

By Mr. BUCKNER: The petition of Pat. O. Hawes for pay and allowances as additional Representative from Nebraska, to the Committee of Accounts.

By Mr. HALE: Memorial of the Board of Trade of Denver, Colorado, that Denver be made a port of entry, to the Committee on Commerce.

By Mr. MCCRARY: The petition of William E. Hawthorne, late a private in Company K, Thirteenth Regiment Iowa Volunteers, for a pension, to the Committee on Invalid Pensions.

By Mr. ROBBINS, of North Carolina: Resolutions of the General Assembly of North Carolina, instructing the Representatives in Congress from that State to use their influence to so alter the revenue laws relating to whisky, brandy, and tobacco as to make said laws less oppressive on the citizens, and if this cannot be accomplished to vote for the repeal of the same, to the Committee of Ways and Means.

Also, resolutions of the General Assembly of North Carolina, requesting the Representatives in Congress from said State to use their influence to so modify or repeal the revenue laws of the United States as to give to the producer the right to distill, for his own use, his fruit; also, to repeal or modify the tax on leaf tobacco, to the same committee.

By Mr. VANCE, of North Carolina: The petition of certain employes of the House, relating to payments to them for services in the folding-room of the House, to the Committee of Accounts.

By Mr. WALDRON: Papers relating to the petition of Harriet S. Baker, for a pension, to the Committee on Invalid Pensions.

IN SENATE.

TUESDAY, December 19, 1876.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.
The Journal of yesterday's proceedings was read and approved.

EULOGIES ON THE LATE SPEAKER KERR.

Mr. MORTON. Yesterday resolutions of the House of Representatives were transmitted to the Senate communicating intelligence of the death of Mr. Kerr, the late Speaker of the House. I had a conversation with my colleague, [Mr. McDONALD,] who is now absent from the Senate in the discharge of official duty, and it would be entirely agreeable to his feelings and mine to have the resolutions lie upon the table until my colleague returns to the Senate, and then a day will be fixed upon for considering the matter in the Senate.

The PRESIDENT *pro tempore*. If there be no objection the resolutions will lie upon the table until the Senators from Indiana desire to have them called up.

HOUSE BILLS REFERRED.

The bill (H. R. No. 4187) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1878, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

The bill (H. R. No. 4207) to remove the political disabilities of F. E. Sheppard, of Virginia, was read twice by its title, and referred to the Committee on the Judiciary.

POST-ROUTE BILL.

The PRESIDENT *pro tempore* laid before the Senate the action of the House of Representatives disagreeing to certain amendments of the Senate to the bill (H. R. No. 3628) establishing post-roads.

Mr. HAMLIN. I move that the bill be referred to the Committee on Post-Offices and Post-Roads that it may receive the consideration of the committee before we take any action on the disagreeing votes of the two Houses.

The motion was agreed to.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of State, transmitting, in compliance with section 208 of the Revised Statutes, a statement of the names of consular officers, not citizens of the United States, to whom salaries have been paid during the fiscal year ending June 30, 1876; which was ordered to lie on the table and be printed.

PETITIONS AND MEMORIALS.

Mr. NORWOOD presented the petition of John R. F. Tattnell, of Georgia, praying for the removal of his political disabilities; which was referred to the Committee on the Judiciary.

Mr. SPENCER presented the petition of the Methodist church of Allston, Massachusetts, signed by the pastor and officers, praying for prohibitory legislation for the District of Columbia and the Territories; the prohibition of the foreign importation of alcoholic liquors; that total abstinence be made a condition of the civil, military, and naval service; and for a constitutional amendment to prohibit the traffic in alcoholic beverages throughout the national domain; which was referred to the Committee on Finance.

Mr. MITCHELL presented the petition of F. G. Schwatka, of Oregon, praying compensation for damages alleged to have been sustained by him by the use and occupancy by the United States authorities of certain lands in Oregon, known as donation lands, upon which he had settled; which was referred to the Committee on Claims.

REPORT OF A COMMITTEE.

Mr. WINDOM. I am instructed by the Committee on Appropriations, to whom was referred the bill (H. R. No. 4120) making appropriations for the payment of invalid and other pensions for the year ending June 30, 1878, to report it without amendment and recommend its passage. If there be no objection, I will ask that it be put upon its passage now. The bill has been printed and the committee report it back without any amendment.

Mr. EDMUNDS. O, no. I object. I am in favor of the bill, but I object to its present consideration.

BILL RECOMMENDED.

Mr. MORRILL. I am instructed by the Committee on Finance to move that the bill (S. No. 1040) to allow the late collector of internal revenue for the fourth district of Georgia his salary, hitherto withheld, be recommitted to that committee.

The motion was agreed to.

BILLS INTRODUCED.

Mr. MITCHELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1090) for the relief of Assistant Surgeon Jenkins A. Fitzgerald, United States Army; which was read twice by its title, and, with the accompanying petition, referred to the Committee on Military Affairs.

Mr. HARVEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1091) to establish a post-road; which was read twice by its title, referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1092) for the relief of Jerome Kunkel; which was read twice by its title, referred to the Committee on Military Affairs, and ordered to be printed.

Mr. PADDOCK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1093) granting a pension to C. H. Frederick; which was read twice by its title, and, with accompanying papers, referred to the Committee on Pensions.

THOMAS DAY.

Mr. WRIGHT. I move that the Senate proceed to the consideration of the bill (H. R. No. 3504) for the relief of Thomas Day.

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

It authorizes the Secretary of the Treasury to pay to Thomas Day, of Indiana, \$640.75, in full payment and satisfaction for the use of nursery grounds at Madison, Indiana, by the United States, in the year 1863, for a military post and for barracks and hospital purposes.

Mr. DAVIS. There is a report, I presume, in that case?

The PRESIDENT *pro tempore*. There is a report.

Mr. DAVIS. Let it be read.

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

The Chief Clerk read the following report, submitted by Mr. WRIGHT, from the Committee on Claims, July 28, 1876:

The Committee on Claims, to whom was referred the bill (H. R. No. 3504) for the relief of Thomas Day, submit the following report:

The report of the House committee is as follows:

"That this claim was before the Forty-third Congress, and a favorable report thereon made by Mr. JAMES WILSON, of the War Claims Committee of that Congress, now a member of this committee.

"This claim is for the use and occupation of nursery-grounds by the United States, situated in Jefferson County, Indiana. Said grounds were occupied and used during the war of the late rebellion as a military post for barracks and hospital purposes. Your committee believe, from the evidence, that the claimant is entitled to the sum of \$640.75 as a compensation for the said use and occupation. They report the accompanying bill, and recommend its passage."

This committee only add that the testimony abundantly supports the findings, and also shows that the Quartermaster's Department declined to pass upon the claim, as it was for damages, a subject over which it had no jurisdiction, and remitted the same to Congress. The grounds were taken possession of in January, 1863, and at a time or season of the year when it was impossible to move the trees. We recommend the passage of the bill.

Mr. MORRILL. May I ask the Senator from Iowa if there was not an adverse report made by a Senate committee on that claim some years ago?

Mr. WRIGHT. Not to my knowledge.

Mr. MORRILL. I think there was.

Mr. WRIGHT. The record was examined very thoroughly, and my impression is that there was no adverse report by any committee, either of this body or of the House.

Mr. EDMUNDS. How do you account for this long delay?

Mr. WRIGHT. There was a favorable report in the Forty-third Congress from the committee of the House. The case has been pending for about six or eight years.

Mr. EDMUNDS. I have the impression that some claim like that has once been reported adversely here.

Mr. WRIGHT. I feel very certain that my friend is mistaken. I know that the record was examined very thoroughly by our clerk and also by the members of the committee, and no such claim has ever been passed upon adversely.

Mr. EDMUNDS. What is the name?

Mr. WRIGHT. Thomas Day.

Mr. EDMUNDS. I rather think that had better lie over until tomorrow, and we can look at it.

Mr. WRIGHT. The bill is already before the Senate.

Mr. EDMUNDS. Was it reported to-day?

Mr. WRIGHT. O, no; it was reported at the last session. The PRESIDENT *pro tempore*. The bill is in the Committee of the Whole and open to amendment.

Mr. EDMUNDS. Then we cannot help it.

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

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House insisted upon its amendments to the amendments of the Senate to the bill (H. R. No. 4124) to provide for the expenses of certain special committees, agreed to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. WILLIAM S. HOLMAN of Indiana, Mr. JOHN D. C. ATKINS of Tennessee, and Mr. EUGENE HALE of Maine managers at the conference on its part.

REPRESENTATIVES OF SAMUEL WARE.

Mr. BOGY. I move to take up the bill (H. R. No. 97) directing the Commissioner of the General Land Office to issue a certificate of relocation for six hundred and forty acres of land in the Territory of Missouri to legal representatives of Samuel Ware.

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

The preamble recites that Samuel Ware was the owner of land claim No. 438, located in the county of New Madrid, in the then Territory of Missouri, for six hundred and sixty arpents, which was confirmed by act of Congress of the 29th of April, 1816; that the lands having been injured by earthquakes, he availed himself of the provisions of the act of the 17th of February, 1815, whereby persons owning lands in the county of New Madrid which were materially injured by earthquakes were authorized to locate the like quantity of lands on any of the then Territory the sale of which was authorized by law; that, in pursuance of this law, Ware relinquished his claim to the land confirmed as No. 438, under the act of the 29th of April, 1816, and applied for a certificate of relocation; and that on the 16th of August, 1816, Frederick Bates, recorder of land titles, did issue to Samuel Ware certificate of location No. 63, which was afterward located on the east half of section 12, township 24 north, of range 17 east, and the west half of section 7, township 24 north, of range 18 east, on Wolf Island, in the Mississippi River, upon the supposition that the island was in the State of Missouri; and that it has been decided by the Supreme Court of the United States (11 Wallace, 395) that the island belonged to the State of Kentucky: Therefore,

The bill requires the Commissioner of the General Land Office to issue a certificate of new location to the legal representatives of Samuel Ware, authorizing them to locate the certificate on six hundred and forty acres of any land in what was Missouri Territory, subject to sale.

Mr. EDMUNDS. What committee reported this bill?

Mr. BOGY. It was reported from the Committee on Private Land Claims. The Senator from Vermont is a member of that committee. There is no objection to it.

Mr. EDMUNDS. Is there a report?

The PRESIDENT *pro tempore*. There is a House report, the Chair understands.

Mr. EDMUNDS. I should like to hear it.

Mr. BOGY. There is no report, because the preamble so fully explains the whole object. I can explain the case in a minute. There was a location of a claim on an island called Wolf Island, in the Mississippi River, and which for many years was believed to be in the State of Missouri. After a time the question was tested as to the fact whether the island was in the State of Missouri or in the State of Kentucky, and it was decided by the Supreme Court that the island was in Kentucky and therefore the location was void. Now his representatives desire to locate the same quantity of land in the State of Missouri. I presume the Senator is familiar with the facts. The matter was considered very fully before our committee, of which I believe he is a leading member, and we agreed to make a unanimous report on this bill at the last session.

Mr. EDMUNDS. That leads me to have some question about this claim. If a committee of which I am a leading member unanimously agreed to report this private claim, I begin to think there must be something wrong about it. [Laughter.] But what I wish to ask, as I remember the matter generally, but it is a little out of my mind, is whether it appeared clearly before the committee that this claimant had actually failed to obtain the land, whether in Missouri or Kentucky, which his location called for?

Mr. BOGY. I remember the point was raised before the committee and the information was conveyed to the committee—I am not prepared fully to go into the details—that Ware actually lost his land on the island.

Mr. EDMUNDS. Very well; if that be so, of course he ought to have it somewhere else.

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

N. H. VAN ZANDT.

Mr. WITHERS. I move the present consideration of House bill No. 2736.

The motion was agreed to; and the bill (H. R. No. 2736) to remove

the political disabilities of N. H. Van Zandt, of Virginia, was considered as in Committee of the Whole.

The Committee on the Judiciary proposed to amend the bill by striking out the words "act of July 2, 1862, and the" before "fourteenth;" so as to make it read:

That all the political disabilities imposed by the fourteenth amendment to the Constitution of the United States upon N. H. Van Zandt, a citizen of the State of Virginia, be, and the same are hereby, removed.

The amendment was agreed to.

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

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

The bill was read the third time, and passed by a two-thirds vote.

WILLIAM S. MORRIS AND OTHERS.

Mr. WALLACE. I move to take up the bill (S. No. 405) for the relief of William S. Morris, William S. Mann, Charles A. Oakman, George W. Hillman, the Union Transfer Company, all of Philadelphia, Pennsylvania; the Union Transfer Company of Baltimore, Maryland; and John R. Graham, late of Philadelphia, now of Washington, District of Columbia.

Mr. SHERMAN. Let the report be read.

The Secretary read the following report, submitted by Mr. WADLEIGH, from the Committee on Claims, on the 2d of August, 1876:

The Committee on Claims, to whom was referred the bill for the relief of William S. Morris and others, respectfully report:

The parties named in the bill were all engaged in the business of carrying passengers and baggage in the city of Philadelphia.

The collector of internal revenue for the district in which these parties did business assessed and collected from them taxes aggregating the amounts respectively named in the bill, under the alleged authority of section 104, act of June 30, 1864, which provides as follows:

"That any person, firm, company, or corporation carrying on or doing an express business shall be subject to and pay a duty of 3 per cent. on the gross amount of all the receipts of such express business."

It appears that in a large number of cities the officers of the revenue did not construe this law as applicable to persons engaged in business similar to that of the parties named in this bill; that the carrying of passengers and baggage on no continuous or fixed route was not "an express business within the intent of the statute," but that in some cities now, notably New York, Philadelphia, and Chicago, taxes for such business were assessed and collected.

It appears that, in consequence of this want of uniformity, on April 16, 1870, the Commissioner of Internal Revenue instructed S. B. Dutcher, supervisor, New York, that "it is only those who do their business on regular routes that should be regarded as engaged in an express business and liable under section 104. * * * If taxes under section 104 have been assessed contrary to the above rule * * * you will see that collection is suspended and claims for abatement prepared."

Subsequently, as a consequence of this ruling of the Revenue Department, various parties who had paid such taxes made claims to have them refunded. Among these, Dodd's Express Company, of New York, filed claims July 14, 1870; Parmlee's Local Express Company, of Chicago, August 28, 1871; Westcott's Express Company, of New York, September 22, 1871, and the parties named in the bill under consideration, at various times during the years 1871 and 1873. All of these claims were rejected by the Commissioner of Internal Revenue, and, as a consequence, Parmlee's and Dodd's Express Companies brought suit in the United States courts, and, obtaining judgments in their favor, the Commissioner of Internal Revenue reopened all their claims that he had previously rejected, and refunded the taxes they had paid.

It appears from the evidence on file that the parties named in this bill did not bring suit to recover the taxes paid by them, for the reason that they were given to understand, by the officers of the Internal Revenue Bureau, that the Department would govern itself by such decision as might be given by the courts in the Dodd case, and after that decision, if in claimant's favor, would re-open their cases and decide them in accordance therewith.

On application, however, to Hon. D. D. Pratt, who succeeded to the office of Commissioner of Internal Revenue, that these cases be re-opened and reconsidered in view of the decision of the courts and the fact that other similar claimants had been refunded the taxes paid by them, he declined to re-open them on the ground that "these claims were all rejected by my predecessors in office, and under the rules governing this office I have no authority to re-open them." It appears, however, that after refusing to re-open the cases of these parties he did re-open the case of Westcott's Express Company, of New York, whose claim was originally filed at about the same time as that of these claimants, and refunded to them \$21,559.37. In a letter to your committee, April 5, 1876, he states, "I understand that the claims are of the same nature as the claim of the Westcott Express Company;" though he adds, as a reason for his difference of action in the cases, that "the only difference in their status at the time of my entrance upon the duties of this office being that the former stood rejected while the latter was a pending claim."

It appears, therefore, to the committee that claims filed at the same time as those of the parties named in this bill, and of precisely the same nature, have been paid, and that the only obstacle to the claimants in this case having their cases reconsidered under the same rulings that have been applied to all other similar cases is a purely technical one, caused by a change in the incumbency of the office of Commissioner of Internal Revenue. And it further appears that the claimants have no other method of relief except by an act of Congress that will authorize the Commissioner to review the cases, as their long pendency in the Revenue Department, through no fault of the claimants, has caused the time to elapse within which they could bring their cases before the courts.

The committee, therefore, are of the opinion that the bill should pass. In this opinion we are sustained by the Commissioner of Internal Revenue, who states "that as the bill does not direct the refunding of the amount claimed, but simply directs the Commissioner to re-open and reconsider the claims, I can see no objection to its becoming a law." He further says, "I would suggest an amendment at line 5 in the bill, so that it may read 'taxes alleged to have been improperly and illegally assessed and collected.'"

The committee recommend that line 5 of the bill be amended so as to read "of taxes alleged to have been improperly and illegally assessed and collected," and report that the bill thus amended ought to pass.

The PRESIDENT *pro tempore*. The question is on the motion to take up the bill for consideration.

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

The Committee on Claims reported an amendment to the bill in

line 5, after the word "taxes," to insert the words "alleged to have been;" so as to read:

That the Commissioner of Internal Revenue be directed to re-open and reconsider the following claims for the refunding of taxes alleged to have been improperly and illegally assessed and collected.

The amendment was agreed to.

Mr. WALLACE. I move to strike out all from and including the word "or" in the twenty-second line to the end of the bill. The words I propose to strike out are "or that shall appear to be unjustly or illegally assessed or collected," so that it shall be simply "to refund and pay back all of said taxes erroneously assessed and collected," and not for those which shall appear to be so.

The amendment was agreed to.

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

Mr. WRIGHT. May I be allowed to inquire of the Senator from Pennsylvania whether the last amendment was an amendment from the committee or an amendment suggested by himself?

Mr. WALLACE. An amendment suggested by myself.

Mr. WRIGHT. I should be very glad to have the amendment reported again. I was engaged at the moment.

Mr. WALLACE. The last clause of the bill is, "or that shall appear to be unjustly or illegally assessed or collected." I moved to strike out all after and including the word "or," so that the Commissioner will only be authorized to refund the taxes erroneously assessed and collected and not those which shall appear to be unjustly or illegally assessed or collected. It certainly will not hurt the Government.

Mr. EDMUNDS. I should like to inquire of somebody who knows whether there has been any judicial decision that covers cases of this character, going to show that this money was illegally exacted?

Mr. WALLACE. The report of the committee refers to a case which went to the Court of Claims standing on precisely the same footing in which the Court of Claims ruled that—

Mr. EDMUNDS. What volume is that?

Mr. WALLACE. I am unable to say.

Mr. EDMUNDS. What is the name of the case?

Mr. WALLACE. The Dodd case.

Mr. EDMUNDS. Did it go to the Supreme Court of the United States?

Mr. WALLACE. I know nothing of that. It was decided by the Court of Claims. The report, as the Senator will see, is based on a letter of the Commissioner of Internal Revenue.

Mr. EDMUNDS. I see that; but it is Congress and not the Commissioner of Internal Revenue that is to decide whether money shall be paid out of the Treasury after this great lapse of time, and therefore I shall be glad to be convinced myself, instead of taking it *ex cathedra* from the Commissioner of Internal Revenue.

The appearance of this case, briefly stated, is this: During the time of war taxes were imposed upon the express business, and there were in the city of Philadelphia and in New York and in almost every other city of any considerable size what were called baggage expresses. The officers of the Treasury compelled the owners of them to pay certain money upon their business as a tax upon the express business. Now it is stated that the Court of Claims has decided that that class of business did not fall within the statute under which these taxes were levied and paid; and that having been decided, after a period of ten years or more, Congress is called upon to re-open the subject and to refund those taxes that may appear to have been erroneously or illegally collected.

In my opinion this is a subject that we ought to enter upon with the greatest possible reluctance and only in a case of the clearest illegality. The tax laws of the United States, like all other tax laws, are complicated, difficult of application, whether they are customs duties or excise or internal revenue or whatever they may be. One Secretary of the Treasury, one collector of internal revenue will with entire intelligence and perfect uprightness hold that the law covers a certain class of business and that the taxes are to be paid upon it, while his successor will hold exactly the reverse, and his successor will go around to the first opinion and so on, because the laws are so vague, as in complicated cases they always have been in all countries, that it is difficult for all men to see them exactly alike. But practically it almost always happens in the case of such laws that substantial justice is done and nobody in the community bears more than his fair proportion of the burdens of government. Now, to turn around upon nice discriminations, after the thing is all over, after the baggage-express people have got enough on their baggage to pay their taxes and make money besides, and upon some fine-spun doubt or distinction touching the meaning of the law to re-open the laws collecting taxes and the business of collecting taxes ten years ago, is, in my opinion, a very unsatisfactory piece of business. If you are to follow out the logic of that, there would scarcely be a single subject of taxation during the war or before the war or since that would not fairly fall within the province of the Commissioner of Internal Revenue under a bill of this kind if you would only enlarge it according to its own principles, and the Secretary of the Treasury and the other tax-officers of the United States to re-examine all the taxes that have been levied in various ways and strike a fresh balance and see whether too much had not been obtained. Of course, everybody would cry no to that at once; and yet we are asked in this way, if you take it up piece-meal, two or three cases at a time, to go back

and split hairs over the statute, which substantially, as anybody can see, whatever a court may have decided, meant to cover this, which was an express business in fact just as much as Adams Express or anybody else's. Substantial justice has been done, and substantially a just contribution has been made to the Treasury. Now we propose to invite the Commissioner of Internal Revenue to take the opinion of the Court of Claims as his guide, not the opinion of the Supreme Court of the United States; but to take an opinion in one case as his guide and try to apply that to the people named in this bill, and if he can figure out a result against the Government, to pay them the money. For one I am opposed to it.

Mr. MORRILL. May I ask my colleague if he thinks that there could be any proper discrimination as to the kind of property carried in the express business which should exempt baggage rather than merchandise? I suppose the law levied a tax upon express business. Now is it possible that you can exempt baggage any more than you could other merchandise?

Mr. EDMUNDS. The act of Congress on this subject is:

That on and after the 1st day of April, 1863, any person or persons, firms, companies, or corporations, carrying on or doing an express business, shall, in lieu of the tax and stamp duties imposed by existing laws, be subject to and pay a duty of 2 per cent. on the gross amount of all the receipts of such express business.

I take it it would be perfectly clear that under the previous stamp act every parcel they carried would have had to pay a stamp tax; but that was found to be inconvenient, and it was turned into a tax in gross upon gross receipts of 2 per cent.; and now, after the statute of limitations has long since run against them and the thing has gone by for a dozen years, it is proposed to invite the Commissioner of Internal Revenue to see whether he cannot, in the light of Dodd's case, figure out a result for the repayment of these taxes that were honestly and justly levied, and from which, as I should certainly say, with great respect to the court, very likely it will turn out that Dodd's case is entirely distinguishable. I do not know, but I should say, and I think everybody who hears this report read would say, this is just as plainly and in substance an express business as anything can be. It is the carriage of a particular class of parcels for hire, insuring them on their way from one place to another; and I am unable to see how it makes a difference whether you carry them from one railway to another in a city or from a railway to a house or hotel in the city, or whether you carry them as Adams Express does, a part of the way by rail and a part of the way by wagon to your house or hotel in a city. I do not see how it is possible to put such a construction on the law.

But here you propose first to open the statute of limitations in favor of these claimants. In all other cases, customs duties of every kind and internal taxes, the statute of limitations imposes a strict bar, and men stand upon their rights; and, if they think they have paid any taxes that they ought not to pay, they commence their suit in the proper court in season, when the testimony respecting the particular circumstances of the case and the application of the law is at hand. Now it is proposed, in the case of this particular class of business in the United States during the war, to say, first, that the statute of limitations shall not apply, and, second, that the Commissioner of Internal Revenue shall reconstrue the law and be himself the judge, and, if he can find that the United States have improperly construed that statute, then he shall give back the money.

Mr. President, I hope this bill will not pass.

Mr. WALLACE. I can only answer the argument of the Senator from Vermont against this bill by saying that here is a statute, which statute has been construed by the Commissioner of Internal Revenue himself as excluding this case and this class of cases. Now, it is not a question of construction to-day; it is a question of what the officers of the Government construed the law to be long since. They construed it to be exclusive of this class of business, and in pursuance of that construction Dodd's Express Company and others made their claim. They were refused payment by the Department, and then they proceeded in the courts, and they obtained a decree in favor of their claim. Thus we have the construction of the statutes by the decision of the courts; and now, having made the rule in these three modes, we came to this case that awaited the action of the Government itself; and, awaiting the action of the Government, the statute of limitations seems to have closed on the case. Because the parties did not sue, waiting the action of the Government, therefore they ought not to have their claim! A rule of law has been made by the Government, not during the war, but under a statute passed in 1864, construed in 1870, which rule has been carried into effect as regards all the rest of the companies; and now, although the others have been paid, although it was just to pay them, it is not just to pay these people who have waited! That is the argument of the Senator from Vermont in effect. It does seem to me that the statute of the Government, and the construction of the statute by the Commissioner himself, and the decision of the courts upon this law and this ruling have settled, not what the law is to be now, but what the law was when it was made, and that rule of law is to settle and conclude all cases of the same character. As these claimants are within this provision of the statute of 1864 as settled by the courts, why are they not within its justice and equity? Is there any good reason why this claim should not be paid? Simply the statute of limitations. The Senator rises in his place and interposes the statute. The Westcott Express Company have got their claim; Dodd's Express Company have got their

claim in pursuance of the statute, in pursuance of the construction, in pursuance of the decree of the courts; but time has elapsed, and therefore these parties are not to be paid! Mr. President, I hope they will be paid.

Mr. SHERMAN. I should like to look at the Dodd case. It all depends on that. It may be that on reading that case we shall see the reasonableness of the decision. Let the bill lie over informally for the present.

Mr. BAYARD. I have sent for the decision.

Mr. EDMUNDS. I ask for the yeas and nays on ordering the bill to a third reading.

The yeas and nays were ordered.

The PRESIDENT *pro tempore*. The bill will be laid over temporarily, if there be no objection, according to the suggestion of the Senator from Ohio.

PHILIP PENDLETON.

Mr. DAVIS. While the Senate is waiting for some information about the bill under consideration, I ask leave to call up House bill 735.

There being no objection, the bill (H. R. No. 735) for the relief of Philip Pendleton was considered as in Committee of the Whole. It is a direction to the proper accounting officers of the Treasury to re-open and re-adjust the accounts of Philip Pendleton, late a paymaster in the United States Army, and allow him such additional credits in the settlement of his accounts as, under the circumstances or in the opinion of the accounting officers, may be just and equitable, for errors and losses of money received by him as such paymaster, if any, growing out of shorts in package of money received by him, which shall be established before them by satisfactory evidence.

Mr. EDMUNDS. Let us hear the report read.

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

The Secretary read the following report, submitted by Mr. COCKRELL, from the Committee on Military Affairs, on the 3d of July, 1876:

The Committee on Military Affairs, to whom was referred the bill (H. R. No. 735) for the relief of Philip Pendleton, have duly considered the same, and submit the following report:

The Committee on War Claims in the House of Representatives, on April 21, 1876, made the following report:

"The Committee on War Claims, to whom was referred the bill (H. R. No. 735) for the relief of Philip Pendleton, report:

"That a bill for the relief of Major Pendleton was reported favorably by the House Committee on Claims in the Forty-second Congress, and the bill was reported by Mr. Blair, chairman of the committee, and passed the House. (See Journal, third session Forty-second Congress, page 371.)

"The bill went to the Senate, was not reached in that Congress, and the papers were returned to the House files. In the last Congress the claim was again presented, and referred to the Committee on Military Affairs, but no action was had, as the papers were withdrawn by petitioner, on leave of the House, April 17, 1874.

"The report cannot be found on the files of the House, or with the papers.

"It appears from the evidence that Major Pendleton was appointed a paymaster in the United States Army in the early part of 1861, and served as such until the month of August, 1864. That, during that time, he disbursed very large sums of money in payment of troops in West Virginia, Illinois, Missouri, Mississippi, Kansas, Nebraska, Wyoming, and Colorado. Much of the duty performed was done under the most trying circumstances. He was in many instances (scarcely ever otherwise, according to the evidence before this committee) ordered to start at once on expeditions to pay troops without being given time to count the funds turned over to him. He was compelled to take the packages of money for the sums marked on them and receipt for such sums, as thus marked, without any opportunity of opening the packages and counting the money to verify their correctness before so receipting. In some instances the packages fell considerably short of the amount they were supposed to contain. Owing to the excitement of the times, and the continual and rapid changes from one place to another, Major Pendleton had no opportunity offered him to have these errors corrected. By the statement of Comptroller Brodhead, as well as that of the claimant and others, it was notorious that many errors occurred in the Treasury Department in putting up and marking packages of money; that such errors were inevitable and unavoidable by reason of the hurry of putting up the packages and the enormous business transacted at the time. Major Pendleton reported these errors to the Paymaster-General at various times, claiming that he had accounted for every dollar he had received, and that he was, by reason of the amounts receipted for by him, apparently behind in his accounts, when in fact he had not received all the moneys so receipted for. After the close of the war, Major Pendleton tried to have his accounts settled; the war excitement was then over, and the Department was not disposed to allow credits without the strictest compliance with law. Although he had reported deficits, he was held to his receipts hurriedly given. By the accounts, Major Pendleton appeared to be indebted \$14,374.50. The petitioner alleges and urges that there are errors in the account and settlement with the Secretary of the Treasury greatly to his injury, and prays for leave to have his accounts referred and re-adjusted by the proper accounting officers of the Treasury.

"Your committee, therefore, after a careful consideration of the case—the confusion of the times, the haste and emergencies under which the Secretary was forced to transact the business of his Department, and the risks and difficulties encountered by disbursing officers in keeping their accounts, while in the field and on active duty, in a business-like manner—are of the opinion that Major Pendleton ought to be allowed the privilege of a resettlement of his accounts before the Secretary of the Treasury, and respectfully recommend the passage of the accompanying bill as amended."

Your committee addressed a letter of inquiry to the honorable Secretary of the Treasury, and, through him, received an answer from the Second Comptroller, in which he says:

"In answer to the inquiries of Senator COCKRELL, I have to state that, should the bill become a law, the action of this office would depend upon the evidence furnished. If upon examination of Major Pendleton's accounts under this act there should be found a balance due him, payment could not be made unless the bill is amended so as to carry with it an appropriation for the same."

As this bill makes no appropriation of money, and only authorizes a re-opening and re-adjustment of his accounts, your committee recommend the passage of the House bill.

The bill was reported to the Senate without amendment.

Mr. EDMUNDS. I should like to inquire a little what the bill means. It says that this gentleman is to be paid such losses as shall be just and equitable in his accounts, and afterward it says growing

out of shortages in packages. Now, if the bill means growing out of the fact that he is charged with more money than he actually received, that is one thing, and there would seem to be considerable force in it if it were not so long ago; but if it means that they are to take his accounts and allow for shortages in packages after he received them, then it appears to me that it would not be an extremely good bill to pass at any time. The language, it seems to me, is remarkable vague and somewhat mixed. If the point is merely to allow him as a credit such money as he can prove is charged to him that he never received, then, I respectfully submit, the bill ought to say so in very careful language; but if it is to allow the accounting officers of the Treasury to make a general guess over the whole period of his operations and allow him what was short in packages, which may have been in his possession for weeks before they were opened, and would still be an apparent "short" on his side in the packages, I do not think it would be right; and I doubt whether my friend from Missouri who reported the bill would think it to be right. I submit to him that the bill is rather extraordinary or rather loose in that respect.

Mr. COCKRELL. The bill makes no appropriation. It simply authorizes the Treasury Department and the officers of that Department to re-open and re-examine this matter; and if they find on re-examination and re-adjustment that anything is due, they have no authority to pay it, but are to report the facts to Congress and then the whole matter will come up before Congress. It was simply to give them the power to re-open and re-adjust this matter that this bill was reported.

Mr. DAVIS. I am not familiar with all the particulars connected with this case, though Major Pendleton is a citizen of the State which I in part represent. The Senator from Missouri examined the case and reported the bill, which appears to have been carefully examined in the House, and the only object, as I understand, is that Major Pendleton may have his accounts re-adjusted. He thinks, as I understand, that the Government is indebted to him some portion of the \$14,000 which he and his sureties had to pay, and the object of the bill is to have a re-adjustment of his accounts. I think it just.

The PRESIDENT *pro tempore*. The morning hour has expired.

Mr. DAVIS. I hope this bill will be disposed of.

Mr. COCKRELL. It will only take a moment to act on this, and I hope it will be continued.

Mr. EDMUNDS. In order to make this bill clear according to what is stated in the report, that it is merely meant to cover, as it clearly ought only to cover, if you are to have paymasters responsible to all, overcharges of money to him that in fact never reached him, because the ostensible amounts in the packages were greater than the amounts really were when he got them, I move to amend by striking out the words "equitable" and "errors and losses of," and to insert the words "true" and "charged as," and striking out the word "or" in the eighth line; so that it will read:

And allow him such additional credits in the settlement of his accounts as, under the circumstances, in the opinion of said accounting officers, may be just and true, for money charged as received by him as such paymaster, and not in fact received,

And then to strike out "growing out of shorts in package of money received by him."

In that way you leave to the accounting officers but one single question, and that is the single question that the report of the committee of the House covers, that the paymaster claims and thinks he can show that the packages sent to him purporting to contain certain sums of money contained on sundry occasions less, so that he ought not to be charged with more money than he actually received. That is the uttermost extent to which I should be willing to go.

Mr. DAVIS. I ask that the bill be read as it would be if amended.

The Chief Clerk read as follows:

That the proper accounting officers of the Treasury be, and they are hereby, authorized and directed to re-open and re-adjust the accounts of Philip Pendleton, late a paymaster in the United States Army, and allow him such additional credits in the settlement of his accounts as, under the circumstances in the opinion of said accounting officers, may be just and true for money charged as received by him as such paymaster, and not in fact received, if any, which shall be established before them by satisfactory evidence.

Mr. DAVIS. I make no objection to the amendment.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

ORDER OF BUSINESS.

The PRESIDENT *pro tempore*. The morning hour has expired.

Mr. BOUTWELL. Mr. President—

Mr. CAMERON, of Pennsylvania. I ask the Senate to take up the resolution which I had the honor to offer yesterday in relation to a recess. I am desirous that the question shall be decided now. I do not care to press the question particularly myself, but I think it had better be settled now, so that we can make our arrangements.

The PRESIDENT *pro tempore*. The Chair will lay before the Senate the unfinished business, which is the resolution relative to the Oregon electoral vote.

Mr. BOUTWELL. I will yield to the Senator from Pennsylvania if the subject he wishes to call up does not give rise to debate. If it does I should prefer to ask the Senate to take action—

Mr. MITCHELL. I desire to know if the Oregon resolution is the unfinished business?

The PRESIDENT *pro tempore*. It is.

Mr. MITCHELL. I am willing to give way to this provided it does not displace the unfinished business.

Mr. BOUTWELL. I yield to the Senator from Pennsylvania on condition that the subject does not give rise to debate.

Mr. EDMUNDS. The yielding cannot be conditional.

Mr. BOUTWELL. Then I must hold the floor.

Mr. CAMERON, of Pennsylvania. Rather than have any debate I will withdraw at once. As I stated before, my only motive is to have the question decided now. We have been in the habit for long years of adjourning about this time to go home to our families, and it has been understood everywhere that we would do so this year; but if there is any unwillingness to go now, very well. I can see no reason why we should not do now what we have done in former years; but I will make no contest about it. I only offered the resolution that the Senate might have the question before them and decide whether they will adjourn or not. I only ask for a vote on it.

Mr. BOUTWELL. I ask that the pending business be laid aside temporarily.

The PRESIDENT *pro tempore*. The Senator from Massachusetts asks that the unfinished business be laid aside temporarily. The Chair hears no objection.

STATUES OF WINTHROP AND ADAMS.

Mr. BOUTWELL. Mr. President, I ask the attention of the Senate to the statues that have been contributed by the State of Massachusetts to the old Hall of the House of Representatives. I ask, first, that the letter of the commissioners of the State to the delegation in Congress may be read.

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

The Chief Clerk read as follows:

COMMONWEALTH OF MASSACHUSETTS,
State House, Boston, July 10, 1876.

To the Hon. Senators and Representatives of Massachusetts in the National Congress:

The undersigned, under the provisions of chapter 64 of the resolves passed by the General Court in the year 1872, were appointed a commission to procure for Massachusetts artists two statues in marble or bronze, to be erected in the Capitol at Washington, as the contribution of this Commonwealth to the National Statuary Hall, in response to the invitation by Congress in the act approved July 2, 1864.

The commission was directed to procure, in the manner before provided, a statue of Samuel Adams, and a statue of either John Winthrop, John Carver, William Bradford, William Brewster, Miles Standish, or Edward Winslow, as might seem to them expedient, as fitting representatives of the colonial and revolutionary periods.

Under the direction of the resolve the commission contracted with Anne Whitney for a statue of Samuel Adams, and by virtue of the discretion vested in them they procured from Richard S. Greenough a statue of John Winthrop, first governor of the Massachusetts colony. Both the artists were born in Massachusetts, and both statues are in marble.

Having been received and accepted, the commission has caused the statues to be placed in the Statuary Hall of the Capitol ready for presentation to the nation.

The commission congratulate themselves that they are able to present the contribution of Massachusetts in the centennial year of the events with which the fame of Adams is so inseparably connected and which were the natural and glorious fruitage of the labors, sacrifice, and doctrines of Winthrop and his contemporaries of the Plymouth and the Massachusetts colonies.

Having progressed thus far in the discharge of the duty imposed upon us by the Commonwealth, we respectfully request you, its representatives in the national Congress, to call to the attention of that body the response of this State to its gracious invitation in such time and manner and with such formality as usage and propriety may seem to you to require and your good taste and judgment may commend.

And we subscribe ourselves, very respectfully and truly, your obedient servants,

W. B. WASHBURN.
HORACE H. COOLIDGE.
JOHN E. SANFORD.
GEORGE F. RICHARDSON.
ERASTUS P. CARPENTER.
FREDERIC W. LINCOLN.
JOHN B. D. COGSWELL.

Mr. BOUTWELL. Speaking for my colleague as well as for myself, in behalf of the Commonwealth of Massachusetts, and by the authority of its commissioners, we now present to the Senate and to the country the statue of John Winthrop, the father, founder, and first governor of the Puritan colony of Massachusetts; and the statue of Samuel Adams, the earnest advocate, and most logical exponent and defender of the principles of the American Revolution.

The history of Massachusetts begins with the landing of the Pilgrims at Plymouth in the year 1620, and gathering as in one view all those who in the long period of two and a half centuries have contributed to the prosperity, asserted the liberties, defended the rights, supported the principles, advanced the honor, or extended the renown of that ancient Commonwealth, John Winthrop and Samuel Adams have been selected as most worthy of place in the illustrious group now assembling in the old Hall of the House of Representatives of the United States.

The first choice was made from the men of the colonial period of our history, and the second from the men of the revolutionary era.

In the selection of a person to represent the colonial period there was a difference of opinion between the descendants of the Pilgrims and the descendants of the Puritans; but when the concession was made to the Massachusetts colony there was no difference as to the person entitled to the high distinction of the first choice, and John Winthrop stands as the representative not only of colonial Puritan Massachusetts, but in his principles, ideas, and purposes in govern-

ment he stands as the representative of the Commonwealth of Massachusetts as it has been, as it is, and as it ever must continue to be.

The Pilgrims came to Plymouth to secure and enjoy religious freedom; the Puritans came to Salem and Boston to found a Christian commonwealth and to extend a Christian civilization.

The Pilgrims had a higher idea of the rights and dignity of man; the Puritans had a broader view of the power of Christianity in the public affairs and concerns of mankind. The success of the Pilgrims has been full and complete, not only within the little colony which they founded at Plymouth, but for all the English-speaking States of America.

As religious liberty is the basis of the higher and purer forms of Christian civilization, the Puritans were compelled, finally, to accept the leading idea of the Pilgrims as a part of their public policy and essential to their undertaking. Thus the principles of the Pilgrims and the purposes of the Puritans were blended into a public policy of religious and political freedom and equality, destined to be as extensive as the civilization and as enduring as the institutions of this continent.

In 1630 the Puritans in England were a class, but not a sect. They sought a better life, but they did not demand unity of opinion in religious affairs. Generally, they condemned the practices and ceremonies of the Church of England, but many of them accepted its creed and participated in its sacraments.

Winthrop and his associates in their letter of farewell say we "esteem it our honor to call the Church of England, from whence we rise, our dear mother, * * * ever acknowledging that such hope and faith as we have obtained in the common salvation we have received in her bosom."

In 1630 the Puritans were a large minority, if they did not constitute a majority, of the people of England; but they had not then sought power nor agreed upon a public policy. In 1640, ten years after Winthrop's departure, the great contest between the church and the Puritans, the king and the people, became active and the peril imminent.

The people protested against the Catholic and against the English Church. Fifteen thousand of the inhabitants of London and seven hundred clergymen of the established church asked that the powers of the bishops and the character of the ceremonies might be radically changed. These concessions were made in form and to some extent in fact.

Political changes in the nature of revolution followed. Strafford was executed, the court of high commission was broken up, the Star Chamber was abolished, the judicial department was separated from the Crown, taxation by the king was relinquished, all ending in the trial and execution of Charles I.

The reign of English Puritanism was brief; but brief as was its career and sudden as was its fall, it left traces of its influence and the footmarks of its power not only in England but in France, Germany, Switzerland, Spain, and the low countries, in the West Indies and the colonies on the continent of America.

The administration of Cromwell forms the most brilliant epoch in British history. He advanced the power and elevated the name of his country wherever it was known. His qualities as a statesman, soldier, and diplomatist were respected or feared in Western Europe and in the European settlements of America. His policy, compared with that of the past, was liberal and wise. He broke at once from the leading-strings of kingcraft and monopoly and put the government of England upon a more liberal policy, and prepared the people to receive more liberal ideas. But twenty years spent in strife, in civil war, in the discussion of questions of policy, foreign and domestic, had robbed Puritanism in England of its power as the advocate of a better religion.

Cromwell left England greater than he found it, and the England of to-day owes much to his administration; but the influence of the puritanism of the seventeenth century is no longer visible in the politics or civilization of that country. Its moral power was destroyed in the effort to establish its authority by force.

In the little colony of Massachusetts its authority was not questioned seriously, either in the church or the state; and never on this continent did puritanism seek to propagate its opinions or gain power by arms. In one particular the Puritans have been misunderstood.

They accepted the truth that there might be a state without a king or a bishop, but they did not realize the kindred truth that there might be a state without a church and a creed. They did not deny the right of private judgment in religious matters, but in their system of government the state and the church were one, and whatever disturbed the peace of the church, in their view, also endangered the existence of the state. If the otherwise fair fame of the Massachusetts Puritans suffers from the charge of persecution, it is to be said in palliation, if not in justification, of their conduct that it was not their purpose to compel others to conform to their opinions, but to save their state from the dangers to which they thought it exposed.

Of Winthrop even more might be said. In 1642, and in his capacity as governor of the colony, he received with kindness and gave aid and comfort to one La Tour, a Roman Catholic, who arrived at Boston from Rochelle, in France. His conduct was the occasion of severe criticism, but in his defense he says "If there were not other sins which God may have a controversy with us for, I should little fear any harm from this."

But it can with truth be said of the Puritan colony and of its ad-

ministration that the public-school system established in 1642 is based upon the distinct assertion of the right of private judgment in religious matters. If we consider the public school as the only contribution made by the Puritans, it is in the fact and in the ideas which it embraces, the most important contribution to the human race ever made by any set or body of men. It is at once and always better security than can be otherwise obtained for freedom of opinion in all things, for equality of rights in all the relations of life, for the diffusion of the spirit of justice, and a capacity for right-doing without the intervention of law, and at last for governments of the people, by the people, and for the people.

I cannot doubt that John Winthrop is the most important figure in American colonial history. His fortune in England was ample to supply the wants and to support the house of a country gentleman. He was in the practice and in the enjoyment of the income of an honorable profession. When he identified himself with the colony and accepted the office of governor, the most important step, indeed the saving step, was taken in support of the enterprise. During the winter of 1629-'30 one-fifth of the settlers at Salem and Charlestown died of exposure and disease. The survivors did not number more than three hundred, and these were broken and disheartened, and filled with the gravest apprehensions for the future. Several of the settlements had been abandoned, and the very existence of the colony was in peril. Winthrop brought with him about one thousand persons, chiefly immigrants from Suffolk county, and they were re-enforced in the next twelve months by at least a thousand more.

These accessions were from the educated, competent, self-sustaining classes. In six years, and in their capacity as a colony, they founded and organized the college at Cambridge. In six years more they passed the memorable ordinance establishing a system of universal education which is in itself an effectual refutation of the exaggerated eulogy which Buckle has pronounced upon Adam Smith. In thirteen years after the arrival of Winthrop, upon his suggestion, and largely under his guidance, the colonies of Massachusetts, Plymouth, Connecticut, and New Haven entered into a union for mutual protection, which was the type of the confederation and of the Union of the American States.

Winthrop was governor twelve years of the nineteen years of his life in the colony, and there appear to have been but slight interruptions to his authority in the management of public affairs. His religious character and life, his devotion to the interests of the colony, his wisdom, his spirit of conciliation, his power of statement, and his rare ability in argument gave him the post of leader without a rival. Indeed, Washington is not more exalted above his associates of the revolutionary period than is Winthrop above his associates of the colonial.

The statue of John Winthrop is the contribution of the State of Massachusetts. If the influence of his life and opinions and of the institutions which he aided in founding were limited to that Commonwealth it would be an inadequate recognition of the value of his example. The little colony which Winthrop founded was the germ of a new civilization—a civilization whose chief force lay in ideas. These ideas have subjugated states, advanced across a continent, and are now in actual contact with the older civilization of the Asiatic world. In the opinion that this new civilization is an improved civilization we can assert that other states and even other countries are bound with Massachusetts to recognize the services and to extend the fame of John Winthrop.

Mr. DAWES. Mr. President, there has been no hesitation in the delay of Massachusetts to respond to the invitation of the nation to furnish for the old Hall of the House of Representatives, "statues of two of her deceased citizens illustrious for their historic renown or distinguished for their civic or military services and most worthy of such a national commemoration."

It was no easy task for her to so execute this national commission as to command the approval of the present, and bear the test of future generations, as she turned for that purpose to the long line of her illustrious citizens who had closed lives full of immortal deeds, and conspicuous in history for the rarest virtues.

It was only after much deliberation that she made her selection of the first colonial governor of Massachusetts Bay, illustrious both as the founder of her civil polity and as the father of a long line of her citizens distinguished in each successive generation for eminence in talent, virtue, and patriotism—and still most potential among her people for all that is good and worthy of renown—and with him one, *primus inter pares* among those great leaders who, a century and a half after her Puritan governor, guided that colony and her twelve sisters through revolution to free and independent States and to their position as one among the nations of the earth. Massachusetts accordingly presents this day to the nation, to be preserved among those of the illustrious dead of her sister States, in that old hall, itself immortal, the statues of John Winthrop and Samuel Adams, the one first in her colonial, and the other first in her revolutionary history. In the discharge of the agreeable duty thus imposed by her upon her representatives here, it has fallen to my lot to speak of the character of Samuel Adams.

He was born in Boston on the 16th of September, 1722, O. S., in the third generation, in direct line from that John Adams who was the great-grandfather of the illustrious patriot and citizen bearing the same name, the second President of the United States. In 1736 he entered Harvard College, and graduated in regular course in 1740; commenced, but did not pursue, the study of the law, entered a count-

ing-house and adopted mercantile business for his pursuit in life, from which, however, he was early turned by the stirring events destined soon and completely to absorb his whole being and control his whole future. He was twice married; first to Miss Elizabeth Checkly, and afterward to Miss Elizabeth Wells. By the former he had five children, only one of whom survived him. He died in the town of his birth, as he had always lived, in poverty, October 2, 1803, at the age of eighty-one years.

Such is the simple and naked record of his birth, life, and death, carefully and unostentatiously traced, as is the custom of the New England family, in the Bible that comes down from father to son, preserving between the books of the Old and New Testaments the genealogy of the families through which it passes, and whose religious character it feeds and supports.

If from this simple page we turn to the *story* of his life, it will be found to have been one of the most eventful, influential, and positive of all the lives of the great men who, under Providence, molded and determined the destiny of this nation, out of small beginnings, through feeble instrumentalities, and sometimes by mysterious agencies, but at all times by a wisdom and forecast, by a consecration and sacrifice little short of superhuman.

As his life began, so did his work, earlier than that of any of those who worked with him to the final consummation. As early as 1743, thirty-three years before the Declaration of Independence, and when the surface of absolute British rule on this continent had not as yet been ruffled by the slightest breeze of popular discontent, on the occasion of his master's oration at college, he, then just entering on his majority, disturbed the repose of the colonial governor and his subservient council by maintaining the thesis that "it is lawful to resist the supreme magistrate if the commonwealth cannot be otherwise preserved." Thus early in his own life and earlier in that of the nation he helped to create, for it was before the reign of George III had begun, while Washington and John Adams were mere children, and Jefferson was an infant just born, did Samuel Adams, with a forecast then all his own, prepare the way for coming events whose shadow had not yet appeared. The spirit of the Revolution seemed to have been born in him and to have been cherished as a passion from his infancy. Yet he was the most patient of men and awaited its development in others with the calmness and faith of a prophet.

The fire and zeal of the youth were held in check by the wisdom and prudence of maturity. He took on that day only the first step, the sacred *right* of revolution. But it was a step taken, taken firmly and intelligently, and thereafter maintained against all comers. From that day he seems to have consecrated himself to this new mission. Scarcely a trace of him remains elsewhere or in any other pursuit. An ineffectual effort at the bar, an unsuccessful mercantile venture, and all the rest of that remarkable life was one harmonious growth and wonderful development of the germ which that day put forth its first sign of life. And how marvelously it took root and grew in that genial soil! Though beset on all sides with discouragement and obstacles, confronted with opposition and loaded with obloquy, in perils often from open foes and among false brethren, yet his heart never failed him in his work, and never for an instant did he give over effort till the final and glorious consummation gladdened his eye and ravished his soul.

Nevertheless, for thirty long years from that day it was mostly a work of preparation, ripening only by slow progress and at an almost imperceptible pace into organization, leading ever, though not always by the open way, to that actual resistance from which there could be no retreat, and whose successful issue he never doubted. These were the most remarkable and eventful years of his life, and of the life of any American save Washington yet born. Indeed every hour of revolutionary research makes it more and more apparent that had there been no Samuel Adams, there had been no Washington. The Father of the Revolution must needs precede the Father of his Country.

In his work he was not always understood and was often misunderstood, but he stopped not to explain and wasted no time or strength in vindication.

Recognized by the unerring instinct of the people, from the moment that progress ceased to be silent and unseen and the gathering forces assumed order and direction, unappointed and without other commission than comes in great emergencies from commanding talent, unfaltering faith, and cloudless vision, he stood at all times at the head of the column pointing the way. He constantly encouraged the wavering, urged on the bold, and dispelled the clouds that darkened the path, till the surcharged elements of revolution broke with the clash of arms on the 19th of April, 1775.

In the early morning of that day, forewarned, he left, in company with John Hancock, his retreat in the town of Lexington as the approaching tread of pursuing soldiers was heard in the distance. But the hour of resistance had come and the curtain seemed for a moment to lift from the future, and its coming glories to open before him. Turning toward the first gray of the morning, as it began to light up the eastern sky and direct their unattended footsteps, he exclaimed to his companion, "What a glorious morning is this."

In that period of his life which preceded the open outbreak of hostilities there can be no doubt, I think, that his most important work was done. On this his fame will in the future rest. As its difficulties and complications, its delicate and doubtful methods, its incess-

sant labor and sleepless vigilance, all dominated by one great idea, and pressed forward with an unflinching courage, shall come to be better known by the student of the causes and instrumentalities of which the Revolution was born, so will its luster constantly increase. No adequate sketch even of that work can be attempted here.

Bancroft has truly said that—

It is impossible to write the history of the American Revolution without the character of Samuel Adams, and it is impossible to write the life of Samuel Adams without giving a history of the Revolution, for he was the father of the Revolution.

A bare outline would extend these remarks beyond justifiable limits, and only a few prominent points can be touched upon in years crowded with efforts the most efficient, well directed, and successful in awakening, educating, organizing, and inspiring the spirit of the Revolution.

He had scarcely attained his majority and stirred the blood of his rulers by the "incipient treason," as it was called, which lurked in his last college effort, when, recognizing the press as the most essential and efficient instrumentality in any great work dependent upon the popular will, he induced a few of his political friends to form a club for the special consideration of public affairs. By writing and debate and the establishment of a newspaper he endeavored to disseminate among the people the opinions and discussions of this club. The *Public Advertiser*, whose first number was published in Boston, January 1, 1748, thus became the organ of the first political association in the colonies for the promulgation of those principles which led in after years to the American Revolution.

Samuel Adams was the leader and master spirit among this bold and efficient band of pioneers. He was henceforward a most able political writer, not only for this paper, but in the columns of every other paper in New England to which he could gain access, and over a great number of different signatures, that he might not appear to the people to be working single-handed, but as one of many able and cogent writers upon subjects every hour pushed home to the public conscience and judgment with increasing force. His political writings during this period would, if it were possible to rescue them from oblivion, fill many volumes and would now be of immense value to the student of political history and to a just estimate of the men and measures of that epoch. But from various causes the larger part of this invaluable treasure has been lost. The great variety of names under which they appeared from time to time, and the necessity of concealment to the personal safety of their author growing more and more an object of anxiety and care as troubles thickened, and the carelessness of subsequent custodians having no conception of their value, have all contributed to the loss of a large part of the writings of the ablest political philosopher and statesman of that critical and important period. But enough of them have survived all the casualties which their author's fame encountered in revolutionary times to justify the high estimate which the future generations of the Republic are sure to put upon them.

It was the wont of the towns in the Massachusetts Province to furnish their representatives to the general court with written instructions, some of which were very elaborate and able. Those for the year 1764 from the town of Boston were from the pen of Mr. Adams, and were remarkable for the boldness with which new ideas were enunciated and the measures suggested for their maintenance. Says Mr. Adams:

We therefore, your constituents, take this opportunity to declare our just expectations of you that you will constantly use your power and influence in maintaining the invaluable rights and privileges of the province of which this town is so great a part, as well those rights which are derived to us by the royal charter as those which, being prior to and independent of it, we hold essentially as free-born subjects of Great Britain.

And the instructions conclude with this, in the light of subsequent events, most important suggestion:

As His Majesty's other North American colonies are embarked with us in this most important bottom, we further desire you to use your endeavors that their weight may be added to that of this province, that, by the united application of all who are aggrieved, all may obtain redress.

This was in 1764, ten years before the first meeting of the colonies in Carpenter's Hall in consultation for the common welfare, and is believed to be the earliest suggestion of the Union through which all our glories have arisen. In the next year he held the general court of the colony up to resolve "that there are certain essential rights of the British constitution of government which are founded in the law of God and nature, and are the common rights of mankind;" and "that the inhabitants of this province are unalienably entitled to these essential rights in common with all men, and that no law of society can, consistent with the law of God and nature, divest them of these rights."

These now fundamental doctrines of our polity were then so new that they "startled the whole province," and we are told that they were received in England as the "ravings of a parcel of wild enthusiasts."

His pen was constantly active in all the following years, feeding the growing popular excitement and leading the public mind and heart unconsciously for a time, perhaps, but steadily and step by step up to the one great act from which there could be no retreat with life and honor.

In 1768, Mr. Adams prepared the celebrated letter of instructions from Massachusetts to her agent in London, which was published in England as the "true sentiments of America," and also addresses in the name of that colony to the ministry and to the friends of America

in the mother-country, and a circular letter to each legislative assembly on this continent. Thus all along, and almost in the same breath, did he exhort and encourage the people at home, enlighten and remonstrate with the Government abroad and appeal to the sister colonies for union in resistance. As early as this year, eight years before the final declaration, Mr. Adams became convinced that the policy of Great Britain toward the colonies was unalterable and that independence or slavery was the alternative before the Anglo-Saxon race on this continent. He did not hesitate himself nor for a moment doubt the choice of the people, so soon as they should see clearly as he did that the choice must be made. From that hour, more or less openly and positively, but never faltering or retreating, he addressed himself to the removal of all doubts and to the clearing of the mists from all visions. How far in advance of all others he was in this great work those can judge who remember that John Adams and Jefferson for years afterward were laboring for a solution, short of separation, of the questions which had arisen between the mother-country and her colonies, and Washington himself confessed, only two months before the Declaration was adopted, that when he took command of the Army, July 2, 1775, he "abhorred the idea of independence."

When the massacre of unarmed citizens in the streets of Boston by British troops quartered in town by a cowardly governor had aroused the people to a pitch of excitement bordering on madness and had crowded the Old South Church with an assembly of men burning with indignation, Samuel Adams was put at the head of a committee to demand again of the governor, in the name of an outraged people, a removal of the troops, which that morning he had refused to the town authorities. The meeting in solemn silence awaited the result of the mission with intense anxiety. The first report that one regiment might be removed had been met by a response from three thousand voices, making the very roof of that venerable edifice to shake, that every soldier must depart.

Mr. Adams, at the head of a new committee, returned to deliver to the quaking governor this response. The scene in the council chamber where he presented to the governor and the commanders of the regiments the reply of the meeting is the most impressive scene of all the Revolution. The orator stretching forth his hand, like Paul before the trembling Felix, said:

It is the unanimous opinion of the meeting that the reply to the vote of the inhabitants in the morning is by no means satisfactory; nothing less will satisfy them than a total and immediate removal of the troops. If you have power to remove one regiment, you have power to remove both. It is at your peril if you refuse. The meeting is composed of three thousand men. A thousand men are already arrived from the neighborhood, and the whole country is in motion. Night is approaching; an immediate answer is expected. Both regiments or none!

There was no mistaking this determined spirit, and the governor, quailing before it, gave the order for the removal of the troops.

The artist has chosen for reproduction in marble, from among all the eventful scenes in the life of this remarkable man, the moment of the utterance of these words, the reply to which was awaited by Mr. Adams, calmly, with folded arms and with compressed lips and firmly knitted brow. And to all coming generations, while one stone shall remain upon another around that historic Hall, shall this marble thus commemorate the courage and heroism to which British authority first surrendered on this continent.

But in the years that immediately followed the great power of Mr. Adams as a leader of the people was even more manifest than when he appeared, in the morning of that eventful day controlling the tempest of popular passion in Faneuil Hall and the Old South Church, and in the evening confronting and overawing royal authority and insolence. Great depression followed this intense excitement. Reaction had set in and the people had begun to falter. Elliott said that "it might be as well not to dispute in such strong terms the legal right of Parliament." James Otis, jealous of Samuel Adams, placed obstacles in his way, and even John Adams, retiring from the Colonial Legislature as if to private life, ceased to write in the cause, "disgusted with the apparent subsidence of the patriotic spirit." The Legislature itself, abandoning the lead of Adams, followed that of the doubting and hesitating, and he was left in a minority. The loyalists were exultant and the patriots disheartened. Then the resolute soul of this great man lifted him to the height of the occasion, and with pen and voice and personal argument, mid obstacles almost insurmountable, he kindled afresh the fires of the Revolution and inspired with new animation and hope and courage the desponding spirit of patriotism.

The people rallied, the dead-point was passed, and the danger was escaped. A weak man may float with the current, a stout one only can stem it.

From this time forward he labored incessantly for union, as in one common cause, of all who complained of despotic rule; first for a general league of Massachusetts towns, and later, as the cause broadened, in an earnest and formal call for a Continental Congress.

In March, 1774, more than two years before the immortal Declaration, in the spirit of prophecy he wrote to Arthur Lee, in England, that by persistency of the British government in its course "will be brought to pass the entire separation and independence of the colonies."

Hutchinson had, nearly a year before, reported him to Lord Dartmouth as the chief incendiary, "determined to get rid of every governor obstructing their course to independency."

He stands out in the history of the progress of the great struggle, not only as among the very earliest in resistance to British aggression,

but the first to see the futility of all attempts at compromise, and to proclaim that the hour for separation had come. He moves in the Colonial Legislature the appointment of delegates to a Continental Congress in Philadelphia. The royal governor in alarm attempts to dissolve the assembly, but the door is locked in his face and the key is in the pocket of Mr. Adams. His leadership was as well understood in England as at home, and it won for him with Hancock the immortal distinction of being exempted by name from an otherwise general offer of pardon upon submission to royal authority. In all the sessions of the Continental Congress he was, as at home in Massachusetts, a leader in counsel and in labor, guiding constantly toward and striving ever to reach that day when formal and irrevocable proclamation of independence could be made.

He bore a most conspicuous part in the final production and adoption of that great instrument, and affixed his name to it as the fruition of years of prayer and struggle.

He returned to Massachusetts as poor as when contributions from unknown sources had furnished the very clothes which he wore in Philadelphia. And yet he had scorned the tempter with the gold and the peerage of England in his hand. Incessant devotion to the public service and entire consecration of every energy to the cause of his country had wrought upon him poverty and need. He found himself without even the shelter of a roof he could call his own. He struggled with his necessities as best he could, but failed in his advanced age to better his fortunes and continued to the end of his life to lack many of its comforts.

But he could not be kept from the service of the people, and entered at once into that of his native State, first as president of its senate and later as its governor for three successive terms, and retiring only under the burden and at the command of advancing age.

Mr. Adams was thoroughly democratic in all his instincts and faith. His trust in the people was implicit and unbounded. His political education and his early training as a statesman were in the New England town-meeting the nearest approach to the ancient democracy of any modern political institution, and largely through it he had seen wrought out the wonders of the Revolution. Therefore that form of government for the future States which was the nearest approach to the democratic ideal won his warmest support. He accordingly, with others of the same school, shrank from the present Constitution and was opposed to its ratification by Massachusetts as too centralizing and as cramping the powers and functions of the States. It was only when that ratification was to be accompanied with proposed amendments, giving further guarantees to the liberties of the people and powers of the States, that he finally saw his way clear to advise its adoption by his native Commonwealth.

The sincerity and weight of that advice contributed much to the ultimate adoption of that instrument not only by Massachusetts but by a sufficient number of her sister-States also to make it ultimately the organic law of the land.

This tendency of his mind led him directly, in the division of the country at the end of Washington's administration into parties upon the different rules of construction of the Constitution and consequent differences in policies of administration, to take the side of Jefferson against his own kinsman and co-laborer, John Adams.

Age alone prevented him from becoming a member of Jefferson's first cabinet. A temporary estrangement between the two Adamses followed this political divergence. It was, however, soon forgotten, and the Ex-President, surviving his elder compatriot many years, never stinted his appreciation and commendation of that undischarged debt this nation owes to him who was leader in all the great works of the Revolution.

Mr. Adams died at the age of eighty-one, in the fullness of his years and with his work and fame complete. As they pass in review at the end of the century which their crowning glory ushered in, how grandly they stand out, foremost in the front rank! His was a great, and will ever remain, a historic character, indissolubly linked with every critical, decisive, or glorious step in the progress of the Revolution, from the feebleness of its inception to the grandeur of its consummation. All his life-work led him through ways hitherto unmarked by the footsteps of the statesman and beset with perils, and he walked under a burden of responsibilities few if any others ever bore. On a single misstep hung the life of the nation; yet, in that wisdom and forecast, that boldness and strength, that power at his will alike to inspire and restrain, to stir the popular heart and to hold it in check—essentials all to the success of the great work on hand—he had no equal among the chiefs of the Revolution.

Massachusetts has been slow in doing honor to her illustrious son. But if she comes late to a public manifestation of her gratitude and appreciation she has chosen well the manner and the occasion. At her command, one of her own artists, a lady of rising fame and great promise, has with marked success reproduced, in imperishable marble, the stately form and commanding features of the great popular leader.

One hundred years in the history of the Republic he contributed so much to create have been numbered, and now his native Commonwealth is proud to bear witness at once to his love for her and to his greater love for the nation of which she was forever to be a part. Today, in acknowledgment of a debt that can never be discharged and full of pride in the name and fame of Samuel Adams, Massachusetts presents his statue to the United States, to be kept in perpetual trust as a memorial of her gratitude and a pledge of her fidelity to the cause of self-government, to which his whole life was consecrated.

Mr. INGALLS. Mr. President, I offer the resolutions which I send to the desk to be read.

The resolutions were read, as follows:

Resolved by the Senate, (the House of Representatives concurring.) 1. That the statues of John Winthrop and Samuel Adams are accepted in the name of the United States, and that the thanks of Congress are given to the State of Massachusetts for these memorials of two of her eminent citizens whose names are indissolubly associated with the foundation of the Republic.

2. That a copy of these resolutions, engrossed upon parchment and duly authenticated, be transmitted to the governor of the State of Massachusetts.

Mr. INGALLS. There have been citizens of Massachusetts more illustrious for their historic renown, or from distinguished civic and military services, than those whom she has chosen as worthy of this national commemoration.

The stranger who pauses before the memorial marbles in future years may forget that Sumner and Wilson had so lately departed from this Chamber that they could not become competitors for admission to that silent society of fame; but he will remember that our predecessors had heard the majestic periods of Webster, and the gorgeous rhetoric of Choate and Everett; that upon the floor he treads had fallen "the old man eloquent" at the close of a memorable career. The effigies of the revolutionary heroes around him will recall the memory of Hancock, the first signer of the Declaration of Independence, and of Warren, who died at Bunker Hill; while against the dark and stormy background of the desolate colonial epoch will appear in dim procession the names of Bradford, Winslow, and Miles Standish, and he will ask why the old Commonwealth turned away from these conspicuous sons, and selected for this perpetual, enduring, and eternal honor, as the representatives of her birth and growth; the exponents of her purposes and her convictions; the apostles of her mission and the prophets of her destiny, these less illustrious citizens—John Winthrop and Samuel Adams.

The race to which we belong is characterized by resistless energy. Descending the slopes of the great central Asiatic plateau in prehistoric times, it has moved westward through Europe by some mysterious impulse, subverting empires, displacing populations, substituting languages, imposing new policies and institutions, and giving rise to an organic series of nations which have succeeded each other like the annual harvests of the earth. It was not till the seventeenth century that this great column in its prodigious migration reached the shores of America, and found here for the first time in its eventful march an unlimited field for unrestricted growth and development. To an unoccupied continent, whose river-valleys and mountain ranges compel national unity, it brought the ideas which it has preserved amid all vicissitudes; ideas whose vigor had successfully resisted the modifications of climate, soil, and physical conditions; which had defied repression, and when restrained by power too great to be overcome had preferred deserts and inhospitable solitudes rather than enervating submission to tyranny. Refusing to adulterate its blood with inferior races, it had not degenerated nor lost its intellectual methods and traditions. It loved to make laws and then to render obedience to them. It preferred charters to the sword. It was profoundly religious and expressed its faith in solemnities and creeds.

Since the Christian era there have been no great political movements that have not had their impulse in religious sentiment. The idea of a Messiah has preserved the national existence of the Jews during two thousand years of persecution, and of dispersion to the uttermost parts of the earth. The dogmas of Mohammed changed the destiny of three continents. The protest of Luther against Romanism gave direction to the whole current of modern history. The Reformation gave the Commonwealth to England and the Puritan to America.

Foremost among these pioneers was John Winthrop, a voluntary exile, seeking unrestricted liberty of conscience. The little community that gathered around him necessarily assumed political relations. The idea of personal freedom and independence permeated the fabric and became its controlling impulse. As new colonies crossed the sea, the necessities of defense compelled an association upon the same principle, and when at last the exactions of England grew again to be intolerable, Samuel Adams became one of the apostles of the political gospel that all men were created equal.

In the interval that has followed the final removal of exterior obstacles the ideas of Winthrop and Adams have advanced with inexorable vigor, subduing a continent for their habitation, and molding with despotic sovereignty the institutions and laws of forty millions of men. It has been said that the Puritans came to America to worship God according to the dictates of their own consciences, and to compel everybody else to do the same. Whether this be true or not, it is certain that the political system based upon the ideas of Winthrop and Adams has been inflexibly aggressive and intolerant. During the early years of the Republic it regarded with increasing discontent the advance of human slavery. Its opponents were not warned in time. Democracies are generous but they are jealous. They endure much but when they are wronged they sometimes take more than their due. When dissatisfaction assumes the form of resentment, one volume of a nation's history is closed and another is opened.

The irrepressible conflict was proclaimed and the contest waged with increasing intensity. Political complications deferred the crisis till the issue was precipitated upon the plains of Kansas, and John Brown of Osawatimie there raised anew the standard of universal freedom under which he marched to Harper's Ferry, and which the nation seized at the gallows of Charlestown and bore in triumph to

Appomattox Court House. Whatever may be said of the policy or expediency of these great movements, history will not fail to record that those who inherited the political principles of Winthrop and Adams were inexorably logical and courageous, and that they shrank from none of the consequences of their convictions. They were not only determined to be free themselves, but that all who were accessible to their influence should be free also whether they wanted to be or not. They promptly relinquished the rights of conquerors, and admitted the vanquished to the full exercise of unrestricted citizenship. Following their doctrines to their logical conclusions they made citizenship national; they enfranchised the illiterate millions who had been relieved from bondage and intrusted them with the ample prerogatives of freedom. It was a terrible experiment. Self-government was never subjected to such a stress before. Whether it will survive the shock remains to be determined. The portentous emergency that confronts us to-day is one of its inevitable results, and it will require the active co-operation of all the higher forces of society to prevent destructive organic changes.

The tendency of the democratic idea in America has not been destructive as in other countries. It has not striven to tear down, but to construct and build up; to repair and not to waste. It has always exhibited an impulse toward the coalition of all its elements. Whether in the feeble days of the colonies or the succeeding era of our growth and glory, this instinct has always been visible and it has developed into a purpose whose conservative and beneficent influence cannot be overestimated, not only in the present but in all future crises that may threaten the nation. This purpose is national unity, the determination that the United States shall be a great continental Republic, powerful and indissoluble, offering a refuge and asylum to all who love liberty, and sovereign among the nations of the world. To realize this sublime conception incredible sacrifices have been made. Personal rights for a long period were cheerfully surrendered. Armies and navies have been organized for military and naval operations commensurable in magnitude with the great fields upon which they were conducted. Hundreds of thousands of lives have been sacrificed and hundreds of millions of treasure expended to establish the national integrity. It is not too much to say that this purpose is so deeply imbedded in the convictions of the American people that it can never be abandoned. It has cost too much to be peacefully surrendered. We are now in a transition period. We have acquired a habit of subordination, and may confidently anticipate the acknowledged supremacy of law.

In view of these considerations, this interruption of the proceedings of the Senate in the presence of questions of momentous interest ceases to be inopportune or formal. It is an admonition of profound significance. Massachusetts turns from her warriors, her statesmen, her orators, and acknowledges her supreme allegiance to those potential ideas which for two hundred and fifty years have defined the path of her progress. She announces that against the temptations of policy or place or expediency she shall recognize morals as an element in politics and the golden rule as a maxim of government; that in the future as in the past she will insist upon national integrity, equality before the law, universal education, the elevation of the masses, the protection of labor, the promotion of the material interests of the country, and the continued activity of those great moral forces which underlie true national grandeur.

I move the adoption of the resolutions.

The resolutions were adopted unanimously.

MESSAGE FROM THE HOUSE.

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

A bill (H. R. No. 2606) for the relief of Catherine Harris;

A bill (H. R. No. 4188) making appropriations for fortifications and for other works of defense, and for the armament thereof, for the fiscal year ending June 30, 1878, and for other purposes;

A bill (H. R. No. 4246) to provide for the holding of terms of the district and circuit courts of the United States at Bay City, Michigan;

A bill (H. R. No. 4248) for the relief of Emanuel Klausner, late corporal of Company H, Fifty-fourth Regiment Illinois Volunteers;

A joint resolution (H. R. No. 174) authorizing the issue of clothing to Private Patrick Noonan, Company G, Fifth United States Infantry;

A joint resolution (H. R. No. 175) authorizing the issue of clothing to Company A, Second Regiment United States Cavalry;

A joint resolution (H. R. No. 176) authorizing the issue of clothing to Private Francis Hegner, Company F, Seventh Cavalry, and Private John C. Collins, Company G, Seventh Cavalry; and

A joint resolution (H. R. No. 177) authorizing the issue of clothing to Sergeant Herman Theune, Company I, Twenty-third United States Infantry.

The message also announced that the House had passed a concurrent resolution for the printing of 4,000 copies of the report of R. W. Raymond on mining statistics for 1875, with the accompanying engravings, in which the concurrence of the Senate was requested.

ELECTORAL VOTE OF OREGON.

Mr. MITCHELL. I call for the regular order.

The PRESIDING OFFICER, (Mr. WRIGHT in the chair.) The regular order is called for, being the resolution directing an inquiry as

to the eligibility of J. W. Watts as an elector for the State of Oregon and the circumstances attending the appointment of electors in that State.

Mr. MITCHELL. Mr. President, this resolution has been under discussion from time to time for something over one week. I have made no particular effort to bring it to a vote, but I trust the Senate, if the discussion is thorough or if it can be finished within any reasonable hour to-day, will remain until a vote is taken. I consented that the matter might go over yesterday from the fact that the Senator from Illinois [Mr. LOGAN] desired to speak, and I was very anxious to have him speak. He is still laboring under physical disability and is unable to be here. So far as I am concerned, I intend to take but very little time in addition to that already taken. There are a few things, however, to which I desire to call the attention of the Senate in reference to this matter before the vote is taken, and I allude particularly to the statement made by Governor Grover in justification of his action in regard to the certificates that were issued to presidential electors in Oregon.

It is not often that a judicial officer or a person acting legitimately in a judicial capacity feels constrained, after he has rendered his decision and delivered his opinion, to come out in a card in the public papers and give reasons in justification of his course. It is perhaps, however, not so strange that when a ministerial officer, clothed solely and purely with ministerial powers transcends his plain and explicit commission and assumes judicial functions, exercises judicial functions, passes upon rights, adjudicates upon questions, he should feel called upon to come out in a card over his own signature and give reasons for the action taken by him. That seems to be the case in this particular instance. I hold in my hand what purports to be, and which I have no doubt is, a card over the signature of Governor Grover, of Oregon. It is published in the New York Herald of the 8th of December, and it is to some extraordinary statements in that card that I desire, before a vote is taken on this resolution, to call the attention of the Senate very briefly. Governor Grover in that card uses this language in part justification of his course:

That instrument—

Referring to the Constitution of the United States—

declares that no person holding an office under the United States shall be an elector. J. W. Watts, one of the electors voted for in Oregon, was on the 7th day of November holding an office of trust and profit under the United States, to wit, postmaster at La Fayette, Yam Hill County, and he so held that office for more than three years.

Now I call special attention to what follows:

Many more than the number of voters constituting his majority had actually passed in and out of his office on official business. His official character was generally known and was mentioned during the political discussions of the canvass.

There is the broad statement of the governor to the effect that many more than the number of voters constituting Watts' majority had actually passed in and out of his office on official business. Now, then, to the facts. Let us see whether that is precisely so. How are we to arrive at a correct conclusion in regard to that matter? First, by ascertaining what the majority of Mr. Watts was in the State of Oregon over Mr. Cronin. Mr. Cronin received 14,157 votes, all told; Mr. Watts received 15,206, all told. Watts' majority, therefore, in the State was 1,049. Now take the county of Yam Hill, in which the post-office is located, of which Mr. Watts was postmaster, and ascertain what the whole vote is in that entire county, not merely in the precinct in which this post-office is located, but in the whole county, and we find that in the county of Yam Hill Mr. Cronin received 674 and Mr. Watts received 810 votes, all told. So that it is necessary, under Governor Grover's statement—that is, to make his statement conform to the truth—that not only every republican voter among the patrons of this office, but that every republican voter in the county of Yam Hill should have gone in and out of this post-office on official business, and still after that had been done Watts would have a majority of nearly 300. But how many more post-offices are there in Yam Hill County? How much of a post-office was this office at La Fayette, in which so much official business was transacted, according to the statement of Governor Grover? In addition to this post-office at La Fayette, there are eleven other post-offices in the county of Yam Hill. There are twelve post-offices, all told, in that county; and, that the Senate may understand still more fully the insignificance of the business transacted in that office and the facts in reference to the extraordinary statement of the governor that more than Watts' majority in the State had gone in and out of that office on official business, I beg to read a dispatch I have just received from Hon. H. W. Scott, of Oregon, a member of the national republican committee for that State, in answer to one I sent him yesterday for information on this subject. The dispatch is as follows, addressed to myself:

PORTLAND, OREGON, December 18, 1876.

Total vote La Fayette precinct—

That is the precinct this office is in—

Hayes, 106; Tilden, 83. Precinct includes considerable scope of territory outside of town, and nearer other post-offices. There is a post-office at Saint Joseph, in La Fayette precinct, at which a number get their mail. Others in La Fayette precinct are nearer Dayton, and get their mail there. It is not probable that more than one hundred voters of both political parties regularly get their mail at La Fayette.

This statement of the governor is so wild of the truth, so unjustifiable, as it seems to me, that I have felt called upon to submit these facts for the consideration of the Senate.

But that is not all in reference to this card of Governor Grover. He

states further it will be observed, that "his" [Watts's] "official character was generally known." Does Governor Grover presume to say to the Senate or to the people of the United States, to whom perhaps this card is addressed, that the republicans of the State of Oregon are all such consummate asses, such benighted fools, that they would proceed with the canvass to an election with a person known to them to be ineligible as a candidate for elector for the office of President and Vice-President? Is that the kind of a compliment the governor of our State desires to pay to persons constituting the party to which he does not belong in that State? But he says further:

His official character was generally known and was mentioned during political discussions of the canvass.

Well, that is possible, but I scarcely think it probable. I traversed that State from one end to the other, from north to south and east to west during the campaign for six weeks before the election and up until the day of the election; I was there in the State in my own precinct on the day of the election; I voted; and I remained in the State for four days after the election was over; and I state to the Senate that up to that time I never heard the suggestion made from man, woman, or child, in the State of Oregon, that Watts was a postmaster. There was no paper that said anything about it. There was no man, so far as I know, who ever called attention to the fact. But still Governor Grover says:

His official character was generally known and was mentioned during political discussions of the canvass.

Mr. MORTON. Let me ask the Senator whether the republican party of Oregon had a State central committee with power to supervise the canvass and take notice of any mistake of that kind and correct it if discovered?

Mr. MITCHELL. We have a republican State central committee in Oregon with a most vigilant chairman who devoted his time exclusively to the campaign, and as a matter of course if any suggestion of this kind had ever been made in the State by anybody it would have been corrected.

Mr. BOGY. I will ask the Senator a question. Did he not himself know that Watts was postmaster?

Mr. MITCHELL. If my attention had been called to the fact I have no doubt I should then have remembered that I had known it some time before, because I presume the fact is that he was appointed on my recommendation.

Mr. BOGY. Does not my friend think that Mr. Watts knew that he was a postmaster himself?

Mr. MITCHELL. I have no doubt about that.

Mr. BOGY. Knowing the fact that he was postmaster, he being an intelligent citizen of Oregon, cannot the Senator suppose that he knew he was not eligible as an elector?

Mr. MITCHELL. I think it is very doubtful in reference to that; and in saying that I do not undertake to cast any reflection upon the intelligence of Dr. Watts.

Mr. BOGY. Can it be, in the Senator's estimation, that he is less intelligent than this large population of whom he has just spoken in Oregon who were so intelligent that they must have known that he was not eligible? They knew the fact that he was postmaster. Were they less intelligent than the men who voted for him?

Mr. MITCHELL. As to just how intelligent Mr. Watts is I would refer my friend from Missouri to the democracy of Oregon who suffered pretty severely under his campaign in the last election.

Mr. BOGY. I am only applying the Senator's own rule of argument; that is all.

Mr. MITCHELL. As a matter of course Watts knew that he was postmaster; but I have very grave doubt, he not being a lawyer, not being in the habit perhaps of consulting the Constitution of the United States as a great many very good men are not in the habit of doing, whether Dr. Watts knew that the fact of his being postmaster made him ineligible as an elector.

Mr. BOGY. What becomes of your vindication of the rest of the people of Oregon? Are they all lawyers, the remainder of those voters, that they must have known that he was not eligible if they knew the fact that he was postmaster?

Mr. MITCHELL. I have not been talking about the question of knowledge of the law; I have been talking about a matter of fact; the question as to knowledge of the disqualifying law was argued here the other day, and Governor Grover places his vindication upon that idea, that in order to elect the minority man it is necessary that a sufficient number of voters to overcome the majority of the majority man should have known not only the disqualifying fact but the disqualifying law also. In other words, the doctrine of the law, *ignorantia legis excusat neminem*, does not apply in a case of this kind, but the fact of the existence of the disqualifying law must be brought home to the actual notice of the party. But I was not talking about that; I was talking about the question of fact. Governor Grover undertakes to defend his action on several grounds. One ingredient entering into that self-vindication is the statement made by him that more than this majority, to wit, more than 1,049 republicans of Oregon, went in and out of this post-office on official duty before Postmaster Watts, and they must as a matter of fact have known of the existence of this disqualifying fact. That is what I was talking about.

Then further, in order to bring his case within the rule of the law, namely, that knowledge of the disqualifying law and of the disquali-

fying fact must both be brought home by actual notice, the governor says:

The law was known and the fact was known, rendering it disgraceful in him to be an elector.

There is where Governor Grover plants himself in vindication of this extraordinary conduct upon his part. I say, in the absence of my colleague, [Mr. KELLY,] who is away—whether on official duty or not I do not exactly know—that the constitutional inhibition was not known generally, and it is no poor compliment to the intelligence of the people of Oregon when I say it either; and, so far as the fact is concerned, I am absolutely certain it was not known by more than one-tenth, at the very most, of the majority that Watts received over Cronin. I feel perfectly assured of that. Now what does the Governor say further? He says:

A protest was filed in the executive office by prominent citizens objecting to the issuance of a certificate to Watts as a person disqualified, accompanied by proof of his disqualification, and demanding the issue of the same to the eligible person having the next highest number of votes. A reply was filed objecting to anything but a count of the votes and a certificate of the count, and making no denial of the disqualifying facts.

And then the governor resolves himself into a court; he files the pleadings; he perhaps hears witnesses; without the power to swear a witness, he tries a great fact, or at least he establishes a principle, if he does not try a fact, in this case that would in many other cases compel him to try important facts; and then after having heard the case what does he say? He says:

It was ruled in the case—

By the governor, of course—

that when the objection to an applicant's right to receive a certificate rests upon the ground that a constitutional provision is interposed, the governor, acting under oath to support the constitution, is bound to entertain and determine the question.

But further:

It was also held that, the law and the fact being well known—

Was the governor justified in making any such statement as that in vindication of his course, that the law and the fact were well known, when, as I have shown from the records, his statement in reference to the facts is very far from being justified by the facts themselves?

It was also held that, the law and the fact being well known, the votes cast for the ineligible candidate cannot be counted for any purpose, and the eligible candidate having the next highest number of votes was duly elected.

And then he says:

This ruling was based upon standard authorities, such as Cushing and Grant, the decisions of many courts like the supreme court and the court of appeals of New York.

When in truth and in fact the court of appeals of New York have decided the very reverse in reference to a parallel case.

The latter is also the uniform practice in the United States House of Representatives.

Here again is a statement that will not be borne out by the facts or by the record of the House of Representatives.

And—

Says he—

it is in accordance with the great weight of all English authorities, both parliamentary and judicial.

What further does he say, and I call attention to it to show that he has misstated, to use a mild term, the law of his own State in making this vindication of himself. He says:

The law of Oregon providing for filling all vacancies in the electoral college, recognizes a vacancy only in cases where there has been an incumbent and such incumbent has died, has refused to act, neglected to stand, or is otherwise absent.

I call attention to the closing words in that sentence, "or is otherwise absent." That is not the law; that is not the reading of the law; and how that can be the construction of the law is more than I am able to say. The statute on that subject reads as follows:

The electors of President and Vice-President shall convene at the seat of government on the first Wednesday of December next after their election, at the hour of twelve of the clock at noon of that day, and if there shall be any vacancy in the office of an elector, occasioned by death, refusal to act, neglect to attend, or otherwise, the electors present shall immediately proceed to fill, by *viva voce* and plurality of votes, such vacancy in the electoral college, and when all the electors shall appear, or the vacancies, if any, shall have been filled as above provided, such electors shall proceed to perform the duties required of them by the Constitution and laws of the United States.

The statute says: "By death, refusal to act, neglect to attend, or otherwise." Governor Grover says: "Refused to act, neglected to stand, or is otherwise absent." The governor interpolates the word "absent" which is not in the statute at all. The statute stops with the word "otherwise." The governor adds the word "absent." An argument was made the other day by the honorable Senator from Pennsylvania [Mr. WALLACE] on the subject of vacancies to the effect that there could be no vacancy where there was a failure to elect. That very often is so in many of the States and the adjudications are different in different States. Pennsylvania has decided one way and California has decided the other; and Missouri and other States have differed. But all these questions must be determined, and are determined—how? By the constitutions and the laws of the respective States; and that is the very reason we find different adjudications upon this question in different States. It is because the constitution and the laws are different on these matters in the different States, and the question as to whether or not there is a vacancy in the office of presidential elector in Oregon must be determined, not by the adjudication of the Governor.

cation of this State or of that State, but by a fair and reasonable construction of the constitution and the laws of the State of Oregon; and I say that any lawyer, who will take the trouble to take up the laws of Oregon on this subject from beginning to end and examine all their provisions, will not hesitate to come to the conclusion that a vacancy occurs in the office of presidential elector when for any cause the whole number are not there on the day fixed for their meeting by the act of Congress.

Our statute in Oregon on the subject of vacancy contemplates—what? It contemplates the right of a competent tribunal to declare void an election that is void for any cause, by reason of ineligibility if you please of the party voted for; and there is no vacancy, at least so far as State offices are concerned, to which the same rule does not apply that is applicable to this matter, because the manner of appointment of presidential electors is left to the State. I say the law of Oregon does provide for declaring a vacancy by the decision of a competent tribunal where the election as a matter of fact is void, as I will show. I call attention to section 45, on page 709 of the Code of Oregon, providing how offices shall become vacant:

Every office shall become vacant on the happening of either of the following events before the expiration of the term of such office:

1. The death of the incumbent;
2. His resignation;
3. His removal;
4. His ceasing to be an inhabitant of the district, county, town, or village for which he shall have been elected or appointed or within which the duties of his office are required to be discharged;
5. His conviction of any infamous crime or of any offense involving a violation of his oath.
6. His refusal or neglect to take his oath of office or to give or renew his official bond, or to deposit such oath or bond within the time prescribed by law;
7. —

And this is what I call special attention to—

7. The decision of a competent tribunal declaring void his election or appointment.

So that the law of Oregon provides in terms that, where a person is voted for for any office by the people of that State who is ineligible, then, upon a declaration to that effect from a competent tribunal, it is a case of a vacancy, not a case of a failure to elect, as was argued by the Senator from Pennsylvania the other day. And will anybody question the right of the Legislature of Oregon to establish its own rules in reference to this matter? It cannot be contended for a moment that this was a case of a failure to elect and that there was no vacancy. Governor Grover himself assumed to be "the competent tribunal" mentioned in the statute which might declare void an election or appointment. He acted upon the assumption that he was the competent tribunal. He declared the election void. If he was "the competent tribunal" and if he did rightfully declare the election void, what result followed? Under the plain provision of the statute of the State, a vacancy occurred, and not a case of a failure to elect simply; and, there being a vacancy, then in any possible view of this matter who had the right to fill it? That is the next question. We all agree on this. There is no dispute here. Governor Grover himself must necessarily concede that if there were a vacancy he had no right to fill it; but that that right belonged to the other electors, as provided in another section of the statute to which I called attention the other day and which I read a moment ago. That statute declares:

The electors present shall immediately proceed to fill, by *viva voce* and plurality of votes, such vacancy in the electoral college.

I do not know whether Judge Hoadly obtained his cue from Governor Grover or Governor Grover obtained his cue from Judge Hoadly. Judge Hoadly says, if I remember rightly, that he prepared his opinion for Governor Grover at the instance of Mr. Pelton, who is I believe the private secretary of Governor Tilden. In that opinion or at least in his communication to the Cincinnati Commercial, giving that paper a statement of the points presented in his opinion, Judge Hoadly uses this language:

As John W. Watts was the postmaster of the county seat of one of the most important counties in Oregon, I presume that the governor and secretary of state, the canvassing board of Oregon, found in point of fact, if they adopted the rule of the case of the People vs. Clute, that this fact was sufficiently notorious to the republican electors of Oregon to charge them, or at least enough of them, with notice of the fact of his ineligibility to bring it within this rule so far as the matter of fact is concerned.

Without knowing, therefore, whether the governor of Oregon adopted the Indiana rule or the New York rule, I think I am authorized to presume that if he espoused the New York doctrine he was satisfied in canvassing the votes that a number of republican electors voting for Watts more than equal to Watts's majority over Cronin knew that he was a postmaster, and that the same number either knew or were bound to know of the constitutional disqualification which attached to the office of Watts.

Mr. President, I have said about all that I have to say in reference to this matter. I have felt it to be my duty to call attention to these statements in the card of Governor Grover, and let me once more call the attention of the Senate to the slender authority, to the slender structure upon which Governor Grover could stand legitimately in an exercise of the extraordinary power that he took unto himself. Under the statutes of Oregon it is no part of the duty of the governor of Oregon even to issue a certificate to presidential electors. All he has to do in the matter is to sign his name to certain lists which the statute says shall be prepared by the secretary of state and to which the secretary of state shall attach the great

seal of the State. Section 3 of the laws of Oregon providing for the election of presidential electors reads as follows:

The votes for the electors shall be given, received, returned, and canvassed as the same are given, returned, and canvassed for members of Congress. The secretary of state shall prepare two lists of the names of the electors elected and affix the seal of the State to the same. Such lists shall be signed by the governor and secretary, and by the latter—

The secretary—

delivered to the college of electors at the hour of their meeting on such first Wednesday of December.

Remember now they are to be "given, received, returned, and canvassed," not certified, "as the same are given, returned, and canvassed for members of Congress." In reference to members of Congress, the governor of the State under the law is made to do an additional duty to that devolved upon him in reference to the certification as to presidential electors. Let us turn to that act and see. Section 33, page 706 of the code provides for canvassing and returning the votes for members of Congress; I will read it:

The county clerk, immediately after making the abstract of the votes given in his county, shall make a copy of each of said abstracts, and transmit it by mail to the secretary of state, at the seat of government; and it shall be the duty of the secretary of state, in the presence of the governor, to proceed within thirty days after the election, and sooner, if the returns be all received, to canvass the votes given for secretary and treasurer of state, justices of the supreme court, member of Congress, and district attorneys, and the governor shall grant a certificate of election to the person having the highest number of votes for either of such offices, and shall issue a proclamation declaring the election of such person.

Now in reference to the election of members of Congress the governor does what? He sits by; he is present when the secretary canvasses the vote. When the vote is canvassed, then, so far as relates to members of Congress and State officers, it is the duty of the governor to do what? To issue a certificate to whom? He has no judicial power there, not a particle; but he is to issue his "certificate of election to the person having the highest number of votes."

The Senator from Ohio [Mr. THURMAN] said the other day, "suppose Queen Victoria had the highest number of votes?" I say he had no discretion in the matter but to issue his certificate to Queen Victoria. He said, "Again suppose Goldsmith Maid had the highest number of votes, what then?" I say then no person would have been voted for; and he would not issue any certificate at all. But what I wanted to say was that this last duty that the governor has to perform with reference to members of Congress, namely, to issue a certificate and make a proclamation, are things that he does not have to do with reference to the presidential electors, because the votes for presidential electors are given, received, returned, and canvassed the same as those for members of Congress; but they are not certified to the same as members of Congress. Why? Because the law in the one place as to members of Congress says that the governor shall issue his certificate and make proclamation, while in the other case in reference to presidential electors the law says this:

The secretary of state shall prepare two lists of the names of the electors elected, and affix the seal of the State to the same. Such lists shall be signed by the governor and secretary, and by the latter delivered to the college of electors, at the hour of their meeting, on such first Wednesday of December.

So there is the structure and the only structure upon which Governor Grover could stand in reference to any action that he may have taken in reference to presidential electors; and if any lawyer in Christendom, if Judge Hoadly, after a careful examination of all these provisions—and he evidently did not canvass them all—can come to any such conclusion as that the executive of the State of Oregon had the right to exercise judicial functions or quasi-judicial functions and pass upon this important matter, then I confess I have read law in vain and know nothing about it whatever.

I have nothing more to say except this: My friend from Delaware [Mr. BAYARD] suggested an amendment, and he has appealed to me to accept that amendment. It is an amendment which modifies the preamble of this resolution. I regret to say that so far as I am concerned I cannot accept it, and I hope it will not prevail. One reason why I cannot accept it, one reason why I think it ought not to prevail, is this: I upon my own motion asked that this resolution with its preamble might by a vote of the Senate be sent to the Committee on Privileges and Elections, in order that the Senate might have the benefit of the opinion of that committee both as to the form and propriety of the preamble. The resolution went to that committee by a vote of the Senate. It was taken up by that committee, carefully considered, modifications proposed and adopted, and the result is before the Senate. A majority of that committee have recommended the adoption of the resolution and the preamble as it now stands before the Senate. That is one reason. Another reason why I shall oppose the amendment in regard to the preamble is because the preamble is right, because it ought to be there, because the resolution would not be complete without it, and if objection at all exists to the preamble it is to be found in the fact that it is mild, moderate, merciful; and it is not unusual to prefix preambles to resolutions; and it seems to me that it is eminently fit, when a resolution of extraordinary character, as the one before the Senate is, is presented for the consideration of the Senate, that the reason in a mild form at least should be stated as a preamble to the resolution, especially if the resolution seeks to inquire into the conduct of officials. If the public charge that is made is a venial one, let the preamble be mild. If it is a grave one, then I say justice to the per-

son charged, justice to Governor Grover, justice to the Senate, justice to everybody requires that the reasons be given in the preamble for the proposed action. Therefore I hope that the amendment suggested by the Senator from Delaware will be voted down; and begging pardon of the Senate for taking up so much time, I submit the matter, and hope we may get a vote to-day if possible.

Mr. MORTON. Mr. President, in my absence, I believe on Friday last, the Senator from Ohio [Mr. THURMAN] replied to some remarks that I had made on this question, and I propose now to answer them very briefly, not at all complaining that they were made in my absence. My being absent was my fault entirely.

The Senator from Ohio read what purported to be a brief which had been submitted by Judge Hoadly, so called I believe, of Cincinnati, to the governor of Oregon, and upon which it is said the governor of Oregon acted. In law this paper is exceedingly brief, and I think I but do it justice when I say it is the thinnest and poorest pettifoggery I ever saw put upon paper. While purporting to discuss the law governing the question of elections, it ignores the great current of American authorities, refers to three American authorities which have no connection whatever with the case, and wholly fails to state the substance of the fourth opinion, which is chiefly relied upon. But the great current of American authorities upon this question is ignored, as also the action of the two Houses of Congress. In this opinion of Judge Hoadly we find the following statement:

Upon this question how votes cast for an ineligible candidate are to be considered, two opinions have obtained in the United States. Unless I am misinformed as to the facts of the Oregon case, Governor Grover's action is not in conflict with either of these views.

Here we have the extraordinary statement that Governor Grover's conduct is not in conflict with either view that has obtained in the United States. The mere reading of that statement ought to be a sufficient answer to all that there is in it. He refers to the case in 15 California to show that where a candidate was ineligible at the time of his election that difficulty cannot be cured afterward so as to make him eligible to take the office; but he utterly ignores the two strong direct California decisions to the effect that the minority man is not elected. That was hardly dealing frankly with Governor Grover. If he himself was not a lawyer and this opinion was sent to instruct him, when the California reports were referred to by Judge Hoadly, he ought to have stated that that court had decided that the minority candidate was not elected where the majority candidate was ineligible. I read the authorities the other day and need not again refer to them. Judge Hoadly refers to the case in 4 Harris and McHenry, the case of Hatcheson vs. Tilden and Bordley. There the majority candidate brought suit for the purpose of recovering possession of the office. The office, I believe, was that of sheriff. He was ineligible because he owned no real estate, which the law of Maryland required a sheriff to own. The ineligibility was removed at twelve o'clock on the day of the election, and he brought suit to recover the office. The only question in that case was whether he was made eligible at that time. As to whether the minority candidate could be elected nothing was said. The minority candidate did not claim the office; there was no question of that kind referred to; and yet Governor Grover is gravely referred by this Cincinnati judge to that case as if it had something to do with the matter. He then refers to the case of the Commonwealth vs. Read, 2 Ashmead's Reports. That was a case of a corporation election. The law required the corporation in electing a treasurer to vote by ballot. Nearly all the members voted orally, *viva voce*. One man voted by ballot. The court held that the others were no votes at all—which was very correct—because they had not voted by ballot. And that is referred to as an authority bearing upon this question. Now I come to the fourth case, and that is the Indiana case, upon which he places the most stress. He only states a part of that case. I am going to read what he says about it. He makes this quotation:

Where a majority of the ballots at an election are given to a candidate who is not eligible to the office, the ballots so cast are not to be counted for any purpose. They cannot elect the ineligible candidate or defeat the election of the opposing candidate by showing that he did not receive a majority of the votes cast at such election. It follows that the eligible candidate will receive an office, although less than a majority of the votes are cast for him.

That is the part he quotes. If he had quoted the whole case, it would have shown that the Indiana case does not cover the Oregon case at all. I call the attention now of the Senator to the fact that this Indiana case, which is so often referred to, does not cover the Oregon case at all, and if Judge Hoadly had quoted the whole case to Governor Grover it would have so appeared.

I may remark that the Indiana case, going as far as it does, has been, I believe, condemned by every court that has passed upon it outside of Indiana. It has been expressly condemned by a committee of this body and by the action of this body. It has been expressly condemned by a committee of the House of Representatives and by the action of that House repeatedly. But coming to that case in its full length and breadth, it does not help Governor Grover one bit. Now, I am going to read that case, and I call the attention of Senators to it. In that case Wallace was a candidate for sheriff in the county of Marion, in which is the city of Indianapolis. He had been elected mayor of the city of Indianapolis. The law expressly gave to the mayor of the city of Indianapolis a criminal jurisdiction throughout the county. He became a candidate for sheriff in the same county and was elected. Under the constitution he was ineligible. What

did the court say in that case, and, by the way, a case that has been condemned everywhere? The court said:

Where the ineligibility of a candidate arises from his holding, or having held, a public office, the people within the jurisdiction of such office are held in law to know—are chargeable with notice—of such ineligibility, the votes given for such candidate are of no effect, and his highest eligible competitor is elected.

The court below fell into error on this point by viewing Wallace simply in the character of mayor of Indianapolis. As mayor, he was simply a corporation officer, and perhaps necessarily known as such only within the city limits. But he was more than a city officer; he was a judicial officer, a judge of a court, with jurisdiction co-extensive with the county limits, created to administer the general laws of the State to the extent of his jurisdiction. In this capacity of judge, the people of the county were bound to know him, and were bound to know the disability as to the right to hold other offices which his character as judge brought upon him by the constitution and laws of the State.—14 Indiana Reports, 103, 104.

The point there decided was that inasmuch as his criminal jurisdiction extended to the whole county, the people of that county had constructive notice that he was ineligible. Apply that to the Oregon case. Let us suppose that the people within the mail delivery of the postmaster at La Fayette, Oregon, were bound to take notice that he was a postmaster and ineligible. That would be the furthest that this constructive notice would extend. How far would that go? I saw a dispatch to-day, I believe in the hands of the Senator from Oregon, and will thank him if he will let me have it. Here is a little post-office that is not a presidential appointment, as I am informed; not large enough for that, in the town of La Fayette, in the county of Yam Hill:

Total vote of La Fayette precinct—

That is the whole township—

Total vote of La Fayette precinct, Hayes 106, Tilden 83. The precinct includes considerable scope of country outside of town, and nearer other post-offices. There is a post-office at Saint Joseph in La Fayette precinct—

In the same township—

at which a number get their mail. Others in La Fayette precinct are nearer Dayton and get their mail at that point. Not probable that more than 100 voters of both parties regularly get mail at La Fayette.

Now apply the case of Gulick, this Indiana case, to the Oregon case. Let us hold that the people within that post-office delivery were bound to take notice. How many were there? Taking the votes of both parties there would not be, as we are informed, 200 votes in that post-office delivery.

Mr. MITCHELL. The salary is \$268.

Mr. MORTON. The salary is \$268. Suppose we strike out all the votes in that post-office delivery Watts still has a majority of 800 votes left, men who had no notice, constructively or otherwise, that he was postmaster, so that if Hoadly in presenting the Indiana case to Grover had given him the whole case, it would show that it did not cover what he was required to do. I understand that my friend from Pennsylvania, the Senator on my left, [Mr. WALLACE,] does not advance the idea that Cronin was elected. He was presenting us a sort of color for Grover's action; he was constructing merely a fig-leaf. My friend from Ohio [Mr. THURMAN] was also trying to form a fig-leaf to cover the nakedness of the action of Governor Grover. My friend from Pennsylvania in the course of his remarks did not say whether in his opinion Cronin was elected, and I should like to ask him that question now. I will give him the floor if he will answer it.

Mr. WALLACE. As I am put on the witness stand by the Senator, I will state that I said distinctly that my opinion in that case was that there had been a failure to elect in the State of Oregon.

Mr. MORTON. I overlooked that part of the Senator's speech. The Senator believes that Cronin was not elected and that the governor of Oregon had no right to issue a commission to him. The Senator from Tennessee on my right, [Mr. KEY,] I believe, on yesterday stated that in his opinion Cronin was not elected, and I believe I have heard no one yet in the Senate advance the opinion that Cronin was elected. I think the Senator from Ohio [Mr. THURMAN] cannot say so, because it would be in conflict with the views of the law that he has before strongly expressed in the Senate. But they say there was no election.

This Indiana case therefore may be left entirely out of view. I am referring to this brief of Hoadly's, which seems to have been intended to form an excuse for the action of the governor of Oregon. He himself has brought it forward and has volunteered the statement that he was the man who furnishes the law to the governor of Oregon. I say that this brief of Hoadly's misstates the law and the fact. It suppresses the great current of American authorities, the action of the two Houses of Congress, and represents to him what is not the law in any State in this Union, not even in the State of Indiana. If he had been frank to the governor of Oregon and read to him the whole Indiana case it would have shown that even that furnishes no excuse for his conduct whatever.

The best that has been attempted in the Senate in regard to the action of the governor of Oregon has been to say that he had some color. Nobody has ventured an opinion thus far that Cronin was elected, but the attempt has been to form a sort of excuse for him. So far as this fig-leaf is concerned it is my purpose to even tear that away to show that there was no color, and that the action of the governor of Oregon was directly in the face of the statutes of that State, not to say of the general law of the land.

Mr. BOGY. If the Senator will pardon me, I do not understand his observation. We contend that Cronin was elected and I think every Senator on this side of the Senate will assert so. He did not receive

a majority of the votes, but yet he was elected, for being elected the governor certified to his election. That is the proposition.

Mr. MORTON. My friend says all the Senators on that side contend that the action of the governor of Oregon was right, and Cronin was elected, when the Senator from Pennsylvania has said within two minutes that there was no election; that Cronin was not elected. My friend did not hear his friend from Pennsylvania; he did not hear his friend from Tennessee, who said that Cronin was not elected. This is the first time that I have heard it said by any Senator that Cronin was elected. The Senator from Ohio took good care not to say that, and he will not say it to-day. I venture that assertion—

Mr. BOGY. Cronin could not have received the certificate of election, unless he had been elected, unless the man who gave the certificate thought he was elected, surely.

Mr. MORTON. He did receive the certificate of election, not having been elected. That has been often done. That is the very thing we are complaining about, that he was not elected, but was falsely certified to be elected. Now I call the attention of the members of the Senate and of the country to the statutes of Oregon that have just been read by my friend from Oregon. My friend read the thirty-third section of the act, which shows that the votes for secretary of state, treasurer of state, justices of the supreme court, members of Congress, and district attorneys shall be opened and canvassed by the secretary of state in the presence of the governor. The governor is merely a witness; the work is to be done, the counting is to be done by the secretary of state. The governor is simply to be present; that is all; he has no connection with it otherwise; he takes no part in it; but it is to be done in the presence of the governor by the secretary of state. And then the law reads thus:

The governor shall grant a certificate of election to the person having the highest number of votes for either of such offices, and shall also issue a proclamation declaring the election of such person.

That takes away all discretion upon the part of the governor. He shall issue a certificate "to the person having the highest number of votes."

It may be that the supreme judge or the secretary is ineligible; it may be that the member of Congress is ineligible; but the statute is positive that the governor shall certify to the man having the highest number of votes. That is all he has got to do. If he does less than that, or if he does more than that, he comes short of his duty. That cuts off all judicial power, it leaves him no discretion whatever. It is positive like the New Jersey statute I had occasion to examine to-day. The governor is simply to certify to the man who has the highest number of votes. That is the positive obligation of the statute of Oregon. I want Senators to notice that when they make their arguments trying to justify the action of that governor.

The votes for the electors shall be given, received, returned, and canvassed as the same are given, returned, and canvassed for members of Congress.

The thing to be done just as it is done for members of Congress. That is all. He has no more power to decide upon questions of eligibility than he has in regard to members of Congress. The canvass is to be made precisely as for members of Congress, and in regard to members of Congress the statute says that he shall certify to the man having the highest number of votes; and that was Watts in this case, so that he violated the statute of Oregon directly and expressly. The section further provides:

The secretary of state shall prepare two lists of the names of the electors elected, and affix the seal of the State to the same. Such lists shall be signed by the governor and secretary, and by the latter delivered to the college of electors at the hour of their meeting on such first Wednesday of December.

These votes are to be opened and canvassed as for members of Congress. The secretary of state shall make out a list of who is elected and the governor shall certify to it. He has no discretion; it is a simple ministerial duty. The law says that the governor shall certify to the list thus made out by the secretary. If there is any discretion anywhere it is in the secretary, it is not in the governor, because this statute says that he shall certify the list thus made out by the secretary. That is all he has to do about it. He has got no more discretion than a page, not a particle. The statute is obligatory and positive that he shall certify to the list made out by the secretary, and the secretary shall canvass the votes just as for a canvass in case of members of Congress; and in regard to members of Congress the statute is positive and peremptory that the man who has got the highest number shall be certified. Therefore this governor had no more power to pass upon the question of eligibility than he had in regard to members of Congress or in regard to a State officer, and in regard to those he has to certify to the man who has the highest number of votes.

Looking at these statutes, even the fig-leaf is gone. There is no possible excuse for this conduct; there is no color for it; it is a direct and positive violation of the statutes of Oregon, and it is so entirely outside of the question of the decision being wrong. If he had discretion then he decided right against the law, right in the teeth of the law as it has been laid down in the Senate on various occasions, by the House of Representatives, and by every court in the land, I believe, save one, and even that has not gone to the extent of covering this action in Oregon. Now I come to another point:

Such lists shall be signed by the governor and secretary, and by the latter delivered to the college of electors at the hour of their meeting on such first Wednesday of December.

The list is to be delivered to the college of electors, the phrase "college of electors" being used; and that means more than one elector. It means at least the majority. It speaks of them as an organized body; it speaks of them as the "college;" it does not say that the certificate shall be delivered to each elector to make it an individual concern. O, no; but the law says that the lists shall be delivered to the "college of electors." That means delivered to the electors when they are together and have assembled to perform their functions. How did the governor observe that part of the law? Did he deliver the certificates to the college of electors? No, sir; they were delivered to this man Cronin, who himself had never been elected and who carried them off out of the room. They should have been delivered to the college because the law of Oregon requires it, and when they were delivered to one man, even had he been elected, that was a violation of the law. He had no right to give them to an elector, however honestly elected. They are to be delivered to the college; that is to say, to the electors when assembled to perform their functions. That is the law of Oregon. If Cronin had been lawfully elected, to give to him the certificates and for him to have carried them off would have been as clear a violation of the law as could be imagined. It will require a very ingenious horticulturist or agriculturist to construct a fig-leaf big enough to cover this part of the transaction.

Mr. BOGY. I would say to the Senator that being delivered to the college they had to be delivered to one member of the college.

Mr. MORTON. No, sir, not to one member of the college; the certificates are to be delivered to them when in session, to all of them.

Mr. BOGY. They were not in session.

Mr. MORTON. No, sir, they were not in session; but they were delivered to a man who did not belong to the college and who carried them off. That is the way of it. It was all a part of the arrangement; and this man to whom they were delivered, himself never elected, went off and constituted himself a quorum. It generally takes at least a majority to make a quorum, and this man who was never elected constituted himself a quorum; he went off to another room, and there he appointed two other men and they cast the vote of Oregon. My friend smiles at that. It is too ridiculous and contemptible to be gravely discussed anywhere; and yet that is the trick that is to control the election of a President of the United States. Heaven save the mark! By the way I want to speak of another matter.

While the Senator from Oregon was speaking about this constructive knowledge of the people of Oregon my friend from Missouri, who is exceedingly alive to the importance of this question, asked him whether Watts himself did not know that he was a postmaster. I suppose he did. He wanted to know if the Senator from Oregon himself did not know it. Suppose he did know the fact, yet that that fact made him ineligible even did not occur to the Senator from Oregon, good lawyer that he is. I might turn that a little. My friends turn it away. There is a certain man living in Saint Louis by the name of Frost, a man of a good deal of notoriety, who was in the confederate army, and ineligible under the fourteenth amendment.

Mr. BOGY. I deny that.

Mr. MORTON. My friend says he denies it. I suppose it did not occur to my friend that Frost was ineligible. He is a much more public man in Missouri than Mr. Watts is in the little State of Oregon, very much more. He has been an officer of the Army of the United States, has been in the senate of Missouri, was a prominent man, and a man of character; and his public career was well known throughout that State. He was a graduate at West Point, had served in the old Army, went into the confederacy and was disqualified by the fourteenth amendment, and has never been relieved by this body.

Now my friend, according to his authority, according to his rule of logic, was bound to take notice of that; and when he voted for Frost he voted for him knowing that he was ineligible, and so with every democrat in the State of Missouri knowing that Frost was ineligible, whereas I suppose not one in a thousand ever thought about it, just as in the case of Oregon. They might have known that he was in the confederate army and an old officer of the United States, for he is a man remarkably well known; but the fact that that made him ineligible under the law did not occur to my friend from Missouri or his fellow-democrats, intelligent as they are. I might refer to other cases by way of argument. If the action of Grover was right in Oregon and the law that he acted upon is good law, then it must have been good in Missouri, and there the certificate should have been given to Steifel, the highest republican candidate for elector in that district; but, as the farmer said to the lawyer, "circumstances alter cases," and what was good law in Oregon was not good law in Missouri.

I want to call the attention of my friend from Pennsylvania and others to the statute of Oregon in regard to filling vacancies:

The electors of President and Vice-President shall convene at the seat of government on the first Wednesday of December next after their election, at the hour of twelve of the clock at noon of that day; and if there shall be any vacancy in the office of an elector—

Not "by absence;" O, no—

any vacancy in the office of an elector occasioned by death, refusal to act, neglect to attend, or otherwise, the electors present shall immediately proceed to fill, by *visa voce* and plurality of votes, such vacancy in the electoral college.

If there shall be any vacancy by death, refusal to act, neglect to attend, or otherwise, a vacancy from any cause whatever, then the electors present shall immediately fill the office.

This is the broadest statute that I know of in any State; very

much broader than that in the State of Missouri, as I can show to my friend. This provides for filling a vacancy for any cause. If they voted for but two men in the first place, and thus left a vacancy, they can fill it under that provision. If they thought they were electing a man, and they failed by mistake of law, by accident, or mistake of fact, and did not elect him, they can fill it. Here is a broad statute authorizing them to fill a vacancy from any cause whatever. There may have been no election at all, and yet they can fill the vacancy. You cannot conceive a vacancy existing from any cause that could not be filled by the electors in Oregon. Therefore, this goes far beyond the statute of Missouri, as I can show to my friend; and he will readily admit it. This comes directly within the act of Congress. I want to call the attention of my friend to the act of Congress. I turn now to the one hundred and thirty-fourth section of the Revised Statutes:

Whenever any State has held an election for the purpose of choosing electors and has failed to make a choice on the day prescribed by law, the electors may be appointed on a subsequent day in such a manner as the Legislature of such State may direct.

This provides for a case where there was no election at all. We will suppose that the people of Oregon only put two names on their ticket, and did not vote for three electors, only voted for two, and, therefore, there is a vacancy, an original vacancy, if you please. Then under this act the Legislature may provide for supplying that vacancy at a subsequent day. That vacancy may be supplied in any way that the Legislature of Oregon shall provide. This brings the statute of Oregon to the very case referred to. They have provided for filling that vacancy by authorizing the electors to fill a vacancy occasioned in any manner whatever, arising from any cause, because the words "or otherwise" are just as broad as they can be made. They might have written a whole page, but could not make it any broader. It comes directly in the wake of the act of Congress. The act of Congress authorizes the State of Oregon to do just what she has done, and she has authorized the electors to fill a vacancy arising from any cause. There is a complete chain of title. There is not a link of it out.

In the case of the statute of Missouri—I have not got it before me, but I remember it well—that provides for a vacancy occurring by reason of the absence of any of the electors appointed, first requiring them to be appointed. It declares that, if there is a vacancy among the electors that have been appointed, the electors may fill that vacancy, so that it is very much more narrow; and yet it was considered broad enough in Missouri to include the case of filling a vacancy of a man who was ineligible under the fourteenth amendment. I would say to my friend from Missouri, if he is looking for technical objections to an elector, that he should bestow his attention nearer home than the State of Oregon.

Mr. MITCHELL. Did the majority of electors fill the vacancy in that case in Missouri?

Mr. MORTON. I think so.

Mr. MITCHELL. I should like to know of the Senator from Missouri if that is a fact, if the majority of the electors in Missouri filled the vacancy, whatever it was?

Mr. BOGY. Yes, sir.

Mr. MORTON. And a vacancy of an elector who has first been appointed, mind you; there must have been an election and then a vacancy. He must be dead, absent, resigned, or refused to act, but first under the statute of Missouri to authorize electors to act the electors must have been appointed. That is not the case in Oregon. It goes much beyond that.

Enough, Mr. President, on that point. Now in reply to my friend from Ohio, who somewhat criticised my argument the other day, I want to say that I am willing to let the result of this case abide by his report to this body in the case of Abbott, and upon the very able speeches that were made in support of his report in that case. I will ask the Secretary to read those passages that I have marked on the two hundred and thirty-fifth and two hundred and thirty-sixth pages of the Globe of the session of 1871-72. I will state that these speeches were made in the Abbott case where a seat was claimed for Mr. Abbott as the minority candidate, because Vance, the majority candidate, was ineligible under the fourteenth amendment and that the votes cast for him were considered as void and thrown away.

The Chief Clerk read as follows:

Again, in the English cases the intention of the voter to throw away his vote might well enough be imputed to him, because, as I said, it belonged to him, and if he knowingly and willfully voted for a man whom he knew would never be allowed to hold the office, the natural presumption was that he intended to throw away his vote; and it is upon this ground, that he did willfully throw away his vote, that his vote is rejected from the count. This can be proved in a sentence almost. If the English voter voted for a disqualified man, not knowing of the disqualification, then the minority man is not elected. We all agree to that. Every case says that. The bare fact, then, of disqualification or disability on the part of the man receiving a majority does not elect the minority man. It is necessary not only that the majority man shall be disqualified, but that the voters shall have had clear, positive, certain knowledge of this disqualification, and yet contumaciously, willfully, and knowingly cast their votes for him; and when that is the case they may well enough be presumed to have intended the natural result of their act, intended to throw away their votes.

I proceed to show further differences between the English cases and the case before us. In the English cases the voter knew to a moral certainty that the person for whom he voted would never be permitted to hold the office. There was nothing in the British constitution, nothing in any act of Parliament, nothing in any judicial or parliamentary decision that held out the least idea or hope that the disquali-

fication of the person voted for would be removed, and he be permitted to take and hold the office.

4. Again, in England numerous decisions had settled the law. The Senator from Wisconsin said it had been settled for three hundred years. I do not care about going into the chronology to know whether that settlement was perfectly exact or not, but it was well settled in England that in elections of the kind that have been referred to, if the voter knowingly cast his vote for a disqualified man, that vote would be rejected. Every voter, therefore, casting his vote for a disqualified man, knowing him to be so, knew that the minority man would be seated, and therefore he might be held to have assented to the seating of that minority man. But no such thing was known to the General Assembly of North Carolina. They had no right to think any such thing, for from the very foundation of this Government down to this day, at least from 1793, down to this day, there is an unbroken chain of cases in both Houses of Congress against the idea of seating a minority man, while there is not one single instance from the foundation of the Government to this day in which a minority man has been seated in either branch of Congress on the ground that the man who received a majority of the votes was a disqualified person.

Mr. MORTON. There is the strongest possible statement made by the Senator from Ohio in his speech. He says there is not a single instance in the Congress of the United States where it was ever done. Again he says:

Again, here is another thing that the Legislature of North Carolina had a right to know—and that distinguishes this case from the English cases—and that is, that the weight of judicial decision in the United States is decidedly against the claim of a minority man to an election. That is an element wholly wanting in the English cases. In England the entire current of decisions was that the minority man could have the seat. In America the decided weight of judicial opinion, in fact every case but one—

And that is the case in Indiana—

in fact every case but one decided by a supreme court is against the pretensions of the minority candidate; and that the Legislature of North Carolina had a right to look at and to build their expectations upon when they voted for Mr. Vance.

I could not possibly state the law any more strongly than it was stated by the Senator from Ohio. Again he said:

Here, then, are no less than six or seven important, nay almost every one of them conclusive, elements in this case, not one of which was in the English cases; and yet it is contended that the Senate of the United States is to disregard the first principles of republican government, and seat a man who did not receive one-third of the votes of the Legislature upon the doctrine of the English cases, when those cases and the case before us stand on wholly different foundations.

The Senator from Ohio here said that this doctrine of seating the minority man was antirepublican and in violation of the very first principles of republican government. If I were to try, I could not state the law so broadly and strongly as he has done, and yet the Senator from Ohio, with all his learning, did make a mistake in regard to the English law because he gave to it a force and an effect that it never had; and I will call the attention of my friend from Delaware [Mr. BAYARD] to the reference he made the other day. I have here a late English case in which this whole doctrine is discussed at great length and with ability and it is just as much against the claim in this case as are the American cases. I refer to the case of *The Queen vs. The Mayor, Aldermen, and Burgesses of Tewkesbury* in the law reports of 1867 and 1868. This case was decided in 1868:

Held, that the mere knowledge on the part of the electors who voted for B, that he was mayor and returning officer, did not amount to knowledge that he was disqualified in point of law as a candidate; and therefore their votes were not thrown away, so as to make the election fall on the fifth candidate.

And this whole case, as I will read, goes to show that mere knowledge of the fact that a man holds an office which disqualifies him does not make the votes given for him void. The voters are not presumed to know the law, but it must be shown that they knew the law as well as the fact, and the doctrine that all men are presumed to know the law does not apply to a case of that kind. I will now ask the Secretary to read what I have marked, but before reading the whole case I want to read a little summary from it in the conclusion, though I desire the whole case to go into my remarks because it discusses the whole question of presumptive knowledge of the law. The court say in conclusion:

But it does not seem to me consistent with either justice or common sense, or common law, to say that, because these voters were aware of a certain circumstance, they were necessarily aware of the disqualification arising from that circumstance, and that therefore their votes are to be considered as mere nullities. Upon this ground I do not think the votes given in ignorance that Blizard was in law disqualified are made out to have been wholly thrown away, and that Moore is entitled to act as town councillor.

There the officer who was disqualified presided at the election. His presiding there gave notice of his disqualification. The fact was known to all the electors, because the disqualified officer was there in the performing of the act which disqualified him. That is to say, he could not be a judge in his own election. And yet the court held that the voters were not presumed to know the law that made that fact a disqualification. I will now ask my friend the Secretary to read commencing page 635, from there to the conclusion of the case.

The Chief Clerk read as follows:

It is therefore necessary to decide whether the mere knowledge of the fact that Blizard was the mayor and returning officer must be taken to involve knowledge of his being disqualified for election. Every elector in the borough must have known that Blizard was the mayor, and every elector who saw him presiding at the election must have known as a fact that he was the returning officer, and every elector who was a lawyer, and who had read the case of *Reg. vs. Owens*, would know that he was disqualified. From the knowledge of the fact that Blizard was mayor and returning officer was every elector bound to know as matter of law that he was disqualified? I agree that ignorance of the law does not excuse. But I think that in *Martindale vs. Falkner*, Maule, J., correctly explains the rule of law. He says: "There is no presumption in this country that every person knows the law; it would be contrary to common sense and reason if it were so. In *Jones vs. Randall*, Dunning, *arguendo*, says: 'The laws of this country are clear, evident, and certain; all the judges know the laws, and knowing them administer justice with

uprightness and integrity.' But Lord Mansfield, in delivering the judgment of the court, says: "As to the certainty of the law mentioned by Mr. Dunning, it would be very hard upon the profession if the law was so certain that everybody knew it; the misfortune is that it is so uncertain that it costs much money to know what it is, even in the last resort." It was a necessary ground of the decision in that case that a party may be ignorant of the law. The rule is that ignorance of the law shall not excuse a man, or relieve him from the consequences of a crime or from liability upon a contract. There are many cases where the giving up of a doubtful point of law has been held to be a good consideration for a promise to pay money. Numerous other instances might be cited to show that there may be such a thing as a doubtful point of law. If there were not, there would be no need of courts of appeal, the existence of which shows that judges may be ignorant of law. That being so, it would be too much to hold that ordinary people are bound to know in what particular court such and such a practice does or does not prevail.

I take this to be the rule of law applicable to this case. I think the knowledge that Blizard was the mayor is clearly brought home to every voter, but the question is not merely whether every vote given for him was thrown away in the sense that it was given for a disqualified candidate—in that sense it was undoubtedly thrown away; but whether it was thrown away in the same manner as if the vote had been given for a dead man, or had not been given at all. I think that where a voter is informed that a certain circumstance in point of law disqualifies a candidate, even although he may hold a different opinion, yet if he afterward votes for that candidate, his vote is thrown away. In the present election a voter may possibly have been told by the one party that Blizard being returning officer could not be elected, by the other party that he could be; if this could be shown the vote would be thrown away; but the case merely shows as a fact that Blizard was returning officer, from which a lawyer would be aware that he was disqualified, and, in my opinion, the knowledge that Blizard was returning officer does not in law necessarily involve the knowledge that he was disqualified.

It must be observed that when a voter is said to have notice of disqualification in a candidate, the word notice is ambiguous. In *Rex vs. Hawkins* the question is thus stated: "If the law be that at the election of corporate officers the votes given for an incapable candidate, after notice of such incapacity, are to be considered as thrown away, i. e., as if the voters had not given any vote at all, then this will be a good election of Spicer; unless the time when notice of his incapacity was given, namely, after two persons had given their votes for each of the candidates can be considered as making any difference."

The general proposition, that votes given for a candidate after notice of his being ineligible are to be considered as the same as if the persons had not voted at all, is supported by the cases of *Reg. vs. Boscawen*, Easter, 13 Anne; *Reg. vs. Withers*, Easter, 8 Geo. 2; *Taylor vs. Mayor of Bath*, M. 15, Geo. 2; all which are cited in Cowper, 537, in *Rex vs. Munday*, in the first *Boscawen vs. Roberts* the two candidates had an equal number of votes; but because Boscawen was incapable, the votes given for him were considered as thrown away, and the other duly elected.

In the second case, *Withers* had 5 votes out of 11; and the other 6 refusing to vote at all, the court held *Withers* duly elected, and that the 6 who refused to vote were virtually consenting to the election of *Withers*.

In the third case, *Taylor*, *Bigg*, and *Kingston* were candidates. *Bigg* was objected to, as a disqualified person; notwithstanding which, *Bigg* had 14 votes, *Taylor* 13, and *Kingston* only 1. There *Lee, C. J.*, at *nisi prius* directed the jury that if they were satisfied that the electors had notice of *Bigg's* want of qualification they should find for the plaintiff, (that was *Taylor*, who had only 13 votes,) because *Bigg*, not being qualified, was to be considered as a person not *in esse*, and the voting for him a mere nullity. The jury found for the plaintiff; and the court, on motion for a new trial, agreed with the law as laid down by *Lee, C. J.*, and refused a new trial.

The whole of this reasoning goes to show that those who voted for the disqualified candidate, knowing of his disqualification, were to be treated as voting for a person not *in esse*, so that there must be an actual knowledge of his disqualification in law. And Lord Eldon similarly grounds his decision on the fact that the majority knowingly voted for a disqualified candidate, or, as he terms it, "for a dead man." Certainly he seems to have thought that the *ratio decidendi* was the knowledge of the disqualification in law, and that the votes given with that knowledge were mere nullities.

In *Reg. vs. Coaks*, Lord Campbell, C. J., says: "Blake was, in fact, a candidate, but he was an alderman, and, therefore, ineligible, and that fact was known to the electors. Now it is the law, both the common law and the parliamentary law, and it seems to me also common sense, that if an elector will vote for a man who he knows is ineligible, it is as if he did not vote at all or voted for a non-existent person; as it has been said, as if he gave his vote for the man in the moon."

It seems to me that Mr. Campbell's opinion was this: The reason why the vote given for a dead man is not to be counted is that the voter knowingly votes for a person whom he knows to be incapable of election, and therefore the result is the same as if he had not voted at all. Voting for a dead man or for the man in the moon are expressions showing that, in order to make the vote a nullity, there must be willful persistence against actual knowledge. But it does not seem to me consistent with either justice, or common sense, or common law to say that, because these voters were aware of a certain circumstance, they were necessarily aware of the disqualification arising from that circumstance, and that therefore their votes are to be considered as mere nullities. Upon this ground I do not think that the votes given in ignorance that Blizard was in law disqualified are made out to have been wholly thrown away, and that Moore is entitled to act as town councillor.

Under these circumstances the election ought to be considered as void and a new election ought to be held.

LUSH J. I am of the same opinion. We have not the materials before us to enable us to find out whether the prosecutor had a majority over the legal votes given for his opponent, the notice of disqualification not having been published before the election commenced; therefore it becomes necessary to ascertain what is the principle governing the decisions in the cases cited, in which it was held that votes given for a candidate whom the voters knew to be disqualified are thrown away, that is, are to be treated as if they had not been given at all. The fact that Blizard, who presided at the election, was mayor, was known to all the voters; and it is necessary to decide whether the vote, given by an elector who knows a fact which, by construction of law, operates as a disqualification of the candidate, is of itself a mere nullity, or whether, in order to nullify the vote, it is necessary that the elector should be aware not only of the fact, but also of the legal consequences annexed to it.

For the reasons given by my brother Blackburn, I am of opinion that it is not enough to show that the voter knew the fact only, but that it is necessary to show sufficient to raise a reasonable inference that he knew the fact amounted to a disqualification. It cannot be said in all cases that the mere knowledge of a fact which, in law, disqualifies a candidate must be taken to be knowledge of all the accompanying circumstances. That would be a step far beyond the principle in the cases cited, which show that, in order to nullify a vote, it must be proved that the person giving it must have known that he was doing an act of no avail whatever.

A maxim has been cited which, it has been urged, imputes to every person a knowledge of the law. The maxim is *ignorantia legis neminem excusat*, but there is no maxim which says that, for all intents and purposes, a person must be taken to know the legal consequences of his acts. Here the voter's ignorance of the disqualification of the candidate does not make his vote valid; but it is a very different question whether we are to say now that the candidate who was in the minority is to be declared duly elected, and that those persons who voted for Blizard must be

taken to be in the same position as if they had not voted at all, merely because they knew the fact from which, by construction of law, the disqualification arose. Therefore, I am of opinion that the *mandamus* cannot issue.—*The Queen vs. The Mayor, Aldermen, and Burgesses of Tewkesbury; Law Reports, Queen's Bench*, 3, 1867-68.

Mr. MORTON. I refer to that case to show that under the broadest construction of the English law it furnishes no ground whatever for this action in Oregon. In whatever way we look at this case, it seems to be utterly indefensible. In the first place the statutes of Oregon require the governor to certify who received the highest number of votes. His duty was simply ministerial. He had no power to judge as to the disqualification of a candidate for elector, for Congress, for supreme judge, for State officers, for any office whatever. He was to certify to the election of the man who had the greatest number of votes, and then the law required that that certificate should be delivered not to an individual member of the electors but to the college of electors, to the electors when assembled, and not to be delivered to a pretender to be carried off by him, but to be delivered to the college which would be to the majority of the electors, but this law of Oregon was expressly violated.

The PRESIDING OFFICER. (Mr. WRIGHT.) The question is on the amendment proposed by the Senator from Delaware [Mr. BAYARD] to the amendment of the Committee on Privileges and Elections.

Mr. BOGY. Mr. President, I would like to make an inquiry of the Chair first as to the condition of the question before the Senate, and whether the amendment of the Senator from Delaware is now pending.

The PRESIDING OFFICER. The question before the Senate is on the amendment proposed by the Senator from Delaware to the amendment of the Committee on Privileges and Elections.

Mr. BOGY. There being two amendments, of course the proposition cannot now be amended further. I would like to offer an amendment which I will move later, if necessary.

I do not rise, Mr. President, after this question has been discussed so lengthily and so ably, to do more than to add a few words to vindicate the conduct of the governor of Oregon. In my estimation, he did his duty with perfect honesty; he could have done nothing less and be a faithful public officer.

Much learning has been displayed on this question; many authorities have been cited and very able arguments have been advanced upon both sides; but at last the question is simply this: An election was held in the State of Oregon for electors of President and Vice-President, that State being entitled to three electors. One of the candidates was clearly, beyond all doubt, beyond all dispute, (and no man denies that fact,) ineligible because he held an office of profit and trust under the Government of the United States. That being so, he was clearly ineligible. Yet he received a majority of the votes cast in the State of Oregon, a majority of 1,049 votes. That fact is made to appear by the returns. The next step which has to be taken necessarily is the evidence of the election of these electors. That evidence is supplied by the governor of the State. He, under his oath of office, is bound to give the certificate not to the person who has received the highest number of votes, but to the person or persons who shall have been elected. Now can it be said by anybody that Mr. Watts was elected when the Constitution says that he cannot be elected, and that he is not eligible? In that case what is the governor to do? To certify that Mr. Watts had been elected was to certify to that which was false. He could not have done it under his oath of office, because Watts had not been elected and could not be elected. He was not eligible any more than if he had been a non-resident of the State and never had been in the State. He was disqualified by the Constitution, and the votes given for him were a mere nullity. Gentlemen may say what they please, quote as many authorities and as much law as they please, and argue as they please, the fact is that he was not elected because he was not eligible, and not capable of being elected.

What was the governor to do? He could not certify to his election. These gentlemen say he had then no right, under the decisions made both in this country and in England and in accordance with the weight of authority, to give the certificate to the next highest person who had been voted for. Now, without arguing that point at all, it is undoubted that there has been very great diversity of opinion on that subject.

Some contend that it turns upon the point as to the knowledge of the voters in Oregon whether Mr. Watts was eligible or not. I do not believe that that is the law in a case of this kind. I do not believe that that is the law where the person voted for is ineligible by the fundamental law of the country. Everybody is presumed to know the provisions of the Constitution. Whether they knew them in Oregon or not, it is presumed to be known as well there as everywhere else, and as he was ineligible, the voters were presumed to know the fact. Being clearly ineligible, the votes given to him are nullities and amount to nothing at all. Now the State of Oregon is entitled to three votes. The governor of the State by his action could secure three votes to the State, or by his non-action the State would have but two votes.

Gentlemen argue that under the law of Oregon the remaining two electors could have supplied the vacancy by an election. The Senator from Oregon argues that at length; and the Senator from Indiana argues it with ability and with great zeal; nevertheless, in my humble opinion, these two gentlemen are entirely mistaken as to the law

of Oregon. It seems to me that this law is so plain that it is not a matter to be argued. It has been read very often; but as it is the turning point in this case, I will read it again:

The electors of President and Vice-President shall convene at the seat of government on the first Wednesday of December next after their election, at the hour of twelve of the clock at noon of that day, and if there shall be any vacancy in the office of an elector, occasioned by death, refusal to act, neglect to attend, or otherwise, the electors present shall immediately proceed to fill, by *viva voce* and plurality of votes, such vacancy in the electoral college.

The Senator from Oregon commented with severity upon the change of language used by the governor of Oregon in a telegram, I presume, sent to a paper in New York. I believe the construction of the governor of Oregon is entirely correct. I will now explain my understanding of this law:

If there shall be any vacancy in the office of an elector—

There must have been "an elector." The Senator from Indiana speaks of the law of Missouri being different, because it says "an elector appointed." Although the word "appointed" is not here, it means it. Why? Because a man cannot be an elector unless he has been appointed to be an elector. The vacancy to be filled may be occasioned by death. By the death of whom? Of the elector. So by "refusal to act." Of whom? Of the elector. "Neglect to attend?" Whose neglect? The elector's. "Or otherwise." Whether an elector is prevented by death, neglect, or otherwise prevented, that vacancy, so occasioned, is to be filled; and whatever may be the cause why the elector does not attend, whether on account of death, resignation, refusal to attend, insanity, matters not. It might have been insanity. He might have got drunk and been unable to go there and attend.

Mr. MITCHELL. Will the Senator yield to me a moment to ask a question?

Mr. BOGY. I am willing.

Mr. MITCHELL. The Senator from Missouri says there must be a vacancy in the office of elector. I want to know from the Senator if the office of elector is not a continuing office existing all the time in each of the States to the number of the representation of that State in Congress, and if there may not be a vacancy by a failure to elect the requisite number by the people just as much as in any other way?

Mr. BOGY. I have no question that the law could be drawn to provide for just such a case as took place in Oregon; but take the law as it is, and that law says that if there be a vacancy in the office of an elector—not a vacancy in the electoral college, but in the office of an elector—presuming, admitting, and the whole argument is founded on this, that there must have been an elector who has died, resigned, or refused to act, then there is a vacancy because he has died or refuses to act, and so he creates a vacancy by his act or he neglects to attend and he creates a vacancy because he does not attend; and who in the name of common sense can give any other construction to this? There is no lawyer in the world acting as a judge who would not so hold, not even the Senator from Indiana; but I will not say that because he is a judge; he is the chairman of the committee to investigate this matter, and I am a little astonished—I say it without being his censor at all—it seems to me a very strange position for the chairman of the committee who is to be the presiding judge to pass on this question that he should construe it before the case is submitted to him, before it has been argued, and before the facts are presented. We know his opinion beforehand.

Mr. President, there is no room for doubt. On a question of this kind submitted to an impartial tribunal there would be no room for doubt. It must be a vacancy of an elector occasioned by death, occasioned by refusal to act, occasioned by neglect to attend, or otherwise occasioned; nothing more and nothing less.

Mr. MITCHELL. It is a vacancy in the office, is it not?

Mr. BOGY. A vacancy in the office, of course. If an elector has died, I take it, his office is effectually vacant.

Mr. MITCHELL. Or if there has been none elected, then it is effectually vacant, is it not? It is a continuing office, existing all the time, as long as the Government stands.

Mr. BOGY. It may not continue. If there had been but three candidates in that State and one of them had not been eligible, certainly but two could have been elected and one could not have been.

Mr. MITCHELL. Would there not then be a vacancy in the office of elector in Oregon?

Mr. BOGY. I do not know that there would be. Under this law there would not be. If the people of Oregon had voted for two electors, being entitled to three, although in fact there would be a vacancy, in law there would not be under this statute. Certainly there would be no vacancy there, because if a certain man had never been elected he could not have died while elector, he could not have refused to act, he could not have neglected to attend, or he could not otherwise have been kept away from that place, because he never existed. The law of Oregon and the law of Missouri, although not in the same language, are virtually the same. The law of Vermont, the law of Rhode Island, the law of Oregon, the law of Missouri, and the law of Michigan—I have examined them all—are substantially the same.

Mr. MITCHELL. May I ask the Senator one other question? The Senator, I concede, will presume that it was within the province of the Legislature of the State of Oregon to determine what does and what does not constitute a vacancy in the office of presidential elector or any State office in that State?

Mr. BOGY. That it is competent for the Legislature to provide?

Mr. MITCHELL. That is, what shall or shall not constitute a vacancy. The Senator will concede that, I presume?

Mr. BOGY. I not only concede that but I go further; I think the law of Congress on that subject is a nullity.

Mr. MITCHELL. Now I want to know if the Legislature of the State of Oregon has not provided in the very code on the Senator's desk as to what shall and what shall not constitute a vacancy, and if it does not include in the class of cases the case where the election is void, where a person for instance is voted for who is ineligible. Does not the act of the Legislature of the State of Oregon plainly provide that in a case of that kind, when the void election is declared void by a competent tribunal, then there is a vacancy in that office?

Mr. BOGY. The Senator, I think, is a very singular logician or I am, one or the other.

Mr. MITCHELL. That may be.

Mr. BOGY. I admit that under the Constitution of the United States clearly the States have the right to provide for a case of this kind. The States have the sole right to provide the mode and manner of appointing electors. The Legislatures have the right to appoint the electors themselves. The Legislature of a State might authorize the governor to appoint the electors. They might authorize any man in the State to appoint the electors. That power is given to them without limit. Having the power to appoint electors, as a matter of course they have the right to provide how any vacancy may be filled. There is no question about that. While I admit that, I do not admit that the Legislature of Oregon has done that thing. That is the point. I think they have failed to do it. I think they failed to do it in Rhode Island; I think they failed also in Vermont.

Mr. MITCHELL. I call the Senator's attention to that provision of the statute which provides what shall constitute a vacancy.

Mr. BOGY. It is what I have been trying to read. I have been trying to get it into the Senator's head.

Mr. MITCHELL. The Senator is not reading from the same statute I am talking about. There is another statute in the same book, on a separate page, in a different section, which goes on to provide what shall constitute a vacancy, and one of the cases included in that provision is where the election of the person voted for is void for any reason.

Mr. BOGY. Will the gentleman show me that law?

Mr. MITCHELL. I will with pleasure. It is on page 709 of the code of Oregon. It provides as follows:

Every office shall become vacant on the happening of either of the following events before the expiration of the term of such office:

1. The death of the incumbent;
2. His resignation;
3. His removal;
4. His ceasing to be an inhabitant of the district, county, town, or village, for which he shall have been elected or appointed, or within which the duties of his office are required to be discharged;
5. His conviction of any infamous crime, or of any offense involving a violation of his oath;
6. His refusal or neglect to take his oath of office, or to give or renew his official bond, or to deposit such oath or bond within the time prescribed by law;
7. The decision of a competent tribunal declaring void his election or appointment.

—General Laws of Oregon, chapter 13, title vii, section 45, page 709, 710.

Mr. BOGY. Now, Mr. President, that just shows how weak this case is. The other law in relation to electors stands by itself, a law complete in itself, made for a very different purpose, and it is attempted to be sustained by a law providing for the mere ministerial officers of the State. Under this law many of the offices in Oregon no doubt might be filled either by the governor or the Legislature as the law provides if there be a vacancy caused by death, resignation, or ineligibility; but does that control the law standing by itself, made for a purpose independent, important, which is intended to cover the whole ground and which is complete in itself? I hope the Senator will excuse me if I am compelled to call that pettifoggery. I do not mean to be offensive, but it is nothing else. The law in relation to electors stands by itself, intended to provide for the election of the highest officers in the Government. The office of elector is the highest office in our Government. It is in some respects higher than the Presidency because it makes the President. In accordance with the theory of our Government the elector was to be an independent man voting for whom he pleased, and the position of an elector in theory was to be the most elevated, the most dignified, the most responsible position that a citizen of this country could hold under the Constitution. The law of Oregon, like the law of all the States, provides that if one of the persons chosen to this high office is unable to discharge the duty imposed upon him by law the remaining members of the college of electors shall fill his vacancy. But there must have been an election. How was it in Vermont? I have not the law of Vermont before me, but I have read that law and there the Legislature was called together for the purpose of passing a law authorizing the vacancy to be filled in a case precisely similar to the case in Oregon.

Mr. MITCHELL. The Senator is mistaken. The law of Vermont was dissimilar to that of Oregon, was not like it. The Legislature were called together and they made it like it, and then the other electors filled the vacancy. That was all there was about it.

Mr. BOGY. It is not a very proper way to argue for one gentleman to assert a thing to be a fact and another to deny it to be a fact.

Mr. MITCHELL. I simply think the Senator was mistaken.

Mr. BOGY. I said the law of Vermont was substantially the same as that of Oregon, not in the same words. These laws are not in the same words, but throughout the United States the law upon this subject is pretty much similar for a very good reason. Many years ago nobody ever dreamed that this question would ever come up. It was supposed that a vacancy in the office of elector might be created by death, by resignation, by inability to attend, or otherwise; but it was not believed that persons would run for the office who were not eligible; and hence no provision was made for a vacancy of that kind. There is none in my State, none in Vermont, none in Rhode Island, none in Michigan. I have the law of Michigan before me. I say, according to my understanding of the law of Vermont, it is the same as the law of Oregon. There a person was voted for as an elector who was not eligible. The Legislature was called upon to assemble for the purpose of passing a law authorizing that vacancy to be filled. That law was passed under the act of Congress found in the Revised Statutes, and I think it is a very doubtful question, one which I intend by an amendment to this resolution at the proper time to submit to this Committee on Privileges and Elections. We might get the opinion of the chairman of that committee before he starts to investigate the matter. The law of Rhode Island is virtually the same. Now look at the decision of the supreme court of that State on that very subject. The supreme court of Rhode Island, upon a law virtually and substantially the same as the law of Oregon and of every other State, says:

Before any person can decline under this section—

A section authorizing the electors of that State to fill a vacancy in case an elector declines or is prevented by any cause from serving—he must be elected.

So say the supreme court of Rhode Island.

And no person can be elected who is ineligible or, in other words, incapable of being elected. Resignation, said Lord Cockburn, chief-justice, in *The Queen vs. Blizard*, L. R., 2 Q. B., 55, implies that the person resigning has been elected unto the office he resigns. A man cannot resign that which he is not entitled to and which he has no right to occupy. We think the disqualification is not removed by the resignation of the office or trust unless the office is resigned before the election. The language of the Constitution is that no person holding an office of trust or profit under the United States shall be appointed an elector. Under our law the election by the people constitutes the appointment.

This is the decision of the supreme court of Rhode Island, made but a short time ago, on the first day of this month, in a case I may say precisely the same. A person was voted for in that State who held an office of trust and profit, and under the constitution was ineligible. The case was submitted to the supreme court, and this court made the decision I have just read to the Senate saying that a person cannot resign that of which he is not possessed, and in that case, as in the case of Vermont, the Legislature passed a law to supply whatever was necessary.

The case of Oregon has been decided by the action of Vermont and Rhode Island beyond a doubt. The cases are in every respect the same. I have read them all. They are not in the same language, but substantially alike, and present a question worthy of being examined, not only for the effect it may have upon the present contest now pending, but as a guide to those who may come after us, and who may have to pass upon similar cases, and I regret very much, that a question of this importance, peculiarly requiring cool, calm, impartial investigation, has been so prejudged in this body. The proper way would have been to refer it to the committee, and let the committee be impartial, if a committee of this body can be impartial.

Now, sir, a word with regard to the State of Missouri, so that that case may not be prejudged. In Missouri we had no doubt that General Frost was eligible to the office of elector, and at the proper time we will state the case before the committee. It is not worth while to argue it in advance; but there can be no doubt that he was eligible under the Constitution, under the law, under the fourteenth amendment, and under all conditions and circumstances, as much as any other citizen of the United States could possibly be; but so as to avoid any controversy, under our law he failed to attend and his vacancy was properly filled. Nevertheless, if he were not eligible there would be no vacancy such as was contemplated by the law of Missouri, because no elector had been appointed in that case standing exactly as the law of Oregon stands. If it turn out on investigation that General Frost was not eligible, then Missouri will lose one of her votes, as I contend under the condition of things Oregon would have lost one of her votes if the governor, acting I have no doubt from high patriotic motives, had not used his official power to secure to the State its due weight in the electoral college. If it be true—and who denies it?—that Mr. Watts was not eligible, Oregon had voted then for but two electors, and if it be so, as I contend, that under the law of Oregon this vacancy could not be filled by the two remaining electors, it became the duty of the governor to use the power of his office to preserve to his State its due weight in the electoral college, which was three votes, and if he had not done so Oregon would have been cut down to two votes. To secure that he was compelled to do that which he did do. I contend that he was compelled to do it under the law. In addition to the law he certainly must have been influenced as a patriotic man by what was due to his State, for otherwise that State by the action of the people of Oregon themselves would have been cut down to two votes.

Now it is not worth while here, and there is nothing gained by it I will tell the Senator from Oregon, to try to make this a fight as against Governor Grover personally. I do not know him; but I have seen nothing that has come before my eyes that tells me in the slightest manner that he did not do his duty. On the contrary, we do know that he took a long time to investigate; we do know that he consulted the best legal minds of the country; and that he sent away to the valley of the Mississippi for the opinion of one of the best jurists in that valley. My friend from Indiana may laugh at him as much as he pleases. I know no lawyer in Indiana his superior as a lawyer. My friend spoke rather lightly of Indiana a little while ago, for he said that even in Indiana this would not be law.

Mr. MORTON. I said the Indiana case would not go to the extent claimed here at all.

Mr. BOGY. We do know that Governor Grover took this case under advisement for a long time, that he consulted the best legal minds in the State, and also one of the best legal minds in the valley of the Mississippi. I have not the honor of knowing Judge Hoadly personally, but the Senator may know him, and if he does not know him personally he knows that he is a man of fine reputation, one of the finest intellects in our section of the country, and one of the best lawyers.

Mr. MORTON. I never heard of it.

Mr. BOGY. There are many things you and I never heard of. [Laughter.] It is nevertheless true. The Senator has been out of the profession many years, and I doubt if he is familiar with the men who have acquired distinction in the law in the last ten years. They have grown up since he has become a public man. The fact is that Judge Hoadly in the city of Cincinnati stands the peer of the best lawyers in that city. Now in view of all these facts that are known, it is not worth while to be finding fault and trying to make it appear that this gentleman occupying the high office of governor of that distant State has been guilty even of telling lies as the Senator from Oregon has intimated this morning, of telling horrible lies unworthy not only of a governor but unworthy of any man.

Mr. MITCHELL. I did not use any such language.

Mr. BOGY. The Senator did not use that language, I admit; I did not intend to say that he did; but his remarks were intended to make that impression before the country that he had stated falsely with regard to the number of persons who must have known that Mr. Watts was disqualified, that in making that statement he stated that which he knew was untrue, and that in plain language was a lie.

Mr. MITCHELL. I simply stated the facts. If they convict Mr. Grover of misrepresentation, I cannot help it.

Mr. BOGY. That may be so. His effort was made before this Chamber to show that this officer holding this high office had been guilty of telling that which was not true in stating facts. Of course the Senator did not use the word "lie," but that was the amount of it. It is not worth while to argue the case in that way. To use the language of the Senator from Indiana, "We cannot elect a President in that manner." Ah, sir, there are many ways that modern times have taught us how Presidents are attempted to be elected; but they are novel. The old way was for the people to vote in their respective States, those votes to be counted, the electors to meet and the majority of the electors appointed to speak the voice of the people of the United States. But that day has passed. How is it in Louisiana? How is it in South Carolina? How is it in Florida? One of the men sent there by the President of the United States in a letter published but yesterday admits himself that the State of Florida voted for Tilden. His own report made to the President of the United States, which ought to have been sent here as the Louisiana report was sent, but which was not sent, virtually admits that Florida cast her vote for Tilden. In the report published but yesterday Mr. Barlow admits that Florida voted for Tilden. We know the fact that, as far as the vote is concerned, the people of Louisiana voted, by a majority of about eight thousand votes, for Tilden. And yet what has become of that vote? A returning board there is commended; its decisions are held equal to those of the Supreme Court of the United States, and when the governor of Oregon, acting in obedience to law, doing that which he was compelled to do and could do nothing else, is censured and is held up here as a man who has disgraced his high office and acted unworthily.

Ah, Mr. President, that will not do. The people of the United States, it seems to me, expect that we in Congress will meet this question in a different way. As far as I am individually concerned, if I am satisfied that Mr. Watts is eligible under that law and that the remaining electors had the right or the power under that law to fill that vacancy, if it can be so called, I, as a Senator, would give to the State of Oregon three votes for Mr. Hayes and would not hesitate at all.

Mr. MITCHELL. Will the Senator object to giving way for a motion to adjourn? It is so late that we shall not be able to get a vote to-day, and I do not think it worth while for us to remain any longer.

Mr. BOGY. I am nearly through now; but if I start again in the morning, I cannot tell how long I shall talk. [Laughter.] But I will give way to a motion to adjourn.

Mr. MITCHELL. I move that the Senate adjourn.

The motion was agreed to; and (at four o'clock and fifty-five minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, December 19, 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.

CLERK OF COMMITTEE ON COINAGE, WEIGHTS, AND MEASURES.

Mr. O'BRIEN. I ask consent to submit for consideration and adoption at this time the resolution which I send to the Clerk's desk.

The Clerk read as follows:

Resolved, That the clerk to the Committee on Coinage, Weights, and Measures be, and he is hereby, allowed the same compensation per diem now allowed to the clerks of the other standing committees.

Mr. WILSON, of Iowa. Has that resolution the indorsement of the Committee of Accounts?

The SPEAKER. The Chair is not able to answer that question.

Mr. WILSON, of Iowa. I ask the gentleman from Maryland [Mr. O'BRIEN] if the resolution has had the indorsement of the Committee of Accounts?

Mr. O'BRIEN. I have no doubt it would be indorsed by that committee if necessary.

Mr. WILSON, of Iowa. I think it had better be referred to the Committee of Accounts.

Mr. O'BRIEN. I do not think it at all necessary to refer it.

Mr. KELLEY. I object to the resolution.

Mr. O'BRIEN. Then I ask that it be referred to the Committee of Accounts.

Mr. KELLEY. I have no objection to that.

There being no objection, the resolution was received and referred to the Committee of Accounts.

REPORT ON MINING STATISTICS.

Mr. VANCE, of Ohio, from the Committee on Printing, reported back the following resolution, with a recommendation that it be adopted:

Resolved by the House of Representatives, (the Senate concurring.) That there be printed of the report of R. W. Raymond on mining statistics for 1875, with the accompanying engravings, 2,500 copies for the use of the House of Representatives, 1,000 for the Senate, and 500 for the Secretary of the Treasury and Commissioners.

The resolution was adopted.

Mr. VANCE, of Ohio, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ELECTION IN LOUISIANA.

Mr. VANCE, of Ohio. I ask unanimous consent that a concurrent resolution from the Senate providing for printing extra copies of the President's message and accompanying documents in regard to the Louisiana election be taken from the Speaker's table and referred to the Committee on Printing.

There being no objection, the following resolution was taken from the Speaker's table, read, and referred to the Committee on Printing:

Resolved by the Senate, (the House of Representatives concurring.) That 10,000 additional copies of the letter of the President, with the accompanying documents, on the election in Louisiana be printed; of which 3,000 shall be for the use of the Senate and 7,000 shall be for the use of the House of Representatives; and that there be also printed and stitched or bound with the same the memorial of Messrs. BOGGS, McDONALD, and STEVENSON and the papers referred to therein on the same subject.

FRANCIS A. PAGE.

Mr. MUTCHLER, by unanimous consent, submitted the following resolution; which was read and referred to the Committee of Accounts:

Resolved, That the Clerk of the House of Representatives be, and he is hereby, authorized and directed to pay out of the contingent fund to Francis A. Page, an employé of this House on the "soldiers' roll," the amount of his salary as disabled soldier from July 15, 1876, the date when he was last paid, to December 1, 1876.

CHARLES F. CHANDLER.

Mr. VANCE, of Ohio. I ask unanimous consent that the bill (S. No. 722) for the relief of Charles F. Chandler be taken from the Speaker's table and referred to the Committee on Patents.

There being no objection, the bill was taken from the table, read a first and second time, and referred to the Committee on Patents.

Mr. WILSON, of Iowa. Let it be understood that this bill shall not be brought back on a motion to reconsider.

The SPEAKER. It cannot be brought back except by unanimous consent.

Mr. WILSON, of Iowa. I believe that the rule refers only to the introduction of House bills.

Mr. VANCE, of Ohio, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ADMINISTRATOR OF WILLIAM A. LLOYD.

Mr. WILLIAMS, of Wisconsin. I ask unanimous consent that the bill (S. No. 784) for the relief of Enoch Totten, administrator of the estate of William A. Lloyd, deceased, be taken from the Speaker's table for reference to the Committee of Claims.

There being no objection, the bill was taken from the table, read a first and second time, and referred to the Committee of Claims.

The SPEAKER. The motion to reconsider the reference of this bill will be laid on the table.

ORDER OF BUSINESS.

Mr. WILLIAMS, of Wisconsin. I ask unanimous consent to make a report from the Committee on Foreign Affairs.

The SPEAKER. The Chair suggests that the Committee on Foreign Affairs will probably be called during the morning hour.

Mr. BLAND. I call for the regular order.

The SPEAKER. The regular order being called for, the morning hour begins at twenty-two minutes after twelve o'clock; and the first business in order is the calling of committees for reports.

UNITED STATES COURT IN MICHIGAN.

Mr. HURD, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 966) to provide for the holding of terms of the district and circuit court of the United States at Bay City, Michigan, reported a substitute therefor, (H. R. No. 4246;) which was read a first and second time.

The substitute provides that there shall be two terms of the United States district and circuit court for the eastern district of Michigan held at Bay City, Michigan, in said district, each year from and after the passage of the act, the time and length of the terms to be fixed by the judges of said court respectively.

The second section provides that the clerk of the district court of the eastern district of Michigan, the marshal, and the district attorney for said district, shall perform the duties appertaining to their offices, respectively, for said courts; and the clerk and marshal are each authorized to appoint a deputy to reside and keep their offices at Bay City, and who shall in the absence of their principals do and perform all the duties appertaining to those offices respectively; provided that the local authorities shall furnish a suitable court-room where the court shall be held without cost or expense therefor to the United States.

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

Mr. HURD 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.

PAYMENT FOR INDIAN DEPREDACTIONS.

Mr. SEELYE, from the Committee on Indian Affairs, reported back adversely the bill (H. R. No. 346) authorizing payment to certain citizens of New Mexico for Indian depredations; which was laid on the table, and the accompanying report ordered to be printed.

SUPPLIES TO SIOUX INDIANS OF MINNESOTA.

Mr. SEELYE. I am also directed by the Committee on Indian Affairs to report back, with an adverse recommendation, the bill (H. R. No. 325) to authorize the Secretary of the Interior to ascertain the amount due to citizens of the United States for supplies furnished to the Sioux or Dakota Indians of Minnesota subsequent to August, 1860, and prior to the massacre of August, 1862, and providing for the payment thereof. As there is a minority as well as a majority report in this case, I move that this bill instead of being laid on the table be placed on the Private Calendar.

Mr. MORGAN. I desire to present the views of the minority on the bill just reported by the gentleman from Massachusetts, [Mr. SEELYE.]

The SPEAKER. The bill will be referred to the Committee of the Whole on the Private Calendar, and the majority and minority reports printed.

JOHN H. PICKERING.

Mr. VAN VORHES, from the Committee on Indian Affairs, reported back favorably a joint resolution (H. R. No. 149) for the relief of John H. Pickering; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

HILLBORN C. MILLER.

Mr. COOK, from the Committee on Military Affairs, reported back adversely a bill (H. R. No. 1687) to change the date of muster-in as second lieutenant of Hillborn C. Miller, late of Company G, First Ohio Heavy Artillery; which was laid on the table, and the report ordered to be printed.

GEORGE G. GUSTIN.

Mr. COOK also, from the same committee, reported back adversely the petition of George G. Gustin; which was laid on the table, and the report ordered to be printed.

PATRICK NOONAN.

Mr. COOK also, from the same committee, reported joint resolution (H. R. No. 174) authorizing the issue of clothing to Private Patrick Noonan, Company G, Fifth United States Infantry; which was read a first and second time.

The resolution, which was read, authorizes the Secretary of War to issue to Private Patrick Noonan, Company G, Fifth United States Infantry, clothing in lieu of and equal in amount to that lost by him at the burning of the stables at Fort Leavenworth, Kansas, on the 23d day of January, 1875, as shown and recommended in the report of the board of survey convened under provisions of General Order No. 13,

War Department, by Special Order No. 29, headquarters Fort Leavenworth, Kansas, of date of March 9, 1875.

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

Mr. COOK moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ISSUE OF CLOTHING TO UNITED STATES CAVALRY.

Mr. COOK also, from the same committee, reported joint resolution (H. R. No. 175) authorizing the issue of clothing to Company A, Second Regiment United States Cavalry; which was read a first and second time.

The joint resolution, which was read, authorizes the Secretary of War to issue to fifty enlisted men of Company A, Second Regiment United States Cavalry, clothing in lieu of and equal in amount to that lost by them at the fire which occurred in the camp of Company A, Second Cavalry, on the 16th day of July, 1874, as shown and recommended in the report of the board of survey, convened under Special Order No. 138, headquarters Fort Laramie, Wyoming Territory, of date of July 17, 1874.

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.

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

The latter motion was agreed to.

ISSUE OF CLOTHING TO PRIVATES HEGNER AND COLLINS.

Mr. COOK also, from the same committee, reported a joint resolution (H. R. No. 176) authorizing the issue of clothing to Private Francis Hegner, Company F, Seventh Cavalry, and Private John C. Collins, Company G, Seventh Cavalry; which was read a first and second time.

The joint resolution, which was read, authorizes the Secretary of War to issue to Private Francis Hegner, Company F, Seventh United States Cavalry, and Private John C. Collins, of Company G, Seventh United States Cavalry, clothing in lieu of and equal in amount to that lost by them respectively at the burning of the cavalry stable at Fort Abraham Lincoln, Dakota Territory, November 10, 1874, as shown and recommended in the report of the board of survey, convened by Special Orders No. 213, headquarters Fort Abraham Lincoln, Dakota Territory, of the date November 11, 1874.

Mr. WILSON, of Iowa. Are these joint resolutions accompanied by reports?

Mr. COOK. They are.

Mr. WILSON, of Iowa. One of the reports, then, should be read, so it may appear of record upon what grounds the Committee on Military Affairs reports for action at this time these joint resolutions.

Mr. COOK. These cases are all based upon communications from the War Department, which set forth all the facts, inclosing the report of the board of survey in each case. The executive documents are numbers 52, 53, 54, and 55 of the last session of Congress. The Committee on Military Affairs have examined the evidence in each case, and are satisfied that the resolutions should pass.

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.

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

The latter motion was agreed to.

SERGEANT HERMAN THEUNE.

Mr. COOK also, from the Committee on Military Affairs, reported a joint resolution (H. R. No. 177) authorizing the issue of clothing to Sergeant Herman Theune, Company I, Twenty-third United States Infantry; which was read a first and second time.

The joint resolution, which was read, authorizes the Secretary of War to issue to Sergeant Herman Theune, Company I, Twenty-third United States Infantry, clothing in lieu of and equal in amount to that lost by him at the burning of the old post-hospital at Fort Whipple, Arizona Territory, on the 13th day of November, 1874.

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.

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

The latter motion was agreed to.

FORT READING MILITARY RESERVATION.

Mr. JOHN REILLY, from the Committee on Military Affairs, reported as a substitute for House bill No. 1950 a bill (H. R. No. 4247) for the transfer of the Fort Reading military reservation in Shasta County, California, to the Interior Department, and authorizing the sale of the same; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

DONATIONS OF CONDEMNED CANNON.

Mr. JOHN REILLY also, from the same committee, reported back, with an adverse recommendation, the bill (H. R. No. 976) authorizing the Secretary of War to deliver to the city of Port Huron, Michigan, certain condemned cannon and balls for a soldiers' monument in Lake Side Cemetery; and moved that the committee be discharged from the further consideration of the same and that it be laid on the table.

Mr. CONGER. I ask that that bill may be recommitted that I may have an opportunity to appear before the committee.

Mr. JOHN REILLY. I have no objection to that.

The bill was accordingly recommitted to the Committee on Military Affairs.

Mr. JOHN REILLY also, from the Committee on Military Affairs, reported back, with an adverse recommendation, the bill (H. R. No. 849) granting four condemned cannon and sixteen cannon-balls to the Soldiers' Monumental Association of Salem, Ohio, for monumental purposes; and moved that the committee be discharged from the further consideration of the same, and that it be laid on the table.

Mr. WOODWORTH. I ask that that bill be put upon the Private Calendar.

The SPEAKER. That is the gentleman's right.

The bill was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

Mr. JOHN REILLY also, from the Committee on Military Affairs, reported back, with an adverse recommendation, the bill (H. R. No. 1996) donating condemned cannon to Post No. 71, Grand Army of the Republic, at Holyoke, Massachusetts; and moved that the committee be discharged from the further consideration of the same, and that it be laid on the table.

Mr. SEELYE. I move that that bill be referred to the Committee of the Whole on the Private Calendar.

The motion of Mr. SEELYE was agreed to; and the bill was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

Mr. JOHN REILLY also, from the Committee on Military Affairs, reported back, with an adverse recommendation, the bill (H. R. No. 2911) donating certain condemned cannon to the soldiers' monument at Muscatine, Iowa; and moved that the committee be discharged from the further consideration of the same, and that it be laid on the table.

Mr. TUFTS. I move that the bill be referred to the Committee of the Whole on the Private Calendar.

The motion of Mr. TUFTS was agreed to; and the bill was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

Mr. JOHN REILLY also, from the Committee on Military Affairs, reported back the following bills, and the same were severally ordered to lie on the table, and the accompanying reports ordered to be printed: The bill (H. R. No. 3935) authorizing the Secretary of War to deliver certain condemned ordnance to the municipal authorities of Boston, Massachusetts;

The bill (H. R. No. 3938) donating condemned cannon for soldiers' monuments to be erected at Yonkers and Sing Sing, and by The Battle of White Plains Monument Association of West Chester County, State of New York;

The bill (H. R. No. 698) donating condemned cannon and cannon-balls to the Colchester Monument Association of Colchester, Connecticut, for monumental purposes;

The bill (H. R. No. 845) condemning two pieces of brass ordnance for a soldiers' monument at Caldwell, Ohio;

The bill (H. R. No. 697) donating condemned cannon and cannon-balls to Ledyard Monumental Association of Ledyard, Connecticut, for monumental purposes;

The bill (H. R. No. 1228) donating condemned cannon and cannon-balls to Samuel Orr and Philip Harnbrook;

The bill (H. R. No. 3661) donating condemned cannon for monumental purposes to Post No. 3, Grand Army of the Republic, of Taunton, Massachusetts;

The bill (H. R. No. 3697) authorizing the Secretary of War to deliver to the commissioners of Forest Park, Saint Louis, Missouri, eight condemned cannon to be used in constructing the base of the statue of Ex-Attorney-General Edward Bates;

The bill (H. R. No. 848) donating condemned cannon and cannon-balls to the corporate authorities of the town of Oberlin, Ohio, for monumental purposes;

The bill (H. R. No. 1831) to authorize the Secretary of War to appropriate condemned ordnance for the erection of a monument to the memory of the soldiers and sailors of Orange County, New York, who fell during the late war;

The bill (H. R. No. 3286) donating condemned cannon and cannon-balls to monumental purposes of the Grand Army of the Republic post organization at Lawrence, Massachusetts; and

The bill (H. R. No. 3353) donating condemned cannon to the town of Winchester, Massachusetts, for monumental purposes.

Mr. JOHN REILLY also, from the Committee on Military Affairs, reported back, with an adverse recommendation, the petition of Jonas A. Champney and 60 others, for one condemned cannon and two cannon-balls for ornamenting the burial ground, South Adams, Massachusetts; and the same was laid on the table, and the accompanying report ordered to be printed.

EXPENDITURES FOR CAMP AND GARRISON EQUIPAGE.

Mr. JOHN REILLY also, from the same committee, to whom was referred Executive Document No. 788, relating to expenditures for camp and garrison equipage, reported that the legislation referred to therein having passed the House, it is returned with the recommendation that it lie on the table.

The committee was discharged from the further consideration of the same, and the executive document was ordered to lie on the table.

EQUALIZATION BOUNTIES.

Mr. JOHN REILLY also, from the same committee, to whom was referred the preamble and resolutions adopted by a mass meeting of soldiers of Allegheny County, Pennsylvania, in favor of the bill equalizing bounties, reported that the legislation asked for having already passed the House, they are returned with the recommendation that they lie on the table.

The committee was discharged from the further consideration of the same, and they were ordered to lie on the table.

ADVERSE REPORTS.

Mr. BANNING, from the Committee on Military Affairs, reported back, with adverse recommendations, the following papers; and the same were severally laid on the table, and the accompanying reports ordered to be printed:

Resolutions of the Cincinnati Chamber of Commerce, requesting the President and Secretary of War to have Newport Barracks, Kentucky, again occupied as a military post, and that the troops and military band be returned to said post.

Letter from the Secretary of War, with reports from chiefs of bureau of War Department, from Lieutenant-General Sheridan, with indorsement of General of the Army on the House bill No. 2935;

Resolutions and petitions of the city council of Covington, Kentucky, for the re-occupancy of the military post at Newport as formerly used by the Government;

The petition of Cincinnati physicians, asking the passage of Senator LOGAN's bill for the re-organization of the medical staff of the Army;

The petition of George H. Ewing, praying to be favorably discharged from the military service; and

The petition of Capt. Reuben M. Potter, United States Army, asking the passage of a law retiring officers over seventy years of age, when they desire it.

SETTLERS ON THE SAN JUAN ORCAS.

Mr. BANNING also, from the same committee, reported back House bill No. 3878 for the relief of settlers on the San Juan Orcas and other islands lately in dispute between the United States and Great Britain; and moved that the committee be discharged from the further consideration of the same, and that it be referred to the Committee on Public Lands.

The motion was agreed to.

Mr. BANNING moved to reconsider the vote by which the bill was referred to the Committee on Public Lands; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ADVERSE REPORTS.

Mr. BANNING also, from the same committee, reported adversely upon the following bills, &c.; which were severally laid upon the table and the accompanying reports ordered to be printed:

The bill (H. R. No. 2257) for the relief of J. T. McGinniss, captain of the Thirteenth Infantry United States Army;

The petition of soldiers of the late war, to receive one hundred and sixty acres of land and \$200 in money;

Executive document relating to the testimony of Lieutenant-Colonel Jones;

Concurrent resolutions of the State of Kansas, against the reduction of the Army and for the defense of the frontiers;

The petition of D. W. Biiss, president of the Soldiers and Sailors' National Beneficial Association, and 1,060 of the members of said association, asking for the passage of a bill for the equalization of soldiers' bounties;

The memorial of the heirs of Benjamin Moore, asking compensation for the services of said Moore in perfecting certain improvements in the manufacture of small-arms;

Executive Document No. 184, relating to the military expedition against the Sioux Indians;

Executive Document No. 5125, transmitting the letter of Lieutenant-Colonel Roger Jones, Inspector-General United States Army, and

Executive document transmitting a letter from the Secretary of the Interior, asking the return of papers in the claim of Carter & Crary.

Mr. HARDENBERGH, from the same committee, made adverse reports in the following cases; which were severally laid on the table and the accompanying reports ordered to be printed:

The petition of H. S. Lathe;

The memorial of A. Watson; and

The bill (H. R. No. 1762) declaring the land ceded to Fort Crook military reservation, in Shasta County, California, subject to preemption and homestead entry.

Mr. GLOVER, from the same committee, made adverse reports in

the following cases; which were severally laid on the table and the reports ordered to be printed:

The bill (H. R. No. 1683) authorizing and directing the Secretary of War to give John Kirk, late lieutenant of Company E, Ninety-second Regiment Ohio Volunteer Infantry, an honorable discharge;

The bill (H. R. No. 760) for the relief of Hiram B. Riddle;

The bill (H. R. No. 1568) for the relief of Rice M. Brown;

The bill (H. R. No. 1007) for the relief of officers of the Fourth and Fifth Indian Regiments;

The memorial of the city of Boston, Massachusetts, that Congress will fulfill its pledge to erect at Yorktown, Virginia, a marble column commemorative of the last grand battle of the Revolution;

Resolution of the Legislature of Texas, in relation to the claims of soldiers and sailors of the late war with Mexico;

The bill (H. R. No. 1338) for the relief of Adelbert C. Fassett;

The bill (H. R. No. 3094) for the relief of Calvin B. Hinkley, late captain in the Nineteenth Maine Volunteers and First Maine Heavy Artillery;

The bill (H. R. No. 761) for the relief of Anson B. Sams;

A letter from the Secretary of War, transmitting, with disapproval, a plan for a change in the present system of paying enlisted men, by Captain Pollock, Twenty-third Infantry, United States Army;

A petition for the relief of Francis B. Thompson, of Illinois, late surgeon Fifty-sixth Regiment Illinois Volunteers;

The petition of 84 soldiers in the Union Army for the equalizing of bounties; and

The petition of William M. Burnett, late chaplain of the Third Tennessee Cavalry, for pay.

Mr. A. S. WILLIAMS, from the same committee, reported adversely upon the following; which were laid on the table, and the reports ordered to be printed:

The bill (H. R. No. 3882) to authorize the President of the United States to enlist recruits for the Army of the United States, to serve not more than six months, to aid in suppressing the hostilities of certain bands of Sioux Indians;

Joint resolution (H. R. No. 150) to authorize the President of the United States to accept the services of volunteers to aid in suppressing Sioux Indian hostilities in the Northwest;

A bill (H. R. No. 2901) for the payment of non-commissioned officers according to duties discharged by them;

Executive Document No. 861, relative to a chief of artillery;

A bill (H. R. No. 3794) to retire an Army officer from active duty on account of age and distinguished services;

A bill (H. R. No. 2446) to correct the date of commission of a certain officer of the Army;

A bill (H. R. No. 3253) to change the position in the Army Register of the name of Walter F. Halleck, first lieutenant, retired;

A letter from the Secretary of War relative to the loan of tents to Mexican war veterans; and

A bill (S. No. 73) to extend the time for filing claims for additional bounty under the act of July 28, 1866.

Mr. STRAIT, from the same committee, reported adversely upon the following; which were laid on the table, and the accompanying reports ordered to be printed:

A bill (H. R. No. 389) for the relief of William Carruthers;

The petition of Captain J. C. Bacon and Lieutenant R. A. Davis, late of the Seventeenth Regiment Kentucky Cavalry;

The petition of Louis Sontagg, of Company I, Third New Jersey Cavalry;

The petition of Jacob Taylor, for services as private in Company K, First Missouri Volunteer Cavalry;

The petition of William P. Inness, colonel First Michigan Engineers and Mechanics, for pay from date of commission to the date of muster;

The petition of Nelson Shelton, private Company E, Fourth Regiment Tennessee Volunteer Cavalry, for commutation of rations, &c.;

A bill (H. R. No. 2151) to compensate Jean Louis Comeaux for services in the late war;

A bill (H. R. No. 2597) for the relief of Herman Mann, of Rochester, New York;

The petition of Adam Berg, private Company C, Twenty-eighth Ohio Infantry Volunteers;

A bill (H. R. No. 2154) for the relief of the heirs at law of John W. Cameron;

A bill (H. R. No. 206) to amend the record of military service of Seth Bonney; and

A bill (H. R. No. 2056) directing the Second Auditor of the Treasury to settle the pay and bounty accounts of Moses Lord.

EMANUEL KLAUSER.

Mr. STRAIT also, from the same committee, reported a bill (H. R. No. 4248) for the relief of Emanuel Klauser, late corporal Company H, Fifty-fourth Regiment Illinois Volunteers; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill directs the Secretary of War to remove the charge of mutiny against Emanuel Klauser, late corporal Company H, Fifty-fourth Illinois Infantry Volunteers, and to grant him an honorable discharge.

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. STRAIT 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.

CATHERINE HARRIS.

Mr. STRAIT also, from the same committee, reported back with a favorable recommendation House bill No. 2606, for the relief of Catherine Harris.

The question was upon ordering the bill to be engrossed and read a third time.

The bill directs the Secretary of the Treasury to pay to Catherine Harris, widow of Matthias Harris, late a chaplain in the United States Army, the amount of pay and allowances due him as a chaplain from the 5th day of February, 1864, to the 10th day of October, 1864.

Mr. WILSON, of Iowa. Let us have read the report accompanying that bill.

The report was read.

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. STRAIT 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.

FORT DODGE MILITARY RESERVATION.

Mr. TERRY, from the same committee, reported, as a substitute for House bill No. 1540, a bill (H. R. No. 4249) authorizing the Secretary of War to sell a portion of the Fort Dodge military reservation in Kansas to the Dodge City Town Company; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill authorizes the Secretary of War to sell at public auction to the highest bidder, after duly advertising time, place, and terms of sale in two newspapers that will give fair notice of the sale, all that part of the Fort Dodge military reservation in Kansas lying west of a north and south line extending from the southeast corner of the southwest quarter of section 25, Township 26 south, range 25 west, due south to the Arkansas River, and containing one hundred and ninety-four acres more or less; and before exposing said tract of land for sale the Secretary of War shall cause the land to be duly appraised by three disinterested and competent persons, and shall not sell said tract of land for less than its appraised value.

Mr. FORT. I make the point of order that that bill should receive its first consideration in Committee of the Whole.

The SPEAKER. The Chair sustains the point of order.

The bill was accordingly referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

FORT CAMERON MILITARY RESERVATION.

Mr. TERRY, from the Committee on Military Affairs, reported, as a substitute for House bill No. 2248, a bill (H. R. No. 4258) to provide for the payment for certain improvements on lands now embraced in the military reservation of Fort Cameron, in the Territory of Utah; which was read a first and second time.

The bill authorizes the Secretary of War to appoint a commission, composed of three Army officers, whose duty it shall be to investigate the claim of W. J. Allred and Alonzo A. Noon for improvements made upon lands now embraced in the military reservation at Fort Cameron, in the Territory of Utah, and to estimate and report upon the value of said improvements. In making such estimate of value of improvements, the board of officers may take into consideration the proceedings of a board of officers who assembled at Fort Cameron February 15, 1875, and such other evidence as may be brought before them, and report also upon the title of the claimants to the land embraced in the reservation.

Mr. HOLMAN. The morning hour, I believe, has expired.

The SPEAKER. It has. The bill goes over as unfinished business.

Mr. CONGER. I desire to make a point of order upon the bill.

The SPEAKER. What point of order?

Mr. CONGER. That the bill proposes to dispose of public property.

The SPEAKER. The point of order will be regarded as pending; and the decision of the Chair will be reserved till the bill comes up again.

ADJOURNMENT FOR THE HOLIDAYS.

Mr. WOOD, of New York. The Committee of Ways and Means have directed me to report the following resolution; upon which I ask the previous question:

Resolved, That when the House adjourns on Saturday, the 23d instant, it shall adjourn to meet on Wednesday, the 27th instant; and when it adjourns on Saturday, the 30th instant, it shall adjourn to meet on Wednesday, January 3, 1877.

Mr. WILSON, of Iowa. Allow me to suggest to the gentleman from New York [Mr. WOOD] that this proposition is not fair play toward the western members who may desire to go home. An adjournment of the kind proposed will interfere very seriously with any work that may be intended to be done in the House, while at the same time it

will keep members here who may not desire to be absent if there is a possibility of any public business being done. The gentleman from New York must see at once that under this resolution we cannot go home; and at the same time he is interrupting the business of the House to such an extent that little can be done.

Mr. WOOD, of New York. The Committee of Ways and Means gave very mature consideration to this question, and considered the very points which my friend from Iowa suggests. But in view of the exigency of the times and the condition of the country, it was supposed that the duty of the House was to remain in session with the exception of two brief adjournments for Christmas and New Year's, which, of course, we all expect. This is the unanimous report of the committee.

Mr. BURCHARD, of Illinois. O no.

Mr. WOOD, of New York. So I understood. The gentleman from Illinois [Mr. BURCHARD] says "O no." I believe we had one dissenting vote.

The question being taken on seconding the demand for the previous question, there were—ayes 110; noes 57.

Mr. WILSON, of Iowa. I call for tellers.

Tellers were ordered; and Mr. WOOD, of New York, and Mr. WILSON, of Iowa, were appointed.

The House divided; and the tellers reported—ayes 100, noes 62.

So the previous question was seconded.

The question then recurred on ordering the main question.

Mr. WOOD, of New York. I desire to say that it is the understanding of the committee that on Saturday the House will simply meet and adjourn without transacting any business.

The SPEAKER. That will be within the province of the House on that day to determine.

Mr. WOOD, of New York. But I think that is generally understood; so that if gentlemen desire to leave on Friday it probably will not be necessary for them to remain here.

Mr. BURCHARD, of Illinois. As the gentleman from New York [Mr. WOOD] has alluded to the action of the committee, I desire to say that some members of the committee were of the opinion that if the Committee on the Judiciary, to whom was referred the other day the matter of privilege, should report within the next few days on that subject the House might take its usual adjournment, and that until the committee shall report it is rather premature to undertake to settle the question of adjournment.

The main question was ordered.

The question being on the adoption of the resolution,

Mr. WILSON, of Iowa, called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 121, nays 92, not voting 76; as follows:

YEAS—Messrs. Ashe, Atkins, John H. Bagley, Jr., Banning, Bland, Bliss, Blount, Boone, Bradford, Bright, Buckner, Cabell, John H. Caldwell, William P. Caldwell, Campbell, Candler, Cate, Canfield, Chittenden, John B. Clarke of Kentucky, John B. Clark, Jr., of Missouri, Clymer, Cook, Cowan, Davis, Dibrell, Douglas, Durand, Durham, Egbert, Ellis, Faulkner, Felton, Finley, Forney, Fuller, Gause, Glover, Goode, Goodin, Gunter, Andrew H. Hamilton, Robert Hamilton, Hancock, Henry R. Harris, John T. Harris, Harrison, Hartridge, Hartzell, Hatcher, Henkle, Hereford, Abram S. Hewitt, Goldsmith W. Hewitt, Hill, Holman, Hooker, Humphreys, Hutton, Hurd, Kehr, Knott, Lamar, Franklin Landers, George M. Landers, Lewis, Lynde, Mackey, Maish, McFarland, Metcalfe, Milliken, Mills, Money, Mutchler, O'Brien, Payne, Pierce, Powell, Rea, Reagan, John Reilly, James B. Reilly, Riddle, John Robbins, William M. Robbins, Roberts, Scales, Schleicher, Sheakley, Singleton, Slemmons, William E. Smith, Southard, Sparks, Spencer, Stenger, Stone, Swann, Teese, Terry, Thomas, Throckmorton, Tucker, Turney, Robert B. Vance, Gilbert C. Walker, Warner, Warren, Watterson, Erastus Wells, Whitthorne, Willard, Alpheus S. Williams, James Williams, Jeremiah N. Williams, Willis, Wilshire, Benjamin Wilson, Fernando Wood, and Young—121.

NAYS—Messrs. Ainsworth, Anderson, Bagby, George A. Bagley, John H. Baker, William H. Baker, Ballou, Bell, Blair, Bradley, William R. Brown, Horatio C. Burchard, Cannon, Carr, Cason, Collins, Conger, Crounse, Culberson, Cutler, Davy, Denison, Dobbins, Eames, Evans, Flye, Fort, Foster, Franklin, Freeman, Frye, Haralson, Hardenbergh, Benjamin W. Harris, Hathorn, Hendee, Henderson, Hoskins, Hunter, Kasson, Kelley, Leavenworth, Le Moynes, Luttrell, Lynch, Mazon, McCrary, McDill, Miller, Monroe, Morgan, Nash, Neal, Norton, Oliver, O'Neill, Packer, Page, William A. Phillips, Piper, Plaisted, Platt, Poppleton, Potter, Rainey, Sampson, Savage, Seelye, Simeonson, A. Herr Smith, Springer, Stanton, Straft, Stevenson, Tarbox, Thornburgh, Martin I. Townsend, Tufts, Van Vorhes, John L. Vance, Wait, Alexander S. Wallace, John W. Wallace, Whitehouse, Whiting, Andrew Williams, Charles G. Williams, William B. Williams, James Wilson, Alan Wood, Jr., Woodworth, and Yeates—92.

NOT VOTING—Messrs. Abbott, Adams, Banks, Bass, Beebe, Blackburn, John Young Brown, Samuel D. Burchard, Burleigh, Caswell, Chapin, Cochran, Cox, Crapo, Danford, Darrall, De Bolt, Dunning, Eden, Garfield, Gibson, Hale, Haymond, Hays, Hoar, Hoge, Hopkins, House, Hubbell, Hurbut, Hyman, Jenks, Frank Jones, Thomas L. Jones, Joyce, Kimball, King, Lane, Lapham, Lawrence, Levy, Lord, MacDougall, McMahon, Meade, Morrison, New, Odell, Phelps, John F. Phillips, Pratt, Purman, Rice, Robinson, Miles Ross, Sobieski Ross, Rusk, Sayler, Schumaker, Smalls, Stephens, Stowell, Thompson, Washington Townsend, Waddell, Waldon, Charles C. B. Walker, Walling, Walsh, Ward, G. Wiley Wells, Wheeler, White, Wigginton, Wike, and Woodburn—76.

So the resolution was adopted.

During the vote,

Mr. GOODIN stated that the gentleman from Oregon, Mr. LANE, was absent at the bed-side of a sick friend.

The vote was then announced as above recorded.

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

The latter motion was agreed to.

FRANK C. HOPKINS.

Mr. WOOD, of New York, also, by unanimous consent, from the Committee of Ways and Means, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Clerk of the House be, and he is hereby, directed to pay from the contingent fund of the House to Frank C. Hopkins the sum of \$600 for services rendered as clerk to the Committee of Ways and Means in the absence of the clerk of that committee during the Forty-fourth Congress.

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

The latter motion was agreed to.

TONNAGE AND IMPORTS OVERCHARGE.

Mr. WOOD, of New York, also, by unanimous consent, introduced a bill (H. R. No. 4250) to provide remedies for overcharge of duties on tonnage or imports; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

SOUTH PASS, MISSISSIPPI RIVER.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting the report of Major Comstock, of the Engineer Corps, on the condition of the works on the South Pass of the Mississippi; which, on motion of Mr. CONGER, was referred to the Committee on Commerce, and ordered to be printed.

JOHN B. MONTEITH.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs recommending an appropriation for the relief of John B. Monteith; which was referred to the Committee on Indian Affairs.

CONSULAR OFFICERS.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of State, transmitting a statement of the names of consular officers, not citizens of the United States, to whom salaries have been paid during the fiscal year ending June 30, 1876; which was referred to the Committee on Foreign Affairs.

CLAIM OF R. R. WALLER.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting, from the Adjutant-General, a report of the claim of R. R. Waller, late lieutenant Twentieth Kentucky Volunteers; which was referred to the Committee on Military Affairs.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted in the following cases:

To Mr. ROSS, of Pennsylvania, indefinitely on account of illness.

To Mr. WILLIAM B. WILLIAMS, for two weeks on account of important business.

To Mr. BALLOU, from the 28th instant to the 3d of January.

To Mr. CANNON, of Illinois, from the 20th instant to the 5th of January.

To Mr. MILLER, from the 22d instant to January 4 on account of important business.

To Mr. BRADLEY, for two weeks from to-morrow.

To Mr. BROWN, for ten days on account of important business.

To Mr. BAGBY, until the 1st of January on account of important business.

To Mr. SAVAGE, from the 20th instant to January 5 on account of important business.

To Mr. HENDERSON, for ten days from the 22d instant on account of important business.

To Mr. KELLEY, indefinitely, from the 22d instant.

To Mr. BAKER, of New York, from the 22d instant until January 10 on account of important business.

To Mr. TEESSE, from the 21st instant until the 3d of January on account of important business.

To Mr. NASH, for twenty days on account of important business.

To Mr. LEAVENWORTH, for two weeks.

To Mr. TURNER, for two days from Thursday next on account of important business.

To Mr. MORGAN, from December 27 to December 30, inclusive, on account of important business.

To Mr. WAIT, for ten days from the 21st instant on account of important business.

To Mr. DAVIS, for ten days from Thursday next on account of important business.

To Mr. HARDENBERGH, for ten days from December 22.

To Mr. JOHN REILLY, from to-day until Monday next on account of important business.

To Mr. ADAMS, for one week from the 26th instant on account of important business.

To Mr. GEORGE A. BAGLEY, for ten days from the 27th instant.

Mr. HOLMAN. If these are all granted, it will leave this House without a quorum during that period of time.

The SPEAKER. It is within the power of the House to refuse them.

Mr. HOLMAN. I do not object, but that is the fact.

The SPEAKER. The leave has been granted as requested.

CONSULAR AND DIPLOMATIC APPROPRIATION BILL.

Mr. SINGLETON, from the Committee on Appropriations, reported a bill (H. R. No. 4251) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1878, and for other purposes; which was read a first and second time.

Mr. SINGLETON. I move that the bill be printed and that it be referred to the Committee of the Whole House on the state of the Union, and that it be made a special order for consideration therein to-morrow after the morning hour.

Mr. CONGER. I ask if the bill can be printed so that members can have it in time for consideration to-morrow?

Mr. SINGLETON. Yes, sir.

Mr. HOLMAN. It will be on our desks to-morrow morning.

Mr. CONGER. I reserve all points of order on the bill.

The motion of Mr. SINGLETON was agreed to.

PAY OF HOUSE EMPLOYÉS.

Mr. SPRINGER. I ask unanimous consent to offer the following resolution in reference to the pay of the employés of the House for action at this time:

Resolved, That the Clerk be authorized to issue to the officers and employés of this House on the 23d instant checks for their salaries for the month of December.

Mr. HOLMAN. I do not understand the effect of this proposition. The SPEAKER. The effect would be to pay the officers their month's salaries prior to the adjournment over Christmas.

There was no objection, and the resolution was adopted.

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

The latter motion was agreed to.

CONDITION OF THE SOUTH.

Mr. SPRINGER. I ask unanimous consent to submit the resolution which I send to the desk for reference to the Committee on Printing. The Clerk read as follows:

Resolved, That there be printed for the use of the House 1,900 copies each of report No. 261 of the House select committee at the second session of the Forty-third Congress, on that portion of the President's message relating to the condition of the South, together with the views of GEORGE F. HOAR, W. A. WHEELER, and WILLIAM P. FRYE, of the said committee; also the views of S. S. MARSHALL, of the said committee, and report No. 101, of Mr. GEORGE F. HOAR, to the House of Representatives at the second session of the Forty-third Congress, on behalf of the special committee on that portion of the President's message relating to the condition of the South, to be bound in one volume.

Mr. CONGER. I object.

Mr. SPRINGER. My motion is to refer the resolution to the Committee on Printing.

Mr. CONGER. I object to that.

Mr. FORT. We might as well print the whole history of the war.

The SPEAKER. Objection being made, the resolution is not before the House.

JOHN W. DODD & CO.

Mr. LANDERS, of Indiana, by unanimous consent, introduced a bill (H. R. No. 4252) for the relief of John W. Dodd & Co., of Indianapolis, Indiana; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

LEAVE OF ABSENCE.

The SPEAKER. The Chair lays before the House the following additional requests for leave of absence:

From Mr. WOOD, of Pennsylvania, from Friday, 22d inst., to January 3.

From Mr. EVANS, for ten days from the 23d to attend to important business.

From Mr. WARNER, for ten days from the 21st instant on account of important business.

From Mr. WILLIAMS, of Delaware, for one week from the 22d instant.

From Mr. SINNICKSON, for two weeks from the 20th instant.

Mr. HOLMAN. For the present I must object to any further leaves of absence.

The SPEAKER. Does the gentleman from Indiana object to these?

Mr. HOLMAN. I do for the present.

Some time subsequently,

Mr. HOLMAN withdrew his objection, and the requests were granted.

VENEZUELA MIXED COMMISSION.

Mr. MONROE, by unanimous consent, from the Committee on Foreign Affairs, reported the following resolution; which was read, considered, and agreed to:

Resolved, That the President of the United States be requested, if not incompatible with the public interests, to transmit to this House all correspondence between this Government and the republic of Venezuela, since the 15th day of May last, in reference to the Venezuela mixed commission, held under the convention of April 25, 1860.

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

The latter motion was agreed to.

DENVER AND RIO GRANDE RAILWAY.

Mr. JOHN REILLY, by unanimous consent, introduced a bill (H. R. No. 4253) to amend an act entitled "An act granting the right of way through the public lands to the Denver and Rio Grande Railway Company;" which was read a first and second time, referred to the Committee on the Pacific Railroad, and ordered to be printed.

MINERAL LANDS.

Mr. WILSHIRE, by unanimous consent, introduced a bill (H. R. No. 4254) to exempt the State of Arkansas from the provisions of certain sections of chapter 6 of the Revised Statutes of the United States, entitled "Mineral Lands and Mining Resources;" which was read a first and second time, referred to the Committee on Mines and Mining, and ordered to be printed.

MARY J. SHEPHERD.

Mr. HUNTER, by unanimous consent, introduced a bill (H. R. No. 4255) for the relief of Mary J. Shepherd; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

A. W. GREELY.

Mr. HUNTER also, (by request,) by unanimous consent, introduced a bill (H. R. No. 4256) for the relief of A. W. Greely, Fifth Cavalry; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

E. K. DOUGLASS.

Mr. SPENCER, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Clerk of the House be, and he is hereby, authorized and directed to pay out of the contingent fund to E. K. Douglass, from June 1 to August 16, inclusive, at the rate of \$3 per day for services rendered as a messenger.

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

The latter motion was agreed to.

SURVEY OF THE DISTRICT.

Mr. LEAVENWORTH, by unanimous consent, submitted the following resolution; which was referred to the Committee for the District of Columbia:

Resolved, That the Committee on the District of Columbia be, and they are hereby, instructed to inquire into the necessity of causing, at an early day, all that part of the District of Columbia lying north of the cities of Washington and Georgetown to be surveyed, laid out, and mapped, and the necessary monuments set to each block and public square; and also into the propriety of laying out the same in general conformity to the manner in which the city of Washington is laid out; and that said committee have leave to report by bill or otherwise.

FORTIFICATIONS APPROPRIATION BILL.

Mr. HALE. I move that the rules be suspended and that the House resolve itself into Committee of the Whole for the consideration of the fortifications appropriation bill; and pending that motion I move that all general debate on the bill in Committee of the Whole be limited to five minutes.

The motion to limit debate was agreed to.

The motion that the House resolve itself into Committee of the Whole was agreed to.

The House accordingly resolved itself into Committee of the Whole House on the state of the Union (Mr. DURHAM in the chair) and proceeded to consider the special order, being the bill (H. R. No. 4188) making appropriations for fortifications and for other works of defense, and for the armament thereof, for the fiscal year ending June 30, 1878, and for other purposes.

The CHAIRMAN. By order of the House all general debate on this bill is to be closed in five minutes.

Mr. HALE. I ask unanimous consent that the first reading of the bill be dispensed with.

Mr. DOUGLAS. I object.

The Clerk read the bill, and then proceeded to read the bill by clauses for amendment.

Mr. REAGAN. Mr. Speaker, I offer the following to come in as an additional clause to the bill:

For the commencement of a fortification at such place as may be selected on Galveston Island by the Secretary of War, \$100,000.

Mr. HALE. I must raise the point of order that that provides for a new work.

Mr. REAGAN. I do not know the extent to which the point of order might influence our action. We are engaged in appropriations for fortifications, and I desire to say a word in reference to the amendment which I have offered.

Mr. HOLMAN. Let the point of order be reserved.

Mr. REAGAN. I see by the bill that no appropriation is made for new works. The amendment which I propose here is for the purpose of commencing a new fortification on Galveston Island. Upon that island is the proper seaport of the State of Texas, and a city of some forty thousand inhabitants, with a very considerable commerce, a commerce of more than \$30,000,000 annually. It is the port through which the exports and imports of the State of Texas pass, and the trade also of other States and Territories to some extent passes through that seaport and city. That seaport and city is so situated at this time, in view of the great range which is given to artillery by improvements and experience in

the last few years, that the city might be at any time bombarded and destroyed by a vessel outside the bar. There is no protection of any description for it. I venture the suggestion that there is no city on the seacoast of the United States of such magnitude and importance, and no place where so great a commerce exists, where there is such imminent danger to the city and its commerce in case of war by a hostile power. No provision has yet been made heretofore for the fortification of this place and the protection of its people and commerce. The city lies immediately upon the open gulf. It is the gateway to the commerce of a single State of more than fifteen hundred thousand population; it is the gateway also to the commerce of additional people, the number of whom I am not able to state at this moment. It is certainly the policy of the Government to see that its great commerce is protected. This is one which requires attention and consideration from the Government. A single man-of-war, in case of hostility with a foreign power, can now destroy that city and its commerce without entering the harbor at all.

I have not time in five minutes to elaborate the subject and state the necessities for action, which I might state if I had more time to it. It is sufficient to say that the city of Galveston is a city of considerable size and commerce, with a rapidly growing population in accordance with the growth of the State and its contiguous territory.

It seems to me that, if in time of peace we should prepare for war, there is no more necessary and appropriate provision that could be made than this for the defense of the seacoast and the protection of the commerce and people at this point, who would be exposed in case of war to destruction by a hostile naval force.

I trust therefore that, although I am not able to state enough facts to enable the House to judge as fully as they should do, the House will consent to do this act of justice and necessity for the protection of the commerce and population of one of our most important seaports.

Mr. GARFIELD. I desire to ask the gentlemen if his amendment asks for an appropriation that will be available for the protection of the seacoast against Mexico, in case of any difficulty with that Republic. I simply wish to say that anything that looks to conferring strength on our seacoast and preparation for any possible trouble with Mexico ought to be carefully considered by the House, and, although I was not in to hear all the gentleman said, I ask the gentleman who has charge of this bill to oppose no measure that gives reasonable protection to the coast of Texas in case of Mexican hostilities.

Mr. REAGAN. I do not know that Mexico is particularly formidable by sea. Our contiguity to Mexico is upon the line of the Rio Grande. My object is to give security to this important seacoast town. I have stated that it is a city of more than forty thousand inhabitants; that it is the principal seaport of a State of more than a million and a half of population, rapidly growing, and that it is also the seaport of a portion of the adjoining territory. I state further that the commerce amounts to more than \$30,000,000 a year; and I further state that the city of Galveston might be bombarded and destroyed by a foreign vessel without its entering the harbor.

Mr. KASSON. What are the present defenses of the city?

Mr. REAGAN. It has no defenses of any kind at this time. The object of this defense is not with reference to Mexico particularly, or any other power. I offered the amendment with a view to the protection of the city, to save it and its commerce from destruction in case of hostilities with any foreign power.

Mr. HANCOCK. I have here a communication from the War Department upon this subject which I would like to have read in connection with the amendment offered by my colleague.

The Clerk read as follows:

The Secretary of War has the honor to transmit to the House of Representatives, for the information of the Committee on Military Affairs, in response to letter from the chairman of said committee, report of Chief of Engineers on House bill No. 2089, to "provide for the erection of military fortifications on Galveston Island, in the State of Texas."

The attention of the Military Committee is respectfully invited to the amendment suggested by the Chief of Engineers.

ALPHONSO TAFT,
Secretary of War.

WAR DEPARTMENT,
March 18, 1876.

OFFICE OF THE CHIEF OF ENGINEERS,
Washington, March 15, 1876.

SIR: I have the honor to inclose a letter and bill (H. R. No. 2089) received from Hon. H. B. BANNING, chairman Military Committee, House of Representatives, asking the views of this Department as to the necessity of fortifications for the harbor of Galveston, Texas.

The harbor and city of Galveston are not provided with any defenses against an enemy's operations from the decks of his vessels, and are within a few days' steaming from the West Indian ports of maritime nations.

The fortifications proposed by the Department for that city and harbor are an eight-gun battery on Pelican Spit, at an estimated cost of \$40,000; an eight-gun battery on Bolivar Point, at an estimated cost of \$23,000; and a two-gun battery on Galveston Island, at an estimated cost of \$17,000.

The bill, in my judgment, should be passed into a law, first striking out in lines four and five the words "on Galveston Island, in the State of Texas."

It is respectfully suggested that this communication be transmitted to the chairman of the Military Committee of the House.

Very respectfully, your obedient servant,

A. A. HUMPHREYS,
Brigadier-General and Chief of Engineers.

Hon. ALPHONSO TAFT,
Secretary of War.

OFFICE OF THE CHIEF OF ENGINEERS,
Washington, D. C., December 12, 1876.

SIR: In reply to your communication of the 11th instant, I have the honor to inclose herewith copies of the correspondence of March last respecting House bill No. 2089. No further suggestions upon the matter of this bill occur to me at the present moment.

Very respectfully, your obedient servant,*

A. A. HUMPHREYS,
Brigadier-General and Chief of Engineers.

Hon. H. B. BANNING,
Chairman Military Committee, House of Representatives.

HOUSE OF REPRESENTATIVES,
Washington, D. C., March 15, 1876.

DEAR SIR: I send you a bill introduced by General HANCOCK "to provide for the erection of military fortifications on Galveston Island, in the State of Texas." Please advise me of the necessity for such fortifications (if any) and reasons therefor.

Very respectfully, &c.,

H. B. BANNING.

General HUMPHREYS,
United States Engineer.

Mr. HANCOCK. This subject has been considered by the Committee on Military Affairs, and I believe the members of that committee are unanimously in favor of the fortification indicated by the correspondence just read. The commercial importance of the city of Galveston is second only to New Orleans on the coast of the Gulf of Mexico. It is a place rapidly increasing in population and business. It has no defensive fortifications whatever, and is entirely exposed to depredations, if there should be any war between the United States Government and any other government, however feeble, it might be. It is so much exposed that it might in a single hour be destroyed.

The amount contemplated by the report of the Chief of Engineer Corps is comparatively insignificant in comparison to the great importance that is apparent for some protection to that rapidly increasing commercial emporium for a vast district of country. This subject has received the full and careful consideration of the Committee on Military Affairs, and this committee is in possession of all the facts necessary to enable them to act understandingly in reference to the appropriation of the small amount here asked for, for a fortification that is deemed important both by the committee and by the War Department, as shown by the document just read.

I trust there will be no objection to appropriating the small sum asked, and that it may be incorporated in this bill in such phraseology as will enable the Engineer Department to make the fortification in the manner indicated, that being no doubt best for the purpose desired.

Mr. STEVENSON. What is the amount asked for?

Mr. HANCOCK. The amount named in the amendment is \$100,000, or so much thereof as may be necessary. I trust the amendment will be adopted.

Mr. GARFIELD. I desire to say a single word only.

Mr. BANNING. I desire merely to suggest that the amount asked for in the bill which was introduced by the gentleman from Texas [Mr. HANCOCK] was \$50,000. That was the amount recommended by the Chief of Engineers and the amount that was agreed to by the Committee on Military Affairs. I suggest to the gentleman from Texas [Mr. REAGAN] to modify his amendment so as to make the appropriation \$50,000 instead of \$100,000, as that was the amount agreed to.

Mr. HOLMAN. I believe the point of order is not disposed of as yet.

The CHAIRMAN. It is not.

Mr. BANNING. I desire to say that \$50,000 was the amount recommended both by the Secretary of War and by the Chief of Engineers, when the subject was brought to the attention of the committee by the bill introduced by the gentleman from Texas, [Mr. HANCOCK,] and sent to that committee.

Mr. GARFIELD. A single word. I hope that not an extravagant appropriation will be asked for this purpose. I desire to make this single remark in furtherance of what the gentlemen from Texas have said. I must say I have felt a sense of being personally rebuked for my ignorance and inattention to one class of national interests when I saw in the city of New Orleans a line of shipping that I was informed by gentlemen competent to speak upon the subject far exceeded in amount the shipping ordinarily lying in the harbor of New York, not only home shipping but foreign shipping. Visiting as I did the mouth of the Mississippi, and seeing the enormous commerce that sweeps down that river and out into the Gulf, I felt that there had not been sufficient attention paid to the protection of that part of our coast.

I do not know that this particular island of Galveston is the place where the most protection is needed. But I resolved within myself that, whenever the opportunity was presented of turning the current of our national thoughts in the way of defense and of protection of that Gulf and coast, I would not again lose the opportunity of doing so. Without having any special knowledge whether this is the place where the fortification ought to be erected, I will only say that the notion to put a fortification anywhere on the waters of that Gulf, especially those waters looking toward the Mexican line, meets with my concurrence, provided the engineers of the Army say that such a work is needed and reasonable. The papers which have been read at the Clerk's desk seem to indicate that they have thus given their assent. I trust therefore that the point of order will not be pressed; but I hope also that the gentleman from Texas [Mr. REAGAN] will

reduce the amount proposed in his amendment, for perhaps a considerable smaller sum may be sufficient to begin the work.

Mr. HOLMAN. I wish to say in regard to the point of order that a bill is now pending in the House to authorize this work, that bill has never passed, and as yet there is no law authorizing this work. This is, therefore, an appropriation not authorized by law. That is the ground upon which this point of order rests.

Mr. HALE. I am very desirous that this bill should be got out of the way because it is hindering the gentleman from Massachusetts, [Mr. HOAR,] who wishes to bring up another matter. But if no one else renews the point of order I would have no objection to allowing a vote to be taken on this amendment. But I must remind the gentleman from Texas [Mr. REAGAN] that when he seeks to put upon this bill this appropriation, which may be meritorious, he should reflect that this House last year adopted in regard to fortifications the sweeping rule that whatever might be the need or the menace there should be no money appropriated for any new works whatever; so that in pressing this amendment he is opposing the policy that was adopted last year and the policy which the Committee on Appropriations, acting on that basis, have adopted this year.

I have no objection to withdrawing the point of order so that, if no other gentlemen renews it, a vote shall be taken at once upon this proposition.

Mr. BANNING. But let the amount of the appropriation be reduced to \$50,000.

Mr. HOLMAN. I must insist on the point of order.

Mr. HALE. If the gentleman from Indiana [Mr. HOLMAN] renews the point of order, then of course it is good.

Mr. REAGAN rose.

The CHAIRMAN. Does the gentleman from Texas rise to discuss the point of order?

Mr. REAGAN. Yes, sir. Mr. Chairman, I am not so familiar with the rules as the gentleman from Indiana or the gentleman from Maine. But amendments like this, looking to the public defense, the carrying on of the public service, and making an appropriation for a specific object, have been very common in the history of our legislation; nothing has been more common. I have not had my attention turned to the particular rule now in question, and therefore I am not able to say that there may not exist a rule which is conclusive upon this subject; but I rely upon the general history of our legislation as to appropriation bills to establish the fact that it has been common to insert in such bills provisions for maintaining the public defense and specifying what is not specified in any existing law, the particular portion of the public service for which the appropriation is made.

I trust very much that the gentleman from Indiana will consent to withdraw the point of order; and if he does I am prepared to accept an amendment which will be offered by the gentleman from Ohio, [Mr. BANNING,] conforming to the idea of the Committee on Military Affairs as to the amount of the appropriation, and which would also carry out the particular recommendations of the War Department in relation to the location of the fortifications at that place. Certainly this is a work of very great necessity; and to interpose an objection of possibly doubtful authority to prevent the appropriation for this necessary part of the public service, it seems to me, would operate somewhat harshly. We have the judgment of the War Department and also of the Committee on Military Affairs as to the necessity for this work. My colleague [Mr. HANCOCK] and I have stated some of the facts in regard to the necessity for this work of public defense; and surely an appropriation of \$50,000 cannot be complained of unless the objection is that this proposed work is to be done in Texas and not somewhere on the Northern or Pacific coast.

Mr. BANNING. As the gentleman from Indiana makes his point of order for the purpose of saving money, I propose that the gentleman from Texas accept the following amendment, reducing the amount \$50,000:

That the Secretary of War be, and he is hereby, authorized and directed to have erected suitable military fortifications for the defense of the commerce of the city of Galveston; and the sum of \$50,000 is hereby appropriated therefor.

The CHAIRMAN. The point of order must be disposed of before any further proceedings can be had upon the amendment.

Mr. BANNING. I was going to say in regard to the point of order that the gentleman from Indiana makes the point for the purpose of saving money, and this amendment, which will save \$50,000, will probably be satisfactory to him.

Mr. HOLMAN. Without withdrawing the point of order, I wish to answer the gentleman from Texas [Mr. REAGAN] by saying that the action of the House at the last session accords with the provisions of this bill in applying the same rule to the northern coast that we apply to the southern. My friend from Texas cannot pretend to say that there is any discrimination in this respect. This is a new work not authorized by law. I insist that the rule, which is so valuable and important, shall be adhered to.

The CHAIRMAN. As the Chair understands, the point of order is not withdrawn.

Mr. HOLMAN. It is not.

The CHAIRMAN. The Chair sustains the point of order, and rules out the amendment.

Mr. HALE. I move that the committee rise and report the bill to the House.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. DURHAM reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the bill (H. R. No. 4183) making appropriations for fortifications and for other works of defense, and for the armament thereof, for the fiscal year ending June 30, 1878, and for other purposes, and had directed the same to be reported without amendment and with a recommendation that it be passed.

The question being on ordering the bill to be engrossed and read a third time,

Mr. HALE called for 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. HALE 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.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of their clerks, informed the House that the Senate had passed, without amendment, bills of the House of the following titles:

A bill (H. R. No. 97) directing the Commissioner of the General Land Office to issue a certificate of relocation for six hundred and forty acres of land in the Territory of Missouri to the legal representatives of Samuel Ware; and

A bill (H. R. No. 3504) for the relief of Thomas Day.

The message further announced that the Senate had passed, with amendments, in which the concurrence of the House was requested, bills of the following titles:

A bill (H. R. No. 732) for the relief of Mrs. Catherine Thrush, and William B. Stone, owners of the schooner Flight;

A bill (H. R. No. 735) for the relief of Philip Pendleton; and

A bill (H. R. No. 2736) to remove the political disabilities of N. H. Van Zandt, of Virginia.

The message further announced that the Senate had passed and requested the concurrence of the House in bills of the following titles:

A bill (S. No. 946) for the relief of Gibbes & Co., of Charleston, South Carolina; and

A bill (S. No. 991) for the relief of Edwin Rogers.

The message further announced that the Senate had passed and requested the concurrence of the House in resolutions in relation to the statues of John Winthrop and Samuel Adams from the State of Massachusetts.

STATUES OF JOHN WINTHROP AND SAMUEL ADAMS.

Mr. HOAR. I now call up the special order fixed for to-day.

The SPEAKER. The resolution of the Senate will be read.

The Clerk read as follows:

IN THE SENATE OF THE UNITED STATES,
December 19, 1876.

Resolved by the Senate, (the House of Representatives concurring,) 1. That the statues of John Winthrop and Samuel Adams are accepted in the name of the United States, and that the thanks of Congress are given to the State of Massachusetts for these memorials of two of her eminent citizens whose names are indissolubly associated with the foundation of the Republic.

2. That a copy of these resolutions, engrossed upon parchment and duly authenticated, be transmitted to the governor of the State of Massachusetts.

Attest:

GEO. C. GORHAM,
By W. J. McDONALD,
Chief Clerk.

Mr. HOAR. Mr. Speaker, the Commonwealth of Massachusetts, in obedience to the invitation of Congress, presents to the United States the statues of John Winthrop and Samuel Adams, to be placed in the old Hall of the House of Representatives, and to be kept reverently in that beautiful and stately Chamber so long as its columns shall endure.

Different kinds of public service, various manifestations of intellectual and moral greatness, have been held by different nations and ages to constitute the chief title to their regard. With all her wealth in other departments of glory, England chiefly values the men who have done good fighting in her great wars. Marlborough and Nelson and Wellington crown the stateliest columns in the squares and streets of her chief cities. When we would picture to ourselves the republics of Italy, four laureled heads of famous poets stand out upon the canvass. The statue of Erasmus, the great scholar of Holland, with a book in his hand, looks down upon the busy market-place of Rotterdam. The judgment of mankind has probably determined that through the great jurists of the days of the empire Rome has made her deepest impression on the world. The names of great soldiers, founders of nations, jurists, ministers of state, men of science, inventors, historians, poets, orators, philanthropists, reformers, teachers, are found in turn on the columns by which the gratitude of nations seeks to give immortality to their benefactors.

In deciding which of these classes should be represented or who of her children in each is worthiest of this honor, Massachusetts has not been driven to choose of her poverty. Is the choice to fall upon a

soldier? Sturdy Miles Standish, earliest of the famous captains of America—"in small room large heart inclosed"—Sir William Pepperell, the conqueror of Louisburg, may vie with each other for the glory of standing by the ever youthful and majestic figure of Warren.

Would the reverence of the nation commemorate its founders? To the State made up of the blended colonies founded by Endicott and Winthrop and the men who, on board the Mayflower, signed the first written constitution that ever existed among men, more than one-third of the people of the United States to-day trace their lineage.

No American state, no civilized nation, has contributed more illustrious names to jurisprudence than Parsons and Mason and Story and Shaw.

The long roll of her statesmen begins with those who laid the foundation of the little colony deep and strong enough for an empire. It will end when the love of liberty dies out from the soul of man. Bradford and Carver; Endicott and Winthrop; Vane, the friend of Milton and counselor of Cromwell; Otis and Samuel Adams and Quincy and Hawley, the men who conducted on the side of the people that great debate by which the Revolution was accomplished before the first gun was fired; John Adams and his son, whose biographies almost make up the history of the country for eighty years; Pickering, who filled in turn every seat in the cabinet; Webster, the greatest teacher of constitutional law, save Marshall; Andrew, the great war governor; Sumner, the echoes of whose voice seem yet audible in the Senate Chamber, by no means make up the whole of the familiar catalogue.

Science will not disdain to look for fitting representatives to the State of Bowditch and John Pickering and Wyman and Pierce, and which contains the birth-place of Franklin and the home and grave of Agassiz.

Are we to hold with Franklin that the world owes more to great inventors than to all its warriors and statesmen? The inventor of the cotton-gin, who doubled the value of every acre of cotton-producing land in the South; the inventor of the telegraph, at whose funeral obsequies the sorrow of all nations throbbing simultaneously around the globe was manifested; the discoverer of the uses of ether in surgery, who has disarmed sickness of half its pain and death of half its terrors, may dispute with each other a palm for which there will be no other competitors.

Among historians the names of Bancroft and Sparks and Motley and Prescott and Palfrey and Parkman will endure till the deeds they celebrate are forgotten. "Worthy deeds," said John Milton, "are not often destitute of worthy relators, as by a certain fate great acts and great eloquence have commonly gone hand in hand."

Native to famous wits
And hospitable, in her sweet recess,

Massachusetts contributes to the list of poets who have delighted the world the names of Bryant and Emerson and Whittier and Longfellow and Lowell and Holmes.

Among the foremost of Americans in oratory, that foremost of arts, stand Quincy, the Cicero of the Revolution; Otis, that "flame of fire;" the persuasive Choate, the silver-tongued Everett, the majestic Webster.

Of the great lovers of their race, whose pure fame is gained by unselfish devotion of their lives to lessening suffering or reforming vice, Massachusetts has furnished conspicuous examples. Among these great benefactors who have now gone to their reward, it is hard to determine the palm of excellence. To the labors of Horace Mann is due the excellence of the common schools in America, without which liberty must perish, despite of constitution or statute.

If an archangel should come down from heaven among men, I cannot conceive that he could give utterance to a loftier virtue or clothe his message in more fitting phrase than are found in the pure eloquence in which Channing arraigned slavery, that giant crime of all ages, before the bar of public opinion, and held up the selfish ambition of Napoleon to the condemnation of mankind. "Never before," says the eulogist of Channing, "in the name of humanity and freedom, was grand offender arraigned by such a voice. The sentence of degradation which Channing has passed, confirmed by coming generations, will darken the fame of the warrior more than any defeat of his arms, or compelled abdication of his power."

Dr. Howe, whose youthful service in the war for the independence of Greece, recalling the stories of knight-errantry, has endeared his name to two hemispheres, is yet better known by what he has done for those unfortunate classes of our fellow-men whom God has deprived of intellect or of sense. He gave eyes to the fingers of the blind, he taught the deaf and dumb articulate speech, waked the slumbering intellect in the darkened soul of the idiot, brought comfort, quiet, hope, courage, to the wretched cell of the insane.

To each of these the people of Massachusetts have in their own way, paid their tribute of honor and reverence. The statue of Horace Mann stands by the portal of the State House. The muse of Whittier and Holmes, the lips of our most distinguished living orators, the genius of his gifted wife, have united in a worthy memorial of Howe. The stately eloquence of Sumner, in his great oration at Cambridge, has built a monument to Channing more enduring than marble or granite, but Channing's published writings, eagerly read wherever the English language prevails, are better than any monument.

Yet I believe Channing and Howe and Mann, were they living to-day, would themselves yield precedence to the constant and cour-

ageous heroism of him who said, "I am in earnest; I will not equivocate; I will not retreat a single inch; and I will be heard;" whose fame

Over his living head, like heaven is bent
An early and eternal monument.

The act of Congress limits the selection to deceased persons not exceeding two in number for each State. Massachusetts has chosen those who while they seemed the fittest representatives of what is peculiar in her own character and history have impressed that character on important public events which have been benefits to the nation at large.

That peculiarity is what is called Puritanism. To that principle, which I will try to define presently, I think it would not be difficult to trace nearly everything which Massachusetts has been able to achieve in any department of excellence. But it has a direct national importance in three conspicuous eras. One of them is too recent to allow of dispassionate consideration. The others are the eras of the foundation of the State and of the American Revolution.

Of the first, John Winthrop, twelve times governor of Massachusetts, from 1630 to 1649, is the best type. Of the second she has selected Samuel Adams, sometimes called "the last of the Puritans," as the representative.

"The true marshaling," says Lord Bacon, "of the degrees of sovereign honor are these: In the first place are *conditores imperiorum*, founders of states and commonwealths, such as were Romulus, Cyrus, Cæsar, Ottoman, Ismael." Whatever rank shall be assigned to our Commonwealth by history compared with the states of Romulus and Cyrus and the rest, the same "degree of sovereign honor" must be awarded to the man who founded it as compared with those named by Lord Bacon.

When you look upon the statue of John Winthrop you see the foremost man of that little company of Englishmen who abandoned wealth, comfort, rank, to found a Christian church and a republican State in the wilderness of New England. He was born in Suffolk on the 12th day of January, 1587. He was a gentleman of good estate and descent, and of wide and powerful family connection. He was educated at Trinity College, Cambridge, bred to the bar, and had a considerable practice as an attorney of the court of wards and liveries. A large portion of his private papers and letters to his family and friends have been preserved. I know of no other man of his time of whose mental and spiritual life from his childhood up we have such full particulars. He was a man industrious, modest, wise, brave, generous, affectionate, a lover of home, of kindred, and friends, tolerant, religious, moderate, chaste, temperate, self-sacrificing. He had studied the laws of England, and thought deeply and clearly upon the principles of civil liberty. He was a member and communicant of the Church of England. From his early youth his letters to his family and near friends and numerous private manuscripts reveal his most secret religious meditations and aspirations. They breathe a sincere, liberal, catholic spirit of love to God and man, uttered in forms in which religious men of all denominations could unite. If these simple and eloquent utterances were found in a meditation of Pascal or A Kempis, in a confession of Saint Augustine, in a sermon of Jeremy Taylor, in a journal of John Wesley, or an essay of Channing, I do not think that any disciple of either would deem them out of place. His style is simple and serious, rising sometimes to a grave and majestic eloquence. There are passages in his letters of exquisite beauty and "in the loftiest strain of religious faith and devotional fervor." There was probably no man in England with tastes less inclined to the part of an adventurer, and with less personal ambition.

Such, in the year 1629, at the age of forty-three, was this model English gentleman, dwelling on his own landed estate, surrounded by affluence, engaged in honorable public employments, happy in home, friends, honor. He had heard of a rocky and ice-bound region, the gloom of whose eternal forests was tenanted by savage beasts and men more savage. He had heard of a little company of Englishmen, who had landed on that coast ten years before, at mid-winter, half of whom had perished before spring, "at one time only six or seven having strength enough left to nurse the dying and bury the dead," and who for ten years had maintained a precarious and doubtful struggle with famine and pestilence and the rigorous climate. But what should drive him, of all mankind, to leave the delights of rich and luxurious England, to abandon the pleasant vales of Suffolk, for the rocks and sands of Massachusetts? "Founders of states, such as were Romulus, Cyrus, Cæsar, Ottoman, Ismael." A founder of states such as these were not was John Winthrop. No legions flushed with foreign conquest demanded that he should lead them across the Rubicon to found an empire on the ruins of his country. No milk of the she-wolf mingling with the streams of his blood made him the fit founder of an asylum for a clan of banditti. No fanatical passion for conquest, no dream of sensual paradise, no restless nomadic habit, disturbed the even tenor of his life. But he was one of those men to whose happiness civil and religious liberty were absolutely essential. The third Parliament of Charles I had just been dissolved. England was entering upon a period of ten years of absolute monarchy, her civil and military administration in the hands of Strafford, her spiritual affairs in the hands of Laud. Winthrop agreed in opinion with those who were disposed to submit to neither.

A charter had been earlier obtained. A few colonists had gone over to New England and established a government in subordination to

the company in England. On the 26th day of August, 1629, Winthrop and eleven others signed an agreement at Cambridge "to embark for the said plantation, to the end to pass the seas (under God's protection) to inhabit and continue in New England; provided always, that the whole government, together with the patent for the said plantation, be first by an order of court legally transferred and established to remain with us and others which shall inhabit upon the said plantation." This condition was performed. In October thereafter the record of the company recites "the court having received extraordinary great commendations of Mr. John Winthrop, both for his integrity and sufficiency, as being one every way well fitted and accomplished for the place, the said Mr. Winthrop was with a general vote chosen to be governor for the ensuing year."

It is more than probable that the accession of Winthrop to their society was the condition of the whole emigration. It is more than probable that the coming over of Winthrop and his fleet of ships saved the whole Puritan settlement from being abandoned. It is certain that for the nineteen years for which he was chief director of the affairs of the colony he impressed upon it his own character and qualities. He took farewell of England "in a flood of tears." He begged his brethren of the English church for their prayers, "which will be a most prosperous gale in our sails." To narrate his remaining life would be only to tell again the well-known tale of the history of Massachusetts for its first nineteen years.

The qualities which the greatest rulers of free States have displayed in the most difficult times were all needed in the governor of the infant Commonwealth. No other American so nearly resembles Washington. "He was, indeed," says the old annalist, "a governor who had most exactly studied that book, which, pretending to teach politics, did only contain three leaves, and but one word on each of those leaves, which word was 'moderation.'" Another Puritan writer calls him "that famous pattern of piety and justice." He was reproved by the clergy of the colony for his "overmuch lenity," in the month Roger Williams was banished. He preserved unbroken his friendship with Williams, who wished him to be the governor of his own plantation in Rhode Island. He poured out his estate in charity, leaving but £100 at his death. He gave his last measure of meal to a poor woman, when the colony was starving, a ship laden with provisions from England arriving just in time for their safety.

When impeached for an act of necessary authority, he took his place modestly and meekly at the bar of the court of which he had been head, where he defended himself in a discourse defining the true nature of civil liberty which for grave and majestic eloquence has been pronounced by high authority "equal to anything of antiquity."

The questions which divided the Roundhead from the Cavalier, the Puritan from the high churchman, are not yet at rest. Until they are, men will differ in their estimate of the generation to which John Winthrop belonged and of the Commonwealth of which he was the chief founder. But the concurrent judgment of all lovers of America now accepts the estimate which has been eloquently expressed by his distinguished biographer and descendant, your accomplished predecessor in that chair: "A great example of private virtue and public usefulness; of moderation in counsel and energy in action; of stern self-denial and unsparing self-devotion; of child-like trust in God and implicit faith in the gospel of Christ, united with courage enough for conducting a colony across the ocean and wisdom enough for building up a state in the wilderness."

When John Winthrop died, in 1649, the colony of which he had been the foremost planter was firmly established as a Christian state. Thirty flourishing towns, in which every freeman had an equal vote, were represented in the Legislature. The college, the schools, the churches, agriculture, and trade and fisheries were prospering. The little Commonwealth did its full share to keep up the glory of the English flag at Louisbourg, at Quebec, at Martinique, and the Havana, and many another well-fought field. But the people kept a wary lookout for any encroachment by King, Parliament, or governor on the natural and inalienable rights of Englishmen, as declared by their charter. In 1763 the great drama was fairly opened which ended with the separation from England and the adoption of the Constitution of the United States. The Legislature hesitated a good while whether Samuel Adams, or his illustrious kinsman, John Adams, should be chosen as the representative of the revolutionary age. I think the even-hanging balance was inclined at last by the thought of the ample compensations which life brought to the latter for his services and sacrifices in his country's cause.

I can conceive of nothing which the human heart can desire in satisfaction of a pure ambition which did not fall to the lot of John Adams. As was well said by Mr. Webster, "he was attended through life by a great and fortunate genius. He had written his name where all nations should behold it, and where all time should not efface it." He lived to see the independence of his country achieved. His was the rare good fortune to take part in a great revolution from its beginning to its successful issue. The proscribed rebel was received by the sovereign who had hated him as the representative of a great and free people. He was deemed by his countrymen worthy to be associated with Washington in the inauguration of the Government, and succeeded him in the great office of the Presidency. He was the foremost champion of the Declaration of Independence on the floor of Congress, and his famous prophecy will cause his name to be remembered by his countrymen as its anniversary returns until time

shall be no more. He was the chief author of the constitution of his native State. He rejoiced in the congenial companionship of one of the most affectionate of wives and most intellectual of women. His life ended on the spot where it began, at the great age of ninety, in a strong, vigorous old age, made happy by private affection and public reverence. By a coincidence almost miraculous, his death took place when millions of his countrymen, happy and at peace, under the Presidency of his son, were celebrating the great day he had made famous. "If the chariot and horses of fire had been vouchsafed to him, he could scarcely have had a more splendid translation or departed in a brighter blaze of glory."

Samuel Adams, on the other hand, lived and died poor. His only son preceded him to the grave, leaving none to inherit his name. He held no considerable public office, except that of delegate to the Continental Congress, until he succeeded Hancock as governor in his seventy-second year, when in his own opinion the weight of years and infirmities was beginning to unfit him for further service.

But for more than thirty years, beginning when most of the great actors in the Revolution were unborn or were children, he was the unquestioned leader of the contest for liberty in Massachusetts. I shall not repeat the familiar story. Samuel Adams was, I think, the greatest of our American public men in civil life; greatest, if we judge him by the soundness and sureness of his opinions on the great questions of his time and of all time; greatest, as shown by the strength of original argument by which he persuaded the people to its good; greatest in the imperial power of personal will by which he inspired and compelled and subdued the statesmen of his day who were his companions; greatest in the sublime self-denial which contented itself with accomplishing public results without seeking personal reward either of fame or office.

"If there was any Palinurus to the Revolution," said Thomas Jefferson, "Samuel Adams was that man." From the day when on taking his degree at Harvard in 1743 he maintained that it is lawful to resist the supreme magistrate if the commonwealth cannot otherwise be preserved, down to the time when the Declaration severed the tie between England and the colonies, he conducted the great debate of liberty. In the achievement of great revolutions which mark and secure the progress of liberty, three kinds of leaders are alike indispensable: the philosopher, who establishes great principles; the statesman, who frames great measures, fills great executive offices, leads popular and legislative assemblies; the politician, without whose marshaling of political forces civil contests must be carried on by mobs, and not by parties. Adams was all three. With clear logic he derived his great argument from its foundations in the immutable laws of ethics and the inalienable rights of human nature. With consummate wisdom, he directed all the measures of the Massachusetts Assembly, never driven from his position or taking a false step. He was the most dextrous politician that ever planned an election or managed a caucus. He laid down the pen in the midst of a profound treatise which Locke or Hooker might have envied to mingle with the workmen at the rope-walk or the crowd at the street corner to plan the conduct of the coming town-meeting. I know no second instance in history where these three characters have been so wonderfully combined. Yet, what is more wonderful still, Adams was free from the faults which commonly beset each. A profound political philosopher, his feet always touched the ground. He was never led astray by his theory. A statesman, he was without personal ambition. A politician, he was without a wile. There is no more hurtful error than the notion of our *doctrinaires* that the function performed in free states by men who are termed politicians is not dignified, honorable, serviceable, and honest. When wars are brought to successful issue without planning the campaigns; when battles are won without generals, disposition of forces, or discipline, good results will come to pass under popular governments without politicians. But whether concerting his plans in the caucus or addressing the people in Faneuil Hall, which was called his "throne," the absolute truth and simple honesty of Samuel Adams were unstained. He would not have deceived that people if thereby he could have redeemed a world from bondage.

With unerring wisdom, earlier than any other person in his own State, he saw the principles on which the American cause was based, and the means by which public opinion should be convinced, combined, and made effective in their support. He saw the power of the newspaper when it was almost unused as a political force. He was the author of the most important state papers, the instructions of the town of Boston to its representatives, of the assembly to its agents in England, its answers to the royal governors, wherein the natural rights of men, the chartered privileges of the people, and the limits of executive and legislative power were established on foundations from which they have never been removed. It was said of him that he had the eyes of Argus and as many hands as Briareus, and in each hand a pen. His style was simple, severe, chaste, restrained, as became the great themes he had to discuss. But it conveyed his weighty meaning alike to the understanding of the people and the apprehension of his antagonists. "Every dip of his pen," said Bernard, "stung like a horned snake."

He always put other men forward when glory was to be gained or desirable public office to be filled—never when responsibility or peril was to be encountered. Behind the conspicuous presence of Hancock, the brilliant rhetoric of Otis, the British governors felt and dreaded the

iron hand of Adams. With his own lips he gave the signal for the movement of the tea party. With his own hand he carried to the council the impeachment of Oliver. On the day of the Boston massacre Adams intrusted no other messenger with the demand for the removal of the regiments. Yonder statue represents the great popular leader and chieftain, king of men, the genius of American liberty speaking through his lips, as he stood in the presence of the royalty of England represented by Governor Hutchinson: "If you have the power to remove one regiment you have power to remove both. It is at your peril if you refuse; night is approaching; an immediate answer is expected. Both regiments or none." "It was then," said Adams afterward, "if fancy deceived me not, that I observed his knees to tremble. I thought I saw his face grow pale, and I enjoyed the sight."

He was among the earliest of American advocates, I think in nearly every case the earliest, of doctrines which, when he first uttered them, were deemed paradoxes or utopian dreams, but to-day are the accepted maxims of constitutional liberty. Among these he maintained that the right to life, liberty, and property are essential and inalienable rights of human nature;

That Magna Charta is irrevocable by Parliament, (citing in support of this view the curse pronounced by the church in presence of King Henry III and the estates of the realm upon all who should make statutes or observe them contrary to it);

That representation of America in Parliament was impossible;

That King or Parliament, together or separately, had no right to affect the liberties of the colonies;

That, therefore, Parliament had no power to legislate for the colonies in any case;

That the union of the several powers of government in one person is dangerous to liberty;

That the Crown had no right to grant salaries to colonial judges or governors;

That kings and governors may be guilty of treason and rebellion, and have in general been more guilty of them than their subjects;

That the welfare and safety of the people are paramount to all other law;

That governments are founded on equal rights;

That the people have natural right to change a bad constitution whenever it is in their power;

That American manufactures should be a constant theme

He was never weary,

Says his biographer—

of promoting a widely diffused common-school system, whereby the poorest might educate his children to a point where talent might win its way on equal terms with their more wealthy neighbors. This was democratic doctrine in its purest form and, as Mr. Adams conceived it, was the principle on which the Revolution had been accomplished.

The instinct of Hutchinson did not err when it pronounced him the first man in America who advocated independence.

The first public denial of the right of Parliament to tax America, the first public opposition to the stamp-act, the first suggestion of a general union of the colonies, are in the instruction of the town of Boston to its representatives, adopted in 1764 and drafted by Samuel Adams. This preceded by twelve months Patrick Henry's resolution in the Virginia House of Burgesses of May, 1765. In that life of incessant activity, constantly engaged in debate in the assembly, in controversy in the press, a writer of such originality that the doctrines must have seemed to the men of his day paradoxes, having to meet a powerful and unscrupulous government by combining popular forces, no instance can be found of his advancing a doctrine which is not to-day accepted, or of his proposing a measure from which he was compelled to recede.

It has been charged that the "glittering generalities" of the Declaration of Independence were the result of the French tastes of Jefferson, and were acquiesced in—not believed in—by his associates in the Continental Congress to conciliate his supposed influence in Virginia. The criticism has been made by Mazzini, I think repeated by Bismarck, that it asserts that the security of rights, not the performance of duties, is the object of the state. The statement and the criticism are unlike unfounded. Every sentiment of the Declaration can be found anticipated in the writings of Samuel Adams. It contains the matured opinions of the most religious race of men that ever lived at the most religious period of their history. The men who believed that "the chief end of man is to glorify God and enjoy him forever" did not lightly put on record their creed as to the object of the state and the purpose for which governments are instituted among men. They knew that to add a political sanction to religious or moral duty, or to enlist the forces of the state for its performance is impossible without trenching upon that liberty of conscience, which they valued even more than their political rights.

Burke, in his famous delineation of the character of the colonists in his great speech on conciliation with America mentions as among the marvels of history the formation of voluntary government by the people when the ancient government of Massachusetts was abrogated by Great Britain. That voluntary government, obeyed, as Lord Dunmore said of that in Virginia, "infinitely better than the ancient ever was in its most fortunate periods," was largely the work of Samuel Adams.

His respect for law and horror of lawless violence were remarkable in the leader of a revolution. When the mob attacked the house

of Hutchinson he declared he would rather have lost his right hand. It was through his influence that Quincy and John Adams defended Captain Preston, and the soldiers who had fired on the people and secured their acquittal. He restrained the impatience of the people, waiting patiently for eight years till the time should come when his opponents should be put clearly in the wrong by first resorting to force.

He had a marvelous personal magnetism which few men could resist, by which he attracted many brilliant and able men to the cause of his country. John Adams declares in his diary that "to my certain knowledge from 1758 to 1775, that is, for seventeen years, he made it his constant rule to watch the rise of every brilliant genius, to seek his acquaintance, to court his friendship, to cultivate his natural feelings in favor of his native country, to warn him against the hostile designs of Great Britain." He gives us a few names out of many thus brought to the cause of America, Hancock, Warren, and Quincy. To these names he might have added his own, as abundant passages in his diary bear witness.

Samuel Adams seems to have been a man without a selfish personal desire. You cannot trace in him the slightest evidence of the passions that so commonly beset the path of men in public life. The love of fame, the love of money, the love of pleasure, the love of ease, the love of power, the love of office, were alike without influence on that heart in which the love of liberty burned with a perpetual flame. The authorship of many of his ablest papers remained unknown till long after he died. The agents of the King more than once tried to tempt him with money or office. Most of his companions in the public service found means to gain competent fortunes by their own industry. Adams once declared that a guinea never glistened in his eyes. But for a small inheritance received late in life from his son, he must have been supported in his old age by charity and buried at the public charge. His only relaxation from his unrepaid public cares was in conversation, especially with little children, of whose society he was passionately fond, and sometimes in listening to or joining in sacred music, in which he especially delighted.

The judgment of historians, the voice of the people, the praises of friends, the anger of enemies, bear concurrent witness to the great qualities of Samuel Adams.

Bancroft calls him "the chief of the Revolution." He says "his vigorous, manly will resembled in its tenacity well-tempered steel which may ply a little but will not break."

Sir James Grahame says "Samuel Adams was one of the most perfect models of disinterested patriotism, and of republican genius and character, that any age or country has produced."

Jefferson called him "the Palinurus of the Revolution." He declared "he was truly a great man, wise in counsel, fertile in his resources, immovable in his purposes, and had, I think, a greater share than any other member in advising and directing our measures in the northern war. I always considered him more than any other man the fountain of our important measures."

Patrick Henry writes from Williamsburgh, when Virginia was about to frame her constitution, "Would to God you and your Samuel Adams were here."

James Warren said he was "the man who had the greatest hand in the greatest revolution in the world."

John Adams exhausts the language of eulogy in his praise: "He has the most thorough understanding of liberty and her resources in the temper and character of the people. He was born and tempered a wedge of steel."

Stephen Sayre calls him "the Father of America."

Josiah Quincy says "many in England esteem him the first politician in the world."

A distinguished clergyman of his time calls him "one of Plutarch's men."

Hutchinson, the tory governor, calls him "the all in all," "the great incendiary leader of Boston." When the ministry wrote to Hutchinson "Why has not Mr. Adams been taken off from his opposition by an office?" he replied, "Such is the obstinacy and inflexible disposition of the man that he never would be conciliated by any office or gift whatever." When Hutchinson went back to England he was received to an audience by King George in his closet, where king and governor vied with each other in denunciation of Sam. Adams.

Galloway, the Philadelphia tory, declared in his examination before the House of Commons that "the lower ranks in Philadelphia were governed in a great degree by Mr. Adams."

Gage, in June, 1775, excepts from the general offer of pardon "Samuel Adams and John Hancock, whose offenses are of too flagitious a nature to admit of any other consideration than that of condign punishment."

And so, Mr. Speaker, it has come to pass that in the centennial year, Massachusetts brings the first and the last of her great Puritans to represent her in the nation's gallery of heroes and patriots. Two hundred and forty-six years have gone by since John Winthrop landed at Salem. It is a hundred years since Samuel Adams set his name at Philadelphia to the charter of that independence which it had been the great purpose of his life to accomplish. Their characters, public and private, have been the subject of an intense historic scrutiny, both hostile and friendly. But the State, not, we hope, having failed to learn whatever new lessons these centuries have brought, still adopts them as the best she has to offer.

I do not use the word Puritan in a restricted sense. I do not mean the bigots or zealots who were the caricature of their generation. I do not discuss the place in history of the men of the English commonwealth. Whether the hypocritical buffoon of Hudibras or the religious enthusiast of Macaulay be the fit type of that generation of Englishmen before whom Europe trembled, we do not need to inquire. I use the word in a large sense, as comprehending the men who led the emigration, made up the bulk of the numbers, established the institutions of Massachusetts, Connecticut, and Plymouth, and administered their affairs as self-governing republics in all but name for more than a century and a half.

Through the vast spaces of human history there have resounded but a few heroic strains. Unless the judgment of those writers who have best conceived and pictured heroism—Milton, Burke, Carlyle, Froude—be at fault, among these there has been none loftier than the Puritanism of New England. The impress which a man makes upon mankind depends upon what he believes, what he loves, what are his qualities of intellect and of temper. You must consider all these to form a just estimate of the great generations with which we are dealing. The Puritan loved liberty, religious and civil; he loved home and family and friends and country with a love never surpassed, and he loved God. He did not love pleasure or luxury or mirth. He dwelt with the delight of absolute certainty on the anticipation of a life beyond the grave. His intellect was fit for exact ethical discussion, clear in seeing general truths, active, unresting, fond of inquiry and debate, but penetrated and restrained by a shrewd common sense. He saw with absolute clearness the true boundary which separates liberty and authority in the state. He had a genius for making constitutions and statutes. He had a tenacity of purpose, a lofty and inflexible courage, an unbending will, which never quailed or flinched before human antagonist, or before exile, torture, or death. The Puritan was a thorough gentleman, of dignified, noble, stately bearing, as becomes men who bear weighty responsibilities, deal with the greatest interests, and meditate on the loftiest themes. Read John Winthrop's definition of civil liberty or his reasons for settling in New England, and judge of the temper of those men, who, of free choice, made him twelve times their governor.

The Puritan believed that the law of God is the rule of life for states as for men. He believed in the independence of the individual conscience and in self-government according to the precedents of English liberty, because he believed that both were according to the will of God. "It is the glory of the British constitution," said Samuel Adams, "that it hath its foundation in the law of God." "The magistrate is the servant," said John Adams, "not of his own desires, not even of the people, but of his God." He derived the knowledge of that will from a literal interpretation of Scripture, which he thought furnished precepts or examples for every occasion. Yet it is wonderful how soon the common sense of the Puritan wrought out the principles of sound administration, and freed him from the errors into which other men fell. He interpreted literally the divine command, "Thou shalt not suffer a witch to live." Yet the witchcraft delusion, disgrace of all Christian nations, never reached Plymouth or Connecticut, and touched Massachusetts but lightly. In England, from 1600 to 1680, 40,000 persons were put to death as witches, and in Scotland nearly as many. On the continent of Europe the victims were numbered by hundreds of thousands. In Massachusetts the number never reached a score. The little Swiss city of Geneva put to death five hundred persons for this crime in a single year. A child of nine years old was executed for witchcraft in Huntingdon, England, in 1719. The laws against witchcraft remained in force in England till 1736, and in Scotland till 1738, fifty years after the time when, first of all mankind, Massachusetts repented of the delusion, the opinion of her whole people being uttered in the ever memorable confession of Sewall, the Puritan chief justice. They had sacrificed almost every thing else that man values to enjoy the worship of God after their own fashion. Yet they were among the first of mankind to establish complete religious toleration. I have heard the Puritans of New England taunted for religious bigotry by the representatives of States who, as late as 1741, put men to death for the crime of being Catholics.

The Puritan believed in a future life, where just men were to enjoy immortality with those whom they had loved here; and this belief was his comfort and support in all the sorrow and suffering which he encountered. But he believed also in the coming of God's kingdom here. He had a firm faith that the state he had builded was to continue and grow, a community of men living together in the practice of virtue, in the worship of God, in the pursuit of truth. It has been said of each of two great Puritan leaders, "Hope shone like a fiery pillar in him when it had gone out in all others. His mind is firmly fixed on the future; his face is radiant with the sunrise he intently watches."

Lastly, the Puritan believed in the law of righteous retribution in the affairs of nations. No departure from God's law of absolute justice, of absolute honesty, of absolute righteousness, could escape, so it seemed to him, its certain and terrible punishment. The oppressor who deprived the poorest or weakest of mankind of the equal right with which God had endowed him, the promise-breaker, who juggled with public obligation, the man who gained power by violence or fraud, brought down, as he believed, the vengeance of God upon himself and upon his children, and upon the nation which permitted him, to the third and fourth generation.

Mr. Speaker, the State that the Puritan planted has opened her gates to men of other lineage and of other creed. It may be that in the coming centuries his descendants are to yield to another race the dominion of his beloved New England and that only in gentler climes and on the shores of a more pacific sea men will delight to remember that their fathers were of the company of Winthrop or sat in council with Adams. But the title of the Puritan to remembrance will not depend upon locality. In that mightier national life, drawn from so many sources—of many, one; of many States, one nation; of many races, one people; of many creeds, one faith—the elements he has contributed are elements of perpetual power: his courage; his constancy; his belief in God; his reverence for law; his love of liberty; his serene and lofty hope. [Applause.]

Mr. WARREN. Massachusetts presents to the United States the statues of two of her representative men. She has selected for her heroes no brilliant but erratic genius, general, orator, or poet, for a time the wonder of mankind, but two men, each of whom owes his fame to the unselfish devotion of a life-time to the cause in which his youth embarked. Not that they were either of them common men. Both were born leaders. They were men of unusual firmness and persistency; both men who scorned to be turned aside from the work to which they had dedicated their lives by any thought of personal gain or office or honor. But their right to leadership was built upon the fact that in themselves they embodied and illustrated the most powerful moving sentiments of the time in which they each of them lived.

We must leave out of view, when we would ascertain what at a given epoch is the most powerful influence that is operating to shape or transform the political or religious life of a country, all that large class, the majority in fact of its people, who give no time to thought and readily subscribe to whatever dogmas in politics or religion may be current, so long as the trade in silks or woollens, in corn or cotton, is active and remunerative. Such are not the men whose acts and whose will overturn empires, reform religions, and lead mankind in new paths of progress. Such are not the men who are troubled about the shortcomings of the dominant church, or who tremble at the first insidious attacks made by power upon liberty. But we, who are of English stock, may make it our boast that in each succeeding age a large body of the people, in all classes in society, have acknowledged the duty they owed to the church and to the State, to keep the first pure and the second true to the great charter of our liberties.

The leaders of thought and afterward in action must clearly perceive the danger to be overcome, whether it arises from the perversity of those intrusted with power or the indifference of the people; must devise the remedy and combine and marshal the forces necessary to uproot the prevailing wrong, and create or renew correct opinions and practices in religion or politics.

We need not be reminded that from the time when John Winthrop attained his manhood down to the day of his death one strong purpose animated and controlled the serious and solid men of England. I do full justice to the manly and chivalrous devotion of the cavaliers to the throne, to the zeal and love of the churchmen for the established religion. But the men who beheaded a Strafford, who overthrew a Land, who conquered a monarch and established two commonwealths, one at home, ill-conditioned and short-lived, the other, *esto perpetua*, on these shores, were the men who impressed themselves on their age and have left their impress upon all future generations. They were the men who saw and believed that their liberties, civil and religious, were in danger; who knew no duty but in attempting to recover their rights. In the mind and character of some the religious element predominated; in others, the determination to recover the ancient rights and privileges of the British subject was the ruling motive. But among all who were active on the side of the people in the stirring events of that time both motives combined.

I know how unsafe it is to generalize on any historical subject. What is gained in point and effect is lost in accuracy. But it is not too much to assert that the revolution against the kingly power owed its commencement to those who, while sufficiently religious, yet felt most keenly the wrong done by the king to the civil and political rights of the subject; while on the other hand the founding of the Massachusetts Commonwealth was due to those who, not unmindful of the danger to political liberty, were impelled primarily by their belief that their foremost duty was to bring their lives into absolute subjection to the will of God. The latter subordinated their duty to the state, yes, and the state itself, to what they conceived to be the law of God. The former had, from education, from family, and from tradition, that almost superstitious veneration for what was termed the constitutional rights of Englishmen which made them start at any infraction of the provisions of that constitution and eventually take arms in defense of its integrity. And it is a singular fact that when the revolution against the power of the King, commenced by the friends of civil liberty, was well-nigh failing, it owed its revival and ultimate success to the strength that was imparted to it by those whose ruling motive was the religious one. For it was Cromwell and Ireton and the men who prepared for the fight by prayer who proved invincible to all the dash and impetuosity of Rupert and his squadrons. On the other hand—I trust it is not a fanciful comparison—our colony founded by John Winthrop, and for over a century sustained by the influence of him and men like him, who would use the state itself only as a means to glorify God and make all men keep his commandments, never reached its full stature as a perfect commonwealth

until new encroachments upon political rights caused the descendants of the Puritans to turn their whole attention to the preservation of their liberties. Then, as John Winthrop, the representative man of his day, was chosen by his peculiar fitness to lead a devoted band to build up the church in the wilderness, so Samuel Adams, equally the representative of the men of his time, was at once recognized as the one man fitted to lead in the work of the new revolution against royal aggression.

It derogates nothing from the merit of Winthrop or Adams that each was the product of the time in which he lived. It rather heightens their claim to the gratitude and reverent regard of their contemporaries and of posterity that they possessed the clearness of vision to understand and the forgetfulness of self and firmness of purpose to carry into execution the best if not the only measures which would secure in the earlier time the religious independence and in the later period the civil and political freedom which of right belonged to all free-born Englishmen.

As in the mother-country the love of freedom needed the aid of religious zeal before it could succeed in its struggle against power, so on the other hand in New England its religious zeal and constancy needed the liberalizing aid of the spirit of democracy in order that full freedom of conscience in things religious might be guaranteed to all men. And so Massachusetts regards herself to-day as built upon the two foundations of religion and of liberty. In her belief one cannot exist apart from the other. Religion is the main reliance to prevent liberty from degenerating into license. A devotion to liberty and the equal rights of all will alone guarantee that toleration without which religion itself becomes either a matter of form or an engine of oppression.

It is most fitting, then, that Massachusetts should present to the United States the statues of Winthrop and of Samuel Adams. The one is the true type of the religious element; the other, the full embodiment of the spirit of liberty; both together represent the Commonwealth itself, the perfect result of the full blending of religion and liberty, working in harmony in the cause of human progress.

It is not for me to present to you an analysis of the characteristics of the Puritans or to show in what manner and by the possession of what qualities they have exerted so great an influence upon the fortunes of our country. If I desired I could add nothing to the completeness of the picture drawn by my colleague who has preceded me. I should only mar the beauty and symmetry of his portraiture were I to add so much as a single touch. Let me rather say that whatever may have been the rivalries between Puritans and Pilgrims or between the early settlers of the New England and those of more southern colonies; the differences between them bear no comparison to the points of similarity. Wherever we turn in the history of Massachusetts or Virginia, we shall find all through its pages the evidence that the people of both States descended from a common stock, that both made it their chief boast that the ancient rights and privileges of Englishmen were theirs; that when freedom was assailed both sprang with equal alacrity to its defense; that, when both had shaken off the shackles of colonial dependence and came to adopt a declaration of rights and a frame of government suited to a free people, the constitutions of Massachusetts and of Virginia differed in no essential particular; and that in the task of establishing the Federal Union for the common defense against foreign enemies and the common security against domestic violence, while at the same time the States and the people were guaranteed the rights essential to the preservation of liberty, Samuel Adams of Massachusetts and Thomas Jefferson of Virginia found themselves in perfect accord.

In the next place I do not dwell upon the contrasts that may be discovered between the colonists of 1630 and the revolutionists of 1775. There was never a time when religious zeal was powerful enough in the colony to cause the people or the magistrates to lose sight of the great bulwarks of civil freedom. The principles and forms of the common law were constantly followed. The Parliament was supported in its contest with the King. And from first to last there was manifested a firm determination to insist on all the rights and the substantial independence conferred by the original charter of the colony.

On the other hand, at the time of the Revolution and long after, the power and the influence of the clergy were felt in state as well as church, and the habit of referring to the words of Scripture as authority in things temporal as well as in things spiritual was almost universal. For two centuries at least after the first settlement of Boston, the building up of the church and the preservation of their liberties were the prime motives that inspired the conduct of the men of Massachusetts. At one time one motive predominated, at another the other, but both were always active.

I have said that these men owe their fame not to any single brilliant exploit. It is on the other hand only by the well-rounded work of a life-time that they so truly represent two centuries of Massachusetts history. But not only because they best illustrate the times in which they live, but also because they most clearly foresaw what was needed in the future of their country, it is proper that their statues should have an honorable place among those contributed to our National Gallery. In these days when office is without honor, when the possession of wealth is almost of itself a ground of suspicion against its possessor, and when culture instead of conferring strength is too often only a badge of inefficiency, one can but be struck by the contrast which the

first and second centuries of our history present to the present time.

In John Winthrop were united social station, official rank, refined culture, and, until late in life, a sufficient fortune. Adams was undoubtedly a man most democratic in his tendencies; yet in his day due respect was rendered to the magistrates; honor to the man of learning, and wealth was esteemed as the fair reward of honest and patient endeavor. In these respects Winthrop and Adams but reflect the habit of their own times. But a public man's influence upon posterity depends upon what he has thought out and wisely said in the way of solving the political, religious, or social problems, with which the future must deal.

In Winthrop's time it was hoped and believed that the colonial charter contained a sufficient guarantee for the substantial independence of the colony. It was not then deemed either desirable or practicable to bring about a complete separation from the mother country; yet every step taken by Winthrop and his contemporaries was preparatory to the actual and complete independence which was to follow. Before his death Winthrop witnessed the entire success of his enterprise, and he had been mainly instrumental in giving such a foundation and such a direction to the public sentiment of the people as would keep the rising state always in the path which he had marked out for it when he determined on removing to the New World.

Adams, when he came upon the stage, had another century of the experience of England and the colony on which to draw for instruction. He could also learn from the development of the country and from its constant disputes with the home government what its future must be and what the basis on which government here must rest.

His views were always singularly clear, and those of his earlier years required little modification even in his old age. Hear him at the age of twenty-six, discussing what is true loyalty:

The true object of loyalty is a good, legal constitution, which, as it condemns every instance of oppression and lawless power, derives a certain remedy to the sufferer by allowing him to remonstrate his grievances, and pointing out methods of relief when the gentle arts of persuasion have lost their efficacy. Whoever, therefore, insinuates notions of government contrary to the Constitution, or in any degree winks at any measure to suppress or even to weaken it, is not a loyal man. Whoever acquaints us that we have no right to examine into the conduct of those who, though they derive their power from us to serve the common interests, make use of it to impoverish and ruin us, is in a degree a rebel—to the undoubted rights and liberties of the people.

This was in 1748. Twenty years later, when troops were stationed in Boston and their removal was demanded by the citizens, Adams thus wrote to the Boston Gazette:

Where military power is introduced, military maxims are propagated and adopted which are inconsistent with, and must soon eradicate, every idea of civil government. Do we not already find some persons weak enough to believe that an officer is obliged to obey the order of his superior though it be even against the law? And let any one consider whether this doctrine does not directly lead even to the setting up of that officer, whoever he may be, as a tyrant!

I may not go on with quotations.

For over a quarter of a century after this he continued in public life, and so long he continued to repeat and enforce his arguments in favor of a constitutional government, based upon universal liberty and secured by the safeguards of religion and popular education.

So Massachusetts, in presenting their statues, presents herself again to the United States. She claims for her people that, recognizing the merits of these two men, she recognizes the truths for the sake of which they spent their lives, and she promises for herself that she will not fail in religiously performing every constitutional duty. Whenever an attempt shall be made to subvert our institutions, whether by the reckless employment of force or by a resort to the subtler method of deception and fraud practiced on the people, Massachusetts must forget her traditions and her memories if she fails to be first in the field to resist all illegal conduct and protect the rights of her citizens.

She has placed these statues on either side of the entrance to that Hall where in a later day another Adams fell at his post of duty, so that we, who in these busy and perhaps most critical times are sent here to do what in us lies to preserve and transmit unimpaired that constitutional liberty which is an inheritance, must in going out from this Hall after our daily service pass between the silent forms of Winthrop and of Adams.

Whatever son of Massachusetts can leave this Hall with the consciousness that in act or vote or speech he has been true to the ancient renown of his State, has resisted every attempt to subvert the principles on which the permanence of our liberties depends, has religiously held his allegiance to truth and firmly opposed all falsehood and fraud and trickery, has not forgotten his country in his zeal for party nor forfeited his self-respect and the respect of good men by his desire for office and personal gain, finally who has imitated the life and conduct of these two men whose example we offer to the imitation of all lovers of free government, may hold his head erect, and look full in the face those almost speaking statues, and feel as if a blessing were resting upon his pathway.

But if at any time any recreant son of the old Commonwealth should dare to use his position here to undermine the institutions of his country, to stifle the voice of a free people through the instrumentality of fraud or force, or both combined, should use his office for personal gain or to secure a party triumph at the sacrifice of truth and of jus-

tice, then I fancy I see that man, as he passes out of yonder portal, crouching between the stately images at which he dares not look, and as if expecting the marble lips to part and utter the curse which he so well would merit. [Applause.]

Mr. Speaker, up to this day, as the virtues and merits of John Winthrop and Samuel Adams have never been unrecognized, so in each generation since his death some descendant of Winthrop and for four generations some kinsman of Adams has filled an honorable place in the service of the State. Far distant be the day when any future generation in the old Commonwealth shall be deprived of the service of a Winthrop or an Adams. Far distant be the day when there shall be wanting many, many descendants of the early Puritans who will be prompt to do honor to the memory and imitate the unselfish devotion to duty of John Winthrop and Samuel Adams. [Applause.]

Mr. GARFIELD. Mr. Speaker, I regret that illness has made it impossible for me to keep the promise which I made a few days since to offer some reflections appropriate to this very interesting occasion. But I cannot let the moment pass without expressing my great satisfaction with the fitting and instructive choice which the State of Massachusetts has made, and the manner in which her Representatives have discharged their duty in presenting these beautiful works of art to the Congress of the nation.

As, from time to time, our venerable and beautiful Hall has been peopled with statues of the elect of the States, it has seemed to me that a third house was being organized within the walls of the Capitol—a house whose members have received their high credentials at the hands of history, and whose term of office will outlast the ages. Year by year, we see the circle of its immortal membership enlarging; year by year, we see the elect of their country, in eloquent silence, taking their places in this American Pantheon, bringing within its sacred circle the wealth of those immortal memories which made their lives illustrious; and, year by year, that august assembly is teaching a deeper and grander lesson to all who serve their brief hour in these more ephemeral Houses of Congress. And now, two places of great honor have just been most nobly filled.

I can well understand that the State of Massachusetts, embarrassed by her wealth of historic glory, found it difficult to make the selection. And while the distinguished gentleman from Massachusetts [Mr. HOAR] was so fittingly honoring his State by portraying that happy embarrassment, I was reflecting that the sister-State of Virginia will encounter, if possible, a still greater difficulty when she comes to make the selection of her immortals. One name I venture to hope she will not select; a name too great for the glory of any one State. I trust she will allow us to claim Washington as belonging to all the States, for all time. If she shall pass over the great distance that separates Washington from all others, I can hardly imagine how she will make the choice from her crowded roll. But I have no doubt that she will be able to select two who will represent the great phases of her history as happily and worthily as Massachusetts is represented in the choice she has to-day announced. It is difficult to imagine a happier combination of great and beneficent forces than will be presented by the representative heroes of these two great States.

Virginia and Massachusetts were the two focal centers from which sprang the life-forces of this Republic. They were, in many ways, complements of each other, each supplying what the other lacked, and both uniting to endow the Republic with its noblest and most enduring qualities.

To-day, the House has listened with the deepest interest to the statement of those elements of priceless value contributed by the State of Massachusetts. We have been instructed by the clear and masterly analysis of the spirit and character of that Puritan civilization, so fully embodied in the lives of Winthrop and Adams. I will venture to add, that notwithstanding all the neglect and contempt with which England regarded her Puritans two hundred years ago, the tendency of thought in modern England is to do justice to that great force which created the Commonwealth, and finally made the British Islands a land of liberty and law. Even the great historian Hume was compelled reluctantly to declare that—

The precious spark of liberty had been kindled and was preserved by the Puritans alone; and it was to this sect that the English owe the whole freedom of their constitution.

What higher praise can posterity bestow upon any people than to make such a confession? Having done so much to save liberty alive in the mother-country, the Puritans planted, upon the shores of this New World, that remarkable civilization whose growth is the greatness and glory of our Republic.

Indeed, before Winthrop and his company landed at Salem, the Pilgrims were laying the foundations of civil liberty. While the Mayflower was passing Cape Cod and seeking an anchorage, in the midst of the storm, her brave passengers sat down in the little cabin and drafted and signed a covenant which contains the germ of American liberty. How familiar to the American habit of mind are these declarations of the Pilgrim covenant of 1620:

That no act, imposition, law, or ordinance be made or imposed upon us at present or to come but such as has been or shall be enacted by the consent of the body of freemen or associates, or their representatives legally assembled.

The New England town was the model, the primary cell, from which our Republic was evolved. The town meeting was the germ of all the parliamentary life and habits of Americans.

John Winthrop brought with him the more formal organization of

New England society; and, in his long and useful life, did more than perhaps any other to direct and strengthen its growth.

Nothing, therefore, could be more fitting, than for Massachusetts to place in our Memorial Hall the statue of the first of the Puritans, representing him at the moment when he was stepping on shore from the ship that brought him from England, and bearing with him the charter of that first political society which laid the foundations of our country; and that near him should stand that Puritan embodiment of the logic of the Revolution, Samuel Adams. I am glad to see this decisive, though tardy, acknowledgment of his great and signal services to America. I doubt if any man equaled Samuel Adams in formulating and uttering the fierce, clear, and inexorable logic of the Revolution. With our present habits of thought, we can hardly realize how great were the obstacles to overcome. Not the least was the religious belief of the fathers—that allegiance to rulers was obedience to God. The thirteenth chapter of Romans was to many minds a barrier against revolution stronger than the battalions of George III:

Let every soul be subject unto the higher powers. For there is no power but of God: the powers that be are ordained of God. Whosoever therefore resisteth the power, resisteth the ordinance of God.

And it was not until the people of that religious age were led to see that they might obey God and still establish liberty, in spite of kingly despotism, that they were willing to engage in war against one who called himself "king by the grace of God." The men who pointed out the pathway to freedom by the light of religion as well as of law, were the foremost promoters of American Independence. And of these, Adams was unquestionably chief.

It must not be forgotten that while Samuel Adams was writing the great argument of liberty in Boston, almost at the same time, Patrick Henry was formulating the same doctrines in Virginia. It is one of the grandest facts of that grand time that the Colonies were thus brought, by an almost universal consent, to tread the same pathway, and reach the same great conclusions.

But most remarkable of all is the fact that, throughout all that period, filled as it was with the revolutionary spirit, the great men who guided the storm, exhibited the most wonderful power of self-restraint. If I were to-day to state the single quality that appears to me most admirable among the fathers of the Revolution, I should say it was this: that amidst all the passions of war, waged against a perfidious enemy from beyond the sea, aided by a savage enemy on our own shores, our fathers exhibited so wonderful a restraint, so great a care to observe the forms of law, to protect the rights of the minority, to preserve all those great rights that had come down to them from the common law, so that when they had achieved their independence they were still a law-abiding people.

In that fiery meeting in the old South church, after the Boston massacre, when, as the gentleman from Massachusetts has said, three thousand voices almost lifted the roof from the church in demanding the removal of the regiments, it is noted by the historian that there was one, solitary, sturdy "nay" in the vast assemblage; and Samuel Adams scrupulously recorded the fact that there was one dissentient. It would have been a mortal offense against his notions of justice and good order, if that one dissentient had not had his place in the record. And, after the regiments had been removed, and after the demand had been acceded to that the soldiers who had fired upon citizens should be delivered over to the civil authorities to be dealt with according to law, Adams was the first to insist and demand that the best legal talent in the Colony should be put forward to defend those murderers; and John Adams and Josiah Quincy were detailed for the purpose of defending them. Men were detailed whose hearts and souls were on fire with the love of the popular cause; but the men of Massachusetts would have despised the two advocates, if they had not given their whole strength to the defense of the soldiers.

Mr. Speaker, this great lesson of self-restraint is taught in the whole history of the Revolution; and it is this lesson that to-day, more perhaps, than any other we have seen, we ought to take most to heart. Let us seek liberty and peace, under the law; and, following the pathway of our fathers, preserve the great legacy they have committed to our keeping.

The question being taken, the resolutions of the Senate were unanimously concurred in.

And then, on motion of Mr. REAGAN, (at four o'clock and thirty-five minutes p. m.,) the House adjourned.

The following petitions, &c., were presented at the Clerk's desk under the rule, and referred as stated:

By Mr. BAKER, of Indiana: The petition of Mary Barr, widow of Martin Barr, late a private in the One hundred and forty-second Regiment Indiana Volunteers, for a pension, to the Committee on Invalid Pensions.

By Mr. BRADFORD: The petition of citizens of Clay County, Alabama, for the establishment of a post-route from Delta, by way of Flint Hill to Union, Clay County, Alabama, to the Committee on the Post-Office and Post-Roads.

By Mr. CALDWELL, of Alabama: The petition of citizens of Jackson County, Alabama, for the extension of route No. 17115, Alabama service, from Paint Rock Station to Princeton in said county, so as to

connect with route 17 from Larkinsville to Hunt's Station, in the State of Tennessee, to the same committee.

By Mr. CHITTENDEN: The petition of Baldwin Cann, late first lieutenant Fourth New York Volunteer Cavalry, for a pension, to the Committee on Invalid Pensions.

By Mr. FELTON: The petition of Isaac Sewell, of Cobb County, Georgia, who remained loyal to the Government of the United States during the late war, for a rehearing of his claim for \$1,380 for property taken and used by the United States Army, rejected by the southern claims commission, to the Committee on War Claims.

Also, the petition of Charles J. Shepard, of Cobb County, Georgia, who remained loyal to the Government of the United States during the late war, for a rehearing of his claim for \$1,695.50 for property taken and used by the United States Army, rejected by the southern claims commission, to the same committee.

By Mr. GARFIELD: The petition of Sarah Howells, widow of Thomas Howells, deceased, late a private in Company C, Nineteenth Regiment Ohio Infantry Volunteers, to the Committee on Invalid Pensions.

By Mr. GLOVER: The petition of John M. Butler, of Washington, District of Columbia, for compensation for work done for the Committee on Jay Cooke Indebtedness and Real-Estate Pool during the recess of Congress, to the Committee of Accounts.

By Mr. HOAR: The petition of T. L. Nelson, president of the board of directors of the Free Public Library of Worcester, Massachusetts, and of the officers of other libraries in various sections of the Union, for the purchase by Congress of the papers of the General Count de Rochambeau, the commander of the French forces sent to aid Washington in our revolutionary struggle for national independence, to the Joint Committee on the Library.

By Mr. HOLMAN: The petition of H. M. Beadle, of Indiana, for the printing by the order of the House of the reports on the Louisiana troubles made to the Forty-third Congress, to the Committee on Printing.

IN SENATE.

WEDNESDAY, December 20, 1876.

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

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

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of War, transmitting, in compliance with the provisions of paragraph 10, of the fourth section of the river and harbor bill of March 3, 1875, the fifth report on the improvement of the South Pass of the Mississippi River, showing the condition of the works on November 18, 1876, by C. B. Comstock, major of engineers; which was ordered to lie on the table and be printed.

HOUSE BILLS REFERRED.

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

A bill (H. R. No. 2606) for the relief of Catharine Harris;
A bill (H. R. No. 4248) for the relief of Emanuel Klanser, late corporal of Company H, Fifty-fourth Regiment Illinois Volunteers;
A joint resolution (H. R. No. 174) authorizing the issue of clothing to Private Patrick Noonan, Company G, Fifth United States Infantry;
A joint resolution (H. R. No. 175) authorizing the issue of clothing to Company A, Second Regiment United States Cavalry;
A joint resolution (H. R. No. 176) authorizing the issue of clothing to Private Francis Hegner, Company F, Seventh Cavalry, and Private John C. Collins, Company G, Seventh Cavalry; and
A joint resolution (H. R. No. 177) authorizing the issue of clothing to Sergeant Herman Theune, Company I, Twenty-third United States Infantry.

The bill (H. R. No. 4188) making appropriations for fortifications and for other works of defense, and for the armament thereof, for the fiscal year ending June 30, 1878, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

The bill (H. R. No. 4246) to provide for the holding of terms of the district and circuit courts of the United States at Bay City, Michigan, was read twice by its title, and referred to the Committee on the Judiciary.

REPORT ON MINING STATISTICS.

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

Resolved by the House of Representatives, (the Senate concurring.) That there be printed of the report of R. W. Raymond on mining statistics for 1875, with the accompanying engravings, 2,500 copies for the use of the House of Representatives, 1,000 for the Senate, and 500 for the Secretary of the Treasury and commissioners.

PETITIONS AND MEMORIALS.

Mr. MITCHELL. I present a joint memorial of the Legislative Assembly of the State of Oregon, in which it is represented that "several years since the United States authorized and directed a geological survey of the then Territory of Oregon, and made a limited ap-