can be by any construction taken from the people of the States—the States, which are the pillars that support the fabric of our General Government—if you take that power from them and give it to the control of the Federal Congress, then you have handed the whole control of this country, necessarily, to one centralized power, into the hands of Congress.

Mr. President, to admit the propositions of my honorable friend from New Jersey would be to admit that the theory of our Government is to be reversed. It would have this effect: These two amendments would operate to repeal all the amendments and every feature of the Constitution that had preceded them. This cannot be. You may fritter away a power by construction and you may destroy a government by misconstruction. It is insidious. It is most dangerous. Although gentlemen may act under what I believe is in many cases a very honest feeling in the land, under a desire to stand by those who are helpless, for those who may be believed to form the weaker party and the weaker race in this country, still I ask them not to be misled by a sentimentality against so essential a provision, so essential a portion of the very frame-work, the very ground-work, the foundation of our governmental system. Do not invade that right essential to the existence of the State under the pretense that you are protecting in some way some one in the exercise of it. Your laws give the protection. If a law does discriminate against a voter by reason of race or color, it is invalid. Apply to it the touch-stone of judicial decision, either in the States, or, if no fidelity is found there, (and you have no right to presume that,) bring it to your Federal courts, and there under our system the cure can be and will be applied. But can it be that we have lived nearly one hundred years, that the right of no white man to have his vote protected has ever been sought under Federal power; and that now, under the pretext of the new enfranchisement of a lately servile people, you are to change your form of government in order to obtain a protection for the black that your country has never in its history had occasion to extend to the white? Leave them, the black man and the white man, alone to the same power that has kept us and preserved us as a people for the last one hundred years, or very nearly that. It is not necessary. There is this constant distrust; there is this constant refusal to trust without having any cause for it.

I wish gentlemen could have a little time to test the voluntary sense of justice of the people of the States. Do not let every presumption be that wrong, injustice, the withholding of rights is to be the rule in all the States. I know they are mistaken. I do not believe a party could attempt it and carry it out without meeting the opposition of the spirit of the majority of the American people. Trust, then, to the mere desire to maintain popular power and popular favor. If no other or higher motive comes, trust that as a motive to perform justice. Do not base all your presumptions of legislation here upon the fact that the States of this country do not propose to do their duty by all their citizens. Do not suppose that the best refuge and the best sanctuary for the right of an American freeman are only in the Federal courts of this country. It is the same spirit through all. All are American courts. Do not for the sake of this temporary power, which is yours to-day and may leave you to-morrow, invoke an authority which some day may be used to interfere with that right of free local self-government which is the very foundation and the very soul of our system of government.

The Supreme Court have, as I say, not only intimated, but I think have most clearly decided, that you cannot justly exercise this power, that no right of suffrage is given, that the general power of protection is not given by these amendments. The grant is confined to a single case; and in regard to that there is a very great halt in their decision and a want of definition as to what precisely they may come at when you shall frame a statute in some different way. But sure it is that statutes running nearly in the same groove as those you have adopted, statutes which may be called *in pari materia*, will be open not to grave doubt but to certain denial when they shall reach the decision of the courts of the United States. I know that this question has been debated in Congress. I know that the decisions of the Supreme Court are distasteful to the majority here who have voted for these laws; but do not, I beg of you, show simply your impatience or insubordination where a check has been given to your legislation. I beg of you, with all the feeling of one American toward another, to trust the American people. Trust the people of the American States. Do not let it go forth that the men of this country, white or black, have no protection except in Federal tribunals. It is unjust to the States; it is unjust to the people; it is creating a certain collision of feeling and of sympathy between the States and the Federal Government, which ought to move along each in its own orbit, undisturbing and undisturbed. If the Congress and if the Senate would but consider that, after all, ours is a government of opinion, it will assert itself, it ought to assert itself, it will be trusted and it ought to be trusted. Yet the whole spirit of the legislation of Congress for the last ten years upon this subject seems to me to have been that the States, the people of the States, the tribunals of the States, cannot fairly be trusted to carry out the guarantees given by the Constitution of the United States to every human being in their midst.

Mr. President, I did not intend to say as much as I have uttered. I heard the remarks of the honorable Senator from New Jersey yesterday. I was surprised to find the construction that he had given to these amendments, and that he was endeavoring to find in them the conference of power, of right of suffrage upon citizens which the Supreme Court had expressly denied, and which, according to my own interpretation, was nowhere to be found in the amendments.

Mr. FRELINGHUYSEN. Mr. President, the Senator from Delaware has in rather an unusual manner read a lecture to the Senate. He deprecates the whole legislation for the last ten years. I wonder whether the Senator does not deprecate the enactment of the three amendments to the Constitution which this legislation has been enforcing?

Mr. BAYARD. I beg pardon.

Mr. FRELINGHUYSEN. I say the Senator deprecates the legislation of Congress for the last ten years. Did the enactment of the three constitutional amendments meet his approval?

Mr. BAYARD. I have expressed nothing contrary to it; made no such suggestions.

Mr. FRELINGHUYSEN. I know that is so, but I ask the question because when we are thus lectured about pride of opinion, impatience, and chafing under the decisions of the Supreme Court, and when we are begged not entirely to ruin the country, it is natural to inquire what is the source from which these strictures come; and if found to come from one who from first to last has been opposed to the amendments we are enforcing, amendments abolishing slavery, establishing American citizenship, establishing universal suffrage, then we can understand that the criticism is not so severe upon our conduct, but that it is accounted for by the state of mind and the political view of the Senator who administers the admonition.

The Senator complains that we have willfully spent time here in differing from the Supreme Court. The Senator must be a true Calvinist, for he not only thinks that everybody should believe as he believes, but that they should be punished for their unbelief. I do not propose myself to do anything that I know will damage this country much, nor do I propose to be lectured very much as to the manner in which I discharge my duties as Senator.

As to the Supreme Court, let me say that I have as much respect for their decisions as any man in the country; but what is a decision? It is the adjudication of the question before the court, and their opinion that legitimately grows out of the question, that is entitled to all consideration; but the dicta that may be scattered through their opinions are not law to us.

The question that we were discussing was not, as my friend has said, whether the constitutional amendments gave the right of suffrage. No one has pretended that the Constitution or any of the amendments conferred the right of suffrage. Ordinary attention to the debate would have shown the Senator that that was not the position insisted upon. The claim was that where the citizen had by law the right of suffrage the National Government had the power to protect that right from being destroyed by violence and fraud; a very different proposition from that which he has argued. He refers to the decisions of the Supreme Court. What are they? One is the question whether monopolies did not violate the fourteenth amendment. Another, a case to which he refers and in view of which he asks our abject subservience to the Supreme Court, is whether a female can practice law in the United States courts. What have those decisions to do with the question before us? More than that, the Supreme Court have not ever put forth any dictum that I am aware of denying that Congress had the right, where suffrage existed as a right, to protect it from being destroyed by violence or fraud. This is a right that I claim not as the Senator states in behalf of the black man. I claim it, sir, for the white man as well as the colored. I hope to see the day when everywhere in this broad land, South and North, East and West, every citizen will be protected not only in his suffrage, but in his property, his life, and his liberty. Then we will have peace.

Mr. KERNAN. Mr. President, I have listened with great attention to the debate in reference to the fourteenth and fifteenth amendments, and I desire to make one or two suggestions in regard to them. The question is whether under either or both these amendments Congress can pass a law to protect the man who goes to vote from being mobbed, or from unlawful violence, in the exercise of his right. I am not able to understand, after listening to the arguments, how Congress can do it. I ask the attention of Senators for a moment to the fourteenth amendment, which declares that—

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.

Of course it is not claimed that that makes anybody a voter. If it did, it would make all the females in the country voters. They are born within the Federal jurisdiction, and yet the United States courts have held that this cannot be construed to confer the right of voting upon them. It goes further, and I call attention to this to test the argument that we can protect the legal elector from violence by a mob or other unlawful interference on election day:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

If under the fourteenth amendment we can by act of Congress protect the voter in exercising the right of suffrage, much more strongly may it be argued that we can protect the owner of personal property from being deprived of his right to it by violence. Will any one claim that under that strong language authorizing Congress to protect any man in his rights we can pass penal laws or criminal laws to protect a man from having his property taken from him by mobs or by violence? If so, it would have been a very valuable right to have exercised in reference to some of the Northern States, whereas in some of them combinations of men have prevented persons from even using their property by hiring labor, and so on. I believe it is conceded that Congress has no power under this or any other amendment to protect a man from being mobbed by his fellow-citizens or to prevent his personal or real estate from being taken from him by violence.

Therefore I argue that, under the fourteenth amendment, if we cannot pass laws to protect a man in his property from unlawful violence, we cannot protect him in exercising the right of suffrage. As the amendment reads, it protects the citizen not against mobs but against laws by a State which would deprive him of his rights. The courts would hold such State laws invalid, and hence he could get redress in that way. Then there is the same provision in the fourteenth amendment as in the fifteenth, that—

The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

If then, as I think gentlemen will concede, we cannot legislate to protect the citizen of a State from unlawful violence which deprives him of his property, we have not the power under that provision to make a law which shall protect him in the exercise of the right of voting. He must look to State laws alone. That provision of the fourteenth amendment was to prevent the States from passing laws which should interfere with the rights of the citizen.

Take the fifteenth amendment. Under that have we a right to say that we the Congress can protect a man from intimidation, from violence, in exercising the right to vote, or does it not simply protect the people of a State from injustice, from unwise discriminations in reference to voting? Mark you, it does not give any affirmative right, but it is like the fourteenth amendment. It says:

The right of citizens of the United States to vote—

Just as though it read "the right of citizens of the United States to hold their property"—

shall not be denied or abridged by the United States, or by any State, on account of race, color, or previous condition of servitude.

Is not that in the same spirit? It is substantially the same language. Neither the United States nor the States shall discriminate against any class of citizens in a State on account of race, color, or previous condition. Can you from that infer that we may by law protect the citizen from unlawful combinations that intimidate him or prevent his voting? It seems to me, according to my reading of the Constitution, that these provisions only refer to restraining the States. They recognize, as has been recognized from the beginning, that the States make such persons electors as they see fit. In one State they may have a property qualification; in another there is an educational or some other test. This amendment merely operates as a prohibition on the State, saying to it, "You shall not discriminate against men in making voters on account of their color or on account of their race or previous condition." It was not intended, nor would it be wise that the people of the States should have to look for the protection of their persons to the General Government which has its head in this city.

I agree as earnestly as any man can in the importance of having the electoral right exercised everywhere without fear, without fraud, and without intimidation to the elector. This Government is built upon the idea that the mass of the voters will act honestly and without intimidation in depositing their ballots. The idea was that if they erred the error would be corrected; that if the time came when any man or any body of men could by fraud or by bribery or by intimidation change the result of an election, this Government could not exist. That is one of the things which I think every good citizen should denounce, and I do here denounce it earnestly wherever it occurs, whether it is preached by Mr. Toombs, of Georgia, or whether it is preached or practiced elsewhere. I propose to stand by the men who are against tampering with the judgment of the electors by bribes, who are against affecting them by intimidation, who are against carrying an election by fraud, contrary to the will of the voters, because I am earnest in the belief that the perpetuity of our Government, State and national, must depend upon the votes of the people being unbiased by bribes or threats and unaffected by fraud. While I believe that the elections should be free from all these influences, yet I do not believe that we shall by resolutions like this—I speak very respectfully—do very much toward remedying the evils which exist in the State to which it is proposed to send this committee. We must appeal to the people of the State. We must appeal to public opinion. We must insist that for our own sake there be honest, unbiased, unintimidated electors at the polls.

Mr. HOWE. Will the Senator allow me to put one question to him?

Mr. KERNAN. Certainly.

Mr. HOWE. If the State of New York shall decline or refuse to punish a citizen of the State who shall assault a foreign minister within her jurisdiction——

Mr. KERNAN. O, I understand that foreign ministers are exceptions in the Government of the United States. I do not desire to go into that.

Mr. HOWE. I will not interfere with the Senator if he does not desire it.

Mr. KERNAN. I would rather proceed with my remarks and say a few words in regard to the practical question before us as to the power of Congress to interfere with the elections in a State. I heard

with some regret yesterday the Senator from Massachusetts [Mr. BOUTWELL] charge, as I understood him, that in his opinion the great mass of the party to which I belong and with which I act at the North really were in favor of disfranchising and wronging out of the right of suffrage the colored people of the South. I should be very sorry, not only for the colored people but for the white citizens all over the country, if any such feeling existed. I assure the Senator it does not exist. I assure him, and I say it to the people of the South, both white and colored, that that body of men, so far as they shall have power, will be, in my judgment, as faithful as any other body of men in protecting the colored men of the South in all their rights before the law. I would despise the party of men who would feel that it would be to them a pleasure to wrong those citizens out of the rights now given to them by the Constitution. Every suggestion of self-interest, as well as everything that should appeal to manly men, requires that they should have all their rights under and before the law. What the country needs is not all the time scrambling to see who shall get a body of voters. What this country needs, North and South, is that there should be a policy pursued to make the people of the Southern States, both white and colored, feel that their interest and our interest require that there should be a just, wise, and fair policy pursued toward the colored men, to the end that instead of being there in distress and under wrong they may become an influential body of citizens, building up prosperity with us, living in harmony with the white people of the South. The two classes are placed together there, and it is my hope and belief that if we can allay somewhat the party feeling which exists so strongly, and inculcate upon them that it is their right and their duty to manage their own affairs, to live in amity and peace, to vote every man according to his judgment, honestly, unquestioned, and unintimidated, we shall have a better state of things down there, resulting from those sentiments and that public opinion, than will come out of any partisan or unkind debate in the halls of legislation.

I am not delivering a lecture now; I am a new man here and mean to be modest; but I ask the Senator from Massachusetts whether such appeals as he made yesterday in this Hall will do good, either North or South? I listened with great pleasure to the Senator from Mississippi [Mr. BRUCE] this morning, to his temperate, his manly presentation of the case of his people, his appeal to them that it was their interest that there should be amity with the whites. Indeed, he said that with a portion there was, while as to others there was not; but still he appealed to the proper sentiment. If there be men at the North—and I have not met them—who would wrong these people, if they have the spirit of Americans in them, the sentiment to which the Senator from Mississippi appealed would take that feeling from them and make them say: "These men in the past were in a condition which leaves them now quite helpless as a class, and we will stand with them, and we will stand North as they stand South, seeing to it that they have their rights." Let that sentiment be promulgated through the country, and I believe it will do more good than anything else can in putting down the combinations which are spoken of, if they exist. I am against White Leagues, North or South; I am against all secret societies that seek to attack a class and seek to affect voters by that which is unjust, and by anything except an appeal to their judgment and to their intelligence.

Another thing I regretted to hear yesterday from the Senator from Massachusetts. He in a somewhat excited state spoke as though it was a thing to be denounced that there were men here who lived at the South and who were aiding in their legal capacity as Representatives in investigating alleged frauds, as though it was enough to put them down to say that such men were here. I want to assure my friend from Massachusetts that that will not meet an echo in the hearts or minds of the North or anywhere else. The people, the democrats, the republicans in our northern States are most anxious that the Representatives from every quarter should act together, those from the South and those from the North, the honest men of every party, in investigating frauds and abuses, and when they discover them then apply the remedy. I am sure the Senator from Massachusetts will agree that he will join hands with men, North or South, in doing that.

Mr. President, I do not favor this resolution. I do not believe it will bring about a better state of things among the people to whom it relates. I do not believe that our discussing it here and sending a committee to investigate there will right the wrong; but I do believe that if men in these Halls and men at the North will cease to endeavor to make the colored people of the South think that one great party of this country would violate the Constitution to wrong them and oppress them, as would be unworthy of men anywhere, they will begin to have faith that their rights will be protected; the southern men themselves will find that there is no party anywhere that will unite with them in any secret attempts to intimidate, or corrupt, or defraud voters of any class of the right of suffrage, and we shall have that people all united, voting as they please, for one party or the other, and we shall not have any need of investigations, nor shall we have to rely on penal laws for the protection of the electors, high or low, intelligent or ignorant, in any portion of the country.

Mr. OGLESBY. I move that when the Senate adjourns to-day it adjourn to meet on Monday next.

Mr. MORTON. I hope the Senator will withdraw that motion. Let us get through with this resolution.

Mr. OGLESBY. Can we get through with this to-day?

Mr. MORTON. I trust so. I hope the Senate will stay here and dispose of this matter, and then I shall have no objection to the adoption of the motion of my friend from Illinois.

Mr. OGLESBY. My motion was not to adjourn now, but that when the Senate adjourns to-day——

Mr. MORTON. I understand what it is.

Mr. OGLESBY. I withdraw the motion.

Mr. THURMAN. Mr. President, it was not my expectation to say one word on this resolution, and I was ready to vote upon it some days ago; but, since debate has sprung up upon it, I wish to state very briefly my reasons for voting against it.

I expressed to the Senate years ago my opinion that the fourteenth and fifteenth amendments, like certain provisions in the original Constitution, are simply limitations upon the power of the States as States; that they do not of themselves confer rights, but they simply operate to prevent the States from denying certain privileges to the persons who are named in them, or, to speak more broadly and accurately, from doing certain things that are specified in them.

The resolution, as amended by the Senator from Michigan, rests entirely upon an averment in the preamble, an averment that certain persons, it is said—

> On account of their color, race, or previous condition of servitude, were, by intimidation and force, deterred from voting, or compelled to vote contrary to their wishes for candidates and in support of parties to whom they were opposed, and their right to the free exercise of the elective franchise as secured by the fifteenth amendment to the Constitution thus practically denied and violated.

It is seen from this recital that the whole ground for the inquiry suggested by the preamble is that the right of suffrage in the State of Mississippi has been interfered with by violence, and we are called upon to have an investigation to see whether such is the fact or not, and we are so called upon because this preamble recites that this right of suffrage is secured by the fifteenth amendment to the Constitution. Now, Mr. President, I undertake to say that neither the fourteenth nor the fifteenth amendment to the Constitution confers upon anybody the right of suffrage; but that the power to prescribe who hall possess that right is still left to the States, with one limitation upon them that they shall not discriminate against anybody on account of race, color, or previous condition of servitude.

The fourteenth article of amendment, it is admitted on all hands, gives to no one the right of suffrage; on the contrary, it recognizes the right of a State to make discriminations. It provides in its second section:

> Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Here is an express recognition of the right of the people of a State to settle the elective franchise in their own State, and there is no limitation upon it at all; but there is a certain penalty, that if they disqualify any male person, be he white or be he black, who is twenty-one years of age and a citizen of the United States, if they disfranchise him for any reason other than participation in the rebellion or the commission of crime, then their representation in Congress shall be proportionately reduced, thus inflicting a penalty upon them, it is true, but still leaving them at liberty, so far as the fourteenth amendment is concerned, to fix a qualification for voting as they please and incur the penalty, that is, suffer the reduction of political power. It must then be admitted that the fourteenth amendment confers upon nobody the right to vote. Then what is the fifteenth amendment?

> The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

What right is here spoken of? Does that confer upon anybody a right to vote? Manifestly, if it speaks of any right, it speaks of a right that existed at the time that this amendment was adopted; and what right then existed? It is true the amendment says "the right of citizens of the United States to vote shall not be denied or abridged by the United States." Had any man the right to vote in virtue of his quality as a citizen of the United States? Nobody pretends that. He must vote in some State, and he cannot vote in that State unless he is a citizen of that State and unless her constitution permits him to vote. The fact that he is a citizen of the United States does not entitle him to vote unless the constitution of the State entitles him to vote. Every woman born in the United States or naturalized here is a citizen of the United States; every minor born in this country is a citizen of the United States. But women have no right of suffrage; minors have no right of suffrage. Bare citizenship of the United States, then, confers no right to vote. The whole question is still left to the States. But there is this limitation put on the power of the States, just as limitations are put in the original Constitution on the powers of the States, that in settling the question of the elective franchise they shall not discriminate against any man on account of race, color, or previous condition of servitude, but that if he is a citizen of the United States and if he possesses the qualifica-

tions that white men in that State must possess under its constitution and laws to entitle them to vote, he shall have the same right. But that does not prevent a State, if it see fit, from imposing qualifications. Every State in this Union might have the qualification which now exists in the State of Massachusetts, what is called the reading and writing qualification—or the reading qualification; I do not remember whether it extends to writing or not—that no man shall vote unless he can read and write the English language. A State may impose such qualification, if it see fit to do it, and all the fifteenth amendment requires is that it shall impose it upon white people and colored people alike. A State may, for anything in the fifteenth amendment impose a poll-tax and require that tax to be paid before the citizen shall enjoy the elective franchise. That may be done.

All that the fifteenth amendment requires is that the same law that exists for the white man shall exist for the colored man. It confers no right whatsoever upon any individual to vote; nor does it limit the power of the States to fix the qualifications for the elective franchise, except to say that what is the qualification for a white man shall be the qualification for a colored man also.

This being the case, and the limitation being simply on the power of the State *as a State*, what have we to do with the question whether mobs have occurred in the State of Mississippi which have affected or intimidated voters? Has the State of Mississippi, as a State, the State in her sovereign capacity—(for I will use that word, especially since it is used by the Supreme Court only the other day in deciding these cases that have been referred to, though it is not an agreeable term to my friend from Indiana)—has the State of Mississippi, in her sovereign capacity, done anything to abridge the right of any man in that State to vote on account of his race, color, or previous condition of servitude? Does anybody pretend that? Why, sir, at the last election, the election spoken of, what was the government of Mississippi? Republican in all its departments—the governor republican; both branches of the General Assembly republican; nearly every judge in the State republican; nearly every Commonwealth officer in the State whose duty it was to prosecute criminals republican. In a word, the whole power of that State was in the hands of one party. Did that party, which held all the offices in that State, which was clothed with the executive, the legislative, and the judicial power, abridge the right of any man to vote on account of his race, color, or previous condition of servitude? Did the State government do any such thing? Every man will say, "no."

But we are told that this was done against the will of the State government; it was done against the wishes of the State government; it was done in defiance of the State government. Then it was not done by the State, Mr. President. Then your fifteenth constitutional amendment has no application to it any more than it has to the Molly Maguires of Pennsylvania—not one particle more. The moment you show that the State has not abridged any man's right, the moment you show that if any man has been abridged of his right, it has been in defiance of the State, and not by the State, that very moment you show that the fifteenth amendment has no application and lays no foundation at all for the inquiry which the Senator from Indiana proposes. I say, therefore, that no good can come of this investigation, no legislation can be based upon it.

What did the Senator from Mississippi say in his speech to-day—and I join with my friend from New York in remarking that I listened to portions of that speech with the entire approbation of my judgment; and although I think the speaker omitted one great fact that is necessary to a complete and accurate picture, yet I commend the spirit in which he spoke and the decency of his utterances, which might well be imitated by men who have held higher places in the Government and had more experience than his. What did he say? "We do not want any new legislation; what we want is that the existing legislation shall be enforced." That is what he said. Why is it not enforced? You have had republicans in power in every department of Mississippi ever since the close of the rebellion; you have had a republican administration in the Federal Government ever since the close of the rebellion; you have passed law after law; you have clothed your United States marshals with power to summon a perfect army to aid them in the execution of the laws; you have clothed your United States commissioners with powers of arrest that make a man tremble to read them. You have done all this. Now, if the laws have not been executed, I want to know why they have not been executed. It is no fault of democratic officials; it is no fault of democratic members of Congress. You have had all the laws you asked for; you have passed them; you have had all the republican officials you wished to appoint to execute those laws. If they have not been executed under these circumstances; if they are sufficient; if, as the Senator from Mississippi has told us to-day, no new legislation is needed, but only the execution of laws already in force, your mode of redress instead of a committee of investigation into supposed intimidation should be a committee to find out why your own officials have not performed their duty. Begin with them; bring them to trial and punishment if they have neglected to discharge their duty.

Ah, but, Mr. President, that would not make a very good campaign document next fall. It would be a document of a very different kind from one that, upon all the loose hearsay or all the actual proofs, should show up the violence or supposed violence, the intimidation or supposed intimidation, that took place at the last election in Mississippi. There is the difference as wide as the sea. Call your republican officials to account for not executing the laws, and your document would injure instead of aid the republican party next fall. But get up a frightful picture, whether upon true or false testimony, of a violation of the rights of the colored men in the South, of intimidation, violence, and the like—do that, and then every stump speaker of your party can go upon the stump, and shake it in the face of the people, and say, as the Senator from Massachusetts did, that no southern man can be trusted and that when he talks in favor of the Union he lies! Well, for one, I will not aid in making any such campaign fodder. For one I will not pay out the people's money for any such purpose. For one I will not agree that we shall exercise a power that is not conferred upon us by the Constitution, simply to make electioneering documents for any party, either my own or any other. I therefore will not vote for this resolution. There is no necessity for it.

Now upon the question of whether there has been intimidation or violence down there, I have no opinion to express. I have seen statements both ways upon that point, but one thing I do say, that the idea that the white people of Mississippi or of any other State organize for the purpose of tyrannizing over the colored population and depriving them of their rights, seems to me to be pretty well answered by a few general considerations. Who constitute the mass of the laboring population in the State of Mississippi? Confessedly the colored people. They are in the majority. The great amount of property in that State is held by the whites. The colored population necessarily are a population of laborers. Who need their services? The property-holders. In what does property in Mississippi mainly consist? In land; it is an agricultural State. There is scarcely a manufactory in it; it is as much an agricultural State as, if not more so than, any State in all this Union. It has no sea-port of any consequence. It is almost purely an agricultural State and needs agricultural labor, and the colored population there are the agricultural laborers to a great extent; in fact, to the greatest extent. Will anybody tell me that the property-holders there, the white population, want to tyrannize over that laboring population so as to make them leave the State; make it impossible for them to remain there? They need that laboring population as much as that laboring population needs their good will and employment. Neither can do without the other; and the very fact of the increased production in that State, the increased agricultural production to which we have been referred, is the best evidence in the world that the white population and the colored population are in the main getting along on terms of peace and harmony.

Why, sir, to see one of the word-pictures sometimes painted here, and to form an opinion from extracts cut out here and there from newspapers, one would suppose that a perfect state of anarchy exists in the State of Mississippi, and has existed there for years gone by. If so, I crave to know how it is that her agricultural productions have increased from year to year. I crave to know how it is that there has been a migration of colored people to Mississippi and no emigration of colored people from Mississippi of any account? I want to know why it is that colored people have left Alabama and Georgia and Virginia and North Carolina, and gone to Mississippi, if Mississippi is a kind of hell for the colored race, where nothing but a devil could live. No, it will not do at all. These pictures that are displayed before us on the eve of every great election, these one-sided pictures that are executed for party effect, will not do in the face of the fact of a migration to that State of colored population, and of no emigration from it of colored population; of an increase year by year of her agricultural products, and of the fact that general peace and quiet have existed in that State. That there have been outbreaks from time to time, it would be useless to deny. No man deplores them more than I. No man is more opposed than I am to any improper, much less violent, interference with the rights of any citizen of the United States, whether he be black or whether he be white. I am as much opposed to it as anybody. Years ago I said in the Senate, when speaking of the Ku-Klux, that those men were their own worst enemies and the worst enemies of the white people of the South; that their course tended to aggravate and excite the people of the North, so that they were in no condition to deal fairly and kindly toward the people of the South. I denounced them then as enemies of the South, and I denounce to-day as enemies of the South any men who resort to banded violence to deprive citizens of their rights secured to them by their State constitutions or by the Federal Constitution or laws.

These are my feelings about this matter. But because I feel that way, because I know that these men are simply furnishing material with which the opponents of the democratic party are to assail us at the North, by which such intemperate feelings as were exhibited in this debate yesterday by the Senator from Massachusetts are to be reiterated throughout the North, as well as because the thing is wrong in itself, I appeal to every one of those men to obey the law; but I am not willing to condemn them on hearsay and I am not willing to believe in every black picture of the conduct of those men that may be drawn; much less am I willing to go outside of the Constitution and proceed to investigate that which we have no power under the Constitution to remedy.

For these reasons, Mr. President, I shall vote against the resolution.

Mr. MORTON. Mr. President, I rise simply to express the hope that we may now have a vote on the resolution.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from North Carolina.

Mr. MERRIMON. On that I ask for the yeas and nays.

The yeas and nays were ordered.

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

The CHIEF CLERK. It is proposed to strike out in the second line of the preamble the words "State officers and members of the Legislature;" so as to read:

Whereas it is alleged that the late election in Mississippi in 1875 for members of Congress was characterized by great frauds, &c.

Mr. SAULSBURY. Mr. President, I had hoped that the Senator from Indiana would not insist upon pressing a vote on this resolution this evening. I desire to submit some remarks upon it, and understand that other gentlemen on this side of the Chamber also desire to speak upon it. I do not wish to trespass on the patience of the Senate, which I know will be exhausted by any long discussion of this subject. I had hoped, therefore, that the Senator from Indiana would have consented that this resolution should go over until Monday. If, however, it shall be the pleasure of the Senate that the debate shall be closed to-night, I propose before the vote is taken to submit some remarks on this question.

I shall not attempt, Mr. President, to discuss the constitutional question involved in this resolution. That has been so ably done by the Senator from Ohio [Mr. THURMAN] who just preceded me, as well as by other gentlemen on this side of the Chamber, that I think it entirely unnecessary to enter into any argument to show that there is a want of constitutional power in the Senate of the United States to do what is proposed to be accomplished by the resolution under consideration. Yet I must be allowed to say that it is a strange doctrine, and to me it is an entirely new doctrine, that the Congress of the United States can directly or indirectly inquire into the manner in which an election for State officers is conducted within the limits of a State. The assumption of such a power on the part of Congress is in my opinion most dangerous and tends to the destruction of that system of local self-government which has heretofore been enjoyed by the people of every State in this Union. And yet that is the assumption of this resolution, that the Congress of the United States may inquire into the manner in which a State election has been conducted within the State of Mississippi. If such a power exist with reference to that State, then it is clear that Congress may inquire into the manner in which elections are conducted in every State of this Union; and if such a power is conceded to Congress all local self-government is practically at an end.

But, sir, I do not propose this evening to discuss the constitutional question, as I before remarked. That has been most ably discussed and the want of power in Congress to make such inquiry demonstrated to the satisfaction, I think, of every Senator who has listened to the arguments on that subject made on this side of the Chamber. That there is no warrant of authority, either in the original Constitution or in the amendments to the Constitution, that will justify Congress in invading the rights of a State by attempting to inquire into or control the election within the States for State officers has heretofore been universally admitted.

But my purpose is not to discuss that question. The object of this resolution is very apparent from the discussion which has taken place in this Chamber, and no effort on the other side of the Chamber can conceal that object. In the first place, one of the objects that inspired the introduction and the pressing of this resolution is to create a public sentiment in the North hostile to the people of the South and to make a political campaign document which is to be used throughout this land in stirring up the feelings of hate toward the people of the South as one of the means whereby the present party in power may be continued the privilege of rioting in the spoils of place. That is evidently one of the objects, if we can infer anything from the tone of debate which has been indulged in in this Chamber.

Another object is to find some possible excuse, some pretense or excuse for the rejection of the Senator-elect from Mississippi when he shall present himself here to take his seat as a member of this body. That, I infer from the tone of the debate, as well as from the language of the resolution and the preamble to the resolution, is one object proposed to be accomplished by this contemplated investigation. What excuse is there for any such inquiry? An election was held in the State of Mississippi last November and that State went democratic. That perhaps was, to the Senator from Indiana, a very unexpected result; certainly it furnished the only ground for his proposed inquiry into the manner in which the election was conducted. The Senator saw here a field which he could glean and from which he could gather perhaps some bloody sheaves that might be used by him in this campaign. The Senator is expert at gleaning and no field is uninviting. Even the barren stubble does not escape him. He puts not to himself the inquiry which the mother-in-law of Ruth put to her on a certain occasion, "Where hast thou gleaned to-day?" but he comes to Congress at every session and every morning during the session with that question somewhat reversed, "Where *shall* I glean to-day?" Exasperated, perhaps, that this election had gone democratic, the Senator, early in December, introduced his resolution, expecting to reap a rich harvest to be used in the coming presidential canvass.

Now, sir, I do not think that the object proposed will be accomplished. The "bloody shirt" has been flaunted perhaps in other campaigns with effect; but the people of this country are beginning to understand that it is but the old story; that it is but the trite tale that has been told time after time, whenever an election is to come off. They begin to believe that the people of the South are not the desperadoes which they are represented to be; that they are American citizens, peaceful and intelligent, and attached to the Federal Constitution and to the Union of the States; and, whatever credit the story about outrage may have had in other campaigns, my impression is that in that which is to come off this fall it will lose its potency and effect.

But, Mr. President, I must express my regret that any such debate as that which has taken place has been indulged in in the Senate. I regret the introduction of this resolution and I regret the discussion which has followed it. It is not calculated to advance the material interests of this country, it is not calculated to promote the happiness of the people of this country, but it may lead to hatred, to unkind feeling, and to the depression of the material interest of the country.

Sir, it is impossible that prosperity can prevail in this land when there is an evident purpose and effort on the part of one section of this country to array itself in hostility to the other. What the country needs is peace. What the business interests of this country need are repose and confidence; and every effort that is calculated to stir up unkind feelings on the part of the people of one portion of this country against another is adverse to the prosperity of the country and the interests of the people of this country. I regret, therefore, that at this session, when the business interests of the country are prostrate, a measure of this kind, so well calculated to destroy that confidence which alone can build up the industries of this country, should have been introduced, and that a heated debate which has taken place in this Senate, notably yesterday, should have been indulged in in the discussion of this resolution.

I regret, too—and I may be allowed to express the regret—that this Senate Chamber, which should be the theater on which grave questions are discussed, where the members of the body should deliberate on measures to advance the happiness of the people, should be turned into an arena for gladiatorial strife, for party harangues. I regret, too, sir, that the great interests of this country are to be neglected and that this session is to be devoted, or at least a part of this session is to be devoted, to the effort to build up the political fortunes of a distrusted party and the political fortunes of ambitious men.

Sir, in other days this body devoted itself carefully to the business of the country, and then the prosperity of the country was advanced, the peace of the country was promoted, and the happiness of the people was secured; but now, as a presidential election is coming off, this high body is to be converted into a political arena, where strife in debate for the purposes of accomplishing party success and individual ambition is to take the place of the true interests and dignity of the country.

Now, sir, does not the business of this country require our attention? What is the picture to-day held out before the American people? Extravagance and corruption is marking almost every department of the Government. The Senator from Indiana yesterday referred to the investigations in the other House of Congress as party investigations; but the people of this land who love their country more than party, the great body of the American people, are to-day startled by the fact that all over this land extravagance and corruption are undermining the free institutions under which they live; and alarm is justly felt at the revelations that have been made that the money of the people has been wasted, has been squandered in jobs to party favorites; and the people of the country are beginning to realize what they have so often been told by the minority in this Chamber, that the money which was extorted from them by taxation was being used illegally. Sir, liberal institutions throughout the world have had a check by the revelations that have been made in this country, and the note of joy is heard from the lips of those in favor of monarchies and centralized power in Europe because of the revelations here of the extravagance and corruption that have been found to exist. They attribute it to our system; but it is a libel on the American system. It may be true of the administration of government, but it is not true of that form of government established by our fathers, and which it is our highest duty to preserve pure and intact. Not only has corruption and extravagance been found to exist in our land, and which demands our prompt and immediate attention, but every other interest, your financial interests—and I am pleased that the chairman of the Finance Committee of this body is present and listening to my argument—demand the constant, untiring attention of this body until they are put in a better condition. What is the condition of your finances to-day? Your money with which the people of this country buy and sell is now at a depreciation of twelve or fourteen cents on the dollar, and it is to that extent a tax upon every man who uses it. On its face the greenback may bear the impress of the dollar, but when you go to the markets to purchase anything it has not the purchasing power of the dollar; and one of the chief and highest duties of this Congress and of this body is to improve the financial condition and furnish to the people of this country a currency as nearly equal in value to gold as can be done with safety to the business of the country.

Again, your taxing system is oppressive. The people are burdened with taxation, and they need relief, and the efforts of Congress should be directed to the relief of the people from the burdens of taxation

under which they suffer to so great an extent. Not only so; every industry in the land is being paralyzed. Go to any part of this country you may, and the industries of the people are languishing. This is true even up in New England. I was informed not long since by a naval officer that in the city of Boston he had enlisted into the marine service of the country excellent mechanics because they were out of employment and could get nothing to do at their trades. I have been told that in Rhode Island, where the whole State is almost engaged in manufacturing, the property of the State is greatly depreciated, that labor is unrewarded or out of employment. So, too, in Pennsylvania, your iron forges are still, or, in their own language, blown out. A large part of them have discharged their hands, and are closed up, and hundreds and thousands of men in that State, so rich in mineral wealth, so rich in everything that constitutes the wealth and greatness of a State, are out of employment, and business is languishing and employers are becoming bankrupt.

So, too, with our commercial interests. Our merchants are failing; they are unable to collect the debts due them, and are unable to meet their own obligations, and they are going down financially. Within the last year over seven thousand cases of bankruptcy occurred in this land. And yet in this condition of things, when the people are looking to this Hall and to the other Hall of Congress for relief, with this state of affairs existing in the country, our attention is not being given to that which would afford the proper relief, but it is interrupted with a discussion upon the question of how the people in the State of Mississippi voted at the last election and the manner in which their election was conducted.

I said, Mr. President, that property was being depreciated all over this land. I believe that in the State in which I live—and I am sure it is as free from embarrassment as any State in the Union—the real property to-day would not sell for more than two-thirds what it would have brought two years ago, and less than half what it would have brought at a period not very remote. Why is this? It is because there is not the proper relief given to the people, because their burdens are not lightened, because this Senate is not giving, in my judgment, that attention to the public business which it ought to give, but takes up the time which ought to be devoted to public affairs in the discussion of a question at least of doubtful right—a question of inquiring in reference to the manner in which an election has been conducted within the State of Mississippi!

Now, Mr. President, is there any pressing necessity for this investigation? Is there any valid reason or excuse why such an investigation should be made? I propose to test that by the remarks of the Senator who introduced this resolution in December last. I looked this morning at the reasons which he assigned for the introduction of the resolution, and I propose to call the attention of the Senate to them. The Senator's first statement was that in the elections of 1869, 1872, and 1873 the republicans carried the State by a large majority; that in 1875 that majority was reversed, and largely reversed. That is the first fact which he states for the justification of the introduction of his resolution; that there had been a change in the political sentiment of the people of Mississippi. Why, sir, there have been at times changes in the political sentiments of the people of every State of this Union. There was a notable change in the political sentiments of the people of Indiana at the time the honorable Senator was elected governor. There have been changes in all the States at times in the political sentiments and in the votes which the people have cast. That certainly can be no valid reason why there should be an inquiry into the manner in which the election in the State of Mississippi was conducted.

Passing on from that, I find the Senator stated as another reason the manner in which the canvass was conducted, and he detailed how the political canvass in Mississippi was conducted, how the democratic party called and held their meetings, how they marched with drum and fife, with banner and with song, from point to point, and held their political meetings and discussed political questions. That is another of the reasons assigned. And then another reason he assigned was "the management on election day;" and he entered into a narration of how the political parties on election day managed their interests. He went into some details. He said:

> In several places cannon were carried near the polling-places, so as to be publicly seen.

That is one of the reasons; he does not urge that anybody was killed, not even that a cannon was fired.

> Small-arms were fired in hearing distance of places where people were voting in one or more counties.

Simply because there was a musket or small-arms of some kind fired within a distance that could be heard, that is another reason why this investigation is to be had!

The Senator says:

> A very general means used to prevent free voting was for democrats, generally white men, to crowd around the voting-places.

That is common in almost every State in this Union. I know that I have struggled time and again to get to the polls to vote in my own town. I have sometimes gone off and waited until there was less pressure, and then deposited my ballot. And yet because there was crowding around the voting-places in Mississippi the Senator from Indiana gravely urges that as one of the reasons why the investigation should be had to ascertain if the election in Mississippi was fair.

Another reason assigned is that democrats made side-remarks, "cursed 'niggers' in an audible, though covert way." So, Mr. President, because some foolish man improperly cursed some negro in an inaudible manner when the poor negro could not hear it, that is made an excuse for the introduction of this resolution and for the investigation which it proposes.

Another point made is that the democrats "eyed the voters with intense expression," and the like. I do not know what the Senator may mean by eyeing voters. I suppose it is looking at them. That is customary, and I know of no power in the Congress of the United States to close the eyes of democrats or of republicans. They will generally use their eyes as they please. There was a time I believe in the history of this country when the attempt was made to lay an embargo on the tongue. Your sedition law did that; and I remember hearing when I was a boy some of the songs that commemorated the assault upon free speech. When persons who were hostile to that sedition law knew that they were out of hearing of their enemies, they would sometimes get together and sing an old ditty:

> Since we may neither speak nor write
> In words that may our betters bite,
> We'll sit mum-chance from morn till night
> And pay them off in thinking, sir.

And I apprehend that, if Congress attempt to regulate the eyes of democrats, they have got a bigger job on hand than they have undertaken heretofore. And yet these are gravely assigned as some of the reasons why this resolution is necessary, why this investigation should go on.

Mr. President, this resolution was introduced because men crowd around the polls and eye voters with intense interest, and because some unthinking man cursed negroes, inaudibly but very improperly, I think! I think it is wrong to curse under any circumstances; just as wrong to curse a negro as anybody else. I am opposed to it as much as the Senator from Indiana; but I do not know of any authority or power in the Congress of the United States to prevent any such wrong.

But how comes the zeal of the Senator from Indiana to be so recently invoked? Have there not been outrages committed upon the people in other States in connection with elections? It was only a few years ago when the military power of this country was sent to the city of New York, and the guns of the Navy of the country were pointed at the city on election day. I have seen the Federal soldiery march to the polls in my own town and charge bayonets upon the persons assembled around the polls. Why was not the zeal of my friend from Indiana invoked to redress the wrongs on the people of Delaware? I know, too, that a military chieftain, the commander of the department in which I lived at the time, made his edict, and prescribed conditions for the voting of the people of my State, an edict which prescribed as a qualification for voting that if any man should challenge the vote of any democrat the democrat should not vote until he took an oath prescribed by this military chieftain; and the whole democratic party of the State of Delaware was disfranchised and driven from the polls because they would not submit to have their right to vote prescribed by a military chieftain. There were but thirteen democratic votes cast within the State. Has the voice of the Indiana Senator attempted to redress the wrongs of the people of Delaware? I can hardly think of that instance without feeling some indignation. That military commander, who lately represented this country at the Court of St. James, and who had to return from his mission to answer charges preferred against him before a committee of the House of Representatives, did a great injustice to the people of my State. I do not say that General Schenck is guilty of having used his official position in London to float the stock of a worthless mining corporation; but I do say here, and I say it in the presence of some of his political friends, that the man who could be capable of treating the people of any State in this Union as General Schenck, while military commander of that department, treated the democratic party of Delaware, is capable not only of floating worthless stock by virtue of his official relations to the Government, but in my opinion he is capable of almost any other crime. Yet with these facts before us, and while it has been known that there has been riot and sometimes bloodshed in your large cities, never until the change in the political sentiment of the people of Mississippi occurred did it enter the mind of the Senator from Indiana or any other Senator on the other side of this Chamber to institute an investigation, or that any power existed in Congress to interfere with the results of elections in the States.

Mr. SHERMAN. Will the Senator from Delaware allow me to make a motion to adjourn the Senate till to-morrow? ["No!" "No!"]

Several SENATORS. Let us adjourn till Monday.

Mr. EDMUNDS. O, no; let us finish this to-night. We had better stay here a while longer than come back to-morrow.

The PRESIDENT *pro tempore*. Does the Senator from Delaware yield to the Senator from Ohio?

Mr. SAULSBURY. I submit myself to the pleasure of the Senate.

Mr. SHERMAN. I move that the Senate adjourn.

Mr. EDMUNDS. I hope not.

The PRESIDENT *pro tempore*. Does the Senator from Delaware yield for that purpose?

Mr. SAULSBURY. I prefer to go on, as it does not seem to be the general desire to adjourn at present.

The PRESIDENT *pro tempore*. The Senator from Delaware has the floor, and declines to yield for that purpose.

Mr. WHYTE. I move that the Senate do now adjourn until Monday next at twelve o'clock.

Mr. EDMUNDS. Is that motion in order?

The PRESIDENT *pro tempore*. It may be entertained.

Mr. EDMUNDS. There is a pending question, I believe.

Mr. WHYTE. Is it not in order, with the consent of the Senator from Delaware, to move that when the Senate adjourns to-day it be to meet on Monday next?

The PRESIDENT *pro tempore*. If the Senator from Delaware yields for that purpose, the motion may be received.

Mr. EDMUNDS. Is it in order when there is another question pending to offer a resolution of that kind?

The PRESIDENT *pro tempore*. Not when there is a pending motion, except to adjourn.

Mr. EDMUNDS. The pending question is on agreeing to the resolution of the Senator from Indiana.

The PRESIDENT *pro tempore*. A motion to adjourn would be in order.

Mr. EDMUNDS. That is exactly what I say; no other motion can be interposed.

Mr. CONKLING. Or a motion to postpone the pending question in order to move to adjourn over.

The PRESIDENT *pro tempore*. That motion would be in order.

Mr. EDMUNDS. I make the point of order that the motion of the Senator from Maryland is not in order.

Mr. WHYTE. I move to postpone the consideration of the pending question.

The PRESIDENT *pro tempore*. That motion is in order. Does the Senator from Delaware yield for that purpose?

Mr. SAULSBURY. Yes, sir.

The PRESIDENT *pro tempore*. The Senator from Delaware yields to the Senator from Maryland, who moves to postpone the present order.

Mr. MORTON. I hope that will not be done.

The PRESIDENT *pro tempore*. The question is on the motion to postpone.

The motion was not agreed to; there being on a division—ayes 21, noes 24.

Mr. SAULSBURY. As it is apparent that the Senate desire to reach a vote this evening, I will not consume much more of their time; but I cannot close the remarks which I have made without expressing my regret that the Senator from Massachusetts [Mr. BOUTWELL] yesterday saw proper to indulge in such heated remarks in reference to the democratic party, of which I am an humble member. I was exceedingly sorry that that gentleman, who I thought was as a general rule reasonably amiable, saw proper to use toward the democrats of the Senate, and especially the democrats from southern States, remarks which I think were unjust to them, and, I will take occasion to say, unjust to the Senator himself. If I understood his remarks they meant to convey the impression that any man who lived in a southern slave State, a State that had been a slave State, who was brought up where the institution of slavery existed, was not to be believed in his professions of attachment to the Federal Union. If I misunderstood the Senator he will correct me, for I do not wish to do him injustice. That remark, I repeat again, was most unkind and unjust to the people of those States. It was most unkind and unjust to members of this body who reside within the limits of States that were formerly slave-holding States. And, I repeat again, it was most unfortunate for and unjust to the Senator himself. It only indicates a feeling of hatred which I had not supposed lodged in the breast of that Senator. I do not claim to have been brought up under the influences of slavery, yet I lived in a State where slavery existed. I never owned a slave, never desired to own a slave, but I repel the insinuation that gentlemen who reside in slave-holding States are less truthful than gentlemen who were raised in the land of the pilgrims. As a Senator on this floor, having resided in a State where there were a few slaves, I take it upon myself to say that my associations with gentlemen who have been raised in southern States have given me as high an appreciation of their character, not only for veracity but for honor and everything that is manly and noble, as my associations with gentlemen who were not raised in those States.

The Senator did not utter the sentiment of the people of Massachusetts, and I know it. I have met gentlemen from that State; and I read the glowing descriptions of the kindly feelings that were manifested at Lexington and Bunker Hill last year, and I infer from those manifestations that the great body of the people of Massachusetts are friendly and kind in their disposition. They are not to be judged by the remarks of the Senator from Massachusetts who represents them, but they are to be judged by their own acts. They are not to be held responsible for the intemperate remarks of those who have the honor to represent them in this Chamber, but by their own acts are they to be judged; and those acts, let me say, were most honorable and most noble on the occasions to which I refer, when they treated with unusual hospitality the men who had been in battle array against the northern portion of this land. They wanted to see all strife and all discord forever wiped away and hushed. Business men of the country long for peace and prosperity, that their interests may be secured, when industries may be revived and peace and concord may dwell throughout land. It is the duty of Senators, as I believe, not to stir up strife, but to promote by their legislation and by the inculcation of the spirit of reconciliation and peace that concord and harmony which should distinguish the people of this whole land.

I hope, Mr. President, that the time is not far distant when every utterance of passion, when every sentiment of hate and hostility may be hushed, and when the people of the whole land will join in one anthem of praise that the strife of a few years ago has been entirely obliterated and forgotten.

I will not trespass longer upon the attention of the Senate. I would have preferred that this subject should have gone over until Monday, when I might perhaps have given a more extended notice to the resolution under discussion.

The PRESIDENT *pro tempore*. The Senator from North Carolina moves to amend the preamble. The question will be first on the passage of the resolution.

Mr. DAVIS. Do I understand that we now vote on the resolution?

The PRESIDENT *pro tempore*. Upon the resolution, not the preamble. Upon that question the yeas and nays have been ordered, and the Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. WRIGHT, (when Mr. ALLISON's name was called.) I desire to say for my colleague that he is compelled to be absent this afternoon, and that he is paired with the Senator from Connecticut, [Mr. EATON.] If the Senator from Connecticut were present he would vote against the resolution, and my colleague [Mr. ALLISON] would vote for it.

Mr. BURNSIDE, (when his name was called.) I desire to say that I am paired upon this question with the Senator from Maryland, [Mr. DENNIS.] If he were here he would vote "nay" and I should vote "yea."

Mr. DAVIS, (when his name was called.) On this question I am paired with the Senator from Minnesota, [Mr. WINDOM.] If he were here I should vote "nay," and he would vote "yea."

Mr. DAWES, (when his name was called.) I am paired with the Senator from Connecticut, [Mr. ENGLISH.] If he were here I should vote "yea," and he would vote "nay."

Mr. WITHERS, (when Mr. JOHNSTON's name was called.) I will state that my colleague is paired with the Senator from Iowa, [Mr. WRIGHT.] If present my colleague [Mr. JOHNSTON] would vote "nay," and the Senator from Iowa would vote "yea."

Mr. JONES, of Florida, (when his name was called.) On this question I am paired with my colleague, [Mr. CONOVER.] If he were here I should vote "nay," and he would vote "yea."

Mr. OGLESBY, (when Mr. MCDONALD's name was called.) The Senator from Indiana [Mr. MCDONALD] and the Senator from Nevada [Mr. SHARON] desired me to state that they were both necessarily absent from the Senate this afternoon. If they were here the Senator from Indiana would vote "nay," and the Senator from Nevada would vote "yea."

Mr. WALLACE, (when his name was called.) I am paired with the Senator from Maine, [Mr. MORRILL.] If he were here he would vote "yea" and I should vote "nay."

Mr. WRIGHT, (when his name was called.) I am paired with the Senator from Virginia, [Mr. JOHNSTON.] As stated by his colleague, I would vote for this resolution, and the Senator from Virginia would vote against it.

Mr. BOGY, (after having voted in the negative.) I desire to recall my vote. I am paired with the Senator from Maine, [Mr. HAMLIN.] If he were here he would vote "yea" and I should vote "nay."

Mr. INGALLS. My colleague [Mr. HARVEY] desired me to say that he was necessarily absent from the Chamber and was paired with the Senator from New Jersey, [Mr. RANDOLPH.] My colleague would, if present, vote for the resolution, and the Senator from New Jersey against it.

The Secretary concluded the call of the roll; which resulted—yeas 29, nays 19; as follows:

YEAS—Messrs. Anthony, Boutwell, Bruce, Cameron of Wisconsin, Christiancy, Clayton, Conkling, Cragin, Dorsey, Edmunds, Ferry, Frelinghuysen, Hamilton, Hitchcock, Howe, Ingalls, Key, Logan, McMillan, Mitchell, Morrill of Vermont, Morton, Oglesby, Paddock, Robertson, Sargent, Sherman, Spencer, and Wadleigh—29.

NAYS—Messrs. Bayard, Booth, Caperton, Cockrell, Cooper, Goldthwaite, Gordon, Kelly, Kernan, McCreery, Maxey, Merrimon, Norwood, Ransom, Saulsbury, Stevenson, Thurman, Whyte, and Withers—19.

ABSENT—Messrs. Alcorn, Allison, Bogy, Burnside, Cameron of Pennsylvania, Conover, Davis, Dawes, Dennis, Eaton, English, Hamlin, Harvey, Johnston, Jones of Florida, Jones of Nevada, McDonald, Morrill of Maine, Patterson, Randolph, Sharon, Wallace, West, Windom, and Wright—25.

So the resolution was agreed to.

The PRESIDENT *pro tempore*. The question recurs on the amendment to the preamble offered by the Senator from North Carolina, upon which the yeas and nays have been ordered.

Mr. MORTON. I will ask to have the amendment reported to know what it is proposed to strike out. I do not understand it myself.

The PRESIDENT *pro tempore*. The Secretary will report the amendment.

The SECRETARY. It is proposed in line 2 of the preamble to strike out the words "and State officers and members of the Legislature;" so that, if amended, that portion of the preamble will read:

Whereas it is alleged that the late election in Mississippi (in 1875) for members of Congress was characterized by great frauds committed, &c.

The Secretary proceeded to call the roll.

Mr. WRIGHT, (when Mr. ALLISON'S name was called.) I desire to say that the pair of my colleague extends to all these questions, and I shall not announce it again.

Mr. BAYARD answered to his name.

Mr. BOGY, (when his name was called.) I am paired with the Senator from Maine, [Mr. HAMLIN.] If here, he would vote "nay" and I should vote "yea."

Mr. CONKLING. May I make an inquiry? I understand this is an amendment to the amendment of the Senator from Michigan, [Mr. CHRISTIANCY.]

The PRESIDENT *pro tempore*. The Senator from Indiana [Mr. MORTON] accepted the substitute of the Senator from Michigan.

Mr. CONKLING. If the Chair will allow me, I understand both Senators are willing to accept this verbal amendment. Why then the necessity of a roll-call?

The PRESIDENT *pro tempore*. The Senate ordered it.

Mr. EDMUNDS. I am not willing to accept the amendment.

Mr. CONKLING. The Senator from Michigan says he is willing, and the Senator from Indiana is willing. They have control of the measure, I take it.

The PRESIDENT *pro tempore*. The Senator from North Carolina has moved to amend the preamble as accepted by the Senator from Indiana. The Senator from Vermont objects to the amendment being accepted, and the Senate has ordered the yeas and nays upon the amendment. Therefore the roll-call must proceed.

Mr. SHERMAN. One response has been made.

The PRESIDENT *pro tempore*. One response has been made already, and of course it is beyond the power of any Senator. The Secretary will resume the roll-call.

The Secretary resumed the call of the roll.

Mr. BURNSIDE, (when his name was called.) I consider myself paired upon this question with the Senator from Maryland, [Mr. DENNIS.] If he were here he would vote "yea" and I should vote "nay" on this amendment.

Mr. OGLESBY, (when Mr. MCDONALD'S name was called.) Having made one statement in regard to the Senator from Indiana [Mr. MCDONALD] and the Senator from Nevada, [Mr. SHARON,] I suppose it is not necessary for me to repeat it, especially on a question which nobody seems to care anything about.

Mr. WALLACE, (when his name was called.) I am paired with the Senator from Maine, [Mr. MORRILL.] If he were here he would vote "nay" and I should vote "yea."

The Secretary concluded the call of the roll; and the result was announced—yeas 16, nays 29; as follows:

YEAS—Messrs. Bayard, Caperton, Cockrell, Cooper, Davis, Goldthwaite, Gordon, Kelly, McCreery, Maxey, Merrimon, Ransom, Saulsbury, Stevenson, Thurman, and Withers—16.

NAYS—Messrs. Anthony, Boutwell, Bruce, Cameron of Wisconsin, Christiancy, Clayton, Conkling, Cragin, Dorsey, Edmunds, Ferry, Frelinghuysen, Hamilton, Hitchcock, Howe, Ingalls, Logan, McMillan, Mitchell, Morrill of Vermont, Morton, Oglesby, Paddock, Robertson, Sargent, Sherman, Spencer, Wadleigh, and Windom—29.

ABSENT—Messrs. Alcorn, Allison, Bogy, Booth, Burnside, Cameron of Pennsylvania, Conover, Dawes, Dennis, Eaton, English, Hamlin, Harvey, Johnston, Jones of Florida, Jones of Nevada, Kernan, Key, McDonald, Morrill of Maine, Norwood, Patterson, Randolph, Sharon, Wallace, West, Whyte, and Wright—28.

So the amendment was rejected.

The PRESIDENT *pro tempore*. The question now is upon agreeing to the preamble.

Mr. MERRIMON. Upon that I ask for the yeas and nays.

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

Mr. BOGY, (when his name was called.) I am paired with the Senator from Maine, [Mr. HAMLIN.] If he were here he would vote "yea" and I should vote "nay."

Mr. BURNSIDE, (when his name was called.) On this question I am paired with the Senator from Maryland, [Mr. DENNIS.] If he were here he would vote "nay" and I should vote "yea."

Mr. WITHERS, (when Mr. JOHNSTON'S name was called.) My colleague is paired with the Senator from Iowa, [Mr. WRIGHT.] If my colleague were present he would vote "nay" and the Senator from Iowa would vote "yea."

Mr. WALLACE, (when his name was called.) On this question I am paired with the Senator from Maine, [Mr. MORRILL.] He would vote "yea" if present and I should vote "nay."

The Secretary having concluded the call of the roll, the result was announced—yeas 27, nays 18; as follows:

YEAS—Messrs. Anthony, Boutwell, Bruce, Cameron of Wisconsin, Christiancy, Clayton, Conkling, Cragin, Dorsey, Edmunds, Ferry, Frelinghuysen, Hitchcock, Howe, Ingalls, Logan, McMillan, Mitchell, Morrill of Vermont, Morton, Oglesby, Paddock, Robertson, Sargent, Spencer, Wadleigh, and Windom—27.

NAYS—Messrs. Bayard, Caperton, Cockrell, Cooper, Davis, Goldthwaite, Gordon, Kelly, Kernan, McCreery, Maxey, Merrimon, Norwood, Ransom, Saulsbury, Stevenson, Thurman, and Withers—18.

ABSENT—Messrs. Alcorn, Allison, Bogy, Booth, Burnside, Cameron of Pennsylvania, Conover, Dawes, Dennis, Eaton, English, Hamilton, Hamlin, Harvey, Johnston, Jones of Florida, Jones of Nevada, Key, McDonald, Morrill of Maine, Patterson, Randolph, Sharon, Sherman, Wallace, West, Whyte, and Wright—28.

So the preamble was agreed to.

HOUSE BILLS REFERRED.

Mr. MORRILL, of Maine. I ask that the bill to provide for a deficiency be taken from the table for reference at the present time.

The PRESIDENT *pro tempore*. The Chair will lay before the Senate a House bill for reference.

The bill (H. R. No. 2450) to provide for a deficiency in the Printing and Engraving Bureau of the Treasury Department and for the issue of silver coin of the United States in place of fractional currency was read twice by its title.

Mr. MORRILL, of Maine. Although the bill on the face of it appears to be an appropriation bill, on examining it I find that it contains legislation in reference to the finances and currency of the country. Therefore it occurs to me that it should go to the Committee on Finance. The Senator from Ohio will know best how that is.

Mr. SHERMAN. So far as the appropriation is concerned, it is a matter for the Appropriation Committee; but there are provisions that ought to be referred to the Committee on Finance.

Mr. MORRILL, of Maine. The appropriation is simply to provide for a matter of deficiency, rather than otherwise.

The bill was referred to the Committee on Finance.

The following bills were severally read twice by their titles and referred to the Committee on Finance:

A bill (H. R. No. 2951) to provide for the separate entry of express packages contained in one importation;

A bill (H. R. No. 1585) to authorize the Commissioner of Internal Revenue to designate and fix the points at which collectors and supervisors of the revenue shall hold their offices; and

A bill (H. R. No. 522) to define the tax on fermented or malt liquors.

The bill (H. R. No. 1344) directing method of annual estimates of expenditures to be submitted from Navy Department was read twice by its title, and referred to the Committee on Appropriations.

The bill (H. R. No. 1823) to change the name of the pleasure-yacht Ella to that of Myra was read twice by its title, and referred to the Committee on Commerce.

ADJOURNMENT TO MONDAY.

On motion of Mr. EDMUNDS, it was

Ordered, That when the Senate adjourns to-day it be to meet on Monday next.

WITHDRAWAL OF PAPERS.

Mr. MERRIMON. I offer the following order:

Ordered, That James Roberts and Noah Roberts have leave to withdraw from the files of the Senate their petition and papers.

Mr. EDMUNDS. Has there been an adverse report?

Mr. MERRIMON. There has been an adverse report, but it has not been acted on. The case stands on the Calendar.

Mr. EDMUNDS. The papers ought not to be withdrawn without leaving copies.

The PRESIDENT *pro tempore*. Copies are required to be left, according to the rule.

Mr. MERRIMON. The parties are prosecuting their claim in the House of Representatives, and these are the original papers.

Mr. EDMUNDS. I cannot help it. If there has been an adverse report, the papers ought not to be withdrawn without copies being left.

The PRESIDENT *pro tempore*. They cannot be withdrawn without copies being left.

Mr. MERRIMON. I ask to have the order amended so as to require them to leave copies.

The PRESIDENT *pro tempore*. It will be modified in that respect. The order, as modified, will be regarded as agreed to.

Mr. EDMUNDS. I move that the Senate adjourn.

The motion was agreed to; and (at six o'clock and two minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *March* 31, 1876.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. I. L. TOWNSEND.

The Journal of yesterday was read and approved.

CARL G. AND JOHN PALM.

Mr. HANCOCK, by unanimous consent, introduced a bill (H. R. No. 2949) for the relief of Carl G. and John Palm, of Travis County, Texas; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

WOMAN-SUFFRAGE IN THE DISTRICT OF COLUMBIA.

Mr. COX. Mr. Speaker, I am requested to present a memorial from the women-citizens of the United States, asking for a form of government in the District of Columbia which shall secure to its women-citizens the right to vote; and I ask the grace and favor to have their memorial printed in the RECORD.

Mr. BANKS. Mr. Speaker, I beg the privilege of saying a few words in favor of the request made by the gentleman from New York who presents this memorial. It is a hundred years this day since Mrs. Abigail Adams, of Massachusetts, wrote to her husband, John Adams, then a member of the continental convention, entreating him to give to women the right to protect the rights of women and predicting a general revolution if justice was denied them. Mrs. Adams

was one of the noblest women of that period, distinguished by heroism and patriotism never surpassed in any age. She was wife of the second and mother of the sixth President of the United States, and her beneficent influence was felt in political as in social circles. It was perhaps the first demand for the recognition of the rights of her sex made in this country, and is one of the centennial incidents that should be remembered. It came from a good quarter. The memorial represents 400,000 American women. They ask for the organization of a government in the District of Columbia that will recognize their political rights. I voted some years ago to give women the right to vote in this District, and recalling the course of its government I think it would have done no wrong if they had enjoyed political rights.

Mr. KASSON. I suggest that the memorial be printed without the names.

Mr. COX. There are no names appended except those of the officers of the association; and I hope they will be printed with the memorial.

Mr. HENDEE. I trust the gentleman will allow this petition to be referred to the committee of which I am a member: the Committeee for the District of Columbia.

Mr. COX. I have no objection to that.

There being no objection, the memorial was referred to the Committee for the District of Columbia, and ordered to be printed in the RECORD, as follows:

Memorial of women-citizens of this nation.

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

Whereas the Supreme Court of the United States has re-affirmed the decision of the supreme court of the District of Columbia in the cases of Spencer *vs.* The Board of Registration and Webster *vs.* The Judges of Election, and has decided that, "by the operation of the first section of the fourteenth amendment to the Constitution of the United States, women have been advanced to full citizenship and clothed with the capacity to become voters; and further that this first section of the fourteenth amendment does not execute itself, but requires the supervention of legislative power in the exercise of legislative discretion to give it effect; and whereas the Congress of the United States is the legislative body having exclusive jurisdiction over this District of Columbia, and in enfranchising the colored man and refusing to enfranchise any woman, white or colored, made an unjust discrimination against sex, and did not give the intelligence and moral power of the citizens of said District a fair opportunity for expression at the polls; and whereas woman-suffrage is not an experiment, but has had a fair trial in Wyoming, where women vote, where they hold office, where they have the most orderly society of any of the Territories, where the experiment is approved by the executive officers of the United States, by their courts, by their press, and by the people generally, and where it has "rescued that Territory from a state of comparative lawlessness" and rendered it "one of the most orderly in the Union;" and whereas, upon the woman-suffrage amendment to Senate bill No. 44 of the second session of the Forty-third Congress, votes were recorded in favor of woman-suffrage by the two Senators from Florida, the two from Indiana, the two from Michigan, and the two from Rhode Island, one from California, one from Illinois, one from Alabama, one from Arkansas, one from Louisiana, one from Kansas, one from Massachusetts, one from Minnesota, one from Nebraska, one from Nevada, one from Oregon, one from South Carolina, one from Texas, and one from Wisconsin; and whereas a fair trial of equal suffrage for men and women in the District of Columbia, under the immediate supervision of Congress, would demonstrate to the people of the whole country that justice to women is policy for men; and whereas the women-citizens of the United States are governed without their own consent, are denied trial by a jury of their peers, are taxed without representation, and are subject to manifold wrongs resulting from unjust and arbitrary exercise of power over an unrepresented class; and whereas in this centennial year the spirit of '76 is breathing its influence upon the people, melting away all prejudices and animosities and inspiring into our national councils a finer sense of justice and a clearer perception of individual rights: Therefore,

We pray your honorable body to frame a government for the District of Columbia which shall secure to its women-citizens the right to vote.

National Woman-Suffrage Association:

MATILDA JOSLYN GAGE,
President.
LUCRETIA MOTT,
ELIZABETH CADY STANTON,
Vice-Presidents.
HENRIETTA P. WESTBROOK,
Recording Secretary.
ISABELLA BEECHER HOOKER,
Corresponding Secretary.
MATHILDE F. WENDT,
Foreign Corresponding Secretary.
SUSAN B. ANTHONY,
Chairman Executive Committee.
ELLEN C. SARGENT,
Treasurer.

District of Columbia Woman-Franchise Association:

MARY F. FOSTER,
President.
E. D. E. N. SOUTHWORTH,
CAROLINE B. WINSLOW,
BELVA A. LOCKWOOD,
Vice-Presidents.
ELLEN H. SHELDON,
Recording Secretary.
SARA J. SPENCER,
English Corresponding Secretary.
E. MARWEDEL,
Foreign Corresponding Secretary.
EMMA A. WOOD,
Treasurer.

WAGES AND HOURS OF LABOR.

Mr. CAMPBELL, by unanimous consent, introduced a bill (H. R. No. 2950) to provide for the appointment of a commission on the subject of wages and hours of labor and the division of profits between labor and capital in the United States; which was read a first and second time, referred to the Committee on Education and Labor, and ordered to be printed.

ENTRY OF EXPRESS PACKAGES.

Mr. WOOD, of New York, from the Committee of Ways and Means, reported as a substitute for House bill No. 1069 a bill (H. R. No. 2951) to provide for the separate entry of express packages contained in one importation; which was read a first and second time.

Mr. WOOD, of New York. I ask that this bill be put on its passage now.

The bill was read. It provides in the first section that a separate entry may be made of one or more express packages contained in an importation of packed packages consigned to one importer or consignee, and concerning which packed packages no invoice or statement of contents or values has been received. Every such entry is to contain a declaration of the whole number of parcels contained in such original packed packages; and shall embrace all the goods, wares, and merchandise imported in one vessel at one time for one and the same actual owner or ultimate consignee.

The second section provides that the importer, consignee, or agent's oath prescribed by section 2841 of the Revised Statutes be modified for the purpose of the act so as to require the importer, consignee, or agent to declare therein that the entry contains an account of all the goods —— imported in the —— whereof —— is master, from —— for account of ——; which oath, so modified, shall in each case be taken on the entry of one or more packages contained in an original package. But nothing in the act is to be construed to relieve the importer, assignee, or agent from producing the oath of the owner or ultimate consignee in every case now required by law, or to provide that importation may consist of less than the whole number of parcels contained in any packed package or packed packages consigned in one vessel at one time to one importer, consignee, or agent.

Mr. WOOD, of New York. Mr. Speaker, I will explain very briefly the object of this bill. The law governing the entry of merchandise into the ports of the United States, particularly with reference to the special entry to be made in every case, has never been modified or amended since the original act of 1799, which is to be found in section 2785 of the Revised Statutes. A subsequent act, passed in 1823, which will be found in section 2841 of the Revised Statutes, prescribed the form of oath that every owner, consignee, or merchant should take at the custom-house before he could make his entry and receive the necessary permit for the discharge of his goods. By this form of oath, which every person is required to take, he is made to swear that his entry contains all the goods that he imports or of which he is the consignee.

Since the passage of that act, and since the provision of the oath, there has grown up in the country an interest of great magnitude called the European express agencies and companies. Those European express companies are conducted very much upon the same principle as are our domestic express companies. They receive in their agencies in Paris, London, and other parts of Europe a miscellaneous collection of packages addressed to some thousand consignees in the United States, presents from friends traveling abroad, orders for small packages sent through the instrumentality of the express companies and delivered to agents in New York to be distributed to those to whom they belong. Under this form of oath those express companies are obliged to swear the entry they propose to make contains a full statement of the goods they are required to receive. In many such cases there are no invoice, and in others there is no indication of the value or special character of the package to be received. Those companies have recently applied to the Secretary of the Treasury for some relief, but under the law he could not grant them relief. Now, at the request of the Committee of Ways and Means I have drafted a bill which I have been directed to report to the House.

I will have the letter of the Secretary read, and the House will then see, I think, the propriety of passing this bill, to which I believe there can be no objection. It is the letter inclosing the bill we have reported from the committee:

The Clerk read as follows:

TREASURY DEPARTMENT,
Washington, D. C., February 3, 1876.

SIR: Referring to your letter of the 20th of December, submitting a bill (H. R. No. 1069) "to provide for entry of single packages from a bill of lading," and requesting my "opinion relative to the passage of said bill," I have the honor to state that this Department does not consider that legislation in the form proposed in the bill would be expedient; and that it is somewhat difficult to frame a bill that will meet the object in view, harmonize with existing laws, and afford proper protection to the revenue.

It is suggested, however, that the first section of the bill should be so modified that express companies only can avail themselves of its provisions, and so that the custom-house may be in possession of a complete record of the entire contents of each package to insure payment of duty on all.

The oath prescribed by section 2841 of the Revised Statutes is believed to be of use in the collection of the revenue, and should not be modified as regards all importations in the manner provided for in the bill or further than is required for purposes of the act proposed. The section of the law above cited requires one entry to embrace all goods imported in one vessel at one time for one owner, importer, or consignee, and it is thought that all packages belonging to any one owner should still be included in one entry in such manner as to conform as far as possible to the provisions of the statute.

It appears, further, that the actual owner of the packages entered should take the oath prescribed by the section referred to, which has been in use since the year 1823, and that a modified oath should be taken by the consignee.

The second section of the bill should be changed accordingly.

The Department recommends briefly that a separate entry be allowed; that it be restricted to packed packages; that on each entry a declaration shall be made of the whole number of parcels; that the separate entry shall embrace all packages

on the importing vessel owned by one person; that the consignee shall declare that fact; that the owner shall take the usual importer's oath; and that an importation shall not be considered to consist of less than the entire packed package or packages consigned to one person or firm.

A draught of a bill more fully expressing the Department's views is inclosed herewith for your information, which bill, it is believed, will facilitate the business of the express companies without being liable to serious objections.

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

B. H. BRISTOW,
Secretary.

Hon. W. R. MORRISON,
Chairman Committee Ways and Means,
House of Representatives, Washington, D. C.

Mr. WOOD, of New York. This is the bill we now report. I now demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WOOD, of New York, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

TAX ON FERMENTED OR MALT LIQUORS DEFINED.

Mr. MORRISON, by unanimous consent, from the Committee of Ways and Means, reported back a bill (H. R. No. 522) to define the tax on fermented or malt liquors, with amendments.

The bill, which was read, provides that nothing contained in section 3337 of the Revised Statutes of the United States shall be so construed as to authorize an assessment upon the quantity of materials used in producing or purchased for the purpose of producing fermented or malt liquors, nor shall the quantity of materials so used or purchased be evidence, for the purpose of taxation, of the quantity of liquor produced; but the tax on all beer, lager-beer, ale, porter, or other similar fermented liquor, brewed or manufactured, and sold or removed for consumption or sale, shall be assessed and paid as provided in section 3339 of said statutes, and not otherwise.

The amendments were read, as follows:

Strike out of line 12 the words "assessed and."
Add to the bill the following proviso:
Provided, That this act shall not apply to cases of fraud.

Mr. MORRISON. Mr. Speaker, the bill just reported amends the law taxing fermented liquors; at least, it changes it as interpreted by the Internal-Revenue Office. The law now requires brewers of ale, porter, beer, and like products to keep a book in which shall be entered a daily statement and account of the kind and quantity of liquors produced, the quantity actually sold or removed for consumption and sale, and of all materials, including grain and malt, purchased and used for producing such fermented liquors. The books, statements, and accounts to be kept are to be open and subject to the inspection of all revenue officers and agents. Severe penalties are imposed upon brewers failing to keep and furnish, monthly, the accounts, statements, and books required. And a tax of $1 per barrel of thirty-one gallons is required to be paid on all fermented liquors made and sold, or removed for consumption and sale.

Under these provisions of the law in force, Mr. Douglass, former Commissioner of Internal Revenue, having ascertained that two and one-half bushels of malt was a fair average quantity for producing a barrel of beer of thirty-one gallons, established this average quantity as a basis of taxation by a rule of his Office. Any malt or material used in excess of the quantity fixed by this rule, with all the facts in relation thereto, and the person using the same, were to be reported to the Commissioner that he might judge as to a further assessment based upon such excess; but no assessment was ever made by said Commissioner.

The present Commissioner has given practical effect to this rule; has made, and continues to make, assessments under it; assessments which add but an inconsiderable sum to the revenues while they are vexatious and unjust to the tax-payer.

Had it been intended that such a rule or basis of assessment should be made, doubtless the law would have so provided. Its establishment and the requirement of the payment of taxes in accordance therewith is believed to be arbitrary and not within the purposes of the law. However this may be, it is believed that it is unjust in principle, annoying and vexatious in its execution, and in no wise necessary to the collection of any tax due the Government.

The same tax of $1 per barrel is imposed on ale, porter, and beer. But these are of different strength, and require different quantities of material to produce them, or the same number of gallons of each. And so it is shown that quantity, not strength, was made, and should be made, the basis of taxation. Barrels of thirty-one gallons actually produced, not the strength or quality of the gallons, and not the materials of which the gallons were made, were to be, and should be, taxed. The Commissioner may rightfully make, and it is his duty to make, needful rules for detecting fraud and for collecting a tax imposed by law, but he cannot impose and ought not to be allowed to impose any.

Mr. CONGER. I suppose the object of having the grain assessed under the law as it stands was to have a check upon the manufacture and sale of more ale or beer than was actually accounted for, and I believe it has proved, without being of particular value in the way of assessment, a great check upon fraud—perhaps one of the principal checks in the manufactures of this article. I will ask the chairman of the committee whether he has consulted with the Commissioner of Internal Revenue on this subject?

Mr. MORRISON. We have. The Brewers' Association was represented before the committee, and presented their side of the question, and two representatives of the Treasury Department or Bureau of Internal Revenue were also present at the request of the committee, and presented the reasons for the rule fixed as a basis of assessment, and suggested an amendment to the bill, which was regarded as right and proper and which the committee adopted.

The gentleman from Michigan is probably aware that not only are fermented liquors, ale, porter, or beer, though paying the same tax, made of different strength, requiring varied quantities of material to make them, but the malt as well as the grain of which it is made is of different weight and strength, and yields per bushel unlike quantities of the essential ingredients for producing these liquors. Two and one-half bushels of barley grown in California or in Western Canada will equal for beer production three bushels grown in the Northwest and perhaps in many other localities. The same and greater inequality exists in the kinds and grades of malt. The conditions which give and require different strength in the article produced and make necessary different quantities of material in its production are various. It must have more strength to bear transportation. It must be heavier if it is to be stored after transportation or made to bear the changes of climate. But to give more strength and greater weight more material is required. Hence the attempt to fix arbitrarily by law or otherwise the quantity of two and a half bushels of malt for the production of a barrel of beer is to direct the brewer what kind of beer he should make, without reference to the demands of his trade; this is not only unjust, but impracticable.

In many, if not a majority, of the cases where assessments have been made and extra taxes exacted for malt used in excess of two and one-half bushels per barrel produced, the average for the year was less than that quantity, and the excess was claimed by singling out months when a stronger article, requiring more material, was made. And in a case arising in Baltimore, an assessment was made of $14, only for the month of September last, because for that month more than two and a half bushels of malt was used to the barrel produced, while for the year the average quantity used by the brewer so assessed was less than two and a quarter bushels per barrel produced, and upon all of which the tax had been paid. The capital of the country invested in this industry is at least $100,000,000. The yearly revenue derived from this source is $9,000,000. The whole assessments made under the ruling complained of amount to $7,577, or only one-tenth of 1 per cent. of the revenue so derived. And under this ruling assessments have been made as low as a single dollar, because more than two and a half bushels of malt had been used to the barrel of beer produced, and this, too, against brewers who had paid their taxes, produced their books, made their statements, and rendered their accounts under oath, on the assumption of the Commissioner that all these were false and fraudulent. No tax has been more cheerfully borne or more promptly paid than that imposed upon the manufacturers of fermented liquors. No reason is believed to exist why they should be longer subjected to these vexations and exactions. The bill under consideration rights this wrong; and requires payment of taxes on all beer actually produced; no more. No statement, account, or book now required is dispensed with. All the means for preventing fraud remain. But the brewer, having made, kept, and produced his statements, accounts, and books, is not to be presumed to have committed fraud. This is in accord with the spirit of our laws and with substantial justice.

Mr. CONGER. Now, Mr. Speaker, one of the results of this law has been to make it an object with brewers to use a better article of malt or of barley for their malt. The repeal of this law leaves all classes and all grades to be treated in exactly the same manner. I do not know but this may be a proper amendment. I am not sufficiently familiar with it to express a positive opinion, but I think the protection of the Government on the one hand, and the protection of the producers of a better article of barley and a better article of malt on the other, are both subserved by the present law.

There is another point to which I wish to call the attention of the chairman of the Ways and Means Committee. It is that the malt made by the brewer is now accounted for, charged and paid for, whether he uses it himself or sells it to some other person. In many places a large quantity of malt is sold by the brewer to private brewers, to families who make their own beer and who never account for it to the Government at all; but with this provision of law the Government received its assessment on the malt manufactured from the barley. Remove this, and there is no limit on the amount of the malt that might be made at the brewery and manufactured at private establishments which the assessments of the Government do not reach at all. I think the effect of it would be injurious to the revenues of the Government and injurious to those who would encourage the production of a better class of barley.

Mr. PAGE. I call for the reading of the bill.

Mr. MORRISON. I yield to my colleague on the committee, the gentleman from Illinois, [Mr. BURCHARD.]

Mr. BURCHARD, of Illinois. I yield for a moment until the bill has been again reported.

The bill was again read.

Mr. BURCHARD, of Illinois. The present bill does not dispense with any of the requirements of the law, in regard to keeping an account, as to the amount of material used by the brewers. It simply provides that the amount of material, or it is the intention of the law to provide that the amount of material shall not be the guide as to the amount of tax to be paid, except in cases where it is the intention and purpose to evade the law. It is based upon the theory that the intention of the law is to tax the actual amount produced, and the report as to the amount of material used is simply for the purpose of having a check upon the production of these liquors; so that in case there is a much larger quantity produced than would probably be produced from the malt actually used, it might lead the Department to investigate.

Now, all that is retained in the present law, and under the amendment proposed by the committee the bill gives the power in cases of fraud to assess the brewer upon the material that he has used. In cases where there have been these small assessments of a quarter dollar or a half dollar a month it has been a great annoyance, because it is impossible, as was stated by the chairman of the committee, and as must be evident to gentlemen, to get the same amount or a given amount from even the same class of malt. One brewer who is skilled in the business will produce much more than another brewer from the same barley. Then there is a great difference in the qualities of the barley. So that in some cases, where the brewer has been unskillful, or where he has used very poor material, that is as regards the amount of beer that can be produced from it, he has had to pay an assessment of a small amount.

Out of over $8,000,000 of tax paid by the brewers in the last year, these assessments have only amounted to $7,000; less than a dollar in one thousand, and all paid in these small sums. The committee therefore have felt that there was some grievance and some hardship in this, and thought we could protect the revenue by passing the bill with the amendment reported, so as to relieve those engaged in the production of beer from this grievance.

Mr. MORRISON. I yield for a moment to the author of the bill, the gentleman from Missouri, [Mr. KEHR.]

Mr. KEHR. It will be remembered that fermented liquors pay a tax of $1 for every barrel of thirty-one gallons. The law taxes the product, not the material that enters into the product; but under the provision of section 3337, which requires the brewer to keep "an account of all materials by him purchased for the purpose of producing fermented liquors," the Commissioner of Internal Revenue claims the power to determine the quantity of malt which produces a barrel of beer, and to assess the brewer upon the quantity used in excess of the standard thus adopted. It is not claimed even by the Commissioner that the right to fix the standard is given him by the express terms of the law, but he deduces it as an implication from the duty imposed upon the brewer of keeping a material-book, or to state the proposition more distinctly, the law does not fix the quantity of malt to be used in producing a barrel of beer, but the Commissioner of Internal Revenue has, by construction, interpolated into the law a provision authorizing him to fix it; and in the exercise of a power thus assumed he has established an inflexible rule, applicable to all seasons of the year and to all parts of the country, allowing but two and a half bushels of malt to be used in the production of a barrel of beer or ale of thirty-one gallons, and assessing the brewer upon the excess used for the number of barrels, such excess would produce at the rate so fixed, and this rate is made the basis for monthly assessments.

The correctness of the Commissioner's interpretation of the statute and of the rate established by him has always been absolutely and stoutly denied by the brewing interest, and the enforcement of the rate has been a source of great vexation and annoyance to brewers throughout the United States without any corresponding benefit to the Government, and threatens litigation exceeding a hundred-fold in expense the amount of revenue annually derived from it. In this connection I beg gentlemen to remember that the tax derived by the Government of the United States from fermented liquors during the last fiscal year, according to the Commissioner's report, was $9,144,004.41; whereas the sum assessed under the interpretation and rule to which I have alluded, on the excess of malt used, amounted, as I am credibly informed, in the aggregate, to only about $7,500, distributed among many brewers, and wrung in each instance from an indignant taxpayer who paid the pittance under protest, believing its exaction to be in violation of his rights and an imputation upon his honesty and honor.

The bill under consideration is simply declaratory of what the law is now believed to be, but made necessary in view of the facts I have mentioned. Its object is to relieve the brewing interest of the embarrassment to which the action of the Commissioner has subjected it, and to guard against a continuance of that action, which is believed to be not only without the sanction of law, but to be founded also in a misconception of fact. In establishing the rule that the purchase, for brewing purposes, of every two and a half bushels of malt subjects the brewer to the payment of the tax assessed upon a barrel of malt liquor, the Commissioner ignores the fact that the product depends on the quantity of saccharine matter contained in the malt, which varies probably with every bushel of malt used, depending on the age of the barley, the season of the year, the place of its growth, the fact being that there is a difference of five pounds in weight between barley raised in Canada and on the Pacific slope and that grown in the Western States. The rule, moreover, ignores the fact that any casualty intervening during the process of malting arrests the development of the saccharine properties of the barley, hence rendering the use of a larger quantity of malt necessary; and furthermore, that in manufacturing malt liquor sufficiently strong to bear transportation and change of climate, a larger quantity of malt is required than in producing an article for immediate home consumption. The effect of the rule is to impose a penalty, in the shape of an additional tax, on the manufacturer who, at an increased expense to himself, places a superior article on the market, whereas it secures no deduction to the brewer who uses less than the standard quantity.

This bill releases no safeguard now provided for the faithful collection of the tax. The duty of keeping the material-book is retained; all the purposes originally had in view in prescribing that duty are preserved, and the object aimed at is solely and singly to prevent a perversion of the law, by which the sworn statements of honorable men from whom the Government annually collects a large revenue, and with whom it has at no time encountered difficulty in the collection of its revenue, are rejected upon an arbitrary rule founded upon an erroneous assumption of fact.

In reply to the gentleman from Michigan [Mr. CONGER] I may add that the effect of the Commissioner's rule is to discriminate against barley grown in the Northwestern States of the Union and in favor of Canada barley, because the latter being heavier than the former, a smaller quantity of it produces a barrel of beer; whereas the pending bill, if adopted, removes the motive for such discrimination on the part of the brewer.

Mr. PAGE. I ask the gentleman from Illinois [Mr. MORRISON] to yield to me for a few moments.

Mr. MORRISON. I will do so.

Mr. PAGE. I am in favor of the passage of this bill. When the original law was passed it was never intended that a construction should be given to it such as has been given by the Commissioner of Internal Revenue.

The chairman of the Committee of Ways and Means [Mr. MORRISON] has referred to the quality of the barley produced in California. My attention last summer was called by the brewers in the city of Sacramento, the city of San Francisco, and other places in California to the fact that, notwithstanding the quality of the barley produced there, it was impossible for the brewers to manufacture a barrel of beer from two and a half bushels of malt, as provided in the regulations of the Commissioner of Internal Revenue. I believe this bill should pass. In my judgment it certainly recommends itself to the Representatives of the people, from the fact that by the passage of this bill the brewers will be assessed upon the amount of beer manufactured, and not upon the quantity of malt from which the beer is obtained.

Mr. BANNING. I ask the gentleman from Illinois [Mr. MORRISON] to yield to me for two or three minutes.

Mr. MORRISON. I will do so.

Mr. BANNING. Mr. Speaker, I hope the bill reported by the chairman of the Ways and Means Committee, now under consideration, for the relief of the beer-brewers will be passed to a law.

Under the statute as it now is, beer-brewers are required to pay $1 tax upon each barrel of beer of not more than thirty gallons. They are also required to make sworn returns of the amount of grain used. Under this rule two thousand seven hundred and eighty-three beer-brewers have been paying an annual revenue for the support of the Government of more than $9,000,000. Of this amount more than $400,000 is paid by the brewers of Cincinnati.

The Revenue Department, not satisfied with this rule fixed by Congress, has, without authority of law, made an arbitrary rule of its own, that two bushels and one-half of malt are sufficient to make a barrel of beer, and that for all malt used in excess of that quantity it shall be presumed that beer has been brewed in that proportion, and in pursuance with this regulation taxes have been assessed against many of the leading brewers of the country.

That this rule is wrong, unjust, and ought not to be enforced, is shown in the fact that grain or malt used by brewers varies in price, according to quality, from sixty-eight cents a bushel to $1.58. The rule is wrong also because it discriminates against barley raised in the United States. Good barley is raised in New England, parts of Iowa, Pennsylvania, and Minnesota. The cheaper grain is grown on the low, rich lands of Ohio, Indiana, and Illinois, while the best No. 1 barley is raised in Canada. The best grain produces the most beer to the bushel. While all good brewers can make a barrel of beer from two and one-half bushels of the best Canada malt or barley, no brewer can make as much or one-half as much beer of the same strength and quality from the poorest malt, such as can be purchased in market for one-third the amount paid for best Canada malt.

Again, barley varies in quality, according to the season. Some years the grain will be first-class, (No. 1, as dealers say;) another year it will be indifferent in quality, below the standard, and will therefore produce less beer to the bushel.

Again, if the brewer uses grape-sugar, corn-meal, or other articles

of like character in manufacturing beer, he will use a less quantity of grain.

Again, no two brewers will or can produce exactly the same amount of beer from the same amount of the same quality of grain. The amount produced will vary according to the strength of the beer and the experience, knowledge, and cunning of the brewer. There is no fixed standard of strength for beer, and the quantity produced from a bushel of malt varies according to the strength of the beer made. Beer manufactured for shipment to different parts of the country is generally made stronger than beer manufactured for home consumption, and requires more malt.

Thus I think it fully appears that the rule of the Department is wrong, and should be remedied by the passage of the bill now under consideration.

The men for whose relief it is asked are honest, patriotic citizens, who pay large revenues into the Treasury; who are not charged or even suspected of any fraud, whose books are always open to inspection, and who invite the most rigid scrutiny of Government officers into all their operations.

Mr. HARRISON. I would like to ask my colleague [Mr. MORRISON] a question.

Mr. MORRISON. Very well.

Mr. HARRISON. If I understand it rightly, the Commissioner of Internal Revenue has determined that the fact of there being more malt than two and a half bushels used in the manufacture of a barrel of beer is an evidence of fraud. Does not the amendment which the committee have attached to this bill allow the Commissioner to still continue that construction?

Mr. MORRISON. It does not.

Mr. WILSON, of Iowa. I desire a moment or two to say that if the effect of this bill will be to levy a tax on the amount of beer manufactured by reducing the tax on each bushel of barley and thus induce brewers to import, to a greater extent than they now do, a better class of barley, it will be deleterious to the interests of the growers of barley in the United States. We now import six million dollars' worth of barley every year.

I do not want to see any change in our laws that will induce our brewers to import a larger quantity of barley. There are some reasons why up to this time the farmers of the Northwest have not succeeded in raising a class of barley suitable to the wants of the brewers. The Agricultural Department has imported from England one thousand bushels of barley this year for the purpose of giving better seed to farmers and eventually filling this want.

Now, I believe we ought to have a larger tax on foreign barley; that we ought to discourage to as great an extent as possible the importation of barley for making these malt liquors.

Mr. MORRISON. I move the previous question on the bill.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

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

The latter motion was agreed to.

CHARLES E. HOVEY.

Mr. GARFIELD, from the Committee of Ways and Means, reported back, without amendment and with a favorable recommendation, the bill (S. No. 575) for the relief of Charles E. Hovey.

The Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he hereby is, authorized and directed to pay to Charles E. Hovey, out of moneys collected by said Hovey, under an alleged contract with the Secretary of the Treasury dated January 6, 1873, such sum as in the opinion of the Secretary of the Treasury is sufficient to re-imburse said Hovey for expenses incurred and to compensate him for information given and services performed, not to exceed the moiety of the moneys so collected: *Provided*, That if said funds have been covered into the Treasury, payment may be made out of any money in the Treasury not otherwise appropriated.

Mr. GARFIELD. There is a report of the Senate accompanying this bill. I will not ask to have it read, but I will ask that it be printed in the RECORD.

There was no objection; and the report is as follows:

The Committee on Finance, to whom was referred the petition of Charles E. Hovey, of Washington, District of Columbia, having had the same under consideration, report:

That on the 18th of July, 1872, Mr. Hovey made an offer to furnish evidence to enable the Treasury Department to collect certain duties due from the Mobile and Ohio Railroad on iron imported by said company, and landed at Mobile, Alabama, prior to the late war, (which had become derelict, and which ought to come to the United States,) in consideration of receiving one moiety of the net proceeds recovered.

After careful consideration into the case and consultation with the Solicitor of the Treasury, the then Secretary of the Treasury, Hon. GEORGE S. BOUTWELL, finding that the Government had insufficient evidence with which to successfully prosecute the suit, entered into a contract with Mr. Hovey, January 6, 1873, whereby, contingent upon securing to the United States the above-mentioned duties, Hovey was to receive one moiety of the amount recovered, said moiety to include all expenses incurred.

Prior to the making of the above contract, suit had been entered in the circuit court of the United States for the southern district of Alabama (November 30, 1872) for the recovery of these alleged import dues, but subsequent to said contract, (January 27, 1873,) and before Hovey had furnished the evidence agreed, the suit was, by order of the Attorney-General, dismissed for want of sufficient evidence.

On the 3d and 11th of July, 1873, Mr. Hovey furnished the Solicitor of the Treasury with certain facts and evidence; and on the 23d of March, 1874, suit was again instituted in the above-named court, and pressed by Mr. Hovey.

After being continued from term to term at the instance of defendants, the case was finally compromised by the present Secretary of the Treasury, the railroad company paying into the Treasury the sum of $22,564.80 in coin, and the case was dismissed.

The Treasury Department, on the 15th of February, 1875, declined to pay the moiety as stipulated, on the ground that the "subject-matter of the agreement is not within the letter or spirit of the law." The law referred to is as follows:

Joint resolution to enable the Secretary of the Treasury to collect wrecked and abandoned property, derelict claims, and dues belonging to the United States.

Be it resolved, &c., That the Secretary of the Treasury is hereby authorized to make such contracts and provisions as he may deem most advantageous for the interests of the Government for the preservation, sale, or collection of any property, or the proceeds thereof, which may have been wrecked, abandoned, or become derelict, being within the jurisdiction of the United States, and which ought to come to the United States; or any moneys, dues, and other interests lately in the possession of or due to the so-called Confederate States, or their agents, and now belonging to the United States, which are now withheld or retained by any person, corporation, or municipality whatever, and which ought to have come into the possession and custody of, or been collected or received by, the United States; and in such contracts to allow such compensation to any person giving information thereof, or who shall actually preserve, collect, surrender, or pay over the same, as the Secretary of the Treasury may deem just and reasonable: *Provided, &c.* (16 Statutes, page 380)

On the 11th of May, 1875, Hovey asked a reconsideration of Department's decision, and the case was referred to Assistant Secretary Burnam, who reported as follows:

In re C. E. Hovey:

A careful investigation of this case satisfies me that the contract entered into by Secretary BOUTWELL with Hovey January 6, 1873, followed up by the acquiescence of Secretary Richardson, should not be disregarded. As the legitimate result of that contract, there is now under the control of the Department, but not covered into the Treasury, the sum of $22,564.80, and which was secured by the personal services of the claimant, besides, as he swears, an expenditure from his own means of $2,360. I know no principle of law or equity which can justify the Government in availing itself of Hovey's labors and outlays of money in its service, and reaping the large fruits thereof, and then turning him off without remuneration.

His brief upon the point of the proper construction of the joint resolution of Congress of the 21st of June, 1870, is submitted herewith without addition. It is not only forcible, but I deem it unanswerable, certainly by me.

In conclusion, I recommend that the contract between Hovey and the Department be upheld; that he be paid out of the funds collected from the Mobile and Ohio Railroad Company the percentage promised him under the contract, and that the residue be covered into the Treasury.

I have the honor to be, very respectfully,

C. F. BURNAM,
Assistant Secretary.

NOVEMBER 10, 1875.

This decision the Secretary indorsed as follows:

TREASURY DEPARTMENT, *November* 16, 1875.

I am unable to concur in the opinion of the Assistant Secretary. It may be that the party has rendered services for which he should be paid, but I am aware of no act of Congress which authorizes the Secretary of the Treasury to make payment under this alleged contract.

B. H. BRISTOW,
Secretary.

In view of the foregoing facts, shown by the papers on file, the committee have some doubt whether, by the strict terms of the statute, the Secretary of the Treasury had power to make the contract referred to; but it is plain that Mr. Hovey rendered services under the contract, and incurred expenses for which he ought to be re-imbursed. Your committee therefore report the accompanying bill.

The bill was ordered to a third reading; and was accordingly read the third time, and passed.

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

The latter motion was agreed to.

OFFICES OF COLLECTORS AND SUPERVISORS OF INTERNAL REVENUE.

Mr. TUCKER, from the Committee of Ways and Means, reported back, with a favorable recommendation, the bill (H. R. No. 1585) to authorize the Commissioner of Internal Revenue to designate and fix the points at which collectors and supervisors of the revenue shall hold their offices.

The bill was read, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of Internal Revenue be, and he is hereby, authorized to designate and fix the points at which the collectors and supervisors of the revenue shall establish and maintain their several offices within their respective districts.

Mr. TUCKER. Under the law as it exists at present the officers referred to in this bill have the right of selecting the places for their own offices, which is sometimes very inconvenient to the people who have business with them. The Commissioner of Internal Revenue has recommended the passage of such a bill as the committee have now reported on favorably. I ask that the bill be put upon its passage.

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

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

The latter motion was agreed to.

HAWAIIAN TREATY.

Mr. WOOD, of New York. I desire to ask unanimous consent of the House to fix some time for the final disposition of the bill in relation to the treaty with the Hawaiian government. The bill was the special order from day to day, but for various reasons, and among them my own sickness, it has gone over indefinitely. The discussion

is nearly finished; after one or two more speeches we shall be prepared to submit the bill to the House for a final vote. I ask unanimous consent that the bill be made the special order for Thursday next after the morning hour.

There was no objection, and it was so ordered.

ORDER OF BUSINESS.

The SPEAKER. The morning hour commences at one o'clock and five minutes, and the regular order to-day is the calling of committees for reports of a private nature; the call rests with the Committee on Patents.

STEPHEN V. BENÉT.

Mr. SAMPSON, from the Committee on Patents, reported a bill (H. R. No. 2952) authorizing the Commissioner of Patents to rehear the application of Stephen V. Benét for a patent for cartridges; which was read a first and second time.

The bill was read. It authorizes and directs the Commissioner of Patents to revive the application of Stephen V. Benét for a patent for an improved cartridge, dated April, 1866, and hear and determine the application in the same manner as if two years had not elapsed since the last action of the Office thereon; and to grant letters-patent upon the application, if the invention therein described and claimed is found to be novel and patentable. But no person is to be held responsible in damages for the manufacture, sale, or use of such cartridges prior to the issue of the patent; and the subsequent sale of those manufactured at the time of the issue is not to be held to be an infringement of the patent. The Government is to be entitled to the free use of the patent for the military service.

Mr. SAMPSON. Unless it is the desire of some gentleman that the report may be read, I will not ask its reading.

Mr. FORT. It had better be read.

The report was read, as follows:

The Committee on Patents, to whom was referred the petition of S. V. Benét, praying the passage of an act authorizing the Commissioner of Patents to reconsider his rejected application for a patent on an improvement in the manufacture of metallic cartridges, beg leave to submit the following report:

In 1866 General Benét, then of the rank of brevet lieutenant-colonel, United States Army, was in command of the United States arsenal at Frankford, near Philadelphia, Pennsylvania, and was charged in his official capacity with the manufacture for the use of the military service of metallic cartridges; and while thus employed designed an improvement therein, which he believed to be entirely novel and of sufficient importance to justify him in applying for a patent therefor; and, April 14, 1866, made such application in the manner prescribed by law.

On the 27th of the same month his application was rejected on the ground that there was no essential novelty in the invention. March 7, 1867, the specifications were amended, as the law permitted, and again submitted for re-examination, and was on the 14th of March again rejected by the primary examiner for the same reason as before.

General Benét has long been in the Ordnance Department, is now Chief of Ordnance, United States Army, has had great experience and the best opportunities for acquiring information on the subject of the manufacture of cartridges; and with this knowledge, entitling his opinions to some consideration, expresses in his petition the belief "that in the state of the art in this country," at the time of filing his application, "the importance of what appeared to be but slight alterations of form in his device was scarcely appreciated by practical experts and those skilled in the art, not to mention those by whose theoretical knowledge only the ministerial actions in the Patent Office in respect to his application for a patent were determined; and that therefore his application for a patent was mistakenly rejected." And your committee are not prepared to say that such was not the case.

If petitioner was in fact the inventor of an important and valuable improvement in this art, and has been mistakenly deprived of the honor and benefit of his invention—and on these points there is no doubt a correct decision may be now obtained, if permitted a re-examination and to prosecute the appeals allowed by law which before were not taken—then assuredly he ought to have the privilege, at least, of making the attempt to have such mistake corrected, unless some valid reason can be urged against it.

If in consequence of his official position his relations to the Government or the public were such that a patent ought not to be granted, or from his own laches in failing to avail himself of the facilities which the law afforded him to secure a correct determination of his application he is not entitled to consideration; or the granting a patent now, if entitled to one, should work injustice to others, then the relief he is now seeking should not be given.

The fact that he was an officer in the Army will not, of itself, deprive him of the right to his invention. The law of Congress enacted in pursuance of the power given in the Constitution to secure to inventors for a limited time the exclusive right to their discoveries provides that any person who has invented or discovered any new and useful art, machine, manufacture, &c., or improvement thereon, may, by application in the manner prescribed by law, obtain a patent therefor, except officers and employés in the Patent Office; and the question has been decided by the Supreme Court in the case of the United States *vs.* Burns, 12 Wallace, 246. Mr. Justice Field uses this language:

"If an officer in the military service, not specially employed to make experiments with a view to suggest improvements in arms, tents, or any other kind of war material, he is entitled to the benefit of it, and to letters-patent for the improvement from the United States equally with every other citizen not engaged in such service; and the Government cannot after the patent is issued make use of the improvement any more than a private individual without license from the inventor or making compensation to him."

It is therefore settled that an officer of the Army may be entitled to a patent for the invention of an improvement in the materials of war, and even the Government liable for its use after patent granted.

But if the officer be assigned to the especial duty of experimenting and making improvements in the particular materials to which his invention relates, then it would seem a somewhat different rule should apply. In such case he is the servant of the Government assigned by its command to do for the good of the service just what he has done, and the Government should not, because he has accomplished what he was assigned to do for its benefit, be deprived of this benefit; and this principle is recognized by the petitioner himself. He has offered in his petition to release to the Government all right to royalty or compensation for Government use of the invention.

But the further question is, Should an invention wrought out under such circumstances inure not only to the Government, but to the benefit of all individual citizens of the entire country? True, he was the servant of the people, educated perhaps at their expense, was in their employ, and paid out of their Treasury. But what was the extent of that employment? It was only for governmental purposes. His duty was to make the improvement for the military service; and outside of that the products of his brain and his hands were as much his own property as the fruits of the labor of any other citizen now in the service of the Government would be his. But if it was all the Government's, should we not possess the grace to surrender to him so much of the right as we do not desire to use ourselves? He has well said in his argument before the committee, he was employed to invent a cartridge for the military service of his own Government, not for individuals for sporting purposes, nor for foreign governments or the world at large.

The next inquiry is, Has he reasonable excuse for not prosecuting his application to the court of last resort? When his claim had been rejected the second time by the primary examiner, he might have appealed to the board of examiners-in-chief, thence to the Commissioner, thence to the supreme court of the District of Columbia, and on refusal there, filed his bill in equity, had a hearing before a district or circuit court of the United States, and if error was committed there, gone to the Supreme Court. This he failed to attempt to do until too late. At the time of the rejection of his application, there was no limitation as now, by section 4894 of the revision, that upon failure for three years after any action therein, of which notice was given, to prosecute the application, it should be regarded as abandoned; but cases might be, and were sometimes, taken up again even eight or ten years after rejection. The rejection was in 1867, when there was no limitation. In 1869 he was ordered from Frankford arsenal to other important duties. July 8, 1870, this law of limitation was enacted, and gave only six months in which to resume the prosecution of rejected claims. In the engrossing cares of his official duties this did not come under his observation until he undertook to renew the prosecution at the Patent Office, and was informed it was too late. In the judgment of the committee, those circumstances do show a reasonable excuse for failing to prosecute.

The remaining objection which might be urged is this: Several years have expired since the invention and application. The cartridge has been extensively manufactured and gone into quite general use. Should the public now be deprived of the use of that which it has long enjoyed, which it has supposed was public property, free and open alike to all, or pay a license or royalty therefor? If through his misfortune, occasioned by change of the law, the public has enjoyed for several years free for what otherwise it would have had to pay a royalty, and all the present existing rights can be protected, then this can be no valid argument why he should not be permitted for a limited time in the future to enjoy some benefits from the fruits of his own invention. And these existing rights are carefully protected by the bill.

Your committee therefore submit the accompanying bill and recommend its passage.

Mr. FORT. I have no doubt that the words "military service" in the latter section of the bill would include also the naval service, but I would ask the gentleman reporting the bill whether he would have any objection to an amendment to insert the words "or naval" after the word "military."

Mr. SAMPSON. There is no objection to that. It is what was intended.

Mr. FORT. Technically it might be claimed that the language did not include the naval service.

The SPEAKER. Is there objection to the verbal amendment suggested by the gentleman from Illinois? The Chair hears none; and the bill will be so amended.

Mr. SAMPSON. Unless some gentleman desires to discuss the bill, I ask that the question be taken on ordering it to be engrossed and read a third time.

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

The question being taken on the passage of the bill, there were—ayes 37, noes 43.

Tellers were called for.

Mr. CONGER. There having been no opposition made to this bill in debate and the committee having anticipated no objection, it was supposed there was none. But if any gentleman desires to discuss it or does not understand it to be a perfectly proper bill, we will ask its reference to the Committee of the Whole on the Private Calendar.

Mr. SAMPSON. If this report could be printed, so that gentlemen could have an opportunity to examine the case and become thoroughly acquainted with it, I am satisfied there would be no opposition to the measure. I therefore ask unanimous consent that the bill may be referred to the Committee of the Whole on the Private Calendar, and, with the report, ordered to be printed.

Mr. O'BRIEN. There ought to be no objection to that.

Mr. COX. I object. The gentleman from Michigan [Mr. CONGER] said, as I understood, that there was no objection to this bill——

Mr. CONGER. I said no objection had been made to it here.

Mr. COX. Well, many of us vote on a general principle against the extension of patents.

Mr. CONGER. There has been no patent issued in this case.

Mr. SAMPSON. This is not an extension of a patent. No patent has ever been granted in this case. The bill proposes simply that this inventor shall be authorized to prosecute his application for a patent.

Mr. COX. There ought to be a general statute to cover cases of this kind.

The SPEAKER. The vote has been taken on the passage of the bill, but it has not been announced except informally; and then a demand for tellers was made, so that the parliamentary effect of the motion is suspended and the motion to recommit is now in order.

Mr. RANDALL. I make the motion to recommit the bill, and I will give my reasons for doing so. The individual making this application is an ordnance officer; and I do not think that an officer of the United States should be given an advantage in the respect provided for in this bill. I think that the Government of the United States is entitled to all his intellect while he is in its service. I am also apprised—perhaps not correctly, but I give the information as I receive it—that the Department has three times rejected this application.

Mr. SAMPSON. That is a mistake.

Mr. RANDALL. How many times has it been rejected?

Mr. SAMPSON. This application was twice rejected, but only by a primary examiner. It has never been examined by the board of examiners-in-chief.

Mr. HALE. I hope there will be no objection to the motion of the gentleman from Pennsylvania to recommit the bill.

Mr. CONGER. I ask the gentleman to change his motion so as to refer the bill to the Committee of the Whole on the Private Calendar.

Mr. RANDALL. No, sir; I would like to have it go again to the Committee on Patents, in order that the objections which have been raised may be considered.

Mr. CONGER. If the gentleman had heard the report read, he would have found that it treats almost exclusively of the very point which he makes.

Mr. RANDALL. I only want to have a full understanding of the bill, so that we may vote intelligently upon it.

Mr. CONGER. We can do that in the Committee of the Whole on the Private Calendar.

Mr. RANDALL. Well, I have no objection to that.

Mr. VANCE, of North Carolina. I was about to make that motion, that the bill be placed on the Private Calendar.

The SPEAKER *pro tempore*. If there be no objection the bill will be referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

There being no objection, it was ordered accordingly.

TUCSON, ARIZONA, A PORT OF ENTRY.

Mr. PIERCE. I am directed by the Committee on Commerce to report back a bill (H. R. No. 360) to establish a port of entry for the collection of duties on imports at Tucson, Arizona Territory.

The SPEAKER. That report cannot be received to-day, as it is a public, and not a private, bill.

CHANGE OF NAME OF PLEASURE-YACHT.

Mr. PIERCE, from the Committee on Commerce, reported back a bill (H. R. No. 1823) to change the name of the pleasure-yacht Ella to that of Myra, with the recommendation that it do pass.

The bill, which was read, provides that the name of the pleasure-yacht Ella, registered in the southern district of New York, be, and the same is hereby, changed to Myra; and the Secretary of the Treasury is authorized to grant a register in accordance therewith.

The SPEAKER. As this relates to a vessel entirely private in its use it will be regarded as a private bill.

Mr. COX. I should like to hear some reason for the passage of this bill. There is a general law on the subject, and I believe we are running too much into special legislation.

Mr. PIERCE. Under the law this name cannot be changed except by a special act of Congress. This yacht belongs to a private individual who runs it for his own pleasure and he desires to have the name changed. We all know that yachts are fancy affairs run for private pleasure and I do not see why this gentleman should not be gratified in having the name changed as he desires.

Mr. COX. What is the matter with the old name, "Ella?" [Laughter.]

A MEMBER. He may want to have it changed to the name of his second wife. [Laughter.]

Mr. PIERCE. The gentleman who desires the name of the yacht changed is a citizen of New York.

Mr. ELY. It is all right; I hope there will be no objection to its passage.

Mr. COX. This sort of special law is not to be favored unless some good reason can be given. Because a man likes a particular name or a particular female it does not follow that he should come to the American Congress and take up our time in changing the name of some little pleasure-yacht. That is my point.

Mr. CONGER. I wish to ask my friend from New York how far those motives affected him when he took up two or three hours of the last session in getting the name of a private yacht changed? [Laughter.]

Mr. COX. I know to what the gentleman refers.

Mr. CONGER. I do not know whether a new revelation may not have come to him.

Mr. COX. The gentleman from Michigan always gets the cart before the horse. I moved to change the name of this vessel from William M. Tweed to Industry. [Laughter.] He seems to have got the idea there was nothing wrong about Mr. Tweed, and I should not have changed it. There was a general dissatisfaction with that name in New York City not limited to any party. I cannot see there is anything wrong in the name of this female. I believe Ella is a very beautiful name.

Mr. PIERCE. Congress has thought wise not to pass a general law for changing the name of these vessels, providing that each and every case shall come to Congress. I know during the last Congress requests of this character coming from the committee were granted. I trust the gentleman may have the privilege he asks of changing the name of his pleasure-yacht from one name to another.

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

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

The latter motion was agreed to.

BRIDGE ACROSS THE MISSOURI RIVER.

Mr. KEHR. I rise to a parliamentary inquiry. I am instructed by the Committee on Commerce to report back a bill (H. R. No. 2689) authorizing the construction of a bridge at Sioux City, Iowa, and I would like to know whether it can be considered a private bill, and therefore in order to-day?

The SPEAKER. Is the authority proposed to be given to an existing corporation?

Mr. KEHR. It is.

The SPEAKER. Then, in the judgment of the Chair, it is a private bill. Does the bill propose to erect a bridge across one of the streams declared to be a public highway?

Mr. KEHR. It is a bridge to be constructed across a navigable river.

The SPEAKER. What river?

Mr. KEHR. The Missouri River at Sioux City. The purpose of the bill is to authorize the Sioux City Bridge Company, under the general law of the State of Iowa, to construct this bridge.

The SPEAKER. If that be all, the Chair will consider it as a private bill.

Mr. KEHR. I am instructed to report the bill back with an amendment.

The Clerk read the bill, as follows:

That it shall be lawful for the Sioux City Bridge Company, a corporation organized for that purpose under the general corporation laws of the State of Iowa, or its assigns, to construct, under and subject to the conditions and limitations hereinafter provided, a bridge across the Missouri River at or near Sioux City, Iowa, and lay on and over said bridge railway-tracks, for the more perfect connection of any and all railways that now are, or which may hereafter be, constructed to the Missouri River at or near Sioux City, or to the river on the opposite side of the same near Sioux City, and build, erect, and lay on and over said bridge ways for wagons, vehicles of all kinds, and for the transit of animals, and to provide ways for foot-passengers, and to keep up and maintain and operate said bridge for the purposes aforesaid; and that, when said bridge is constructed, all trains of all railroads terminating at said river, and on the opposite side thereof, at or near Sioux City, Iowa, shall be allowed to cross said bridge for reasonable compensation, to be made to the owners of the same, under the limitations and conditions hereinafter named. The owners of said bridge may also charge and receive reasonable compensation or tolls for the transit over said bridge of all wagons, carriages, vehicles, animals, and foot-passengers: *Provided*, That Congress may at any time prescribe such rules, regulations, and rates of toll for transit and transportation over said bridge as may be deemed proper, just, and reasonable.

SEC. 2. That any bridge built under the provisions of this act may, at the option of the person or persons or corporation building the same, be built as a draw-bridge, with a pivot or other form of draw or with unbroken or continuous spans: *Provided*, That if the same shall be made of unbroken continuous spans it shall not be, in any case, of less elevation than fifty feet above extreme high-water mark, as understood at the point of location, to the lowest part of the superstructure, with straight girders, nor shall the spans of said bridge be less than three hundred feet in the clear at low-water mark; and the piers of said bridge shall be parallel with the current of the river; and the main span shall be over the main channel of the river: *And provided also*, That if a bridge shall be built under this act as a draw-bridge the same shall be constructed as a pivot draw-bridge, with a draw over the main channel of the river at an accessible and navigable point, and with spans of not less than one hundred and sixty feet in length in the clear on each side of the central or pivot pier of the draw; and the next adjoining spans to the draw shall not be less than two hundred and fifty feet; and said spans shall not be less than ten feet above extreme high-water mark, measuring to the lowest part of the superstructure of the bridge; and the piers of said bridge shall be parallel with the current of the river: *And provided also*, That said draw shall be opened promptly upon reasonable signal, without unnecessary delay: *And provided further*, That the corporation building said bridge may, subject to the approval of the Secretary of War, enter upon the banks of said river, either above or below the point of location of said bridge, and confine the flow of the water to a permanent channel, and to do whatever may be necessary to accomplish said objects, but shall not impede or obstruct the navigation of said river, and shall be liable in damages for all injuries to private property; and all plans for such works or erections upon the banks of the river shall first be submitted to the Secretary of War for his approval: *And provided further*, That if said company shall elect to construct a pile and ponton bridge in lieu of that described above, the Secretary of War may, if he deem it advisable and not inconsistent with the free navigation of said river, authorize said company to construct said bridge as a pile or ponton bridge, subject to the restrictions and requirements relating to the construction thereof contained in the act entitled "An act to legalize and establish a ponton-bridge across the Mississippi River at Prairie du Chien," approved June 6, 1874, except that in the bridge herein authorized one draw only shall be required, which shall not be less than four hundred feet in width in the clear.

SEC. 3. That no bridge shall be erected or maintained under the authority of this act which shall at any time substantially or materially obstruct the free navigation of said river; and no bridge shall be commenced or built under this act until the location thereof and the plans and specifications for its construction shall have been submitted to and approved by the Secretary of War; and any change in the plan of such construction or any alteration in the bridge after its construction shall be subject to the like approval; and whenever said bridge shall, in the opinion of the Secretary of War, substantially obstruct the free navigation of said river, he is hereby authorized to cause such change or alteration of said bridge to be made as will effectually obviate such obstruction; and all such alterations shall be made and all such obstructions be removed at the expense of the owner or owners of said bridge; and in case of any litigation arising from any obstruction or alleged obstruction to the free navigation of the Missouri River at or near the crossing of said bridge, caused or alleged to be caused thereby, the cause shall be commenced and tried in the district courts of either judicial district of Iowa or Nebraska in which the said bridge or any portion of such obstruction touches.

SEC. 4. That any bridge built under this act, and according to its limitations, shall be a lawful structure, and shall be recognized and known as a post-route, upon which also no higher charge shall be made for the transportation over the same of the mails, the troops, and munitions of war of the United States than the rate per mile paid for their transportation over the railroads or public highways leading to such bridge. Such lights shall be kept upon said bridge as the Light-House Board shall direct, and said bridge shall moreover be provided with all proper safeguards for the security of person and property.

SEC. 5. That Congress may at any time alter, amend, or repeal this act.

The SPEAKER. It is very apparent from the reading of the bill that it is public and not private. Its provisions are broad, and operate upon many roads and corporations. The bill cannot be received therefore in the call of committees for reports of a private nature.

Mr. CONGER. From what committee is this bill reported?

The SPEAKER. From the Committee on Commerce. The Chair holds that it is not in order under this call.

HUGH W. MERCER.

Mr. ASHE. I am instructed by the Committee on the Judiciary, unanimously, to report favorably on the memorial of Hugh W. Mercer for relief, and to present a bill giving effect thereto.

The bill (H. R. No. 2953) for the relief of Hugh W. Mercer was received, and read a first and second time.

Mr. ASHE. I move that the bill and accompanying report be printed, and referred to the Committee of the Whole on the Private Calendar.

The motion was agreed to.

MRS. FLORA A. DARLING.

Mr. CABELL, from the Committee on War Claims, reported back, with a favorable recommendation, the bill (H. R. No. 401) for the relief of Mrs. Flora A. Darling, of New Hampshire; and the same was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

DANIEL F. DULANY.

Mr. HOSKINS, from the Committee on War Claims, reported back, with an adverse recommendation, the bill (H. R. No. 16) for the relief of Daniel F. Dulany, and moved that it do lie on the table, and that the accompanying report be printed.

The motion was agreed to.

HEIRS OF HALL NEILSON.

Mr. JOYCE, from the Committee on Private Land Claims, reported back the petition of the heirs and representatives of the late Hall Neilson, of Richmond, Virginia, and moved that the committee be discharged from the further consideration of the same, and that it be referred to the Committee of Claims.

The motion was agreed to.

HOT SPRINGS RESERVATION.

Mr. GUNTER. I am instructed by the Committee on Private Land Claims to report back the bill (H. R. No. 830) extending the time for filing suits in the Court of Claims to establish title to the Hot Springs reservation in Arkansas, and to move that the same be laid upon the table.

The SPEAKER. Is there a report accompanying the bill?

Mr. GUNTER. There is no written report.

The SPEAKER. The Chair begs leave to suggest that a written report should accompany every adverse recommendation.

The bill was laid on the table.

LIEUTENANT-COLONEL GODFREY WEITZEL.

Mr. BANNING, from the Committee on Military Affairs, reported a joint resolution (H. R. No. 94) authorizing Lieutenant-Colonel Godfrey Weitzel, of the Engineer Corps of the United States Army, to accept the position of trustee of the Cincinnati Southern Railroad; which was read a first and second time.

The joint resolution authorizes Godfrey Weitzel, lieutenant-colonel Corps of Engineers, United States Army, to accept the position of trustee of the Cincinnati Southern Railroad, and provides that the acceptance of the same shall not be construed to interfere with his rank as an officer of the Army of the United States or to vacate his commission in the same.

Mr. BANNING. The present Secretary of War was the trustee of the Cincinnati and Southern Railroad. After he received his appointment as Secretary of War, Colonel Godfrey Weitzel was elected to that place. He cannot accept it without the passage of this resolution. The Cincinnati Chamber of Commerce have petitioned Congress to pass a resolution authorizing him to accept the position. Their resolution was referred to the Committee on Military Affairs. The committee asked the opinion of the Secretary of War, and he asked the opinion of the General of the Army. The General of the Army replies, and recommends legislation authorizing General Weitzel to accept. The Secretary of War recommends it, the committee ask it, and I hope the resolution will be passed.

Mr. HALE. Let me ask the chairman of the Committee on Military Affairs a question. Is this place which it is provided that Colonel Weitzel may accept a place of emolument?

Mr. BANNING. Yes, sir.

Mr. HALE. A salaried office?

Mr. BANNING. Yes, sir.

Mr. HALE. It seems to me that there are objections to allowing the officers of the regular Army to accept trusteeships or directorships of railway companies, banking companies, or other business corporations, upon the same theory that objection was made a few minutes ago to the granting of a patent to a worthy officer, namely, that the Government is entitled to his entire time and service. The proposition is a new one to me. I do not remember during the time I have been here that any officer of the regular Army has been allowed to accept any office of emolument and trust so as to receive pay outside the Army. It strikes me that this is a departure from the practice heretofore followed, which may be somewhat dangerous as a precedent.

Mr. BANNING. I have to say in answer to the gentleman from Maine that I should be very glad if this officer could be allowed to receive the pay he is receiving now; but the Military Committee thought that he should not be paid by the Government, but by the city of Cincinnati. This is a railroad running from Cincinnati to Chattanooga. It is a railroad built by the city of Cincinnati alone. She has already expended $10,000,000 on it, and has just appropriated $6,000,000 more. It is a great improvement. General Weitzel is an able engineer. He is a citizen of Cincinnati. He managed the improvement at the falls of the Ohio. This is a work he is well capable of performing, and the resolution has the approval of the General of the Army.

I think there can be no objection to its passage. He declines to take the place unless he is authorized to do so by Congress. It has been customary for officers to take these places without any such authority. I believe one or two officers are now serving abroad in a civil capacity without any authority of Congress and contrary to law. This officer declines to accept the place, and in consequence of that declination this joint resolution is offered. I hope there will be no objection to its passage.

Mr. HALE. The merits of General Weitzel are well known to me, as he has served in my own State, as one of the best officers in the engineer service. The gentleman from Ohio has furnished to my mind an additional reason why we should not authorize him to accept this trusteeship in the pay of this company in the statement that he has been connected with this road as an employé of the Government, as an officer of the Engineer Corps upon work in connection with the road. That, to my mind, is an additional reason why he should not now become the company's trustee.

Mr. BANNING. Will the gentleman from Maine be willing to vote for this joint resolution if it provides that he shall receive the pay which he now receives from the Government and nothing from the city of Cincinnati or the railroad company?

Mr. HALE. That would remove part of my objection, certainly.

Mr. BANNING. I will be very glad to modify the joint resolution in that way, and I think the Government might well give to the city of Cincinnati the benefit of the services of this officer.

Mr. HALE. I know that this road is a good one and that it will be a great improvement, but my cardinal objection is to Government officers taking these places in connection with private interests and private corporations. I think it is a bad precedent. We have already had more or less trouble and some bad scandal and some mortifying results from public officials in high places dabbling in speculative enterprises, and let us keep as far as we may all officers of the Government, and especially let us keep the Army, which has always maintained its reputation for being clear of all scandals and all speculations, comparatively if not entirely free from these scandals. It has been the pride of the Army officers that they rest upon their salaries, small as they are. The gentleman from Ohio himself is seeking to cut down the salaries of the officers of the Army. He passed a bill through the House the other day cutting down the salaries of the higher officers of the Army. Now I think that we had better not allow any officer of the Army to accept the directorship or trusteeship in outside corporations. That is not a good thing to do.

Mr. JONES, of Kentucky. I would like to ask the gentleman from Maine [Mr. HALE] if he does not know that there are instances now in Washington where officers of the Army are placed in civil positions and are receiving pay not only as Army officers, for their official positions in the Army, but also for the civil positions to which they are appointed?

Mr. HALE. Does the gentleman mean appointed to positions under the Government, or by parties and corporations outside of the Government?

Mr. JONES, of Kentucky. I mean under the Government, and especially by the Chief Executive of the Government.

Mr. HALE. I do not know to what the gentleman alludes. Such a case would not be parallel to this, but I would go so far as to make the line of demarkation clear, and hold each officer of the Army to the duties pertaining to his branch of the service.

Mr. JONES, of Kentucky. I understand it to be the law that if an officer of the Army is appointed to a civil position he thereby forfeits his position in the Army if he accepts that civil position. Now I wish to know of the gentleman—and it is a piece of information that I have thought of endeavoring to obtain from the head of the Department—if he does not know of several instances in the Executive Departments of the Government where an officer of the Army has accepted a civil position and is receiving pay both as an officer in the Army and as a civil officer?

Mr. HALE. What bush is the gentleman beating about? He might as well speak plainly.

Mr. JONES, of Kentucky. I will speak plainly. Does the gentleman not know that General Babcock, an officer of the Army, was appointed by the President to a civil position, in other words to the position of his Secretary, and that under the law he forfeited his position in the Army, providing there was no law of Congress allowing him to accept a civil position?

Mr. HALE. I do not know any law by which General Babcock forfeited his position as an officer in the Corps of Engineers. I do know that the designation or detail of him to special duty, which was clerical and civilian in its nature, did not add a dollar to his pay; that he only received his regular pay as an officer in the Corps of Engineers, and that by his so doing pay to some one else was saved which had

always been appropriated heretofore. There are some objections, I admit, to such an appointment, but I will not discuss those objections now. But that case, let me say, is nothing like the case now before the House. This is a case of an officer of engineers being authorized to accept a position of trust and emolument in connection with a railroad corporation as a trustee and still continue to hold his office in the Corps of Engineers, subject to the Government and to Government officers, and held by all the stern obligations that rest upon the officer of the Government who serves in any branch of the Army; the two cases are not alike.

Mr. JONES, of Kentucky. It seems to me that the law upon the statute-book is equally violated, whether the officer of the Army receives an appointment in the service of a corporation or whether he is appointed by the Executive or any other officer of the Government to a civil office. I think it is the same thing in either case, and not wise.

Mr. HALE. I do not believe that the higher officers in the Army would approve of any measure of this kind, allowing their subordinates by law to accept civil positions.

Mr. BANNING. In order to show the gentleman that he is mistaken, I ask the Clerk to read a letter of General Sherman upon this subject, and I ask the gentleman to listen to it.

Mr. HALE. Certainly I will; but it will not change my mind, even if he recommends it.

Mr. BANNING. Of course, when your arguments are knocked from under you, it does not change your mind.

Mr. HALE. It is not much of an argument anyway; more of an opinion.

The Clerk read as follows:

WASHINGTON, D. C., *March* 28, 1876.

SIR: I have the honor to acknowledge receipt of the letter of Hon. H. B. BANNING, House of Representatives, about the detail of General Weitzel as one of the commissioners of the railroad building from Cincinnati to Chattanooga. I hope the detail will be made, as General Weitzel is eminently qualified, and it is to the interest of the Army that the talents and industry of our engineer officers should be appreciated. Both the community and the service will be benefited. I hope Congress will modify the existing statute, which virtually prohibits the officers of the Army, both active and retired, from being employed on civil works; and this case of General Weitzel illustrates the danger of an actual, positive prohibition.

With great respect, your obedient servant,

W. T. SHERMAN,
General.

Hon. ALPHONSO TAFT,
Secretary of War.

Mr. HALE. I am bound to say that so far as General Sherman is concerned my assumption of belief is not well founded. But even with that letter, which I will say answers my objection so far as the general argument goes, none of the objections are removed which arose in my mind to the passage of this joint resolution. In fact, the more I think of it—and I believe that other members will find the same operation going on in their own minds—the more objection there seems to be to permitting a regular officer of the Army to be mixed up with any of these outside places.

Mr. CONGER. If the passage of this joint resolution will result in the removal of General Weitzel from the charge he now has of the public improvements on our lakes, the Sault Sainte Marie Canal, the harbor of refuge, and the improvements upon Lake Superior and Lake Michigan, I should oppose its passage. General Weitzel is one of the most accomplished engineers in the corps; he has done himself and the country great credit by his services in the construction of the canal at Louisville. He is now engaged in a similar work, the enlargement of the canal between Lake Huron and Lake Superior, and also has charge of other large works of that kind. If I understand correctly, he now asks the privilege of accepting a place which is rather honorary than one requiring his time or labor to any great extent. It is offered to him by the city of his residence, Cincinnati, which desires that he shall take the position of trustee or commissioner of a railroad in which the city is greatly interested, which position will occupy but a small portion of his time.

Mr. BANNING. The gentleman is mistaken. The railroad wants his services because he is a capable engineer, and he will no doubt give his entire time to it if allowed to accept the position. I want the House to understand the case perfectly.

Mr. CONGER. While I would be pleased to gratify General Weitzel, I should be very sorry for the Engineer Corps to lose his services on the lakes.

Mr. HALE. If that is the case, why did not General Weitzel resign? Was it because by so doing he would lose a better office in the service?

Mr. BANNING. Why does not the gentleman resign when he is given a better place?

Mr. HALE. When I accept it I will; that will be reason enough.

Mr. BANNING. I do not wish to say anything further upon this except that by the passage of this joint resolution the Government would save the salary that is now paid to General Weitzel as an officer of the Engineer Corps and this great railroad corporation would obtain the aid of an able engineer. I hope the recommendations of General Sherman and of the Secretary of War will be sufficient to pass this joint resolution. I call the previous question.

Mr. HALE. I move to lay the joint resolution upon the table.

The question was taken upon laying the joint resolution on the table; and upon a division there were—ayes 48, noes 39.

Before the result of this vote was announced,

Mr. BANNING. I call for the yeas and nays on this motion.

Mr. HALE. Well, let us have the yeas and nays; it is an important matter enough for them.

Mr. BANNING. Will the gentleman object to recommitting this joint resolution to the Committee on Military Affairs?

Mr. HALE. I will not object to that. I have no wish to take up the time of the House.

Mr. BANNING. I will then withdraw the call for the yeas and nays, and move that this joint resolution be recommitted to the Committee on Military Affairs.

Mr. HALE. Not to be brought back on a motion to reconsider.

The SPEAKER. Certainly not; but to be reported again upon the regular call of the committee.

The joint resolution was accordingly recommitted to the Committee on Military Affairs.

TERRITORY OF PEMBINA.

Mr. CALDWELL, of Tennessee, by unanimous consent, from the Committee on the Territories, reported back, with amendments, a bill (H. R. No. 357) to establish the Territory of Pembina and to provide a temporal government therefor, and moved that the bill, with the amendments, be printed and recommitted to the Committee on the Territories.

The motion was agreed to.

ORDER OF BUSINESS.

Mr. O'BRIEN. Has the morning hour expired?

The SPEAKER. It has.

Mr. O'BRIEN. Then I call for the regular order of business.

Mr. RANDALL. I move that the House now proceed with the consideration of the unfinished business of yesterday, being the silver-coin bill.

Mr. BRIGHT. This is private-bill day, and by the rules of the House I insist that the consideration of private bills takes precedence over the unfinished business. I therefore move that the House now resolve itself into Committee of the Whole on the Private Calendar.

The SPEAKER. The pending bill, referred to by the gentleman from Pennsylvania, [Mr. RANDALL,] not being a special order in Committee of the Whole, the Chair would hold that, this being Friday, a motion that the House now resolve itself into Committee of the Whole on the Private Calendar takes precedence over the motion to proceed to the consideration of the pending bill, the unfinished business of yesterday. But it is proper for the question of consideration to be raised by the gentleman from Pennsylvania [Mr. RANDALL] representing the Committee on Appropriations. The first question will be upon the motion of the gentleman from Tennessee [Mr. BRIGHT] that the House resolve itself into the Committee of the Whole on the Private Calendar. If that fails, the question will be upon proceeding to the consideration of the bill pending as unfinished business.

Mr. RANDALL. The previous question has been ordered on the pending bill in regard to the silver coinage. It will take but an hour to dispose of the bill and amendment. The gentleman from Tennessee [Mr. BRIGHT] in his remarks the other day depicted the great suffering which was taking place by reason of the delay in the passage of this bill. I now ask him to yield for an hour, so that we may to-day dispose finally of the bill.

Mr. BRIGHT. Just one word in reply to the gentleman from Pennsylvania, [Mr. RANDALL.] I am between Scylla and Charybdis. Here is the Private Calendar, which contains many bills appealing to our sympathies in the same manner as does the bill which is unfinished business. I prefer that the question should be submitted to the House.

The question being taken on the motion of Mr. BRIGHT, it was not agreed to; there being—ayes 45, noes not counted.

The question being then taken on the motion of Mr. RANDALL that the House resume the consideration of the unfinished business, it was agreed to.

The SPEAKER. If the Chair can have the indulgence of the House for a few moments, he will dispose of a few matters on the Speaker's table.

There was no objection.

ENROLLED BILL SIGNED.

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

A bill (S. No. 644) to authorize the printing and distribution of the eulogies delivered in Congress on the announcement of the death of the late Orris S. Ferry, a Senator from the State of Connecticut.

DISBURSEMENTS BY WAR DEPARTMENT.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting a statement of the disbursements made from the appropriation of March 3, 1875; which was referred to the Committee on Expenditures in the War Department.

ROCK ISLAND BRIDGE.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting papers relating to the claim of the Baltimore Bridge Company for extra compensation for the construction of the Rock Island bridge; which was referred to the Committee of Claims.

LAUNDRESSES IN THE ARMY.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting a communication from Captain W. G. Wedemeyer, in reference to the employment of laundresses in the Army; which was referred to the Committee on Military Affairs.

COMMISSARY STORES AT FRONTIER POSTS.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting, for the information of the Committee on Military Affairs, a statement showing the cost of certain commissary stores at various frontier posts for the past two years; which was referred to the Committee on Military Affairs.

COMMUNICATION BETWEEN COLORADO AND NEW MEXICO.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting, in response to a resolution of the House of the 15th instant, a copy of the report of Lieutenant Ruffner, relative to the lines of communication between Southern Colorado and Northern New Mexico; which was referred to the Committee on Military Affairs.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. WALKER, of New York, indefinitely on account of sickness; to Mr. SOUTHARD for one week from yesterday on account of important business; to Mr. BEEBE till Wednesday next on account of sickness; to Mr. THOMAS for two days on account of business; to Mr. HAMILTON, of New Jersey, for one week from to-morrow; to Mr. SMITH, of Pennsylvania, for four days on account of important business; to Mr. WILLIAMS, of Delaware, indefinitely on account of business; to Mr. NORTON for ten days on account of important business; to Mr. NEW till Thursday next on account of business; to Mr. HAYMOND for one week, and to Mr. DOUGLAS for ten days from to-morrow.

ORDER OF BUSINESS.

The SPEAKER. Is it the pleasure of the House to take up at this time for appropriate reference the bills on the Speaker's table?

There was no objection.

MORAN'S PAINTINGS AT THE CENTENNIAL.

The SPEAKER laid before the House a joint resolution (S. R. No. 11) to authorize the Joint Committee on the Library to permit Thomas Moran to exhibit two paintings at the centennial exhibition in Philadelphia; which was read a first and second time.

Mr. WADDELL. Is it in order to move by unanimous consent to put that joint resolution on its passage at this time?

The SPEAKER. It is.

Mr. WADDELL. Then I ask unanimous consent to put the joint resolution on its passage at this time, and to submit a brief statement.

There was no objection.

The joint resolution, which was read, authorizes the Joint Committee on the Library to permit Thomas Moran to exhibit at the international exposition at Philadelphia the two paintings executed by himself entitled "The Cañons of the Yellowstone" and the "Chasms of the Colorado;" provided the said Moran shall cause the same to be insured to the satisfaction of the chairman of the Joint Committee on the Library of Congress for the benefit of the United States against loss by accident or otherwise and shall return the same to their places in the Capitol on or before the 1st day of December next.

Mr. WADDELL. I made an effort a few days ago to get unanimous consent at a late hour of the session to pass this joint resolution and to explain the reason for it. It authorizes Mr. Thomas Moran to take two paintings which hang in the Senate wing of the Capitol, the one called the "Grand Cañon of the Yellowstone" and the other "The Chasms of the Colorado," to the centennial exhibition at Philadelphia. It was referred to the Senate branch of the Library Committee, considered there, unanimously reported to that body, and unanimously passed. The condition upon which he is allowed to take the paintings is that he shall bear all expenses, including insurance of the paintings.

Mr. COX. I doubt the propriety of allowing these paintings to go from under this roof, and I will give you my reason. This is the centennial year. That has been observed in this House. [Laughter.] There will be a large throng of people from all parts of the country and from all parts of the world at this capital. I do not believe it is possible for anybody to insure these pictures. You cannot insure pictures to any special amount.

Mr. WADDELL. He said he would reproduce them if they were injured.

Mr. COX. It is a bad precedent to set to send our pictures away to Philadelphia or anywhere else. We might as well send our statuary to Philadelphia; we might as well agree to have the Dome carried off to Philadelphia. [Laughter.] I move that the joint resolution be referred to the Committee on the Library.

Mr. GARFIELD. We ought not to pick out one set of pictures in this way.

The joint resolution was referred to the Committee on the Library.

CUSTOM-HOUSE BONDS.

The SPEAKER laid before the House a bill (H. R. No. 2135) relating to the execution of custom-house bonds, returned from the Senate with an amendment; which was referred to the Committee of Ways and Means, and ordered to be printed.

FOURTEENTH OF APRIL DECLARED A HOLIDAY.

The SPEAKER also laid before the House a joint resolution (S. R. No. 12) declaring the 14th day of April, 1876, a holiday; which was read a first and second time, and suggested it be referred to the Committee on the Centennial Celebration, and ordered to be printed.

Mr. KASSON. It relates, Mr. Speaker, to another subject entirely, and I hope, instead of being referred, the House will agree to put it on its passage at this time. There is to be a local celebration here in this city, connected with the inauguration of a monument by the colored people in commemoration of Abraham Lincoln. It is to take place here in this city.

Mr. RANDALL. And for that day alone.

Mr. GARFIELD. It is a special case, and I hope the House will agree to the resolution.

Mr. KASSON. Let the resolution be reported.

The preamble recites that on the 14th day of April next a statue, secured by the contributions of the freedmen of the country, to the memory of Abraham Lincoln, late President of the United States, will be unveiled with appropriate ceremonies in Lincoln Park, Washington City, District of Columbia; and that all persons desiring to do so should be given the opportunity of attending such exercises, thus by their presence honoring the memory of our martyred President. The resolution therefore provides that all persons employed in the various Departments of the Government situated in the District of Columbia be granted a general holiday on the 14th day of April, 1876.

Mr. KASSON. I hope that will be agreed to.

Mr. COCHRANE. I hope there will be no objection to the resolution. I shall vote for it with great pleasure.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

DEPOSIT OF FUNDS IN THE TREASURY DEPARTMENT.

The SPEAKER also laid before the House a bill (S. No. 614) to authorize the Secretary of the Interior to deposit certain funds in the United States Treasury in lieu of investment; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

CONSULAR AND DIPLOMATIC APPROPRIATION BILL.

The SPEAKER also laid before the House a bill (H. R. No. 1594) making appropriations for the consular and diplomatic service for the year ending June 30, 1877, and for other purposes, returned from the Senate with sundry amendments.

Mr. RANDALL. I move that the bill and amendments be referred to the Committee on Appropriations, and that the amendments be numbered and ordered to be printed together with the bill.

The motion was agreed to.

TESTIMONY OF ACCOMPLICES IN CRIMINAL CASES.

Mr. LORD, from the Committee on the Judiciary, submitted a report in reference to a letter from the Attorney-General of the United States to the district attorneys of Chicago, Milwaukee, and Saint Louis, relating to his instructions as to the testimony of accomplices in criminal cases; which was ordered to be printed and recommitted.

SUBSIDIARY SILVER COIN.

Mr. RANDALL. I move that the House now proceed to the consideration of the unfinished business of yesterday, being the bill in reference to the Printing and Engraving Bureau and the issue of subsidiary silver coin.

The motion was agreed to; and the House (Mr. COX in the chair as Speaker *pro tempore*) resumed the consideration of the bill (H. R. No. 2450) to provide for a deficiency in the Printing and Engraving Bureau of the Treasury Department and for the issue of silver coin of the United States in place of fractional currency.

The SPEAKER *pro tempore*. The previous question has been ordered on the bill and amendments. The pending question is on the amendment of the gentleman from Indiana [Mr. HOLMAN] as amended on the motion of the gentleman from Missouri, [Mr. WELLS.] The Clerk will read the amendment as amended.

The Clerk read as follows:

Add the following as section 3:

SEC. 3. That the Secretary of the Treasury is hereby prohibited from making any further increase in the interest-bearing debt of the United States by the issue and sale of bonds for the purchase of silver bullion for coinage; but silver bullion shall, under regulations to be prescribed by the Secretary of the Treasury, be received by the several mints for fabrication into subsidiary coins, and paid for in such coins at a rate or price per ounce to be fixed from time to time, according to the market rate, by the Director of the Mint, with the approval of the Secretary of the Treasury, on the basis of the difference between the par value of such coin and the value of such bullion; and an addition not exceeding 1 per cent., in the discretion of the Secretary of the Treasury, shall be made to the purchasing price as an allowance for the transportation of the coin; and the excess of the par value of such coin over the value of the bullion so deposited, less the amount that shall be allowed for transportation as aforesaid, determined as above provided, shall be from time to time covered into the Treasury as the Secretary of the Treasury shall direct: *Provided, however*, That such silver coins of the denominations aforesaid and the silver bullion now owned by the United States shall not exceed in par value the par value of the fractional currency now authorized by law: *Provided*, That if silver bullion is not presented for coinage in sufficient quantity for the redemption of fractional

currency, the Secretary of the Treasury may, under the provisions of the act entitled "An act to provide for the resumption of specie payments," approved January 14, 1875, purchase silver bullion for the purposes of coinage as provided in said act.

The question being taken on the amendment, as amended, there were—ayes 48, noes 82.

Mr. REAGAN. I ask for tellers.

The SPEAKER *pro tempore*. A quorum not having voted, the Chair under the rule will order tellers, and appoints the gentleman from Texas [Mr. REAGAN] and the gentleman from New York, [Mr. HEWITT.]

Mr. SPRINGER. I ask that the amendment may be again read.

The amendment was again read.

The SPEAKER *pro tempore*. The tellers will take their places.

The House divided; and the tellers reported—ayes 68, noes 77.

Mr. RANDALL. I call for the yeas and nays. I do so for the purpose of obliging my colleague on the committee, the gentleman from Indiana, [Mr. HOLMAN,] who is detained from the House by sickness, and desires that there shall be a record of the vote on his amendment.

On the question of ordering the yeas and nays, there were—ayes 21, noes 117.

So (the affirmative not being one-fifth of the whole vote) the yeas and nays were not ordered, and the amendment, as amended, was rejected.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed a bill (S. No. 682) to suspend the sale of the jail on Judiciary Square, and for other purposes; in which the concurrence of the House was requested.

SUBSIDIARY SILVER COIN.

The House resumed the consideration of the bill in relation to the Bureau of Printing and Engraving and the issue of subsidiary silver coin.

The SPEAKER *pro tempore*. The question is on the engrossment and third reading of the bill as amended.

Mr. O'BRIEN. I rise to a parliamentary question. Is it in order now to move to recommit the bill with instructions?

The SPEAKER *pro tempore*. Not at this stage. The previous question has not exhausted itself.

Mr. O'BRIEN. After the engrossment and third reading, when the previous question will have exhausted itself, will a motion to recommit then be in order?

The SPEAKER *pro tempore*. The Chair will not decide such questions in advance. He can only decide the parliamentary points in regard to the present stage of the bill.

The question being taken, there were—ayes 100, noes 82.

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

Mr. RANDALL. I demand the previous question on the passage of the bill.

Mr. O'BRIEN. I rise to a parliamentary inquiry.

Mr. JONES, of Kentucky. I desire to know of the Chair what it is that the House is now voting on?

The SPEAKER *pro tempore*. On the bill as amended.

Mr. RANDALL. The bill is now as it was reported by the Committee on Appropriations, with an amendment added to it on the motion of the gentleman from Texas, [Mr. REAGAN.]

Mr. JONES, of Kentucky. That amendment alone?

Mr. RANDALL. Yes, sir.

The SPEAKER *pro tempore*. The Chair will state for the information of members that the bill as amended by the amendment of the gentleman from Texas is now before the House, and the question is on seconding the previous question on the passage of the bill.

Mr. HOSKINS. I ask that the amendment adopted in Committee of the Whole on the motion of the gentleman from Texas be read.

Mr. TUCKER. I move to recommit the bill.

The SPEAKER *pro tempore*. That motion is not in order. The Clerk will read the amendment of the gentleman from Texas, which was adopted by the House.

Mr. O'BRIEN. Before the reading of the amendment I desire to ask a parliamentary question: Whether if the call for the previous question is defeated I will not have the privilege then of moving to recommit the bill with instructions?

The SPEAKER. That is not a question for the Chair to decide now.

Mr. O'BRIEN. I give notice that if the previous question is defeated I will make that motion.

The SPEAKER *pro tempore*. That statement is not in order.

Mr. BLACKBURN. I desire to make a parliamentary inquiry. Rule 124 says that at any time before the passage of a bill it may be recommitted. I wish to know how we are ever to get at the motion to recommit if it is not in order now? The previous question was exhausted when the Clerk read the bill the third time by its title.

Mr. RANDALL. But I was recognized by the Chair to move the previous question on the passage of the bill.

Mr. BLACKBURN. The previous question is not now in operation. It has been asked for, but has not been voted.

The SPEAKER *pro tempore*. The Chair will say that no gentleman holds the floor but the gentleman from Pennsylvania. The gentleman from Kentucky [Mr. BLACKBURN] must be aware that by the rules the gentleman from Pennsylvania, who has charge of the bill, can move the previous question on the passage of the bill. That takes precedence of a motion to recommit.

Mr. BLACKBURN. The inquiry to which I rose was this: Does the asking of the previous question by the gentleman from Pennsylvania, when the previous question has been exhausted on the engrossment and third reading of the bill and has not been renewed, preclude the motion to recommit the bill?

The SPEAKER *pro tempore*. The gentleman from Pennsylvania [Mr. RANDALL] was recognized and made the motion to renew the operation of the previous question. That is the motion now pending. The Clerk will now read, as requested by the gentleman from New York, [Mr. HOSKINS,] the amendment to this bill, which has been adopted by the House.

The Clerk read as follows:

Insert as section 4 the following:

That the silver coins of the United States of the denomination of $1 shall be a legal tender at their nominal value for any amount not exceeding $50 in any one payment. And silver coins of the United States of denominations of less than $1 shall be a legal tender at their nominal value for any amount not exceeding $25 in any one payment.

Mr. REAGAN. The amendment of the gentleman from Indiana having been defeated, this amendment will be section 3 of the bill. I ask that that change may be made in the numbering of the section.

The SPEAKER *pro tempore*. That change will be made by the Clerk.

Mr. SAVAGE. I rise to a parliamentary inquiry. If the House should not second the demand for the previous question would a motion then to recommit be in order?

The SPEAKER. The Chair does not propose to decide those matters until the House reaches them.

The question being taken on seconding the demand for the previous question, there were—ayes 108, noes 79.

So the previous question was seconded.

The main question was then ordered to be put.

Mr. JONES, of Kentucky. I move to lay the bill upon the table.

Mr. LANDERS, of Indiana. I call for tellers on that motion.

Tellers were not ordered.

The question was taken on the motion of Mr. JONES, of Kentucky, and it was not agreed to.

The question recurred on the passage of the bill.

Mr. EDEN, Mr. BAKER, of Indiana, and others called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 123, nays 100, not voting 66; as follows:

YEAS—Messrs. Adams, Bagby, George A. Bagley, John H. Bagley, jr., William H. Baker, Ballou, Banks, Bell, Blair, Blount, Bradley, Horatio C. Burchard, Burleigh, Cannon, Caulfield, Chapin, Chittenden, Clymer, Cochrane, Conger, Crounse, Culberson, Cutler, Danford, Denison, Douglas, Durand, Eames, Farwell, Fort, Foster, Frost, Frye, Garfield, Gibson, Goode, Gunter, Hale, Hancock, Haralson, Hardenbergh, Harrison, Hathorn, Hendee, Henderson, Goldsmith W. Hewitt, Hoge, Hoskins, Hubbell, Hyman, Jenks, Joyce, Kasson, Kehr, Kimball, Lapham, Leavenworth, Levy, Luttrell, Lynch, Lynde, Magoon, MacDougall, McCrary, Meade, Miller, Monroe, Morey, Morrison, Mutchler, Norton, O'Brien, Odell, O'Neill, Page Phelps, Piper, Plaisted, Platt, Potter, Powell, Pratt, Randall, Reagan, John Robbins, Miles Ross, Rusk, Sampson, Schleicher, Schumaker, Singleton, Sinnickson, Smalls, Strait, Teese, Terry, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tufts, Turney, Waldron, Alexander S. Wallace, John W. Wallace, Walls, Erastus Wells, G. Wiley Wells, Wheeler, White, Whiting, Wigginton, Wike, Willard, Andrew Williams, Alpheus S. Williams, William B. Williams, Wilshire, James Wilson, Alan Wood, jr. Fernando Wood, Woodburn, and Yeates—123.

NAYS—Messrs. Anderson, Ashe, Atkins, John H. Baker, Banning, Beebe, Blackburn, Boone, Bradford, Bright, John Young Brown, William R. Brown, Cabell, John H. Caldwell, William P. Caldwell, Campbell, Cason, Cate, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Cook, Crapo, Davis, De Bolt, Dibrell, Dunnell, Durham, Eden, Egbert, Evans, Felton, Forney, Franklin, Fuller, Glover, Goodin, Andrew H. Hamilton, Benjamin W. Harris, Henry R. Harris, John T. Harris, Hartzell, Hatcher, Haymond, Hereford, Abram S. Hewitt, Hopkins, House, Hunter, Hunton, Thomas L. Jones, Franklin Landers, Lord, McFarland, McMahon, Milliken, Money, Morgan, Neal, New, Oliver, Packer, John F. Philips, William A. Phillips, Pierce, Poppleton, Rea, John Reilly, James B. Reilly, Rice, Riddle, William M. Robbins, Robinson, Savage, Sayler, Scales, Seelye, Sheakley, Slemons, Sparks, Springer, Stevenson, Stone, Tarbox, Thompson, Tucker, Van Vorhes, John L. Vance, Robert B. Vance, Waddell, Gilbert C. Walker, Walling, Walsh, Ward, Warren, Whitehouse, James D. Williams, Jeremiah N. Williams, Willis, Woodworth, and Young—100.

NOT VOTING—Messrs. Ainsworth, Barnum, Bass, Blaine, Bland, Bliss, Buckner, Samuel D. Burchard, Candler, Caswell, Collins, Cowan, Cox, Darrall, Davy, Dobbins, Ellis, Ely, Faulkner, Freeman, Gause, Robert Hamilton, Hartridge, Hays, Henkle, Hill, Hoar, Holman, Hooker, Hurd, Hurlbut, Frank Jones, Kelley, Ketchum, King, Knott, Lamar, George M. Landers, Lane, Lawrence, Lewis, Edmund W. M. Mackey, L. A. Mackey, Maish, McDill, Metcalfe, Mills, Nash, Parsons, Payne, Purman, Rainey, Roberts, Sobieski Ross, A. Herr Smith, William E. Smith, Southard, Stenger, Stowell, Swann, Thomas, Charles C. B. Walker, Whitthorne, Charles G. Williams, James Williams, and Benjamin Wilson—66.

So the bill was passed.

During the roll-call,

Mr. TEESE said: I desire to announce that my colleague, Mr. HAMILTON, is absent by leave on business of the House; if here, he would vote "ay."

Mr. COCHRANE. I desire to announce that my colleague, Mr. STENGER, is absent on important business; if here, he would vote "ay." I desire also to announce that my colleague, Mr. MAISH, is also absent on business.

Mr. HOSKINS. I desire to announce that my colleague, Mr. DAVY, is absent by leave of the House; if present, he would vote "ay."

Mr. WALLACE, of South Carolina. My colleague, Mr. MACKEY, is still confined to his room by sickness.

Mr. HOPKINS. My colleague, Mr. MACKEY, is absent by leave of the House on account of sickness.

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

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

The latter motion was agreed to.

Mr. RANDALL. I call for the previous question on the title of the bill.

The previous question was seconded and the main question ordered; and under the operation thereof the title of the bill was agreed to.

ORDER OF BUSINESS.

Mr. BRIGHT. I desire to move that the House resolve itself into Committee of the Whole on the Private Calendar; but before doing so I will yield for a few moments to gentlemen who have matters they desire to bring before the House, with the understanding that they will not lead to debate.

BUSINESS OF DISTILLING.

Mr. WHITING, by unanimous consent, introduced a bill (H. R. No. 2954) concerning corporations engaged in the business of distilling; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

SALE OF THE OLD WASHINGTON JAIL.

Mr. HENDEE. I ask unanimous consent that the bill of the Senate (S. No. 682) to suspend the sale of the jail in Judiciary Square and for other purposes be taken up for consideration.

No objection being made, the bill was taken up and read.

It directs the Chief Engineer of the Army to suspend the sale of the jail on Judiciary Square in the city of Washington, and that the same be turned over for the use of the authorities of the District of Columbia temporarily, or until other jail facilities are provided; and it shall be lawful for the courts of the District of Columbia to order the confinement of prisoners therein.

Mr. HENDEE. If I can have the attention of the House for a moment I will attempt to show the importance of the passage of this bill at this time. In one of the appropriation bills of the last Congress it was provided that the old jail-building upon Judiciary Square should be sold, and that the funds arising from that sale should be appropriated to beautifying and improving the square itself. It is well know that within the last three or four years the United States has built a new jail in the northeastern part of the city for the confinement of criminals. When that jail was built it was supposed that it would be sufficient for the confinement of all the criminals sentenced by all the courts of this District, as well as the United States courts. But it has turned out to be too small for that purpose. There are two hundred and seventy-two single cells in that jail, and at this time there are two hundred and eighty-nine prisoners confined there.

It is also a fact that at the present time the criminals of this District who are sentenced by the police court are confined in the Washington Asylum building together with the poor supported by the District. In fact the poor of this District and the criminals of this District are kept in the same building. I look upon this as a great injustice to the poor, and I consider that the criminals are enjoying better company than they are entitled to.

Unless this old jail-building can be kept and used for a while it will be absolutely necessary, in order to take care of the criminals of this District, to build a new jail, which we should avoid if possible. General Babcock, under the law, has advertised the sale of this old jail-building to take place next Tuesday.

There is already before the Committee for the District of Columbia a bill providing that the old jail building shall be used for the purpose of constructing a wall about the new jail. That bill should be considered before the old building is sold; and in any event I think the commissioners of the District should have the power to confine criminals in the old jail rather than to continue to keep them in the company of the poor of the District. I hope this bill will pass.

Mr. GARFIELD. I would inquire of the gentleman what is the purpose of the Committee for the District of Columbia in regard to the ultimate disposition of the old jail?

Mr. HENDEE. We have no purpose at the present time in regard to it.

Mr. GARFIELD. Are both the old and new buildings to be used as jails?

Mr. HENDEE. The proposition simply is to turn over the old building temporarily to the commissioners of the District until some place can be provided in which to put the prisoners sentenced to confinement in the District of Columbia.

Mr. GARFIELD. Is the new jail in full operation now?

Mr. HENDEE. It is. It has two hundred and seventy-two single cells, and at the present time there are two hundred and eighty-nine prisoners confined there. The gentleman is aware, I suppose, that crime is increasing very fast in this District.

Mr. GARFIELD. Is the new jail full?

Mr. HENDEE. It is more than full; and the Attorney-General has refused to receive in it any criminals sentenced by the police courts of this District.

Mr. GARFIELD. I still want further information. The great object we had in view in appropriating money a few years ago to build the new jail was to provide ample accommodation for the criminals of this District, and also to clear away the unsightly building on Judiciary Square, a square that should be one of the most beautiful in this city. If that eyesore is to be made permanent, without any arrangement for its ultimate demolition, I should regard it as a very serious matter. For one, I would rather there should be a little discomfort somewhere than to continue that building.

Mr. HENDEE. We shall have to turn our criminals into the streets.

Mr. GARFIELD. How many are in the old jail now?

Mr. HENDEE. None; but the Washington Asylum, which is the poor-house and work-house of the District, has in it to-day two hundred and fifteen criminals and two hundred and nineteen paupers of this District confined together. We propose to take the criminals out of that building and put them in the old jail, where they belong. This bill makes only temporary provision until some arrangements can be made.

Mr. GARFIELD. Then I insist that we should have some limitation upon this matter of the old jail. The necessities of this hard winter, which no doubt have driven a great many men to the commission of crime, are only special, and I have no doubt they will pass away by spring.

The fact was communicated a few days ago to a committee of which I am a member that there are now in the city of Philadelphia over eleven hundred people wearing the badge of criminals, people who are self-committed, who want to the jails, not because they had committed crime, but because they were out of work and had nothing to live upon, and absolutely consented to the disgrace of becoming criminals in the poor-houses and jails of that city for the sake of avoiding the hardships of the winter. I hope, and I am inclined to believe, that a large number of the prisoners in our very large jail here is in a measure due to the hard winter.

I therefore suggest that this postponement of the sale of this old jail shall not be for more than four months, and that at the end of that time the sale shall go on. I will move an amendment to that effect.

Mr. HENDEE. I do not yield for an amendment. I wish to say that this bill was introduced into the Senate this morning by Senator MORRILL, of Vermont, chairman of the Committee on Public Buildings and Grounds, and as I understand was passed unanimously by the Senate in order to stop the sale of this building. I ask that this House shall concur in the passage of the bill, in order that it may receive the signature of the President in time to prevent this sale taking place on next Tuesday. If the sale is not stopped, then the question arises, will we not be called upon to furnish some place for the confinement of these criminals at a great expense to the District and to the country? It seems to me that this old building while standing there might as a matter of economy, if nothing else, be used for this purpose.

Mr. HALE. I hope the gentleman will accept the amendment of the gentleman from Ohio, [Mr. GARFIELD.] We have spent for the benefit of this District, in building a new and large jail, half a million dollars. Now I do not think the gentleman himself wants to do anything that will put upon us as a perpetuity the maintenance of two jails. Will not the amendment of the gentleman from Ohio, [Mr. GARFIELD,] which proposes to fix a limit to this suspension, meet that objection? Will not the gentleman from Vermont [Mr. HENDEE] yield to allow the amendment to be voted upon?

Mr. HENDEE. Certainly, if the gentleman wishes a vote upon it.

Mr. GARFIELD. I move, then, to add to the bill this clause:

Provided, That the suspension of the sale and removal of the old jail shall not extend further than July 1, 1876.

Mr. HENDEE. In order to accommodate my friend from Ohio, I yield to have the amendment voted upon; but I hope it will not be adopted.

Mr. GARFIELD. Mr. Speaker, it is very easy indeed to put into a law some make-shift intended to have a merely temporary effect, but which, if not limited as to the time of its operation, becomes a permanent law. I might give a dozen instances of that sort of management. In 1866 we started upon a career toward specie payments on a plan which, if it had been persisted in, would certainly have wrought out that end, so that long ago we should have been out of our trouble on that subject. But after that policy had been initiated some people said it was pinching a little, that its operation was somewhat severe, and therefore, in order for the time being to let up over a hard place, they proposed that the law should be suspended until the further action of Congress. The suspension was understood to be for just a few months, "until the crops should be moved," or until something else should be done; and there was a sort of moral promise that as soon as this was done the original act should again become operative. With that understanding the suspension was rushed through Congress with very little consideration or debate. But it has continued in force for ten years, and is the law to-day. There we have an illustration of the effect of the miserable make-shift policy of repealing for a temporary object, but without limitation as to time, a wise law, or one which, if not entirely wise, would have accomplished the desired result.

In the present case we have provided by law for the building of a new jail, which is now completed. One of the great purposes in providing for the erection of that building was to get rid of that old, unsightly, wretched, cholera hospital, a place hardly fit to put a human being in; to sweep away that nuisance from Judiciary Square. Provision has been made by law for the demolition of that old structure; but now, as a matter of temporary pressure, we are asked to suspend the order for its removal. Suspend that order in the form proposed in this bill, and that unsightly structure will remain indefinitely. It will require a series of legislative campaigns to get rid of that old jail. On the other hand, the insertion of a single clause limiting the operation of this bill until the 1st of July next will settle the matter.

It is so easy to fix things while you are at them; it is so difficult to adjust them if you let the favorable moment pass. We have now a law providing that the old jail must go down. My friend from Vermont shows sufficient reason why it should be allowed to stand for a few months; but he shows no reason why it should be continued as a perpetual nuisance upon our public grounds.

Mr. HENDEE. Mr. Speaker, I hope that this amendment will not prevail, because I am perfectly satisfied, from the information I have, that if it be adopted we shall have to pass between now and the 1st of July next another act providing a still further suspension. It has become a fact that in this District the courts have to cut short the terms of confinement of criminals who are sent to the Washington Asylum and other places because there is no place in which they can be confined properly. It seems to me that this old jail being ample for the purposes here contemplated, and being now empty, the commissioners and the courts of this District should have the power to use it temporarily until some other means can be provided; that we should not, at this time of economy, permit the sale of that jail and expend the money, and perhaps hundreds of thousands of dollars more, for the purpose of beautifying that square. I hope the amendment will not prevail. I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment of Mr. GARFIELD was rejected, there being ayes 13, noes not counted.

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

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

The latter motion was agreed to.

LEAVE TO PRINT.

Mr. CATE, by unanimous consent, obtained leave to have printed as part of the debates remarks on the bill (H. R. No. 2450) to provide for a deficiency in the Printing and Engraving Bureau of the Treasury Department and for the issue of silver coin of the United States in place of fractional currency. [See Appendix.]

ORDER OF BUSINESS.

Mr. BRIGHT. I move that the House resolve itself into the Committee of the Whole on the Private Calendar. In connection with that I ask unanimous consent that to-day be considered "objection day." We lost our "objection day" last week.

The SPEAKER *pro tempore*. That motion cannot be entertained. "Objection day" is fixed by the rules absolutely.

Mr. BRIGHT. I supposed that the rules could be suspended by unanimous consent.

The SPEAKER *pro tempore*. The rules cannot be suspended, except by a motion on Monday or on one of the last ten days of the session.

Mr. BRIGHT. Well, I insist on my motion to go into Committee of the Whole on the Private Calendar.

Mr. O'BRIEN. Pending that motion, I move that the House now take a recess.

Mr. BRIGHT. I submit that that is not in order. By the rule which we have established, it was provided that the recess should be taken at half past four o'clock.

Mr. O'BRIEN. I hope the gentleman does not presume to intimate that we cannot take a recess whenever we please or adjourn whenever we please?

Mr. BRIGHT. I admit that, Mr. Speaker; but it was the understanding or agreement that we should work until half past four o'clock.

The SPEAKER *pro tempore*. The gentleman from Maryland did not have the floor to make the motion.

Mr. BRIGHT. I do not yield for any motion.

Mr. BRIGHT's motion was agreed to.

The House accordingly resolved itself into Committee of the Whole on the Private Calendar, (Mr. SPRINGER in the chair.)

MISSOURI LAND CLAIMS.

The CHAIRMAN. The first business on the Private Calendar is a bill (H. R. No. 819) to confirm certain land claims in the State of Missouri.

Mr. PHILIPS, of Missouri. That bill was reported from the Committee on Private Land Claims by my colleague, [Mr. BUCKNER,] who is absent by leave of the House on account of sickness, and I ask it be passed over for the present, not however to lose its place upon the Calendar.

There was no objection, and it was ordered accordingly.

PRIVATE LAND CLAIMS IN NEW MEXICO.

The CHAIRMAN. When the Committee of the Whole rose from the consideration of the Private Calendar on a previous Friday the unfinished business was a bill (H. R. No. 344) to confirm certain land claims in the Territory of New Mexico, upon which the gentleman from Texas [Mr. HANCOCK] is entitled to the floor.

Mr. JOYCE. That bill was reported by me from the Committee on Private Land Claims. I do not see the gentleman from Texas present, and if there be no objection I will consent to the bill being passed over for the present, provided it does not lose its place upon the Calendar.

The CHAIRMAN. It will retain its place upon the Calendar.

Mr. JOYCE. Then let it be passed over.

There was no objection, and it was ordered accordingly.

MARY W. JONES.

The next business on the Private Calendar was a bill (H. R. No. 744) to increase the pension of Mary W. Jones.

The bill, which was read, directs the Secretary of the Interior to place the name of Mary W. Jones, the widow of the late Commodore Ap C. Jones, on the pension-roll for an increase of pension of $20 a month, to be paid from the passage of this act, making a pension of $50 a month.

The report was read, as follows:

The petitioner in this case is Mrs. Mary W. Jones, the widow of Thomas Ap C. Jones. The facts show that the husband of petitioner was, for about fifty-three years, an officer in the United States Navy. He received a wound while commanding the United States flotilla at the battle of New Orleans in the war with Great Britain. From this wound he never fully recovered. Thomas Ap C. Jones died in 1858. The son of petitioner, Lieutenant-Commander M. Patterson Jones, served twenty-five years in the United States Navy, serving with fidelity during the late war of the rebellion. He died suddenly in 1866, while on duty at the navy-yard Washington, District of Columbia. The loyalty of the petitioner is clearly shown by testimony filed with the petition.

Mrs. Jones received a pension from July 1, 1858, to January 1, 1870, at $50 per month, when it was cut down to $30 per month. The committee of the last Congress unanimously recommended the relief asked in the bill introduced for her relief at that time, and now re-introduced. The eminent services of the petitioner's husband and son, as herein set forth, would seem to warrant this committee in making a similar report.

The committee therefore recommend that the accompanying bill, giving petitioner $50 per month from passage thereof, do pass.

The bill was laid aside, to be reported to the House with the recommendation that it do pass.

LANDS CEDED UNDER TREATY OF WASHINGTON.

The next business on the Private Calendar was a bill (H. R. No. 186) to provide for compensation to the owners of certain lands ceded by the United States to Great Britain in and by the treaty of Washington of July 9, 1842.

The preamble recites that the United States, in and by the treaty of Washington of July 9, 1842, by adopting a conventional line "from the monument at the source of the river Saint Croix, running north, following the exploring-line run and marked by the surveyors of the two governments in the years 1817 and 1818," instead of a true north line, did cede to the British Crown a strip of land commencing at an angle at said monument and increasing to nearly one mile in width at the river Saint John, certain portions of which, amounting to 10,718 acres and 137 square rods, had been granted to citizens of the United States by the States of Maine and Massachusetts while the same were within the lines of the United States and for which the United States received compensation in equivalents and concessions from the British Crown; and that the United States have made compensation to the States of Maine and Massachusetts for so much of said territory as was owned by them, respectively, and all citizens owning lands on the west of said exploring-line which vested in British subjects by operation of the treaty aforesaid under the act of July 12, 1862, and other acts, and have hitherto failed to make compensation to those citizens owning lands upon the strip and tract east of said exploring-line, which passed either to British subjects or the British Crown by virtue of said exploring-line being adopted as the treaty-line between the two countries at that point, whereby said citizens became entitled to compensation for said lands so appropriated to public use.

The bill then authorizes and directs the Secretary of the Treasury to pay to the parties entitled thereto compensation for said land taken from the State of Maine by said conventional line, and included in the province of New Brunswick, not exceeding 10,718 acres and 137 square rods appropriated by the United States as aforesaid, its value in money at the date of said appropriation; provided that the whole amount of compensation so made shall not exceed an average compensation of $3 per acre, and that the same shall be distributed and applied in proportion to the relative value of said lands when appropriated; and provided further, that all payments made under the act shall be in full of all compensation due by the United States for the lands so appropriated; and provided further, that in determining the amount and value of the land appropriated and the amount of compensation to be made to any claimant the Secretary of the Treasury may use any evidence heretofore taken in relation thereto by the Department of State or by the States of Maine or

Massachusetts, and any and all official documents and correspondence pertaining thereto.

The second section provides that to enable the Secretary of the Treasury to carry the foregoing section into effect $45,000, or so much thereof as may be necessary, is thereby appropriated out of any money in the Treasury not otherwise appropriated.

The amendments of the Committee of Claims are as follows:

In section 1 insert after the word "appropriation" these words:

And also for all timber cut therefrom by British subjects during the suspension of jurisdiction by the respective governments preceding said treaty.

In section 2 strike out "forty" and insert "thirty;" so it will read, "$35,000," &c.

The amendments were agreed to.

The report of the Committee of Claims made by Mr. TARBOX is as follows:

They find that the recitals of the preamble to the bill are true.

The subject-matter was before the Forty-third Congress, upon the petition of James A. Drew and others, and the careful report made thereon by Mr. DUNNELL of the Committee of Claims, which accompanies H. R. 2873, of the first session of that Congress, sets forth fully and concisely the facts and conclusions that establish the validity of the claim of the beneficiaries under this bill for the indemnity it provides.

Under the treaty of 1783, the division-line between the United States and the province of New Brunswick, on the east, was agreed to be a line drawn due north from the source of the Saint Croix River to the highlands that divide the waters flowing into the Gulf of Saint Lawrence from those which flow into the Atlantic Ocean. A dispute arose afterward in regard to the location of these highlands, which was not adjusted until the convention of 1842, which composed this and other vexed controversies. In 1794 the two governments determined the spot to be regarded as the source of the Saint Croix and identified it by a monument. No formal survey of this due-north line was ever made by the two governments in concert; but by authority of the State of Massachusetts the line was run from the monument by surveyors, in 1804, and in 1840 by Major Graham, of the United States topographical engineers. That the line fixed by these explorations is the true treaty-line of 1783 was claimed as beyond question by our Government, and in effect conceded by Lord Ashburton in the negotiations that preceded the conclusion of the convention of 1842. Long prior to this latter convention, and before the territorial dispute arose, the State of Massachusetts made grants of lands, by townships, chiefly to educational institutions and soldiers distinguished for patriotic services, bounding easterly on this line. By the treaty of 1842 a new boundary was adopted, in place of the old, to meet commercial and political exigencies, for which the United States obtained valuable compensations in the settlement of other boundaries. As thus newly established, the boundary, commencing at the head of the Saint Croix, by the monument, was made to diverge some degrees westerly from due north. In consequence of this variation, and by operation of the treaty provisions, the title to an amount of land equal to ten thousand acres or more, lying between the two boundaries, was divested from the proprietors under the grants and vested in British subjects; and it is to indemnify the proprietors for these lands taken by the sovereign power for a public use that the committee recommend the passage of the accompanying bill of relief.

In the year 1833, in consequence of the disagreement as to the boundary, it was arranged between the two governments, as appears from the diplomatic correspondence, that both governments should suspend the exercise of jurisdiction over the disputed territory (which included these lands) until a final adjustment of the controversy. This diplomatic understanding was adhered to until the convention of 1842 composed the troubles, with the exception that the authorities of Maine, in 1839, interfered by force to protect the valuable timber forests from depredations. During the period of suspended jurisdiction, principally from 1832 to 1839, and while the owners were powerless to protect their rights and interests, these lands were settled upon and the valuable growth of timber thereon removed by the subjects of Great Britain from the contiguous province. Under the operation of the fourth article of the treaty of 1842 these "squatters" who had been in actual possession for six years before the date of the treaty were confirmed in their titles, to the exclusion of the proprietors whose title was derived under their grants. Judicial determinations fully establish this construction and give effect to it. (See Little *vs.* Watson, 32 Maine Reports, page 214.)

The obligation of the Government to make this indemnity seems too clear for discussion, and is confessed by abundant precedent. In recognition of this obligation the Federal Government, by express provision of the treaty, allowed to the States of Maine and Massachusetts $300,000 for their public lands within the territorial cession.

By the act of July 12, 1862, Congress admitted and satisfied claims made for lands of individual owners which fell within the jurisdiction of the United States upon the reconstruction of boundaries, but which the proprietors were dispossessed of under the fourth article of the treaty, and the title thereto vested in British subjects. The lands specified in this bill constituted a portion of the townships granted by Massachusetts, which, at the date of the grants, were indisputably a part of her public domain. By the establishment of the conventional line of 1842 a section of these townships remained, as before, within the Federal jurisdiction, and a section was transferred to the British Crown. As to the whole, the American owners were dispossessed. For the part which fell within the jurisdiction, the Federal Government, acknowledging its liability, has made compensation. For the part which passed to the foreign jurisdiction, the bill under consideration proposes indemnity. The right to compensation in the two cases seems identical. It is pertinent to recall that a pecuniary compensation was made to the States of Maine and Massachusetts for their public lands so transferred to the British government, and of the lands so paid for by the Federal Government, a part occupied the same relative position as those covered by the provisions of this bill. Surely the right of the private proprietor to compensation should not be held less than the right of the State.

Exhaustive reports upon the various claims of this class, arising out of the treaty of 1842 have been submitted by committees of both branches of Congress in former years, with concurrent unanimity sustaining their justice and validity. We refer particularly to reports—

In the Senate:

By Mr. Wade, third session Thirty-fourth Congress, (Report No. 323.)

By Mr. Clark, first session Thirty-fifth Congress, (Report No. 168.)

In the House:

By Mr. Maynard, first session Thirty-fifth Congress, (Report No. 394.)

By Mr. Walton, second session Thirty-seventh Congress, (Report No. 72.)

By Mr. DUNNELL, first session Forty-third Congress, (Report No. 386.)

The bill reported favorably from the Committee of Claims of the last House of Representatives passed the House, but failed to secure action in the Senate.

The States of Maine and Massachusetts have each taken action in aid of the claimants, urging the justice of the claim upon the attention of the Government. The governor and council of Maine, in 1869, in execution of a resolution of the Legislature, investigated the subject, and found that the territory in question embraced 107.8 acres 137 rods, and its average value $3 an acre. The act of July 12, 1862, allowed compensation for contiguous lands of no greater value, inclusive of damage for timber removals while the exercise of jurisdiction was suspended, at the rate of $4 per acre.

The committee recommend that the bill pass with certain amendments, to wit: First, after the word "appropriation," in the tenth line in the first section of the printed bill, insert the words "and also for all timber cut therefrom by British subjects during the suspension of jurisdiction by the respective governments preceding said treaty." Second, in the twelfth line of the first section strike out the word "four" and insert "three," and strike out the words "more than." Third, in the second line of the second section strike out the word "forty" and insert "thirty" instead.

The bill, as amended, was laid aside, to be reported to the House with a recommendation that it do pass.

FIRST NATIONAL BANK OF SAINT ALBANS, VERMONT.

The next business on the Private Calendar was a bill (S. No. 58) to pay the First National Bank of Saint Albans, in the county of Franklin, and State of Vermont, the value of certain United States Treasury notes held by said bank as financial agent of the United States, and forcibly taken therefrom by raiders from Canada in October, 1864.

The bill, which was read, authorizes and directs the Secretary of the Treasury to pay to the First National Bank of Saint Albans, at Saint Albans, in the county of Franklin, and State of Vermont, late financial agent and designated depository of public moneys of the United States, (under section 45 of the national-currency act, approved June 3, 1864,) the sum of $28,650, out of any money in the Treasury not otherwise appropriated, being the amount of United States 7.30 Treasury notes held by said bank as such financial agent of the United States for delivery to subscribers therefor, and belonging to the United States, and having been forcibly seized and taken away by an armed band of raiders from Canada, acting under the military authority and direction of the so-called Confederate States of America, on the 19th day of October, 1864, without the fault or neglect of the officers of said bank.

Mr. EDEN'S report was read, as follows:

The facts relative to the claim are stated in the report of the Senate Committee on Claims made to the Forty-third Congress, as follows:

On October 19, 1864, occurred what is known as the Saint Albans raid. About three o'clock in the afternoon of that day parties of from three to five men each, armed with navy revolvers, concealed under their coats, entered the three banks in the village of Saint Albans, Vermont. In two of the banks the cashiers and tellers were present; in the third, the cashier was alone. The men stated that they were confederate soldiers; that they had come to rob the banks and fire the village; and, presenting their pistols, threatened the officers of the banks with instant death if they should make any resistance or give any alarm. They then proceeded to rob the banks. Meantime other parties were seizing horses through the town, and, meeting with some resistance from the citizens, they began to fire on men passing in the streets, killing one or two and wounding others; and they also attempted to fire a hotel and some other buildings by the use of Greek fire. The banks were soon plundered, horses enough to mount the raiders seized, saddled, and bridled, and within thirty minutes after the banks were entered the whole party was galloping toward Canada. The citizens of Saint Albans, as soon as they recovered from the surprise of such an unexpected attack, armed and dispatched a company in pursuit of the raiders, and, by their active efforts that night and the next morning, ten of the raiders were taken and $74,000 of the stolen money recovered. Proceedings were begun in the Canadian courts for the extradition of the raiders thus taken, but the courts decided that their deeds were the acts of belligerents and not robbery and murder; that therefore they could not deliver them under the extradition treaty, and they were accordingly discharged.

June 22, 1864, the First National Bank of Saint Albans had been designated a depository and financial agent of the United States, and had been authorized to receive subscriptions for bonds and Treasury notes of the United States. They did receive, in September and the early part of October, subscriptions to the amount of $35,000 for the three-years' coupon Treasury notes bearing 7.3 per cent. interest, issued under the act of June 30, 1864. The money on these subscriptions was paid into the bank and placed to the credit of the Treasurer of the United States; report thereof was made to him, the Treasury notes were ordered for the subscribers, and, October 15, 1864, were received to the amount of $35,000. The bank immediately notified the subscribers, and by the 19th they had delivered $6,350 of them to subscribers residing in the vicinity. The remaining notes, $28,650, being the subscriptions of thirty persons, were seized and carried off by the raiders, together with large amounts of money and other property in the safes of the banks. The thirty subscribers demanded the delivery of the notes or the return of the money paid by them; and the bank, recognizing the demand as both morally and legally valid, paid to the subscribers their respective amounts, and now seeks relief from the Government for the same.

Section 5153 of the Revised Statutes provides that "all national-banking associations, designated for that purpose by the Secretary of the Treasury, shall be depositories of public money, except receipts from customs, under such regulations as may be prescribed by the Secretary, and they may also be employed as financial agents of the Government, and they shall perform all such reasonable duties as depositories of public moneys and financial agents of the Government as may be required of them.

Under the authority of said section, the Treasurer of the United States, on the 22d day of June, 1864, designated the First National Bank of Saint Albans a depository of public moneys, and on the 25th day of July, 1864, the Secretary of the Treasury authorized said bank "to receive deposits for three years' coupon Treasury notes, bearing interest at the rate of 7.3 per cent. per annum, to be issued under the act approved June 30, 1864," these notes to bear date August 15, 1864, payable three years after date, in lawful money, to be issued in blank or payable to order, as depositors should elect. The instructions of the Secretary of the Treasury states the conditions of the subscriptions as follows: "The original certificate, (of deposit,) which should be left with you (the bank) after indorsement, as herein directed, must be sent to this Department, and must state on the back the denomination of the notes wanted, and whether they are to be issued in blank or payable to order. The notes will be in denominations of $50, $100, $500, $1,000, and $5,000; and, when prepared, they will be sent to your bank for distribution to depositors, by express, at the expense of the Government." Deposits, when made, were placed to the credit of the Treasurer of the United States. August 19, 1864, notice was given in a Saint Albans paper, by agents of the Treasury Department, that subscriptions would be received to said loan by the First National Bank at Saint Albans, and other places mentioned. The notice specified that "the notes will be transmitted to the owners free of transportation charges, as soon after the receipt of the original certificates of deposit as they can be prepared."

The subscriptions were made upon the condition that the notes when prepared should be sent to the bank, for distribution to depositors, by express, at the expense of the Government. The raiders robbed the bank and prevented the Government from distributing the bonds The subscribers paid their money for the bonds, and it went into the Treasury. There being no default on their part, they should suffer no loss. As the bank refunded the money to the subscribers, we are of opinion that it has an equitable claim against the Government. We therefore report back the Senate bill and recommend its passage.

Mr. O'BRIEN. I should like to have a further explanation than is contained in the report.

Mr. EDEN. I am willing to explain the bill.

Mr. O'BRIEN. I would like to ask the gentleman from Illinois whether the committee investigated the facts?

Mr. EDEN. The committee did investigate the facts. There is no dispute about them at all.

Mr. O'BRIEN. Did the committee have any correspondence with the Secretary of the Treasury?

Mr. EDEN. It did.

Mr. O'BRIEN. What was his opinion?

Mr. EDEN. These bonds were taken from the First National Bank of Saint Albans by raiders. They were issued in blank; not payable to any particular person. When they came to the Treasury Department, the Government redeemed them rather than run the risk of impairing the credit of the bonds. This bank was simply acting as an agent for the Government. If gentlemen paid any attention to the reading of the report they would be in possession of all the facts.

Now, sir, under the banking laws, the Government has a right to demand national banks shall act as financial agents in the negotiation of loans. This bank, having been designated for that purpose, proceeded to receive subscriptions. The money subscribed was placed to the credit of the Government and drawn out on drafts from the Treasury. By the terms of the subscriptions the Government was to deliver the bonds. Those who lived in the immediate vicinity went and got their bonds before the raid occurred. The bonds were received on Saturday, and the raid occurred on Wednesday following. The amounts of bonds specified in the bill remained in the custody of the bank, and the raiders captured and carried them off. Notice was immediately given and a *caveat* filed in the Treasury Department by officers of the bank to stop the payment of the bonds. When the bonds came to the Treasury, however, as I have already stated, they were paid or converted into other securities. No notice was given to the bank, and no opportunity afforded to show that the parties presenting the bonds had notice they had been stolen. No chance was given to the bank to make proof.

The bank paid the money to the subscribers, and now asks the Government to indemnify it for that payment. The bank never owned the bonds, had no interest in the bonds, was simply acting as agent under the law to deliver the bonds which the Government had obligated itself to deliver to the subscribers by the terms of the subscription.

Mr. HENDEE. I wish to ask the gentleman from Illinois if it did not appear that there was no fault or neglect on the part of the bank officers, and if it was not the fact that it was not in their power to prevent the taking of these bonds by the raiders?

Mr. EDEN. Unquestionably so. There was no lache on the part of the officers of the bank They followed the raiders up immediately into Canada and captured them, but the courts in Canada held that these raiders were belligerents, holding in Canada a commission under the confederate government. Subsequently a portion of the stolen money was given up, but the bank lost a large amount of money. It does not ask the Government to refund the money. That was its loss. It only asks the Government to suffer the loss on account of the capture of the bonds, the bonds having been afterward paid by the Government.

I now yield to the gentleman from Vermont, [Mr. HENDEE,] who is familiar with the matter, if he desires to make any further statement in regard to it.

Mr. HENDEE. Mr. Speaker, the chairman of the committee to which this matter was referred has made a very full statement of the case, but I would like to add a little, with the permission of the Committee of the Whole.

The history of this affair is of course somewhat interesting, and although it is well known to the country, perhaps I might mention one or two facts connected with it. The Saint Albans raid, as it is called, which occurred in 1864, was organized under the instrumentality or by the direct authority of C. C. Clay, jr., and Jacob Thompson, who were agents of the confederate government, resident in Canada for that and other purposes. The report says that the men who came to Saint Albans for the purpose of robbing the banks there were confederate soldiers; so that we claim that the acts of these men were virtually acts of war.

Now, in the first place, this claim was presented to the British and American mixed claims commission for adjustment. That commission decided that inasmuch as this band of men were not organized, the British government was not to blame for the robbery or the taking of these bonds. Hence, the claim was disallowed, and by that tribunal; the pendency of the claim before that commission is the reason why it has not been presented to Congress before this day, though it was presented at the last Congress, but not reached.

This is no new principle. The principle sought to be recognized in this bill has been established by Congress a great many times in refunding to paymasters and postmasters and other Government officers money which has been taken from them, being the property of the United States, without fault or neglect upon their part. And in my remarks I will mention some of the cases which have been decided that are very similar to this case.

I would refer the committee to the following cases which have been favorably considered by former Congresses:

Act to relieve D. O. Cleveland, P. M. (Laws of 1873, page 722.)
Act to relieve A. A. Vance, P. M. (Laws of 1871, page 699.)
An act to relieve John S. Cunningham, paymaster United States Navy. (Laws of 1868, page 358.) This case was for public money stolen.
An act to relieve James Fulton, paymaster United States Navy, for clothes and small stores stolen. (Laws of 1867, page 636.)
Joint resolution to pay J. N. Carpenter, paymaster United States Navy, for clothing stolen. (Laws of 1864, page 587.)
Act to pay John H. Ellis, paymaster United States Army, for larceny of public money. (Laws of 1868, page 356.)
The rule has also been extended to mail contractors for horses captured by rebel forces and guerrillas during the war. (See joint resolution to pay John R. Beckley. Laws of 1867, page 644.)
Congress has also relieved collectors of internal revenue in cases of larceny of public money. (See act for relief of Robert Williams, jr., collector third district of Ohio. Laws of 1872, page 660.)
It has also relieved superintendents of branch mints for public moneys stolen from the Mint. (Joint resolution to pay George W. Lane. Laws of 1869, page 463.)
It has also relieved sub-treasurers where defalcations have occurred on the part of subordinate officers of the sub-treasury.
It has also paid losses of private individuals sustained at the hands of the public enemy during the rebellion. (See case of Margaret Merkin. Laws of 1873, page 767.)
It has also paid Thomas C. Magruder money stolen from him belonging to the Government, after the same had been refunded by him to the Government. (Laws of 1873, page 765.)
It has likewise relieved United States depositaries of public moneys stolen from them. (See joint resolution to relieve John L. Thomas, jr., and E. H. Webster, designated depositaries of the United States at Baltimore. Laws of 1871, page 703. See also an act for relief of John Hastings, late depositary of public moneys at Pittsburgh, Pennsylvania, for moneys robbed from him in 1854. Laws of 1866, page 605. See also an act for the relief of John T. Mason, late United States designated depositary at Baltimore, Maryland, for moneys paid into the Treasury by him, the amount of which was afterward shown to have been stolen or embezzled by his late clerk in said depositary. Laws of 1873, page 723.)

And as bearing on this case under consideration, I will cite the language of the Supreme Court in the case of United States *vs.* Thomas, 15 Wallace, page 337:

The late rebellion being a public war, the forcible seizure by the rebel authorities of public moneys in the hands of loyal Government agents against their will, and without their fault or negligence, was a sufficient discharge from their obligations in reference to said moneys.

These are the points of the case: In the first place, the bonds which were taken, to the amount of $28,650, were the property of the United States. They were in the hands of the First National Bank of Saint Albans as a designated depository; or, in other words, the bank was merely the agent of the Government for the delivery of the bonds to the subscribers. Now, the committee will remember that the act which established these banks compelled them to become depositories of United States bonds and money. It also compelled the banks to receive subscriptions for the 7.30 bonds of the issue of 1864. In pursuance of that law the Government of the United States called upon this bank to receive subscriptions for these bonds, what are known as the 7.30 three-year bonds of 1864. The bank did receive subscriptions from the inhabitants in the vicinity of the bank to the amount of $35,000. The Government was notified and forwarded the bonds to the bank for delivery to the subscribers. But before the subscribers could receive their bonds or the bank could deliver them, this raid occurred and the bonds were taken from the bank. Now, if the committee is satisfied that there was no fault and no neglect on the part of the bank in protecting that property, as a matter of course it should be relieved from loss.

I would further say that at the same time that these bonds were taken $12,000 in money in the bank was also taken, which they never have recovered, and of course they alone have and must suffer that loss. Further, they have been kept out of the use of this $28,650 for the term of twelve years. If the interest was paid the whole would amount to fifty-odd thousand dollars. That they do not seek to recover. They simply ask the Government to pay back to them just the amount of bonds taken from the bank which were the property of the United States.

I think the principle of law is well established that—

An officer or "agent" of the Government is only bound to exercise "a degree of care and diligence as the custodian of public moneys or securities which a careful, prudent man would require of his agent in a matter of private interest or exercise in his own affairs," and is only liable for negligence or dishonesty.

Mr. STONE. I desire to ask the gentleman from Vermont to state to the House how much money in the aggregate was taken from the First National Bank of Saint Albans? The report says that $74,000 of the stolen money was recovered.

Mr. HENDEE. The raiders took about $100,000, if I remember rightly.

Mr. STONE. And the bank recovered $74,000?

Mr. HENDEE. They recovered all but $12,000 of the money, saying nothing about these bonds; or perhaps I should say they lost $12,000 in money, and these bonds amounted to $28,650, and I think more.

I will be glad to add that I am personally acquainted with all the gentlemen connected with this bank, and can say that they are gentlemen of the highest order of character. Their affidavits are on file here, and can be examined by the gentleman if he wishes.

Mr. STONE. How will the bank determine what proportion of this sum belongs to them and what to the bonds?

Mr. HENDEE. The affidavits show that very conclusively, and the report, I think, is conclusive upon that point.

Mr. STONE. The report does not do it, and therefore I desire information from the gentleman so that I may vote intelligently.

Mr. HENDEE. The report may not show that, but I will state that the bank did suffer a loss absolutely of $12,000, over and above what

it recovered back, besides the loss of these bonds. I think there can be no objection to the bill.

There being no objection, the bill was laid aside, to be reported favorably to the House.

PAYMENT OF CLAIMS.

The next business on the Calendar was the bill in the nature of a substitute to the bill (H. R. No. 1218) making appropriations for the payment of claims reported to Congress under section 2 of the act approved June 16, 1874, by the Secretary of the Treasury, namely: Strike out all after the enacting clause and insert the following.

Mr. STONE. Is there any report accompanying this bill?

Mr. EDEN. I want to ask the indulgence of the House to say a word in reference to this bill.

The CHAIRMAN. The gentleman can do that after the bill has been read.

Mr. EDEN. But I do not want it read if it can be avoided.

The CHAIRMAN. The reading of the bill can be dispensed with by unanimous consent.

Mr. EDEN. It is a very long bill—a bill of nineteen printed pages, and the principal part of it consists of the names of claimants and the amounts due them.

The CHAIRMAN. The rule requires that the bill shall first be read at length.

The Clerk proceeded to read the bill, as follows:

That the Secretary of the Treasury be, and he is hereby, authorized and required to pay, out of any moneys in the Treasury not otherwise appropriated, to the several persons in this act named, the several sums mentioned therein, the same being in full for, and the receipt of the same to be taken and accepted in each case as a full and final discharge of, the several claims examined and allowed by the proper accounting officers since June 30, 1874, under the second section of the act of Congress approved June 16, 1874, namely——

Mr. EDEN. I apprehend that the reading of the names and amounts can be dispensed with by common consent.

Mr. STONE. I object to it.

The CHAIRMAN. The gentleman from Illinois [Mr. EDEN] suggests that the schedule be not read unless desired by the committee. If the reading of the bill is called for, it must be read at length. If there be no objection, the schedule of the names and amounts will not be read.

Mr. STONE. I have asked for the reading of the bill at length.

Mr. EDEN. Does the gentleman require the reading of the names and amounts?

The CHAIRMAN. The Chair so understands.

Mr. STONE. I desire to have it read.

Mr. EDEN. If the gentleman will allow me to make an explanation about this bill I am sure he will withdraw his demand.

Mr. STONE. I will hear the gentleman.

Mr. EDEN. The amounts that are embraced in this bill are for the payment of accounts which have been passed upon by the accounting officers of the Treasury. This bill was before the House in the last Congress. It passed the Committee on War Claims without any opposition. It came into the House and was passed unanimously without the reading of anything but the title and sent to the Senate, but, it being near the close of the session, it failed to receive action in the Senate.

The law originally provided that these claims should be paid upon the recommendation of the accounting officers of the Treasury, without any action of Congress at all; but in an appropriation bill passed June 16, 1874, the law was changed, and now these accounts are sent to Congress for an appropriation.

This bill has been printed, and has been before the Committee of the Whole for three weeks or more. It was called once before on "objection day," and a single objection carried it over. If there is any gentleman upon this floor who wants to examine and see whether these accounts are correct or not, if he will go down into the room of the Committee on War Claims he will find a very large number of them down there; and if they were put in his hands for six months, and he was required to go over them and see whether the accounts were correct or not, I doubt very much whether he would throw any more light on the subject than the accounting officers of the Treasury have thrown on it. The accounts have passed through the Quartermaster's Department and through the Auditor's Office in the regular way that all accounts are passed in the Treasury; and until the passage of the act of 1874, to which I have referred, and which I desire to have read, the amount found due was paid without any action of Congress at all; and I apprehend that when that law was passed it was not intended that the members of this House should take up the papers in three or four hundred cases, some of them probably containing fifty, sixty, or one hundred pages of testimony, and go over the several accounts to see whether they are correct.

We have either got to rely upon the action of the accounting officers and make an appropriation upon that action, unless anything comes to light showing that there is something wrong in an account, or else these creditors of the Government have got to go without their money.

I venture to say that if Congress should refuse to pay these poor people for property taken and used by the Army under laws that authorizes payment therefor at the time it was taken, it will be just as much repudiation as repudiation of the bonds of the Government would be, and unless gentlemen intend that they will pass this bill after it has been examined by two committees of two different Congresses, otherwise they will repudiate this debt.

Mr. BRIGHT. What is the average amount of the claims allowed by this bill?

Mr. EDEN. I think about $100.

Mr. BRIGHT. What is the aggregate amount?

Mr. EDEN. About $112,000.

Mr. STONE. The gentleman said that if any one desired to look into these matters it would take him six months to do it.

Mr. EDEN. Yes; if he looked into them thoroughly.

Mr. STONE. I would ask the chairman of the Committee on War Claims, [Mr. EDEN,] reporting this bill, if he has thoroughly examined each and all of these claims?

Mr. EDEN. In answer to the gentleman I will say that, nothing appearing to the contrary, I took it for granted that the accounting officers of the Treasury have acted honestly.

Mr. STONE. No doubt about that. But the gentleman said it would take six months to examine into these claims.

Mr. EDEN. If you go over all the papers it will take that long.

Mr STONE. Has the Committee on War Claims gone over all the papers and evidence in these cases?

Mr. EDEN. It has not.

Mr. STONE. Does the committee make any report on these claims?

Mr. EDEN. It reports this bill. I ask the Clerk to read section 2 of the act of June 16, 1874.

The Clerk read as follows:

SEC. 2. That all balances of appropriations for whatever account, made for the service of the Departments of the Quartermaster-General and of the Commissary-General of Subsistence prior to July 1, 1872, which on the 30th day of June, 1874, shall remain on the books of the Treasury, shall be carried to the surplus fund, except such as the Auditor of the Treasury whose duty it is to settle accounts against such appropriations shall certify to the Secretary of the Treasury to be necessary in the settlement of such accounts as have been reported to him for payment by the Quartermaster and the Commissary Departments pending in his Office. And the Quartermaster-General, Commissary-General, and Third Auditor of the Treasury shall continue to receive, examine, and consider the justice and validity of such claims as shall be brought before them under the act of July 4, 1864, and the acts amendatory thereof; and the Secretary of the Treasury shall make report of each claim allowed by them, at the commencement of each session of Congress, to the Speaker of the House of Representatives, who shall lay the same before Congress for consideration.

Mr. EDEN. In order to show how these claims were paid prior to the passage of the act just read, I desire the Clerk to read the law in operation before that time.

Mr. BRIGHT. By order of the House a recess is to be taken at half past four o'clock. There are but a few minutes left in which to report to the House and act upon the bills which this committee have directed to be favorably reported to the House. I ask the gentleman to yield now that I may move that the committee rise and report to the House the bills favorably acted upon.

Mr. EDEN. I will yield for that motion.

Mr. BRIGHT. I now submit the motion I have indicated.

The motion was agreed to.

The committee accordingly rose; and Mr. COX having taken the chair as Speaker *pro tempore*, Mr. SPRINGER reported that, pursuant to the order of the House, the Committee of the Whole had had under consideration the Private Calendar, and had directed him to report sundry bills to the House, with a favorable recommendation.

DISPENSING WITH NIGHT SESSION.

Mr. RANDALL. As is known to members, there is to be a caucus of the members of this side of the House to-night. It has been suggested to me by many members on the other side that they do not desire to be brought here to-night for a brief period only. I therefore ask unanimous consent of the House that the session of to-night be dispensed with, and that the session of this afternoon be continued beyond half past four o'clock, so that the House may be able to dispose of the bills reported from the Committee of the Whole.

There was no objection, and it was so ordered.

ORDER OF BUSINESS.

The SPEAKER *pro tempore*. The House will now proceed to the consideration of the bills reported from the Committee of the Whole on the Private Calendar.

MARY W. JONES.

The first bill reported from the Committee of the Whole was the bill (H. R. No. 744) to increase the pension of Mary W. Jones.

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

LANDS CEDED UNDER TREATY OF WASHINGTON.

The next bill reported from the Committee of the Whole was the following, with amendments:

A bill (H. R. No. 186) to provide for compensation to the owners of certain lands ceded by the United States to Great Britain in and by the treaty of Washington of July 9, 1842.

The amendments were agreed to.

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

FIRST NATIONAL BANK OF SAINT ALBANS.

The last bill reported from the Committee of the Whole was as follows:

A bill (S. No. 58) to pay the First National Bank of Saint Albans, Vermont, the value of certain United States Treasury notes held by said bank as financial agent of the United States, and forcibly taken therefrom by raiders from Canada in October, 1864.

The bill was ordered to a third reading; and it was accordingly read the third time.

The question was upon the passage of the bill; and being taken, upon a division there were—ayes 41, noes 27.

Mr. STONE. No quorum has voted.

The SPEAKER *pro tempore*. No quorum having voted, tellers will be appointed if a further count is insisted upon.

Mr. STONE. I call for a further count.

Tellers were ordered; and Mr. EDEN and Mr. STONE were appointed.

The House again divided; and the tellers reported that there were ayes 86, noes not counted.

So the bill was passed.

Mr. EDEN. I move to reconsider the various votes by which the bills reported from the Committee of the Whole on the Private Calendar have been passed; and I also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CHIEF CLERK OF THE HOUSE.

The SPEAKER *pro tempore*. At the request of the SPEAKER, the Chair lays before the House a communication which the Clerk will read.

The Clerk read as follows:

CLERK'S OFFICE, HOUSE OF REPRESENTATIVES,
Washington, D. C., March 31, 1876.

SIR: I notice in the RECORD of day before yesterday, the 29th instant, the following remarks purporting to have been made by Hon. J. D. WHITE, of Kentucky, in reference to myself:

"Knowing as I did of a charge of corruption made against Hon. Green Adams, now Chief Clerk of this House, while he was Sixth Auditor of the Treasury, for appropriating several thousands of dollars to his own use which should have been paid into the Treasury, since the money was the proceeds of the sales of waste-paper which belonged to the Government—I say that, being cognizant of these facts, it struck me as a little bit amusing that this man Green Adams should be the officer of this pure democratic House to carry articles of impeachment from here over to the Senate. He was a republican then, but you took him from us and rewarded him with a high office."

The facts in regard to the matter thus alluded to are as follows:

In the year 1864 I resigned the office of Sixth Auditor of the Treasury for the purpose of accepting the office of Treasury agent for the purchase of products of insurrectionary States, at Nashville, Tennessee, and hurriedly left for the performance of the duties of the new office to which I had been appointed, without making or pretending to make any final settlement of my accounts with my successor, who had not then been appointed, and who I had good reason to believe would not be appointed for some time thereafter; leaving, however, on file in the Auditor's Office, over my own signature, receipts for all moneys received by me on account of waste-paper or otherwise.

After the lapse of some time an Auditor was appointed, who found on file my receipts and reported to the then Secretary of the Treasury, Mr. Fessenden, that there was a balance due from me to the Office, and thereupon, my attention being called to the fact, the amount found due from me to the Office was promptly paid over to my successor and his receipt taken therefor.

From that time to this I am not aware that any one has ever seriously charged me with anything improper in connection with this matter; and, whatever may be the supicions of others, it is certain that Mr. Fessenden, who was then Secretary of the Treasury and was cognizant of all the facts, never charged or even suspected me of any impropriety or attempted impropriety in this connection, but, on the contrary, manifested his entire confidence in my integrity and uprightness of character by retaining me in the responsible office of purchasing agent and placing to my credit large sums of money to be used by me for the Government.

I have thought proper to state this much in explanation of the matter thus alluded to, and respectfully request in justice to myself that this communication be laid before the House of Representatives.

I am not conscious of ever having appropriated to my own use any money belonging to the Government and will esteem it a favor to have thoroughly investigated any charge of this kind which any one may see proper to make against me.

Very respectfully,

GREEN ADAMS.

Hon. M. C. KERR,
Speaker House of Representatives.

Mr. BOONE. I move that the communication just read be referred to the Committee on Expenditures in the Treasury Department, with instructions to investigate and report whether or not the charges made by the gentleman from Kentucky [Mr. WHITE] are true or false.

Mr. WHITE. I second that motion.

The motion was agreed to.

VENTILATION OF THE HALL.

Mr. SPRINGER. I ask unanimous consent to offer the following resolution:

Resolved, That the Clerk be directed to discharge the present engineer and appoint some competent person in his place.

Mr. Speaker, I desire to have this resolution referred to the Committee on Public Buildings and Grounds for the purpose of having an early report upon this subject. I do not know this engineer, nor do I know anything as to the truth of the statement which I find in the papers, that he is endeavoring to demonstrate the insufficiency of our heating and ventilating apparatus, in order to have the House adopt some other system of heating and ventilation. I know nothing about these things; but I do say that if he had desired to introduce a system of torture he could hardly have accomplished the result more successfully than he has done for the last few weeks. I move that the resolution be referred to the Committee on Public Buildings and Grounds.

Mr. CONGER. I object to that resolution.

Mr. SPRINGER. I only ask its reference.

Mr. CONGER. Well, I object to its reference, for there is already a committee investigating this man's conduct.

Mr. SPRINGER. Is not this a question of privilege?

The SPEAKER *pro tempore*. The Chair cannot recognize it as such.

REAL-ESTATE-POOL INVESTIGATION.

Mr. GLOVER. I ask unanimous consent for the adoption of the resolution which I send to the desk.

The Clerk read as follows:

Whereas on the 24th day of January, A. D. 1876, the House adopted the following resolution:

"*Resolved*, That a special committee of five members of this House, to be selected by the Speaker, be appointed to inquire into the nature and history of said real-estate pool and the character of said settlement, with the amount of property involved in which Jay Cooke & Co. were interested, and the amount paid or to be paid in settlement, with power to send for persons and papers and report to this House."

Be it resolved, That said committee be further authorized and directed to likewise investigate any and all matters touching the official misconduct of any officer of the Government of the United States or of any member of the present Congress of the United States which may come to the knowledge of said committee: *Provided*, That this resolution shall not affect any such matter now being investigated by any other committee under authority of either House of Congress; and for this purpose said committee shall have the same powers to send for persons and papers, to inspect and examine respectively, as conferred by said original resolution.

Mr. CONGER. I object.

PAYMENT OF HOUSE EMPLOYÉS AND WITNESSES.

Mr. DENISON. I ask unanimous consent to submit a resolution for reference to the Committee on Appropriations.

The Clerk read as follows:

Whereas it is alleged that the employés of Congress and witnesses called before the committees do not promptly receive their pay, but certain of them are offering to sell their claims for much less than the face value of the same, for the reason that no funds are appropriated to make said payment: Therefore,

Resolved, That the Committee on Appropriations be requested to inquire without delay what amount of appropriation is necessary to supply the deficiency and report by bill as soon as practicable, to prevent any further default in said payments.

Mr. RANDALL. I desire to state that the Committee on Appropriations are considering that subject and would have passed upon it to-day but for the fact that they had not the itemized account as to all the deficiencies. It is the purpose of the committee at once to prepare a bill to provide for all the deficiencies, and this will be included.

The SPEAKER *pro tempore*. Is there objection to the reference of the resolution to the Committee on Appropriations?

There was no objection, and it was referred accordingly.

ESAU PICKRELL AND OTHERS.

Mr. RANDALL, by unanimous consent, introduced a bill (H. R. No. 2955) for the relief of Esau Pickrell and the legal representatives of William H. Eades, deceased; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. DANFORD until April 5 on account of sickness; to Mr. PHELPS for ten days from next Monday on account of important business; to Mr. WILLIAMS, of New York, until next Wednesday on account of important business; and to Mr. WALLACE, of South Carolina, for ten days from next Monday.

PROPOSED ADJOURNMENT TILL MONDAY.

Mr. CONGER. I move that when the House adjourns to-day it adjourn till next Monday.

Mr. RANDALL. O, no! I hope not. There is a special assignment for to-morrow.

Mr. SAYLER. Yes, sir; and for a matter of very great importance: the steamboat bill.

The motion was not agreed to; there being ayes 27, noes not counted.

Mr. SAYLER. I move that the House adjourn.

The motion was agreed to; and accordingly (at four o'clock and fifty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following memorials, petitions, and other papers were presented at the Clerk's desk under the rule, and referred as stated:

By Mr. BAKER, of Indiana: The petition of J. H. Ray and 45 others engaged in the cultivation and manufacture of flaxseed and oil therefrom, in Indiana, that no change be made in the duty on such seed and oil of foreign growth and manufacture, to the Committee of Ways and Means.

By Mr. BLAIR: Memorial of the Society for the Better Protection of Animals of the county of Cheshire, New Hampshire, for legislation providing for the humane treatment of animals when being transported over the railway routes of the country, to the Committee on Agriculture.

By Mr. BURLEIGH: The petition of Hayes & Douglas and others, of Portland, Maine, importers and dealers in crockery, china, and glassware, that a uniform rate of 30 per cent. be levied upon earthenware, crockery, china, and glass ware, exclusive of packages, land freight, shipping charges, and commissions, to the Committee of Ways and Means.

By Mr. COCHRANE: Memorial of citizens of Allegheny County, Pennsylvania, that the present tariff laws remain undisturbed, to the same committee.

By Mr. COX: The petition of E. & J. Karelson, to strike glaziers' diamonds from the free list, to the same committee.

Also, the petition of A. A. Low and other merchants of New York, against the repeal of the bankrupt law, to the Committee on the Judiciary.

By Mr. CRAPO: The petition of Captain Joseph Bayles and many other shipmasters, for the passage of the proposed law abolishing compulsory pilotage, to the Committee on Commerce.

Also, the petition of Van Brunt & Brothers and numerous merchants and firms of New York and Jersey City, of similar import, to the same committee.

By Mr. DANFORD: The petition of J. T. Whipple and others, of Perry County, Ohio, for the equalization of bounty, to the Committee on Military Affairs.

By Mr. DURHAM: The petition of citizens of Casey County, Kentucky, that the charges against General Franklin L. Wolford be removed, and that he be honorably discharged from the service of the United States, to the same committee.

By Mr. FAULKNER: The petition of 302 citizens of Harper's Ferry and of the county of Jefferson, West Virginia, that immediate steps be taken for the sale of the water power of the Government property at Harper's Ferry, to the same committee.

By Mr. HOPKINS: Three petitions of workingmen of Allegheny County, Pennsylvania, against a reduction of the tariff, to the Committee of Ways and Means.

By Mr. HUNTON: The petition of Ellen G. Slemaker, of Washington, District of Columbia, for the correction of an erroneous award of the southern claims commission, to the Committee on War Claims.

By Mr. KNOTT: Papers relating to the claim of Jacob Kaufman, for goods taken and destroyed during the late war by Federal soldiers. to the same committee.

By Mr. McMAHON: The petition of Philip Levasseur, for a pension, to the Committee on Invalid Pensions.

By Mr. NEAL: The petition of T. E. De Bruin and 32 other soldiers of the late war, that $200 in money be granted them in lieu of a land warrant, to the Committee on Military Affairs.

By Mr. ROBBINS, of North Carolina: Resolutions of the Chamber of Commerce of Wilmington, North Carolina, favoring the organization of the Signal Service as a distinct corps, to the Committee on Military Affairs.

By Mr. ROBBINS, of Pennsylvania: The petition of J. P. Morris Iron-Works Company and 80 other citizens of Philadelphia, against any change in the present tariff, to the Committee of Ways and Means.

By Mr. THOMPSON: The petition of Alfred Kittridge and 30 others, of Haverhill and Bradford, Massachusetts, that greenbacks shall be received by the United States for all duties on imports, to the same committee.

By Mr. THROCKMORTON: Papers relating to the claim of John T. Morris, for compensation for the apprehension of parties concerned in mail robberies in Texas, to the Committee of Claims.

By Mr. TOWNSEND, of New York: A paper relating to a post-route from Nassau to Niverville, Columbia County, via the village of North Chatham, in the same county, to the Committee on the Post-Office and Post-Roads.

By Mr. TURNEY: The petition of citizens of Pennsylvania, for the establishment of a post-route from Manor Station, on the Pennsylvania Railroad, via Adamsburgh, Cribbs, New Stanton, Waltz's Mill, Madison, Fulton, Aronia, thence to Adamsburgh and Manor Station, the place of starting, to the same committee.

By Mr. VANCE, of Ohio: The petition of E. E. Ewing, of Portsmouth, Ohio, that a uniform duty of 30 per cent. be levied upon earthenware, crockery, china, and glass ware, exclusive of package, shipping charges, and commissions, to the Committee of Ways and Means.

By Mr. VANCE, of North Carolina: Resolutions of the Chamber of Commerce of Wilmington, North Carolina, favoring the organization of the Signal Service as a distinct corps, to the Committee on Military Affairs.

By Mr. WELLS, of Missouri: The petition of wholesale dealers in and manufacturers of distilled spirits of Saint Louis, Missouri, for the definition of the powers and duties of officers of internal revenue, and to further provide for the collection of the tax on distilled spirits, to the Committee of Ways and Means.

By Mr. WILLIAMS, of New York: The petition of James H. Signor, B. F. Jackson, and 55 others, against any change in the tariff at this time, to the same committee.

Also, the petition of E. Fairbanks, Wilbur Smith, and 82 others, of similar import, to the same committee.

By Mr. WOODWORTH: The petition of Mrs. Sydney J. Wood, for a pension, to the Committee on Invalid Pensions.

HOUSE OF REPRESENTATIVES.

SATURDAY, *April* 1, 1876.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev I. L. TOWNSEND.

The Journal of yesterday was read and approved.

BELKNAP IMPEACHMENT.

Mr. HUNTON. The chairman of the Committee on the Judiciary, [Mr. KNOTT,] who is unavoidably detained from the House to-day on the business of the House, has requested me to give notice he will call up the articles of impeachment of the late Secretary of War on Monday next immediately after the morning hour.

CONCRETE PAVEMENT FOR PENNSYLVANIA AVENUE.

Mr. MOREY. I ask unanimous consent, Mr. Speaker, to introduce, by request, a resolution for reference to the Committee for the District of Columbia.

The Clerk read as follows:

Resolved, That the Committee for the District of Columbia be directed to examine and report at the earliest practicable moment which of the concrete or asphalt pavements laid under contract with the authorities of the District of Columbia has proven to be the most durable, and report the cost for laying the same on Pennsylvania avenue from First to Fifteenth streets northwest, together with their recommendation.

The resolution was received, and referred to the Committee for the District of Columbia.

RELIEF FOR WASHINGTON PROPERTY-HOLDERS.

Mr. HENKLE, by unanimous consent, presented the memorial of certain property-holders in Washington, asking for relief; which was referred to the Committee on Public Buildings and Grounds.

COMMERCE AND NAVIGATION.

Mr. REAGAN. I now call up the special order for this day.

The SPEAKER. The special order for to-day is the consideration of a bill (H. R. No. 2799) to amend certain sections of titles 48 and 52 of the Revised Statutes of the United States concerning commerce and navigation and the regulation of steam-vessels, reported from the Committee on Commerce by the gentleman from Texas, [Mr. REAGAN.] Is it the pleasure of the House that the bill shall be read a first time for information?

Mr. REAGAN. I will not ask that, as the bill has been already gone over; but, on the contrary, I ask it be read section by section for amendment under the five-minute rule as in Committee of the Whole.

The SPEAKER. This bill has been made the special order for to-day, and is to be considered in the House as in Committee of the Whole under the five-minute rule. There being no objection, the first reading of the bill for information will be dispensed with.

There was no objection, and it was ordered accordingly.

The Clerk proceeded to read the bill.

Mr. LYNDE. Mr. Speaker, in the first section, which has just been read, there are a great many amendments of different sections of the Revised Statutes, all of which are important. It seems to me we should consider each amendment of the Revised Statutes by itself, as it is set forth in each separate clause of the bill.

Mr. REAGAN. That certainly would be the most convenient way of considering the bill.

The SPEAKER. The proper way to consider this bill for amendment would be by paragraph, and not by section.

Mr. REAGAN. I hope that will be the course taken.

Mr. HALE. I rose after the Clerk commenced reading line 12. If there has been any understanding reached as to the mode of proceeding I did not quite catch it, as my attention was directed elsewhere.

The SPEAKER *pro tempore*, (Mr. BLACKBURN in the chair.) The Clerk will begin the reading of the first portion of the bill over again, and amendments will be in order at the end of each paragraph.

The Clerk read as follows:

That section 4233 of the Revised Statutes of the United States shall be amended by inserting, after the third line in said section, the words:

"And by all foreign vessels within the jurisdiction of the United States."

Mr. LYNDE. I hope that the amendment now proposed by this bill will not be adopted by the House. I will state the rules sought to be amended are rules of navigation which were adopted in Great Britain in 1863, and subsequently in 1865, I think, were first adopted by the American Congress. These rules have been adopted now by all the commercial nations of the world. The language used in them has been frequently adjudicated by our courts of admiralty and by all the commercial courts in the world. It seems to me, therefore, to be bad policy in Congress to introduce new language in place of that originally used in these rules.

This paragraph now sought to be incorporated into this act, it seems to me, would involve us in difficulties, and at the same time accomplish no good. The statute as it reads at the present time is the following:

The following rules for preventing collisions on the water shall be followed in the navigation of vessels of the Navy and of the mercantile marine of the United States.

Now, we have a right to make rules of navigation that will apply to our own Navy and the mercantile marine of the United States, but as to foreign vessels I think we have no right, except they have adopted