MOLINE WATER-POWER COMPANY.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting the report of the commission appointed by joint resolution of March 3, 1877, to examine contracts between the United States and the Moline Water-Power Company.

Mr. HENDERSON. I move that the communication and the accompanying report be printed and referred to the Committee on Appropriations.

The motion was agreed to.

WITHDRAWAL OF PAPERS.

On motion of Mr. HARRIS, of Virginia, by unanimous consent, leave was given to withdraw from the files of the House papers in the case of G. E. W. Sharratts.

ADJOURNMENT OVER.

The SPEAKER. The question recurs on the motion of the gentleman from New York [Mr. WOOD] that when the House adjourns to-day it be to meet on Tuesday next.

Mr. CONGER. I ask the gentleman from New York, if he can fix a day for the final adjournment, to fix it by resolution to-night.

Mr. WOOD. The gentleman from Michigan is as well aware as I am that to fix positively the final adjournment of this session requires the consent of the Senate.

Mr. CLYMER. I give notice that if the motion to adjourn over till Tuesday be voted down I will move that the House adjourn over till Monday.

Mr. BAKER, of Indiana. I move to amend by inserting "Monday."

The SPEAKER. The question must first be taken on the longer time.

The question being taken on Mr. WOOD's motion, it was agreed to.

Mr. WOOD. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at five o'clock and twenty-five minutes p. m.) the House adjourned till Tuesday.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. CALDWELL, of Kentucky: Papers relating to the claims of R. D. Salmons, agent, &c., for compensation for property taken, and of John M. Elder for property destroyed by the United States Army—to the Committee on War Claims.

By Mr. HERBERT: The petition of A. P. Woods, a laborer of the House of Representatives, that his compensation be equalized with that of other laborers who discharge similar duties—to the Committee of Accounts.

By Mr. MANNING: The petitions of C. Shields and W. E. Tomlinson, for compensation for property taken by the United States Army—to the Committee on War Claims.

By Mr. O'NEILL: Memorial of the College of Physicians of Philadelphia, suggesting the superiority of American manufactured quinine, and that American chemical manufactures generally be relieved from the heavy taxes now imposed—to the Committee of Ways and Means.

By Mr. SCHLEICHER: The petition of citizens of Texas, to make San Antonio, Texas, a port of entry and to establish a bonded warehouse—to the same committee.

Also, memorial of the Galveston, Harrisburgh and San Antonio Railway Company, for aid to extend their railway to the Rio Grande—to the Committee on Railways and Canals.

By Mr. STONE, of Iowa: Papers relating to the claim of S. T. Marshall for beef cattle furnished the United States Army—to the Committee of Claims.

By Mr. THROCKMORTON: The petition of Governor B. F. Overton, Josiah Brown, and J. Anderson, that the Chickasaw Nation be paid the amount due them from the United States—to the Committee on Indian Affairs.

Also, papers relating to the claim of Charles Baskerville and Henry B. Whitfield for cotton sold under duress to the confederate government—to the Committee on War Claims.

By Mr. VANCE: Papers relating to the claim of William N. Morrison, of North Carolina, for supplies furnished the United States Army—to the same committee.

By Mr. WILLIAMS, of Michigan: Papers relating to the claims of William Bell, Solomon D. Sessions, and Mary P. Inby, for cotton seized by United States officials after June 30, 1865—to the same committee.

By Mr. WILLIAMS, of Wisconsin: The petition of the business men of Whitewater, Wisconsin, for the repeal of the bankrupt law—to the Committee on the Judiciary.

By Mr. WILLIS, of New York: Papers relating to the petition of Mary Wilkes for a pension—to the Committee on Invalid Pensions.

By Mr. WOOD: The petition of Henry Erben, commander United States Navy, that an investigation be made as to whether the resolution relating to the examination of officers for promotion has been complied with in his case, and for relief—to the Committee on Naval Affairs.

By Mr. YOUNG: The petition of Mary and James Boro, for the payment of rent and damages to property by the United States Army—to the Committee on War Claims.

IN SENATE.

MONDAY, *November* 26, 1877.

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

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

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a letter from the Secretary of the Interior, transmitting a copy of a letter from Hon. A. H. Cragin, chairman of the Hot Springs commission, asking for an additional appropriation of $20,000 to enable the commission to prosecute the work intrusted to its charge for the fiscal year ending June 30, 1878; which was referred to the Committee on Appropriations, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. OGLESBY presented the memorial of the Board of Trade of Chicago, Illinois, in favor of an appropriation by Congress for the removal of obstructions in the Detroit River; which was referred to the Committee on Commerce.

Mr. WITHERS presented the petition of Mary Howard, widow of the late Thomas M. Howard, of Campbell County, Virginia, and others, soldiers and widows of soldiers of the war of 1812, praying for a pension; which was referred to the Committee on Pensions.

Mr. CHRISTIANCY presented the petition of Phebe C. Doxsie, of Grand Ledge, Michigan, widow of James W. Doxsie, late of Company G, Twenty-seventh Regiment Michigan Infantry, praying for a pension; which was referred to the Committee on Pensions.

He also presented the petition of S. D. Bingham and others, citizens of Lansing, Michigan, praying that Mr. E. Walker, postmaster at Okemos, in that State, be repaid the amount of money and postage-stamps stolen from him by burglars; which was referred to the Committee on Claims.

Mr. WALLACE presented a memorial of the Chamber of Commerce of Pittsburgh, Pennsylvania, in favor of the repeal or radical amendment of the bankrupt law; which was referred to the Committee on the Judiciary.

He also presented the petition of Angeline C. Pusey, of Philadelphia, Pennsylvania, widow of Lea Pusey, praying for the extension of a patent granted to the decedent in his life-time for an improved arrangement of platform-scales; which was referred to the Committee on Patents.

Mr. BURNSIDE presented the petition of Samuel D. Walden and others, mariners, merchants, and citizens of Rhode Island, praying for the passage of a law authorizing the construction of a light-house on "Whale Rock" in Narragansett Bay; which was referred to the Committee on Commerce.

He also presented the petition of William S. Benjamin, late a private in the First Regiment New York Volunteer Marine Artillery, praying for the passage of a law by Congress instructing the Adjutant-General to amend the Army roll and to grant him his duplicate discharge as regimental commissary sergeant, and also that he be allowed arrearages of bounty, &c.; which was referred to the Committee on Military Affairs.

Mr. COCKRELL. I present additional papers in the case of Joseph Kinney, as administrator of the estate of David Ballantine. I move that they be referred to the Committee on Claims, to accompany Senate bill No. 235.

The motion was agreed to.

Mr. INGALLS. I present two communications from the Commissioner of Pensions, one showing the number of unadjusted cases now pending and the other the number of survivors of the Mexican war. I move that these communications be referred to the Committee on Pensions, and printed for their use.

The motion was agreed to.

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; in which it requested the concurrence of the Senate:

A bill (H. R. No. 1526) to provide for deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1878, and for prior years, and for other purposes; and

A bill (H. R. No. 805) to repeal all that part of the act approved January 14, 1875, known as the resumption act, which authorized the Secretary of the Treasury to dispose of United States bonds and redeem and cancel the greenback currency.

REPORTS OF COMMITTEES.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, to whom was referred the petition of Benjamin Holladay, praying indemnification for losses to property sustained by Indian depredations while transporting the mails on the overland mail route between the Missouri River and Salt Lake City, Utah Territory, from 1860 to 1866, reported a bill (S. No. 346) referring the claim of Benjamin Holladay to the Court of Claims.

The bill was read twice by its title.

Mr. HOAR, from the Committee on Claims, to whom was referred the petition of the New Orleans Gas Light Company, praying that the sum of $18,393.62, taken possession of by United States troops under

command of General B. F. Butler and afterward covered into the Treasury of the United States, be refunded to the company with interest, submitted an adverse report thereon; which was ordered to be printed.

Mr. BRUCE, from the Committee on Pensions, to whom was referred the bill (S. No. 127) granting a pension to Selah B. Decker, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

SENATOR FROM LOUISIANA.

Mr. WADLEIGH. The Committee on Privileges and Elections, to whom were referred the credentials of William Pitt Kellogg and the credentials of Henry M. Spofford for the same seat in the Senate of the United States, have instructed me to make a report. They report the resolution which I send to the Chair and recommend its passage.

The VICE-PRESIDENT. The resolution will be read.

Mr. WADLEIGH. I ask for its present consideration.

Mr. WITHERS. I object.

Mr. WALLACE. It lies over under the rule for one day.

Mr. EDMUNDS. We had better find out what it is first.

The Chief Clerk read as follows:

Resolved, That William Pitt Kellogg is, upon the merits of the case, entitled to a seat in the Senate of the United States from the State of Louisiana for the term of six years commencing on the 4th of March, 1877, and that he be admitted thereto upon taking the proper oath.

Resolved, That Henry M. Spofford is not entitled to a seat in the Senate of the United States.

The VICE-PRESIDENT. The Senator from New Hampshire, from the Committee on Privileges and Elections, asks for the present consideration of this resolution.

Mr. WITHERS and others. I object.

Mr. MERRIMON. Mr. President——

The VICE-PRESIDENT. The Senator from Virginia objects, and the resolution goes over under the rule.

Mr. DAVIS, of West Virginia. Let it be printed.

The VICE-PRESIDENT. The report will be printed, of course.

Mr. MERRIMON. Mr. President, the Senator from Delaware, [Mr. SAULSBURY,] the Senator from Georgia, [Mr. HILL,] and myself, upon the Committee on Privileges and Elections, dissent from the report just made by the chairman of that committee. We have embodied our views in a minority report, which I hold in my hand and send to the table, and ask that it be printed along with the report of the committee.

The VICE-PRESIDENT. It will be so ordered, in the absence of objection.

BILLS INTRODUCED.

Mr. COCKRELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 347) to remove the political disabilities of Manning M. Kimmell, late of Cape Girardeau County, Missouri; which was read twice by its title, and, together with the accompanying papers, referred to the Committee on the Judiciary.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 348) to authorize the construction of a bridge across the Missouri River at or near Glasgow, Missouri; which was read twice by its title, and referred to the Committee on Commerce.

Mr. ROLLINS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 349) to authorize the commissioners of the District of Columbia to refund certain taxes erroneously collected; which was read twice by its title, and, with the accompanying paper, referred to the Committee on the District of Columbia.

Mr. JONES, of Florida, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 350) to amend section 2288 of the Revised Statutes of the United States so as to enable citizens of the State of Florida to transfer a portion of their pre-emptions or homesteads to aid in the construction of railroads; which was read twice by its title, and referred to the Committe on Public Lands.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 351) for the relief of the Domestic and Indian Missions and Sunday School Board of the Southern Baptist Convention; which was read twice by its title, and referred to the Committee on Claims.

Mr. CHRISTIANCY (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 352) to authorize the restoration of George A. Armes to the Army; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. CHRISTIANCY. I wish to say in regard to this bill that I cannot commit myself either for or against it.

Mr. INGALLS (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 353) for the relief of George McDermott; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. CONOVER (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 354) to equalize the pay of rear-admirals on retired list; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. BURNSIDE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 355) for the relief of Henry M. Meade, late paymaster in the United States Navy; which was read twice by its title, and referred to the Committee on Claims.

Mr. WALLACE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 356) for the relief of Captain William L. Foulk; which was read twice by its title, and referred to the Committee on Military Affairs.

HOUSE BILLS REFERRED.

The bill (H. R. No. 1526) to provide for deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1878, and for prior years, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

The bill (H. R. No. 805) to repeal all that part of the act approved January 14, 1875, known as the resumption act, which authorized the Secretary of the Treasury to dispose of United States bonds and redeem and cancel the greenback currency was read twice by its title, and referred to the Committee on Finance.

AMENDMENTS TO DEFICIENCY BILL.

Mr. HOWE, Mr. BOOTH, and Mr. McDONALD submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 1526) to provide for deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1878, and for prior years, and for other purposes; which were referred to the Committee on Appropriations, and ordered to be printed.

Mr. MERRIMON submitted an amendment intended to be proposed by him to the bill (H. R. No. 1526) to provide for deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1878, and for prior years, and for other purposes; which was referred to the Committee on Appropriations, accompanied by correspondence with the Postmaster-General, and ordered to be printed.

WITHDRAWAL OF PAPERS.

On motion of Mr. INGALLS, it was

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

On motion of Mr. WHYTE, it was

Ordered, That the papers in the matter of Henry W. Hoffman, of Maryland, be taken from the files of the Senate and referred to the Committee on Finance.

On motion of Mr. MORGAN, it was

Ordered, That the papers in the case of Albert Fuller and of Moses Marshall be taken from the files of the Senate and referred to the Committee on Patents.

On motion of Mr. TELLER, it was

Ordered, That the papers in the case of Lieutenant David I. Ezekiel, Fourth Infantry, United States Army, be taken from the files and referred to the Committee on Military Affairs.

PROSECUTIONS IN SOUTH CAROLINA.

Mr. EDMUNDS. I offer the following resolution calling for information, and ask for its present consideration:

Resolved, That the Attorney-General be, and he hereby is, directed to communicate to the Senate, as soon as may be, a list of all criminal prosecutions commenced in the courts of the United States in the district of South Carolina since the 1st day of January, 1876, for offenses against the lives, property, civil rights, or right of suffrage of any person, with the names of the alleged offenders and a statement of the disposition of such prosecutions and the dates thereof.

Mr. WITHERS. Mr. President, I dislike to object to the consideration of the resolution. I have heard no objection to its passage, but I know the Senator from Vermont will appreciate the motives which prompt me to require that it shall take the regular course of procedure. Let it lie over to-day.

Mr. EDMUNDS. Certainly, Mr. President, I never fail to appreciate the motives of my friends on the other side—never. [Laughter.]

The VICE-PRESIDENT. Objection being made the resolution goes over.

PACIFIC RAILROAD LINES.

Mr. CHAFFEE. I desire to call up the resolution that I introduced some weeks ago, and which was laid over at the request of the Senator from Nebraska, [Mr. SAUNDERS.]

The VICE-PRESIDENT. The Senator from Colorado calls up the resolution submitted by him on the 8th instant, which will be reported for the information of the Senate.

Mr. WHYTE. I do not wish to interpose an objection; but if this resolution is taken up, I suppose it will be understood to be subject to a call for the regular order?

The VICE-PRESIDENT. Certainly, at one o'clock.

The Chief Clerk read as follows:

Whereas Congress did provide in the act of July 1, 1862, being an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes;" and also by the subsequent acts of July 2, 1864, March 3, 1869, and June 20, 1874, amendatory thereof, that "said railroad and branches should be operated and used for all purposes of communication, travel, and transportation, so far as the public and Government are concerned, as one connected, continuous line, without any discrimination of any kind in favor of the business of any or either of said companies, or adverse to the road or business of any or either of the others;" and upon such basis and contract with the said railroad company and its branches did grant to the Union Pacific Railroad Company and branch companies large subsidies in bonds and lands of the United States, all for the purpose of aiding in the construction of said roads, to be operated as aforesaid;

And whereas the said Union Pacific Railroad Company and its branch companies, being the Kansas Pacific Company, the Denver Pacific Company, the Central Pacific of California, the Burlington and Missouri River Company, and the Sioux City Branch, have heretofore neglected and still do neglect and refuse to operate their roads in accordance with said acts of Congress, but have heretofore operated and still do operate them in open violation of the same;

And whereas by reason of said defaults, and on account of the same, the Govern-

ment of the United States and the public have been and still are being damaged and deprived of their just and lawful rights and privileges, as stipulated, defined, and agreed upon in said acts aforesaid: Therefore,

Be it resolved, That the President of the United States be, and he is hereby, requested to inform the Senate what legal impediments, if any, exist which prevent him from executing said laws in accordance with the obligations accepted and agreements made by said Union Pacific Railroad Company and branches with the United States, as stipulated and agreed upon in the several acts aforesaid.

Mr. CHAFFEE. In the second preamble, after the word "whereas," I desire to have the Clerk insert "it is alleged." Those words were omitted by mistake.

The VICE-PRESIDENT. The resolution will be so modified.

Mr. CHAFFEE. The Senator from Nebraska I believe desired to speak on the resolution.

Mr. SAUNDERS. Mr. President——

Mr. THURMAN. Before the Senator proceeds, I beg leave to make a suggestion. If he wishes more than half an hour, I suggest to him that he had better speak on some other day. I shall feel it my duty to call up the regular order at one o'clock. But if he can conclude his remarks before that time, I shall be very glad to hear him.

Mr. EDMUNDS. I suggest to my friend from Ohio, with the permission of the Chair, that as it is a matter of a good deal of importance, it is quite desirable to have the resolution acted upon as soon as we can.

Mr. THURMAN. But I hope it will be acted upon and voted upon before one o'clock, for at that time I shall call up the matter that was under consideration on Thursday last.

Mr. EDMUNDS. Of course you can call for the regular order then.

Mr. PADDOCK. It seems to me that it will not be possible to conclude the consideration of this resolution to-day. It seems to me a matter of so great importance that it must necessarily lead to some discussion, and I would suggest to the Senator from Colorado that under all the circumstances he had better let it go over until to-morrow.

Mr. CHAFFEE. I desire to proceed with the consideration of this resolution. It is simply a resolution of inquiry addressed to the President of the United States. I cannot conceive of any great discussion that will be likely to be had upon it. I have understood that the Senator from Nebraska would only require some ten or fifteen minutes, and I would rather he should proceed at present.

The VICE-PRESIDENT. The question is, will the Senate agree to this resolution.

Mr. SAUNDERS. Mr. President, if it had met the views of the Senator from Colorado, I should have been glad to have a little more time than probably will be allowed this morning before the morning hour expires. I have, however, but a few remarks to make upon this subject.

It will be remembered that the day the resolution was called up by the Senator and the day he made his lengthy and interesting speech upon it, I presented a telegram from one of the officers of the road stating that the case was then ready for trial and would be on the next Thursday argued in the United States circuit court. I thought then that probably if that were made known to the Senator and made known to the Senate, the subject would be left for the courts, believing as I did then and as I do now that it is a judicial question rather than a question for legislative action. The Senator, however, seemed anxious to have it acted upon at that time, unless I or some other Senator should signify a desire to speak upon it. Having noticed that he had confined himself in his comparison of figures to one line of road or one branch or supposed branch of road to the exclusion of all others, I did feel anxious to see why it was that he had made a comparison with one road or one branch and left out all the others, and not being able to hear exactly what he was saying that day I did notify the Senate that I desired to say something upon the subject.

I am not disposed now or at any other time to throw obstacles in the way of resolutions of inquiry or the examination of subjects of this kind. I am aware that the resolution only calls for information from the President of the United States, and therefore I am not willing to be placed in a position to antagonize a measure of this kind. But there are legal questions raised to-day whether or not some of these roads, and particularly the one that the gentleman took such favorable notice of in his comparison, has legally and properly become a branch of the Union Pacific Railroad. It will be remembered that there were four or five different acts and amendatory acts passed upon this subject before this road could even be by construction made a part of the Union Pacific.

The original act was passed in 1862, which authorized the building of a road from the one hundredth meridian of west longitude from Greenwich, which was about two hundred and forty miles west of Omaha, three branches were authorized to be built, one to Kansas, connecting with the Missouri Pacific, one to Sioux City, and one to the Iowa State line, which afterward became the main line to Omaha. Under this act there was but one road built, and that was the road from Omaha west. Subsequently legislation in 1864 authorized these three branches to connect themselves at any point east of the one hundredth meridian, and also authorized the building of the Burlington and Missouri River Railroad to its connection.

Under the original act but one road had been built. I have no disposition to antagonize the Kansas Pacific road more than any other road. If it has legal rights it is entitled to them and ought to have them; and so far as I can do or say anything that shall go to securing those rights I will do it. But the Kansas Pacific never made any connection east of the one hundredth degree of longitude. It changed the course of its line and passed through Colorado, and stopped at Denver City, one hundred and six miles from the nearest point of the Union Pacific, and never built another foot of road. I said that it was by construction united with the Union Pacific. Let us see how that was done. It was done by the declaration of Congress passed in 1869, that the road should be considered one continuous line from Kansas City via Denver to Cheyenne, using that part of the road as the link in the chain from Denver to Cheyenne, called the Denver Pacific road. The terms upon which that was authorized was, that the road should grant in perpetuity the right of way which it held to the line to the other road; but it forever barred itself from taking any part in fixing the tariff on said road. There another question arises as to whether it has any right to come in for *pro rata* under this law when it has estopped itself from controlling in any way the tariff on that line. For the purpose of showing to the Senate what the act means, I will read a single section, leaving out the rest:

And be it further enacted, That the said Union Pacific Railway Company, eastern division—

This eastern division is the one in review, but called the Kansas Pacific now—

shall extend its railroad and telegraph to a connection at the city of Denver, so as to form, with that part of its line herein authorized to be constructed, operated, and maintained by the Denver Pacific and Telegraph Company, a certain line of railroad and telegraph from Kansas City by way of Denver to Cheyenne. And all the provisions of law for the operation of the Union Pacific Railroad, its branches and connections, as a continuous line without discrimination, shall apply the same as if the road from Denver to Cheyenne had been constructed by the said Union Pacific Railway Company, eastern division.

If it had stopped there it is very clear that they had made, as I call it, only a constructive connection with the Union Pacific line over this road; but what follows?

But nothing herein shall authorize the said eastern division company to operate the road or fix the rates of tariff for the Denver Pacific Railway and Telegraph Company.

Thereby, as I stated, they estopped themselves from having any control whatever. Right here, I think, comes in what makes the difficulty and the hard times that the gentleman spoke of in his State. They have allowed under this law that branch road to utterly destroy, and as he said throw into bankruptcy, the other road. And why? The gentleman himself showed the reason why the other day. He showed that that road had charged even in taking provisions to his country no less than $90 for a car load for a distance of one hundred and six miles, almost 100 per cent. more than the Union Pacific had charged over its mountain line for an equal distance. I say there is where the difficulty came in, and from that the troubles of Denver and Colorado have come, in my opinion. As I said, while I am not disposed to antagonize this road, because they may have rights under the law—and if they have I shall be willing to grant them all they are entitled to—yet I did feel then and feel now that I am authorized to ask that this matter be delayed and left in the hands of the courts. This matter has gone through the courts. Since I spoke on that subject the other day here it has been argued and is to-day in the hands of Judge Dillon for decision. If the Senator now insists on this resolution going to the President I wish to offer an amendment. I move to strike out the second and third divisions of the preamble, in the following words:

And whereas the said Union Pacific Railroad Company and its branch companies, being the Kansas Pacific Company, the Denver Pacific Company, the Central Pacific of California, the Burlington and Missouri River Company, and the Sioux City Branch, have heretofore neglected and still do neglect and refuse to operate their roads in accordance with said acts of Congress, but have heretofore operated and still do operate them in open violation of the same;

And whereas, by reason of said defaults and on account of the same, the Government of the United States and the public have been and still are being damaged and deprived of their just and lawful rights and privileges as stipulated, defined, and agreed upon in said acts aforesaid.

And in lieu thereof to insert:

And whereas the said Union Pacific Railroad Company and its branches are alleged to have heretofore neglected and to be still neglecting and refusing to operate their roads in accordance with said acts of Congress;

And whereas it is alleged that, by reason of said alleged defaults and on account of the same, the Government of the United States and the public have been and still are being damaged and deprived of their just and lawful rights and privileges as stipulated, defined, and agreed upon in said acts aforesaid.

I have drawn this amendment in haste. The first part of the preamble would remain as it is in the original.

The VICE-PRESIDENT. This amendment is not now in order, the resolution only being before the Senate and the rules of the Senate providing that the question shall last be taken on the preamble.

Mr. SAUNDERS. Very well. I was not aware but what the matter might be offered now.

The VICE-PRESIDENT. The amendment is received, and will be acted upon in its order.

Mr. SAUNDERS. Then I will state the reasons why I do not think the resolution as presented by the Senator from Colorado should be adopted without this or some other amendment. The preamble to the resolution as presented goes on to define this very matter that I have been talking about as to what constitutes a branch. My amendment leaves that matter as it must be left, Senators, in the hands of the courts. The original preamble goes on to define not only what constitutes a branch but naming them, making us commit ourselves whether the law says so or not that such a line shall be considered a

branch, and it is defined in a way that I think ought to be left in the hands of the courts.

What is more, Mr. President, and I call the attention of Senators generally to this subject, can the Senate afford to take this position when this subject is in the courts? The second division of the preamble reads in this way:

And whereas the said Union Pacific Railroad Company and its branch companies, being the Kansas Pacific Company, the Denver Pacific Company, the Central Pacific of California, the Burlington and Missouri River Company, and the Sioux City Branch, have heretofore neglected and still do neglect and refuse to operate their roads in accordance with said acts of Congress, but have heretofore operated and still do operate them in open violation of the same.

I ask Senators whether they are prepared to settle this legal question here in this way. It is said they have been operating these roads contrary to law. How do you know it? If Congress is going to take this matter in its hands and legislate in this way we might as well dispense with the courts, because there will be nothing left for them to do. It is a question evidently which belongs to the courts to say whether these roads have been operated according to law or not, and yet we are asked here to say that they have heretofore operated them and still do operate them in open violation of the law. I say I was not prepared and am not prepared to vote for the resolution without an amendment which shall state that they are *alleged* to have done this, and with such an amendment as I have suggested to the preamble I shall vote for the resolution.

Mr. CHAFFEE. Will the Senator allow me to interrupt him?

Mr. SAUNDERS. Certainly, sir.

Mr. CHAFFEE. I will state that I have inserted the words "it is alleged." Perhaps the Senator did not notice that.

Mr. SAUNDERS. Very well. Will the gentleman also leave out that part of the preamble which names what are branches and what are not branches?

Mr. CHAFFEE. I only allege so and so. There is nothing definite about it.

Mr. SAUNDERS. Has the Senator any objection to the amendment that I have offered, which only directs that that part of the preamble naming the lines and states that they have actually done so shall be stricken out? Has he any objection to that? If not, there will be no further question about it.

Mr. CHAFFEE. I will state, Mr. President, that I have objection to his amendment. I have only named the roads receiving subsidies from the United States as the main line and branches. The companies that I have named in the preamble are only those which have received subsidies. In the second clause of the preamble, I only state that "whereas it is alleged" so and so. There is not any definite statement that these companies are branches, it is only alleged, and as it relates only to a matter of inquiry, I cannot see any object the Senator will gain by his amendment. I prefer to let the preamble stand as it is.

Mr. SAUNDERS. The only object that I would gain in this matter is that it would leave the courts to determine the question which, as I said before, belongs to the courts. If these branches, or any others, have rights with the Union Pacific, of course the courts will give their rights to them, and must give their rights to them, under the laws which have been passed heretofore; and it is not what we shall do to-day or what we may do hereafter. That is the position which I take. I say I am a little astonished that the gentleman, having gone as far as he has, does not accept the amendment. I have only left out the names of the roads he calls branches, leaving that to be settled by the courts; and I have left out that which says positively that they have been running contrary to law, saying that it is an *alleged* fact that the Union Pacific and its branches were not discharging their duties according to law; and I have left the names of the branches to be settled by the courts.

Having taken this position I think I must insist upon my amendment. I see positive grounds here now, and the Senator himself sees them as is proved by the fact of his changing his own resolution. Hence I say I am excusable for raising this question. I am not here as the particular advocate or friend of any one of these roads, or to antagonize the interest of any one of them. They have a proud place in the hearts of the people of the country. The Union Pacific has done wonders for this country. We all ought to be proud of it, whether we are proud of its management or not. We are all proud to have the Union Pacific connecting the Pacific, and giving a direct communication with China and Japan, bringing their products through our country in as many days as it used to take weeks. I say we ought to be proud of that road which has opened up to us the gold and silver mines of the Territories as well as the large trade of California. Every man should be proud of the Union Pacific; and even so should we of the West be proud of its branches which are passing through the agricultural districts and through the stock-raising districts, and are answering beneficial purposes in their way just as well as the main line. We are proud of them all; and we want justice done to them all; but I do not want a resolution of inquiry of this kind which is to be sent to the President to find out whether the law has been acted upon and carried out faithfully, to settle for him, when the question belongs to the courts, as to what constitutes a branch, and what constitutes a main line. Leave out these names and leave out the statement that they have positively violated the law, and then I shall be satisfied to vote for the resolution.

The VICE-PRESIDENT. The question is, will the Senate agree to the resolution?

Mr. CONKLING. Mr. President——

Mr. SAUNDERS. One word more and I am done. The ground which I have taken in this matter and which I wish to be distinctly understood is this: I know that the Kansas Pacific has estopped itself from fixing the tariff on local business between Cheyenne and Denver. Probably it has greatly damaged the people of that State, but that has nothing to do with this other question. I am opposed to that road coming in and being made, as it were apparently by the argument of the gentleman, a pet measure to compare notes and figures with the Union Pacific, leaving out other roads that are equally meritorious. That was the ground on which I took up that part of the subject; and now with these remarks, the morning hour having nearly expired, and seeing that the Senator from New York wishes to say something, I drop this subject here, saying that with the amendment I have offered, or some equivalent to it, I shall vote for the resolution; without it I shall vote against it.

Mr. CONKLING. Mr. President, the operative part of this proposition is the resolution. It is that, and that alone, which calls on the President for information. I presume every Senator will vote for that. I shall vote for it. The vote, however, is to be taken first on the resolution separately, I take it, and afterward on the preamble. The preamble, in theory of proceeding, serves no purpose except to explain the action of the body in passing the resolution which follows it. Looking at this preamble in that way, I suggest to the mover of the resolution that it is hardly such a preamble in some respects as he would like to commit the Senate to vote for. He has amended it by interpolating after "whereas" the words "it is alleged that." Now I ask the Senator to hear the preamble read as that will put it:

Whereas it is alleged that Congress did provide in the act of July 1, 1862, being an act entitled.

And then the act is quoted.

Mr. CHAFFEE. The Senator makes a mistake.

Mr. CONKLING. I have the original resolution borrowed from the Clerk's desk.

Mr. CHAFFEE. The words "it is alleged" are after the second whereas.

Mr. CONKLING. I have the resolution as I took it from the Secretary. I was about to say that the Senate need hardly be mealy-mouthed in quoting an act of Congress from the statute-book; that we might assert positively without the words "it is alleged." But when you come to a subsequent narrative in the preamble, there are various things here which, whatever may be the opinion of the Senate, I suggest to the Senator it is not worth while in this form to record an opinion about. For example, it is asserted that certain roads are branches of other roads. I infer from what has been said that whether they are or not is a question, and it makes this resolution no more or no less strong for us to express an opinion on that subject. If there is a question about it, what is the occasion for our undertaking in the preamble of a resolution of inquiry, to adjudge whether, in truth, a certain road sustained a certain relation to another road, when the fact one way or the other has no influence whatever upon the call for information?

Again, it is asserted that these roads have done or have not done, have neglected to do a variety of things which are here stated. It does not advance at all the call for information. It is simply to require the Senate by a separate vote, after the resolution shall have been adopted, to express its opinion upon certain matters which the Senator who has just resumed his seat says are not only matters of controversy but pending in the courts.

Now, if my honorable friend from Colorado have any purpose, as I am sure he has not, except to obtain information on this subject, that purpose might be answered by this proceeding; but I submit to him that if his purpose is, (as it seems to be and as was shown by the very able and instructive speech which he delivered to us the other day on this proposition,) to put the Senate in possession of the information in order that the Senate and the House may see to it that all persons here concerned are not allowed to come short in their duties and obligations—if that be his purpose, then he wants this information; but he does not want prematurely and without the opportunity of its being understood to commit the Senate one way or the other upon any abstract question which has nothing to do in this regard.

Mr. CHAFFEE. The Senator is undoubtedly aware that the Senate has so committed itself time and again. In the act approved June 20, 1874, an act passed by this body, and the Senator is undoubtedly perfectly well aware of that act, it is said:

And it is hereby provided that for all the purposes of said act, and of the acts amendatory thereof, the railway of the Denver Pacific Railway and Telegraph Company shall be deemed and taken to be a part and extension of the road of the Kansas Pacific Railroad to the point of junction thereof with the road of the Union Pacific Railroad Company at Cheyenne, as provided in the act of March 3, 1869.

I was not mealy mouthed about it because I observed——

Mr. CONKLING. Before the Senator leaves that point, will he allow me a word? The act he reads, in his estimation recites and ascertains a given fact. Does he think it important to have the Senate vote that over again in the preamble to this resolution calling for information?

Mr. CHAFFEE. In answer I will say that I do not think it is committing the Senate to any new proposition.

Mr. CONKLING. In that respect perhaps not. I have said that when the Senator in this preamble recites an act of Congress there is no objection to that except that some rather strict constructionist might say that it was surplusage. It is hardly worth while to recite in a preamble, as is done here at some length, the provisions of an act of Congress; but when the preamble goes on to affirm matters of fact as it does——

Mr. CHAFFEE. I have inserted the words "it is alleged."

Mr. CONKLING. My friend reminded me that he proposes to amend this recital by saying "it is alleged." I went down to the desk of the Secretary, borrowed the original resolution with his note upon it, and was told no such amendment was pending, and going by the sight of the eye merely, I did not know it. The Senator now discloses it. That certainly improves it.

I wish for one to vote for this information. I wish to vote for anything which will give it the broadest sense; but I do not wish to have conundrums put to the Senate or catechisms of any sort as to matters which have nothing to do with this, and in respect of which the Senate might think one way or might think the other if the time had arrived to express an opinion.

The objection I make is based on what has been said this morning. I did not know that there was a contest about these facts. It seems there is; and if there is, I submit to the Senator that the proper way is to allow us to vote for the resolution, as I wish for one to do, and to vote for any part of this preamble which explains it or aids it or is appropriate to it, but to drop from it those moot questions, if there are such, upon which people differ and which are said to be pending in the courts. That is all.

Mr. THURMAN. Is the Senator from New York aware that in the original resolution the words "it is alleged" are inserted?

Mr. CONKLING. After the first word of the preamble "whereas."

Mr. THURMAN. That was a mistake of the Clerk.

Mr. CONKLING. It is not my mistake.

Mr. THURMAN. Certainly not.

Mr. CONKLING. I have the original resolution, and I am speaking from it.

Mr. THURMAN. But the motion of the Senator from Colorado was to put in those words after the word "whereas" in the second paragraph of the preamble.

Mr. CONKLING. So the Senator has said, and I admit that improves it.

Mr. THURMAN. The Clerk can correct that.

Mr. CONKLING. I took it as the resolution is and as the Senate was about to vote upon it as noted by the Secretary; and if he has made a mistake in this case, he has made one of the few mistakes he ever makes in the Senate. He is very careful about it. I not only took his resolution, but asked him whether any other amendment was pending except the one proposed this morning, and he said no. Therefore I called attention to it, because as is now confessed all around it would have been quite unfortunate for the Senate in a lump to take this preamble with the words "it is alleged" preceding the recitation of an act of Congress and making all the other allegations upon the absolute knowledge of the Senate.

The VICE-PRESIDENT. The question is will the Senate agree to the resolution.

Mr. EDMUNDS. I should like to hear it read again to see where "alleged" comes in.

The VICE-PRESIDENT. The preamble and resolution will be reported.

The Chief Clerk read as follows:

Whereas Congress did provide in the act of July 1, 1862, being an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes;" and also by the subsequent acts of July 2, 1864, March 3, 1869, and June 20, 1874, amendatory thereof, that "said railroad and branches should be operated and used for all purposes of communication, travel, and transportation, so far as the public and Government are concerned, as one connected, continuous line, without any discrimination of any kind in favor of the business of any or either of said companies, or adverse to the road or business of any or either of the others;" and upon such basis and contract with the said railroad company and its branches did grant to the Union Pacific Railroad Company and branch companies large subsidies in bonds and lands of the United States, all for the purpose of aiding in the construction of said roads to be operated as aforesaid;

And whereas it is alleged that the said Union Pacific Railroad Company and its branch companies——

Mr. CONKLING. That is the amendment now proposed, as I understand "it is alleged."

Mr. EDMUNDS. That is the modification.

Mr. CONKLING. That is the amendment of the mover.

The VICE-PRESIDENT. The Senator from Colorado modifies the resolution, as he has a right to do under the rules.

Mr. CONKLING. No doubt of it; I only wanted to know the fact.

The Chief Clerk resumed the reading, as follows:

And whereas it is alleged that the said Union Pacific Railroad Company and its branch companies, being the Kansas Pacific Company, the Denver Pacific Company, the Central Pacific of California, the Burlington and Missouri River Company, and the Sioux City Branch, have heretofore neglected and still do neglect and refuse to operate their roads in accordance with said acts of Congress, but have heretofore operated and still do operate them in open violation of the same;

And whereas by reason of said defaults, and——

Mr. CHAFFEE. I desire to have a correction made that I tried to have made before, "and whereas it is alleged that." Those words should be inserted again in that part.

The Chief Clerk read as follows:

And whereas it is alleged that by reason of said defaults, and on account of the same, the Government of the United States and the public have been and still are being damaged and deprived of their just and lawful rights and privileges as stipulated, defined, and agreed upon in said acts aforesaid: Therefore,

Be it resolved, That the President of the United States be, and he is hereby, requested to inform the Senate what legal impediments, if any, exist which prevent him from executing said laws in accordance with the obligations accepted and agreements made by said Union Pacific Railroad Company and branches with the United States, as stipulated and agreed upon in the several acts aforesaid.

Mr. CONKLING. Mr. President——

SENATOR FROM SOUTH CAROLINA.

The VICE-PRESIDENT. The morning hour having expired, there comes over from the session of Thursday last as unfinished business the resolution offered by the Senator from Ohio, [Mr. THURMAN,] which will be read for the information of the Senate.

The Chief Clerk read as follows:

Resolved, That the Committee on Privileges and Elections be discharged from the consideration of the credentials of M. C. Butler, of South Carolina.

The VICE-PRESIDENT. The question is, will the Senate agree to the same?

Mr. DAVIS, of Illinois. Mr. President, the contest now going on in the Senate has attracted the attention of the country; and from the peculiar position I occupy in relation to parties, I trust it will not be deemed out of the way if I briefly state the reasons that influence my mind to vote for the motion of the Senator from Ohio.

There are three seats vacant in this body, and it is a matter of the gravest concern to the people of South Carolina and Louisiana that those seats should be filled. Our legislation is binding on them, whether they are represented here or not, and they have a right to expect that the claims of the different contestants should be considered and passed upon at the earliest practicable moment. I supposed when this session opened that all these seats would either be filled or declared vacant before it ended. It is now too late to expect such a result, and we are met with the motion of the Senator from Ohio to discharge the committee from the consideration of one of the cases, which has not been investigated by the committee.

I had no agency in bringing forward this resolution. The mover doubtless knew what I never attempted to conceal, that my judgment did not approve the policy which has been pursued toward the South since the close of the rebellion, and that I thought the Southern States should be represented by persons who are identified with the interests of their people; but whether one or the other of these contestants is entitled to a seat on this floor under the law, and if so which one, I express no opinion about.

It is objected that this motion is against the usages of the Senate. This may be so, as a general thing, but there are exceptions to this rule; for the Senator from Delaware [Mr. BAYARD] a few days ago cited a case directly in point, and, if it be allowable to refer to the proceedings of the House of Representatives, only the last week a Representative from Maine moved to discharge the Committee on Elections from the further consideration of the Colorado contest on account of unnecessary delay. No one objected that that motion was either improper or unusual, and it resulted in fixing a day for the report.

The practical inquiry arises, why should this case be continued longer in the committee? If oral testimony were needed to decide it, it should not be withdrawn; but it does seem to me that this testimony is not required, and that the case can be decided on the facts which the respective contestants agree upon.

It is easy to see that there is a difference of thought and opinion in the committee upon the legal conclusions deducible from those facts, and that this would result in making two reports. Why wait for them? They would undoubtedly be able, and would shed light on this subject; but we can as well in the open Senate get this light. Besides, in the evenly-balanced state of parties here, it is very clear that reports upon such a subject differing radically in the conclusions would not receive the consideration and attention which reports upon the ordinary business of the Senate are entitled to and do receive.

The committee to-day has reported upon the Louisiana contest. I would as lief have voted upon that case as upon this; and if this report had been made before the motion of the Senator from Ohio, I should have voted against his motion; but the Senator from Ohio made his motion a week ago. In my opinion it should be first considered. I do this, Mr. President, with perfect respect for the committee, for each member of it, and without intending the slightest discourtesy. I believe that now is the proper time to consider this case in open Senate, and to determine the respective rights of the parties.

The VICE-PRESIDENT. The question is, will the Senate agree to the resolution?

Mr. EDMUNDS. Mr. President, I believe my honorable friend from Illinois [Mr. DAVIS] is partly correct in speaking of the evenly balanced state of parties in the Senate. Whether he referred to all the parties in the Senate or not, I do not know. [Laughter.] There are two parties in the Senate that are very nearly evenly balanced. How it is with the third, I do not know. [Laughter.]

Mr. DAVIS, of Illinois. The third is unanimous. [Laughter.]

Mr. EDMUNDS. I assume that the third party is unanimous, as

my friend has just stated. [Laughter.] I hope we shall have order, Mr. President; I cannot go on.

The VICE-PRESIDENT. That rests with the Senator from Vermont. [Laughter.]

Mr. EDMUNDS. Then we shall have order. The very statement that my honorable friend has made leads me to think that if he would reflect a little he would see its error. It is only the other day that my friend himself in respect of the case of Eustis—I think that is the name, one of the Louisiana people, which on the face of it was a simple question arising on the state of the papers as they were read here by a Senator, saw with his usual quickness and clearness of apprehension that there was a question of law involved, one that ought to be considered (as he stated, I believe, himself) by a committee and reported upon, not a dispute of facts, but that the committee ought to report after a careful study and investigation and examination of authorities and of political history, and so on, in order that the Senate might be informed of the state of the law. But what says my friend now, in a case from South Carolina? There he thinks there is no dispute of facts, because he says the facts are conceded in the two briefs. I do not know that. What authority has the Senator for saying that the facts are conceded? It may be that some honorable friend of my political way of thinking may rise in his place and say that he disputes the facts asserted in the brief of Butler. It may be that some gentleman on the other side of the Chamber, belonging not to my friend's party or to mine, may rise and say that he does not agree to the facts stated in Mr. Corbin's brief. How are we to know, then? There is the difficulty, and it is impossible to get over it upon any other theory than that we are to take it up as the Senator says we are likely to do, and to merely exert the physical strength of party votes, without regard to the law or the facts, in order to see who is the strongest to put in his political friend. Would that be a good thing for the Senate of the United States to do? I do not think it would. I have had some occasion to be reviled in times gone by, when parties were perhaps not quite so equally divided as they are now—there were only two then and there are three now—for thinking that there was value in an inquiry into the senatorial question in Louisiana and voting according to my convictions of the law as they appeared to me upon the facts reported by the committee against the opinions of a very large majority of my political associates.

Now, the evident tendency of what my friend proposes is to compel me in exactly the way he states it to follow my party wishes, because I cannot get at the facts and have no time to study the law—I do not know what the truth is—to make all the presumptions in favor of one side. How it will affect him I do not know. As he has no presumptions in favor of either, he would have to shut his eyes and "go it blind," and, as he says, "first come first served;" the first man that is proposed he would have to vote to let in, for all that I can see. That would hardly do, Mr. President. The mission of this body in respect of who compose it is not a party mission. There was a time, some twenty years ago, a notable case in respect of certain Senators from Indiana, where it is true that party heat and party prejudice, according to the universal judgment of intelligent mankind afterward, set the Constitution and the laws at defiance, and seated two men of a particular party; but it has not been true of late, as bad, as corrupt as parties are said to be, because parties have divided and some members of parties, of one party, I will not say of both, because I believe it would not be true—but some members of one party have voted against the admission of one of their own political friends. Now does the Senator wish to drive all the members of that party, which still has some little vitality left, I suspect, to do the same thing because they do not know what the facts are? If he does, he is taking a very good way to do it. I do not think that he can succeed. We shall see.

But my friend says that there would not be any practical value in this report because it would be a divided report. Is there any practical value, let me ask my honorable friend who has so lately come from that serene hall of justice a little way off, in the judgment of a court that is not unanimous? Is there no value in the arguments of counsel? Is there no value in the consultations and investigations of judges, although it may happen in the end that they do not all concur in opinion? My friend would not say that. He would say exactly the reverse. Wherefore, then, is this hot haste to do this anomalous and extraordinary thing which, in respect of a seat of a Senator, I venture to believe—I have not looked up the precedents—has never been done or proposed before, in order that this claimant, this one claimant from the State of South Carolina, shall have his case passed upon without investigation and without inquiry. Can anybody answer the question?

It is said the committee have been dilatory. The committee say that they have not; that they had many cases, and they took the first one, and have deliberately and diligently proceeded with it, and have now reported it; and it is stated in the newspapers of only yesterday or the day before that this very applicant from South Carolina, his case coming on before the committee, had applied to have it postponed. Of course I do not know the secrets of the committee; I do not know how they get out. I do not know but that such hearings are public; and, if they are, of course it is the right of everybody to know them. If that be true, is my honorable friend from Illinois in such a hurry in respect to this matter that he is willing to force this gentleman into the Senate against his own wish for a postponement? Of course he is not. I know my honorable friend too well; I have respected him too long to suspect such a thing. I therefore appeal to him to reconsider these suggestions that he has made, and to think whether it is not better for truth, for justice, for the law, that we should have even a divided report upon a mere question of law if that be well. We shall know then that it is a mere question of law, and nothing else, and shall have the respective views of Senators who are charged with the duty of investigation upon it, in order to furnish light for our own guidance and our own instruction. Let us take up that case which the committee has reported, and which of course is of just as high privilege as the other, we all agree, and consider that; and before we shall have finished the consideration of that I have not the least question we shall have the report in this; and then we shall go on fairly, duly, justly, and shall not have inflicted a blow upon the fundamental principle of the constitution of this body in respect of the members that are to belong to it by turning it into a mere race and scramble of partisanship or a corrupt bargain or sale of votes if, as is alleged, that is the case which makes it necessary to hasten this matter.

Mr. McDONALD. Mr. President, I should like to ask the Senator from Vermont if he has any evidence of any corrupt bargain having been had in respect to this or any other matter?

Mr. EDMUNDS. I said "as is alleged." I will answer my honorable friend a little further, however, and say that I do not possess myself any legal evidence, because I have sworn no witnesses. I will state for his information that I believe it, and I will add also that I believe, unless the majority of this body should stifle an inquiry, it will be proved.

Mr. McDONALD. I desire to say that I believe offers have been made from the other side.

Mr. EDMUNDS. Certainly. Mr. President, my honorable friend has now added to my statement an important circumstance. I had not suggested that there was any proof against my honorable friend. I do not care which side of this Chamber a Senator sits who is in any way implicated in any corrupt bargain or improper proceeding, he must be dealt with; and if the Senator is correct in his information and belief he ought to unite with me. Before we admit anybody that has anything to do with such an affair into this Senate or keep him in, we should have an inquiry.

Mr. McDONALD. I shall join with the Senator at any time in seeking an investigation into that fact whenever he is ready for it.

Mr. EDMUNDS. Certainly my friend will have an opportunity if he lives a very short time. My honorable friend from Illinois has stated what I was very sorry to hear him state; there is nothing improper in the fact itself, but he has referred to the proceedings in another branch of the legislative department of the Government.

Mr. DAVIS, of Illinois. I did not know that was not in order.

Mr. EDMUNDS. And he has brought that forward as an illustration, or an authority, or a consideration for this step, which he says he is about to take, to discharge this committee. I cannot go into those proceedings to show him or to show you that my friend has misapplied the instance, in my opinion, because I am forbidden by the strict rules of parliamentary law and by that other consideration which should appeal to every member of this body and to every member of the other, and would to my friend, as I know, that we cannot go into the discussion of what takes place in either House independent of the mere rule, but upon principles of the highest propriety. Of course, if we can debate those proceedings at all, we must debate them fully; we must go to the bottom of the matter, and we can all see that that would naturally lead in many instances to a state of feeling, of bitterness, of misrepresentation, of collision, and of everything that is bad in government, which cannot be endured. That is the principle upon which the rule rests. If I were at liberty to refer in the slightest degree to what has taken place, I should feel authorized to state from the published proceedings that that body, true to its high dignity and its sense of justice, on a mere question of law on the face of the papers, declined to discharge its committee. But, as I say, I cannot go into it at all.

Mr. President, I hope that my honorable friend from Illinois and my honorable friends on the other side of this Chamber will be willing that this body shall proceed now to do those things in the last stages of its called session which are of the most absolute importance to do, and which I cannot more particularly refer to with the doors open than I now do, and then proceed with these matters of privilege in their due order. To that end, I move that the Senate proceed to the consideration of executive business.

The VICE-PRESIDENT. The Senator from Vermont moves that the Senate proceed to the consideration of executive business.

Mr. DAVIS, of Illinois. Will the Senator withdraw that motion?

Mr. EDMUNDS. I withdraw it if my friend will renew it.

Mr. DAVIS, of Illinois. Of course. I do not wish to say anything in reply to the speech of the Senator from Vermont except where he accuses me of inconsistency. He says that in the early part of the session I was unwilling to vote upon the Eustis case, and requested that that should be referred. It was perfectly clear that that was a question of law, but I had never examined it, never had heard of the case really, and it did seem to me that it ought to be examined; but it has been a month since that took place, more than a month, five weeks; and, if that was a simple question of law, why has it not been

reported upon? I then supposed that this committee would speedily report upon all these cases.

Mr. EDMUNDS. The same reason exists, probably, for that—I do not know anything about it—that often exists in the place from which my friend has so lately come, where it takes a good while to dispose of a disputed and doubtful question of law.

Now, Mr. President, I renew my motion.

Mr. DAVIS, of Illinois. I was about to renew it.

The VICE-PRESIDENT. The Senator from Vermont moves that the Senate now proceed to the consideration of executive business.

Mr. WHYTE called for the yeas and nays, and they were ordered.

The Secretary proceeded to call the roll.

Mr. EATON, (when Mr. BARNUM's name was called.) My colleague [Mr. BARNUM] is paired with the Senator from Maine [Mr. HAMLIN] on all questions of this character.

Mr. EATON, (when his name was called.) Mr. President, owing to a terrible calamity in the family of the honorable Senator from California, [Mr. SARGENT,] he is compelled to be absent, and recognizing the propriety of doing so, I have paired with him upon this and all questions of like character.

Mr. HILL, (when his name was called.) For a reason which I deem entirely sufficient and proper I have agreed to pair to-day on all political questions with the Senator from Alabama, [Mr. SPENCER.] If he were present, he would vote "yea" and I should vote "nay" on this motion.

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

Mr. MAXEY, (when his name was called.) On political questions I am paired with the Senator, absent, from Michigan, [Mr. FERRY.] Were he present, I should vote "nay" and he would vote "yea."

The roll-call was concluded.

Mr. COCKRELL. My colleague [Mr. ARMSTRONG] is paired with the Senator from Kansas, [Mr. PLUMB.] Were my colleague here, he would vote "nay" and, I presume, the Senator from Kansas would vote "yea."

Mr. ALLISON. The Senator from Maine [Mr. BLAINE] is paired with the Senator from Oregon, [Mr. GROVER.] The Senator from Maine would vote "yea" and the Senator from Oregon "nay," I presume.

Mr. CONKLING. Although the Senator from Connecticut has alluded to the fact, at the request of the Senator from Maine [Mr. HAMLIN] I state that, being compelled to return to his home, he paired upon this and like votes with the colleague of the Senator, [Mr. BARNUM.]

Mr. McMILLAN. My colleague [Mr. WINDOM] is also necessarily absent from his seat, and is paired, as stated by the Senator from Virginia, [Mr. JOHNSTON.] My colleague would vote "yea" if he were present.

The result was announced—yeas 28, nays 30; as follows:

YEAS—Messrs. Allison, Anthony, Booth, Bruce, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Christiancy, Conkling, Dawes, Dorsey, Edmunds, Hoar, Howe, Ingalls, Jones of Nevada, Kirkwood, McMillan, Matthews, Mitchell, Morrill, Oglesby, Paddock, Rollins, Saunders, Teller, and Wadleigh—28.

NAYS—Messrs. Bailey, Bayard, Beck, Cockrell, Coke, Conover, Davis of Illinois, Davis of West Virginia, Dennis, Garland, Gordon, Harris, Hereford, Jones of Florida, Kernan, Lamar, McCreery, McDonald, McPherson, Merrimon, Morgan, Patterson, Randolph, Ransom, Saulsbury, Thurman, Voorhees, Wallace, Whyte, and Withers—30.

ABSENT—Messrs. Armstrong, Barnum, Blaine, Eaton, Ferry, Grover, Hamlin, Hill, Johnston, Maxey, Plumb, Sargent, Sharon, Spencer, and Windom—15.

So the motion was not agreed to.

Mr. CHRISTIANCY. Mr. President, if there are no facts now in dispute in the South Carolina case, the contest between Mr. Butler and Mr. Corbin, that was equally true at the time of our executive session last March. If the credentials of those two gentlemen and the contest between them at that time constituted a good ground for the reference of that contest and those credentials to a committee, then my friends upon the other side of the Chamber were right in voting to send those matters to a committee and I was right in voting with them for that purpose. If there were no facts in dispute and no question of law in dispute which rendered it proper to send that case to a committee, then my friends on the other side were wrong in voting to send it to a committee and I was wrong in voting with them to that end. The question stands to-day just as it stood then. Having voted to send that case to a committee, I can see no ground on which I could justify a vote for discharging that committee, unless I were satisfied that they had purposely omitted their duty or proceeding as rapidly as possible with the business of that committee. After the explanations that have been made here by the members of that committee and after hearing, as I heard the other day from the Senator from Georgia who occupies a place upon the committee, [Mr. HILL,] that he did not impute to them any want of good faith in their proceedings in the business of the committee, I cannot vote to discharge that committee without casting an imputation upon them. I therefore shall not vote to discharge them.

I wish further to say that I am as anxious as the gentleman from Illinois who has just addressed us for the speedy decision of this case. I feel the importance, and have all along felt the importance, of coming to as speedy a decision as was practicable, for the purpose of allowing those States to be represented. I agree with the gentleman from Illinois upon that point. There is no dispute between us; but I wish to proceed in a proper and orderly manner, so as to get hold of the facts and to have the committee investigate both the facts and the law to learn just what is in dispute. I think it would shorten the discussion here. It is my belief that before we get through with this discussion it will be found that there are facts in dispute as well as law; but so anxious have I been for a speedy report upon all these cases of contested elections of Senators that I have spoken to more than one member of that committee and said to them in plain words that, unless they were proceeding in good faith with the utmost fidelity and with the utmost speed to dispose of these cases, whenever I became satisfied that there was any intentional delay merely for the sake of delay, I should vote to discharge the committee. Such has been my feeling from the commencement, such it is now. But, supposing the committee would make a report, I have entirely neglected to investigate the facts, and without the facts it was impossible to investigate the law to any extent. I do not wish to take up the case piecemeal and have it all to go over again; and, if the vote is taken now, it may be I shall have to vote in the dark, as was said by the Senator from Vermont.

But this one thing I will say, I do not know upon investigation up to this hour which way I ought to vote upon that question; but if it is possible for me to find out what the law is, as applied to the facts when ascertained, I shall vote according to the law, and just as readily if the vote should be in favor of Mr. Butler as if it should be in favor of Mr. Corbin, and so I shall with all the other cases which may come up. I intend to follow what I believe to be the law. But if the Senators on the other side will not give us an opportunity of having a report of a committee so as to concentrate somewhat the matters of law and fact and to get the necessary facts together in a logical order, that I can investigate them, I shall be compelled to vote in the dark.

Mr. HOWE. Mr. President, my own political position is somewhat peculiar, I fear, and perhaps I ought to say a word or two in justification of the vote I propose to give on the pending motion. The case is evidently one full of interest. It could not well help being so. Other struggles on other fields not less important than this have transpired before to-day. Dominion has been transferred from one dynasty to another by movements quite as sudden and quite as unexpected as that by which it is now proposed to transfer the Senate from one party to another. I am very glad, sir, that so large a portion of the world as can crowd these galleries come here to see the thing done. I would not quite like that the delivery should be made without an audience. The honorable Senator from Georgia [Mr. HILL] the other day avowed himself to be the victim of surprise. He will allow me to offer him the tribute of a heartfelt sympathy. Here is another victim standing here. He was surprised, if I understood him, at a certain resolution agreed to in a committee of which he was a member. I was surprised at the mere making of the motion we are now considering—utterly surprised, and have not recovered from it yet. Perhaps I ought not to have been surprised by the making of that motion, nor by the success which seems so far to have attended it. Perhaps if I had been as well informed as a Senator should be, I would not have been surprised. Perhaps if I had been as well informed as some citizens of the Republic who are not Senators, I would not have been surprised. This motion was made on Tuesday last, and the world was notified of it in the press of the next morning. I saw in a journal issued in this city on Thursday morning an extract from a newspaper published in the city of Pittsburgh, the date not given, but the paragraph must have been been read in Pittsburgh before the honorable Senator from Ohio launched his motion upon the Senate, and which called the attention of its readers at that early hour of that early day to the struggles which the journalist thought was even then pending in the Senate; and while I was sitting here altogether unconscious of the blow impending, the citizens of Pittsburgh were aroused with the first notes of the struggle and with the detail of the forces by which the great end was to be accomplished.

Mr. President, why ought this committee to be now discharged from the consideration of the subject referred to it in March last? Various reasons have been urged. It is said that seats which ought to be filled are still vacant. The fact is undeniable. We do not ask the Senate to postpone for an hour the work of filling seats. There are two seats vacant from a State which is not called South Carolina. Touching the merits of the claimants to one of those seats, we are at last advised after the fullest consideration of a committee of this body. Their report is spread before us. If it be the sole object of Senators to fill seats, and they are willing to do it advisedly, would as lief do it after consideration as before, why not proceed now to consider the report made this morning? To that objection is made, and the objection of a single Senator puts the consideration of that case beyond the power of the Senate for the day. I submit; but I reply that while the Senate sits here declaring that it will not consider a claim upon which you have the advice of your committee, gentlemen ought to assign some other reason than the mere vacuity of a seat for insisting that we shall now proceed to consider the claim urged to a seat upon which we have no advice, no information, no report.

Mr. President, we have already been reminded that these credentials were referred to a committee in March last. The Senator from Ohio in bringing forward this motion the other day urged it upon the ground that there was no disputed fact in the case. He may be

right; but every fact is in the case to-day and every disputed question is in the case to-day that was in it in March last. Then there was not upon this floor the Senator so well informed that he felt equal to the responsibility of voting on this question, and when the proposition was made to refer the credentials of these claimants to a committee there was not the Senator upon the floor who had an objection to urge against it. With the unanimous consent of everybody in the Senate the reference was made. The seals were knocked off the doors of the committee-room the other day, and we have had a full history of what has taken place in the committee, and from that narrative it appears that from the day the reference was made down to this there not only has not been a fact laid before the committee, but there has not been a motion made in the committee with relation to this matter; there has been no complaint of delay, no hint of want of diligence, no member of the committee of any political party, of either of the three political parties which have been referred to this morning, has complained of delay in making the report or taken the first step to end that delay. While the committee was doing the work assigned to it in the way and with a diligence satisfactory to every member of it, a portion of the Senate seems to have become impatient and this motion is launched upon the Senate, not to terminate their deliberations, but to forbid the committee from beginning deliberation upon this question. How does it happen that, when in this Senate there was not a man who did not in March last seek the advice of a committee of the body, there was so large a number of the Senators perfectly willing to forego the investigations and the advice of that committee on Wednesday last?

The Senator from Delaware [Mr. BAYARD] appealed to the sense of honor which he thought ought to animate the Senate. He seemed to inquire rather complainingly if there were not left in the Senate of the United States a sense of the obligations of any kind of honor except those springing from financial obligations. The criticism, I think, with all respect to the Senator, was a little too general. If there is anything in this particular claim which addresses itself to the honor of the Senate peculiarly, I do not think the intimation should have gone to the country that the whole Senate was insensible to the dictates of honor. There certainly were thirty democrats on this floor as keenly alive to the dictates of honor as the Senator from Delaware could ask, and it seems that there were two republicans, so far as we can judge from their votes on this question, as keenly alive to the dictates of honor as the Senator from Delaware was, as ready to respond to the calls of honor, and who responded quite as promptly, if not as enthusiastically, as the Senator from Delaware.

But, certainly, Mr. President, I think there is no claim upon the honor of the Senate to attend to this particular case to the exclusion of both the other cases which have been presented to the Senate and one of which comes back to the Senate from the committee again this morning. But if no good reason can be assigned why this committee should be discharged, we may just as well discharge it if there is no good reason why it should not be discharged; but I have a good reason for not agreeing to that discharge myself. I am one of the unfortunates here, one of the laggards in investigation. I do not know what this South Carolina question is. I have thought I had a right, under the rules of your body, to the advice of a committee since you had sought it, and I thought I might much more safely for the cause of justice wait for that advice than undertake to investigate for myself. Besides that, I thought I had a very good excuse for not attempting to investigate it. I happened to be myself a member of several other committees of this body, and the labors of some of those committees, it is well known to the Senate, have occupied a great deal of time since this session commenced. I have had no time to expend upon the South Carolina question. Until within the last twenty-four hours I could have given not the most shadowy statement of what the South Carolina question is. I happened to meet with my colleague, [Mr. CAMERON,] who is better informed than I am, and putting to him some few questions, leading perhaps, I am able to say that I have an impression about it this morning, but not the impression upon which I should like to vote. I think I have a right to ask as one man, at least I have a right to vote as one member of the Senate, not to meet the issue in this case until I can be authentically advised by a committee of the Senate. And for this reason, a reason perhaps which holds good with no Senator on this floor save myself, I shall feel compelled to vote against this motion; and I think with these remarks I shall be content to rest my defense of my own vote.

Mr. PATTERSON. Mr. President, it was not my intention to address the Senate to-day. I propose to-morrow on the main question to address the Senate at some length; but if I can say anything that will quiet the alarm of my republican friends on this side of the Chamber I want to do it. The republican party has been a brave party; but I never saw it so fluttered in my life as it is just now, and for no cause in the world. What is the question before this body? The question is on a resolution to discharge the Committee on Privileges and Elections from the consideration of the case of M. C. Butler, of South Carolina. Gentlemen who rise on this side of the Chamber and find fault with certain persons, their associates, for voting as they do on this resolution, should first admit and confess whose fault it is that this motion is before us to-day. We have been in session since the 15th of October, and there has been no movement, no report from the Committee on Privileges and Elections in regard to any of these cases. Every Senator on this side of the Chamber has known the anxiety that reports should be made on these cases. Frequently have I told my friends on this side of the Chamber that if the report in the Kellogg case came up I would stand by that report until it was settled; and I never told a democrat on the other side of the Chamber except General Butler that if this motion was made in his case I would vote for it in preference to voting on Kellogg's case. I told General Butler that if the Kellogg report was delayed and not brought up until after his friends should bring up the motion for his admission I would stand by the motion in his favor. Now, if that is corruption, call it corruption, and make the most of it.

Mr. President, I am a Senator on this floor. I have taken the same oath that every other Senator has taken; I propose to do my duty; and there is no power in the Senate or out of it that can drive me from what I believe is right. I am prepared to give the Senate and the country the reasons why I vote for the admission of M. C. Butler as a Senator from South Carolina, and I am ready to stand or fall upon the verdict of the public when I give those reasons. There has been so much said on this question in the newspapers and on the streets that I do not propose to reply to it; but I do propose to reply to some things that have been said here. It is said that I propose to transfer the political power of this body to the democratic party. No man living has authority to quote me for such a purpose. I would sooner lose my right arm than do anything to endanger the supremacy of the republican party. If voting for General M. C. Butler because he is honestly and fairly elected is to destroy the republican party, God knows it ought to be destroyed very soon. The republican party cannot be affected by a question of right; but gentlemen ask me to do wrong. Seating General M. C. Butler makes but one more democratic vote on the opposite side of the Chamber. It is not my fault that the case of Kellogg is not before the Senate and that his case was not voted upon before the case of General Butler was brought up. I had no control over this matter. If it had been left with me, I would not have brought up this resolution, but it is here, and I stand here to represent the people of South Carolina. When I vote for General M. C. Butler, I know I am voting to carry out the will and the wish of the people whom I have the honor to represent on this floor. They believe he was elected. The courts have decided that the Legislature which elected him is a legal and a lawful body, and I am bound to obey their mandate; and I propose to do it.

Now, Mr. President, some people affect surprise at my vote. There is not a Senator on this side of the Chamber who does not know that it was published all summer that I would vote for the admission of General M. C. Butler. When the Legislature met under the call of Governor Hampton on the 24th of April, 1877, I was at Columbia. The Chamberlain government had vanished. Whose fault was that? I think there are around me some gentlemen who stood by the President and who advised the President to commit what I think the greatest blunder of his administration, and that was to remove the troops from the State-house in South Carolina. I fought that policy as long as I could, and I wish I could have continued to fight it until this day; but I was stricken down and my party went down with me.

My friends assembled in Columbia after the Legislature was organized. I took their advice upon this question; lawyers and members of the senate and members of the house, who had voted for me. I submitted to them the question: "Now, what must I do?" and they all told me, with very few exceptions: "All you can do now is to vote to seat Butler. They say the Hampton Legislature is legal, lawful, and constitutional; we think it is better for the peace and quiet and protection of our people that you should not antagonize them on that question, and that you should vote to seat General Butler." I have plenty of witnesses here to the truth of that statement. I returned to Washington in May. I had an interview with a reporter of the National Republican of this city, in which I announced distinctly that I would vote for Butler's admission and gave the reason. It went all over the country. But now, because my friends on this side of the Chamber, who believed I would not do it, who believed they could persuade me not to do so—perhaps some of them were silly enough to believe they could bulldoze me into not doing it—affect great surprise. After what I have passed through in South Carolina in eight years in political campaigns, I do not propose to be bulldozed in this Senate. It is not a good place to wind up the bulldozing operation. To show the feeling of the republicans in South Carolina, I may mention that on last Thursday, when this subject was before the Senate, and before I had voted upon it, I received a dispatch, which I shall read, from a friend in New York, a citizen of South Carolina, one of the most prominent republicans there and a man who spent as much money in the campaign last year as any man in the State to secure you your seat, Mr. President, and Mr. Hayes his seat. He telegraphed from New York to me as follows:

NEW YORK, *November* 22, 1877.

Hon. J. J. PATTERSON, *Senate:*

Stand firmly by Butler. It is the only hope we have got.

There is one rule I have always followed in life, and that is to take the advice of friends and people who are as much interested as myself in the question; and it is a pretty safe rule. I am very sorry

that Gen. Butler is a democrat. I wish he were a republican; but I cannot change him. It is not my fault.

My friend from New York, [Mr. CONKLING,] for whom I entertain as much respect as I do for any man in this Chamber, in his good-natured way the other day talked about holy or unholy alliances. Well, I do not know whether he referred to me or not; but I am voting to seat M. C. Butler, and I suppose that gives color to the idea that I have formed some alliances with the democratic party. I have no doubt it is a surprise to the democrats, because this is the first time they ever got any aid and comfort from me. I have been in this Senate nearly five years, and you can refer to my record. My record has been straight and square; I never voted to lower the flag; some others did; I did not.

I do not know what my friend from New York refers to by "holy or unholy alliances." I have stated all I have had to do with this question. If that is a holy alliance, or if it is an unholy alliance, or if it is a corrupt bargain, let the world know it, and I will take the responsibility of my action before my people and before the country. I am first responsible to my people in South Carolina for my action here, and I will let them say whether it is a corrupt bargain; I will let them say whether it is a holy or an unholy alliance for me to vote for the man of their choice when he was fairly, and honestly, and legally elected. I call upon the democrats on the other side of the Chamber to say whether I ever offered any terms to them or proposed any? I have a recollection of talking to perhaps the Senator from Mississippi, [Mr. LAMAR,] and the Senator from Georgia, [Mr. GORDON,] and telling them that I would vote for Butler, and also to my friend from North Carolina, [Mr. RANSOM.] I know distinctly I have told him over and over again that I would vote for Butler.

Mr. LAMAR. Will the gentleman allow me a moment? I think he is under a misapprehension. I have no recollection at all of his ever having made any such statement to me.

Mr. PATTERSON. I cannot recollect. I know I did not talk to many but I thought I had spoken to my friend from Mississippi. It makes no difference, however; but this is what I want to say: that if there has been any unholy alliance or any bargain I am not a party to it. I say right here to the Senator from Vermont that I hope he will ask the Senate to appoint a committee of investigation and let us see whether there has been formed a corrupt bargain, and I want the world to know whether I am a party to it. I challenge such an investigation; and I say it is not fair, I say it is not kind, to use no harsher words, for a Senator to rise on this floor and assert that he believes there has been a corrupt bargain because two of his fellow-Senators choose to vote differently from what he does. The Senator from Vermont voted against the admission of Pinchback. Why? Because he thought it was right to vote that way. Did I, who voted for Pinckback's admission because I thought it was right to vote that way, get up in this body and charge a corrupt bargain? No; I have too much respect for him and too much respect for myself to do such a thing. He had a right to vote against Pinchback's admission. Why? Because he thought he was not elected. I voted for his admission, not because he was a republican, not to maintain a republican supremacy in this body, but because I believed he was elected. Right here now, republican Senators, because I am a republican Senator, bring up any question of party if you dare before this body; bring up any question that is legitimately a party question, if you dare, and I will vote as squarely as any of you. Make a motion to reconsider the vote on Pinchback's case and I will vote to seat him. How many of you will do that? Where are those gentlemen who voted to keep him out? I saw in a newspaper that some Senator who had voted to keep Pinchback out said he wished he had voted to put him in. Now let that Senator get up and make a motion to reconsider that vote and let us have that question over again; and I will vote for him just as I did before.

Mr. President, I have talked a great deal longer than I intended to do. I have some feeling about this matter. I am acting upon my own responsibility, and I propose to do it. I have been read out of the republican party because I am casting this vote. By whom? Who is the man who has the right to read me out of the republican party? There is not a man upon this floor, I do not care who he is, who was in the republican party one hour before I was. I have been a consistent member of the republican party since its organization. I never voted for a democrat in my life for any office. If God lets me live, I never will. I never bolted a ticket in my life. I have stood by the flag, and I propose to continue the good fight; but if voting upon my oath, and on my conscience, and on my full responsibility as a Senator, for a man who is honestly and legally elected, as declared by the constituted authorities of the country, by the supreme court of my State, is treason to the party, because that man is a democrat, I say the men who make that charge are not the true friends of the republican party.

The republican party of this country is the party of right. It is brave enough and strong enough at all times and under all circumstances to do what is right. Let every member of that party do that and maintain the proud character of that great party that I love as dearly as I love my life. I say here that no Senator upon this floor has made more sacrifices to maintain that party in the Southern States, on that uncongenial soil, than I have. Read me out of the republican party! Men are reading me out of the republican party in Pennsylvania who threw eggs at me for making republican speeches there in 1856. They were as bitter democrats then as they pretend to be warm republicans now. Let me say to my republican friends on this side of the Chamber, Possess your souls in peace; the power of the republican party in the Senate and its supremacy will not be transferred to the other side. "The star of empire," to which my friend from New York referred the other day, is not going westward by my vote. Oh, no, there is no danger of that. The republicans on this side of the Chamber should bear with me as they have borne with my friend from Vermont and other Senators who have differed with them. I ask for my poor humble self a little of the forbearance that you extend to that giant, [Mr. EDMUNDS.] What he can do, in the name of God allow me to do, will you not?

There is one personal matter that I propose to refer to since I am on the floor, and I make this reference to the matter more to do justice to the gentleman who is asking a seat upon this floor from my State than to myself. I have been so accustomed all my life to be misrepresented by the newspapers, that I do not care very much what our friends up there in the reporters' gallery say. It was published in a newspaper the other day that General Butler met me in a private corridor of the Chamber, and ordered me to come in here and vote upon a motion. I wrote a card to the newspaper; I hoped it would be satisfactory, but any person who will read the newspaper will find it was not. The editor of the newspaper pretends to say that he has reliable information that the statement that he made is true and that the statement I make is untrue. I have this to say in regard to that statement: When the Senator from Vermont [Mr. EDMUNDS] moved to strike out the name of "M. C. Butler, of South Carolina," and insert the name of "William Pitt Kellogg, of Louisiana," I went out into the corridor; I there met General Butler, and he said: "Senator, that is a party question; I cannot ask you to vote against that motion; it may place you in a false position with your own party; I have so told Senator CONOVER; Senator CONOVER has gone to his committee-room, and he is not going to vote, and the motion will prevail by the casting vote of the Vice-President."

Mr. CONOVER. If the Senator will allow me a moment, I wish to verify the statement he has made, and to state that General Butler told me he regarded that as a party question, and requested me not to vote upon that question, and therefore I did not.

Mr. PATTERSON. I said to General Butler in answer, that if the Kellogg matter had been brought up first that I had always told him that I would vote on the Kellogg case until it was disposed of, but as the friends of Governor Kellogg had delayed the motion and his friends had got the precedence I felt it due to him, at least, to bring his case before the Senate, and that I would go in and vote against the motion. General Butler remonstrated with me and did not want me to vote, but I came in and voted. I did it then, and I will do it now, and I will do it as often as it becomes necessary; so that it may just as well be understood first as last. As to the language that the newspaper says was used by General Butler, it is simply untrue. I have never in my intercourse with General Butler, in eight years, known him to be anything else but a gentleman; and there is not a man who lives here or in South Carolina who will gainsay what I assert. I make this statement in his defense, because he is not on this floor to defend himself. When he gets here, if he ever does, he can defend himself.

Mr. President, in conclusion I have just one or two words to say. I know I am misrepresented all over the country. I am held up as a traitor to my party. I have great respect for newspaper men, the reporters, for I used to be one myself, and I have a kind feeling for them, and I know how easy it is for them to write articles, and send off what they hear, and a good deal that they do not hear, although they do not mean any harm by it. But I want to say here in the Senate, and I hope they will let it go along with what they say, (they may say whatever they please about me, and abuse me as much as they please,) that in voting for General Butler I am trying to carry out the will of my own people. They want him as their Senator; and when I use the word "people," I do not mean alone the democratic party, I mean the republican party of South Carolina. I say to-day that I believe I am representing the best interests and wishes of the republican party in South Carolina when I vote to seat General M. C. Butler. Under other circumstances, if they had not been overthrown and abandoned, it would have been very different; but under their peculiar circumstances, I know that I am acting in accord with their wishes, and at the same time carrying out the law.

Mr. President, this is all that I have to say until to-morrow, when I propose to address myself to the merits of the question.

Mr. CHRISTIANCY. Mr. President, I have nothing to say against the explanation of the Senator from South Carolina. I agree with him that it does not necessarily determine the question whether a man is a republican or not because he may vote for General Butler or for any other particular man. I do not know, as I have already said to the Senate, that I myself should vote for General Butler. I certainly shall if upon the facts as I shall understand them the law is with him, and I should still claim to be a republican. But while I say this with reference to the explanation, I must say also that, having a great reverence for logic, the Senator from South Carolina has barely intimated one argument to show that he is a strong republican. I think he scarcely did justice to himself on that point, and I wish to help him out of that as far as my feeble abilities will permit. I refer to his logic upon the main question that General Butler is

elected. Now, as I understand him, he blamed the Administration for having withdrawn the troops from South Carolina, and said he fought against it just as long he could.

Mr. PATTERSON. Will the Senator allow me to correct him? I did not blame him, but I said that he did it. I do not blame any body.

Mr. CHRISTIANCY. The Senator did say, however, that he fought against that as long as he could.

Mr. EDMUNDS. And that it was the greatest blunder the Administration had committed.

Mr. PATTERSON. I said it was a great blunder, but I did not blame anybody for it.

Mr. CHRISTIANCY. The Senator said it was the greatest blunder the Administration had committed. Very well. It may be so. I am only looking at the logic of the matter, not disputing the fact.

Now, I believe that military force was there to protect, and did protect a certain Legislature known as the Chamberlain legislature, sitting in the State-house. I believe that was the Legislature which was under the protection of the military, and I wish to inquire of the Senator, for that seems to be a point involved in his logic, if he believes that it was a just and proper policy for any administration to protect an illegal Legislature? If not, it must be put on the ground that he wished to see that military protection because it was the legal Legislature. If the legal Legislature, then Mr. Corbin would be the man who was elected, for I believe it does turn out upon all the papers that I have seen that that was the Legislature that sought to elect Mr. Corbin.

Now, as there can be but one legal Legislature sitting in the State at the same time, he must therefore infer that the Legislature which was called the Hampton legislature, and which elected Mr. Butler, was an illegal Legislature. Now, if the Senator can stand with an administration that would protect an illegal Legislature, I think he proves his republicanism to an extreme to which I cannot go. That is all I wish to say, merely in regard to the logic of his explanation.

Mr. CONOVER. Mr. President, it is well known to every Senator that I am not a lawyer. I have not the vanity to suppose that I can cope in debate upon this question with the able and distinguished lawyers of the Senate. It might be better to amend the Constitution so as to provide that questions involving grave matters of constitutional or statutory law should be decided by our Judiciary Committee or by the lawyers of the Senate, as appeals are decided by the law-lords in the Parliament of England; but such is not the case. By the rules of the Senate, when the yeas and nays have been ordered and the roll is called, every Senator, be he lawyer, doctor, merchant, or granger, must answer yea or nay, and that, too, without debate. It has been my habit on all previous like occasions to give a silent vote, as dictated by my judgment and conscience. I should take the same course now, but for the remarkable language employed by some Senators in the debate upon this question last week and again to-day. The senior Senator from New York, speaking of the motion to lay this resolution on the table, was pleased to say, with the irony and sarcasm of which he is a master:

> Mr. President, this proceeding yesterday was not accidental or careless. I am positive in affirming that this was not heedless or accidental. The motion to lay on the table was not a stray motion. The Senator from Massachusetts had, I think, considered it. Other Senators had considered it also. It was not by accident that I lost not one moment, when the motion was made, in demanding the yeas and nays upon it. My purpose was to put the motion to lay on the table beyond the reach of recall or power of withdrawal by anybody. I have no hesitation in avowing my reason for this. There had been, if not rumors, whispers of new and strange alliances. It is to be hoped they are holy alliances. There had been whispers of alliances pending for some time, and which were yesterday suspected to have ripened into certainty—alliances relied upon to transfer the majority from one side to the other side of the Senate. I felt it my right to ascertain by the earliest method who were the allies—the reserves and recruits—and how many there are. It seemed that a motion to lay on the table, not being debatable, would produce a very early revelation of the coalition and show how it was that the control of the Senate was to pass away from the majority as heretofore constituted, and, like the star of Empire, "westward take its way." I was quite particular, therefore, to get upon the Journal the fact that the constitutional one-fifth of the Senate had ordered the yeas and nays to be taken; my object, of course, being that the forty-fourth rule of the Senate might operate, &c.

Mr. President, the Senate is now engaged, as it has often been before, in deciding upon the claims of rival contestants for a seat in this body. What is the duty of the Senate and of every Senator in such a case? Not being a lawyer myself, I naturally turn to the expressed sentiments of lawyers in this body. In the debates on the question of the admission of Mr. Pinchback as a Senator from Louisiana, the Senator from Vermont broke away from the majority of his party and voted with the democrats.

Turning to the CONGRESSIONAL RECORD for March 3, 1876, page 1436, you will find the vindication that Senator gave of the now unpardonable crime of following conviction and conscience against the demands of party interest. The Senator from Vermont said:

> We are acting in this particular case under the Constitution of the United States, which points out to us what our duty is. It declares that—
>
> "Each House shall be the judge of the elections, returns, and qualifications of its own members."
>
> The solemn declaration of the Constitution is, then, that we are to be the judge, not the partisan, not the politician, not the patriot, not the citizen, but we are to be the judge, holding up impartially the scales of justice under the law and determining this question in a judicial way, according to the law. There is no room that I can perceive for my being allowed to persuade myself that this man ought not to be admitted because his politics should happen to differ from mine, or because his race should happen to differ from mine; and, on the other hand, I can conceive of no excuse upon which Senators with a different opinion could be allowed to persuade themselves to believe that any consideration of wish, expediency, interest, peace even, should interfere with the calm majesty of the guiding law that appeals to us as judges, and in no other way, and that should have its free course. And I have felt something of chagrin, sir, on one or two of the occasions when this subject has been before us, at seeing what seemed to me (although I hope I may have been mistaken) to be something of that spirit which, proceeding from the best motives, is yet, if allowed to affect a question of this kind, equally fatal to the true interests of the country and to the real perpetuity of the Constitution as if some motive of partiality, or prejudice, or expediency should find a place in considerations still less grave than these.
>
> If, then, I am right in supposing that our duty is a narrow and a simple one, and that we are to exclude from it every knowledge of the politics of this claimant, every knowledge of everything which his vote in this body, if admitted, may affect, of everything which the absence of his vote here may affect, the question is, what are we to do?

Mr. President, this is the defense the Senator from Vermont made for himself when he was situated as I am now, following his conscience regardless of the cry of his party. The Senator from New York said nothing in reply about holy alliances or political coalitions. He did not denounce the Senator from Vermont as an "ally," "reserve" or "recruit" of the democratic party, because upon that occasion he was voting with the democrats. It is true that in a party sense it was not as important then whether Pinchback should be admitted or not as it now is whether Mr. Butler shall be admitted or not, because the republicans had a greater majority then than they have now. But, who will do the Senator from Vermont the injustice to say that he would have done otherwise than he did, even had the seating of Pinchback been necessary to the preservation of republican control of this body? Or, who supposes that he will now vote to seat Mr. Kellogg, unless it can be shown that the cases are materially different, and that the republican administration in Louisiana recognized by President Grant had less right and power to elect a Senator than the administration of that State which President Hayes has expressly refused to recognize. Whatever course the Senator from Vermont shall determine it to be his duty to pursue, there is little fear that the Senator from New York will denounce him as a recruit of the democratic party.

If the Senator from Vermont correctly apprehended his duty and stated it accurately in the language I have quoted, then I am safe in following his declarations to their just and legitimate conclusions. If he was mistaken, learned as he is in the law, still I, who am not a lawyer at all, may hope to be excused for marching under his banner. At all events, accepting the rule laid down by that Senator as the rule of duty for me to-day, I come to state the reasons why I shall vote to seat Mr. Butler.

Not being a lawyer, I can neither wield nor comprehend the quirks and subtleties of the law, and disregarding them altogether and looking with unprofessional eyes I see a democratic State administration in South Carolina, recognized by President Hayes, the leader and head of our party.

If the democrats carried the State, as our President has determined, I cannot see why they have not a right to elect a Senator belonging to their own party. I am not willing to oppose the decision the President has made upon this subject, and I am not willing to stultify myself by saying that a democratic State elected a republican Senator.

Bitter fountains cannot pour forth sweet waters; no more can democratic States elect republican Senators. This democratic State has not done so.

Again, I understand that the supreme court of South Carolina has decided that the Legislature which elected Mr. Butler was the legal Legislature of the State. Can we go back of that decision? I think not. It has been recently decided by a tribunal the like of which never sat on earth, a tribunal called into existence to lead the nation out of a wilderness of trouble and gloom, composed of judges of the Supreme Court, Senators, and members of the House of Representatives—lawyers all—that the Senate and House of Representatives combined could not go behind the decision of the returning board of a State, even in case of actual fraud, to determine who were the duly-elected electors of Louisiana, and that this results from the right of a State to regulate her own affairs. How, then, can we now go behind the decision of the supreme court of the State as to which of the two bodies is the rightful Legislature of that State? There may be cunning reasons satisfactory to lawyers, some mysterious logic so deep in the law as to be beyond common comprehension, why, to elect a republican President, we can hold ourselves concluded by the decision of a State returning board, and at the same time, to prevent a democratic Senator from taking his seat, we can go behind the decision of the supreme court of the State. Such adroitness may be familiar to the profession, but laymen cannot be expected to understand it, nor can plain, honest men be expected to be governed by it. I could not vote to disregard the decision of the supreme court of South Carolina without feeling that I was voting against the legitimacy of the President, and I am not willing to cast the slightest shadow upon the title by which President Hayes exercises the functions of the executive office. How can it be maintained that the decision of a returning-board of a State is binding upon both Houses of Congress and yet the decision of the supreme court of a State is not binding upon one House; and that, too, in the determination of a State and not a Federal question? Shrewd lawyers may see their way to vote for their party candidates under such conflicting circumstances, but I deem it safer for me to follow my duty, as laid down by my friend the Sen-

ator from Vermont, and to vote according to my convictions and conscience, regardless of opposing party interests.

I have always been a republican; I am one to-day, unless it is impossible for me to vote my convictions on a question we are deciding as judges and still be a republican. I believe a man may be both an honest man and a republican; if not, the former is preferable to the latter.

All reports, all whisperings that I have formed a coalition with the democrats are utterly false. No democrat, inside or outside this Chamber, has ever approached me with assurance of benefit to myself if I would vote to seat Mr. Butler; and one reason why I make this plain declaration of my purpose is that I may not be approached with like assurances by my political friends if I will vote the other way.

[Manifestations of applause in the galleries, which were checked by the Vice-President.]

Mr. EDMUNDS. Mr. President, I rise at this present moment merely to ask for order. I wish to ask the Chair to enfore the rules of the Senate on everybody and all sides respecting manifestations of applause or otherwise in the galleries.

The VICE-PRESIDENT. The Chair will endeavor to do so.

Mr. EDMUNDS. And I shall insist on the next occasion that the galleries be cleared and that the disorderly persons be arrested.

The VICE-PRESIDENT. The disorder comes from gentlemen who possess the privileges and hospitality of the Senate; the Chair is sorry to say it; but he will enforce the rule in all its rigors if the applause shall be repeated.

Mr. EDMUNDS. Now that I am up, Mr. President, I wish to submit an amendment to this resolution. I have nothing to say at all in respect of the observations of the Senator from South Carolina and those of the Senator from Florida so far as they relate to anything that I have said or done, but I feel it to be an imperative duty, of as high character I hope as that of Senators who have defended their course so recently, to test the sense of the Senate, in order that they may be vindicated if they are right, and in order that the truth may be known upon making an inquiry into this business. We saw on Thursday last, you saw, the citizens of the United States who came here to observe the deliberations of one of the great bodies in the Government saw, some scenes and spectacles occurring here, not of differences of opinion—I do not allude to that—not of differences of votes—I do not allude to that—but respecting the conduct of claimants to seats, of persons who have been Senators, and one of whom has been expelled from this body, and of Senators who certainly, if I am any judge of human opinions and feelings as derived from the observation of their faces and demeanors, caused a shock and a sense of shame and humiliation on both sides of this Chamber. And that was followed by statements in the public press that one of the members of this body being under indictment in a State of this Union for an alleged offense, which, if proved, would disqualify him to sit here of course—as I believe the alleged offense was that of procuring his election to this body by bribery—that Senator had acted, through the influence of the threat of conviction, innocent or guilty—a partial prejudged, one-sided conviction, without regard to his having a fair trial and upright justice—a threat that he should go to the penitentiary unless he should vote to admit a certain claimant; and that that claimant had held out to him that, if he did vote to seat him, he should not go to the penitentiary; that the wheels of justice in that State should stop and he should go free.

Mr. PATTERSON. Mr. President, will the Senator from Vermont allow me to interrupt him?

The VICE-PRESIDENT. Does the Senator from Vermont yield?

Mr. EDMUNDS. Certainly.

Mr. PATTERSON. I was in the cloak-room when he commenced to make his remarks, and perhaps I have not caught the run of them. Do I understand the gentleman from Vermont to make that statement upon his own responsibility?

Mr. EDMUNDS. All the statements that I make, Mr. President, I make upon my own responsibility just as I make them.

Mr. PATTERSON. Then if the gentleman from Vermont says that I have made a bargain of that kind, all I have got to say is that it is not true.

Mr. EDMUNDS. Well, Mr. President, the Senator has a perfect right to say that I have not said that he made a bargain of that kind. The Senator does me great injustice.

Mr. PATTERSON. I take it all back then.

Mr. EDMUNDS. It is one of the duties, not only of a gentleman, but of a member of this body, to be pretty careful in his statements. I was stating, and I will repeat it for the information of the Senator who it seems was in the cloak-room, that we had observed certain transactions which occurred last Thursday, in which certain persons were apparently and obviously the actors, and that certain statements thereof had been publicly made in the public press and otherwise, with what truth I know not; and that it was due that we should know the truth for the vindication of the Senator, if vindication he should be entitled to, as I hope he may; that he being—I did not use his name, but I referred to him certainly——

Mr. PATTERSON. I have no doubt of it.

Mr. EDMUNDS. That he being under indictment, as was said, for the alleged offense of procuring his election to this body by bribery—that is the published statement, if I correctly understand it; I do not know whether that is the charge or not——

Mr. PATTERSON. That is one of the charges. There are several of them.

Mr. EDMUNDS. That is one of the charges. The statement made was that he had been threatened with the progress of that prosecution and a conviction, innocent or guilty, no matter what the facts might be; that justice is so administered in that State, as they say, that it is easy enough to convict what they style down there so opprobiously a northern man who——

Mr. GORDON. May I ask the Senator where he gets his information?

Mr. EDMUNDS. Yes, the Senator may.

Mr. GORDON. I will hear it.

Mr. EDMUNDS. I will repeat again, for I do not know but that my friend has been in the cloak-room. [Laughter.] I say it is the public, common statement over the streets, in the mouth of everybody, and in the public prints, one of which I hold in my hand—I do not vouch for the truth of it——

Mr. SAULSBURY. I rise to a point of order, Mr. President, that there is no charge in anything here against any particular party. The morality of this Senate requires that no detail of scandal in the newspapers against a Senator should be indulged in in this body without some specific charge made against that Senator. This is a high body; its morality ought to be preserved; and if the details of scandal against members may be indulged in, it becomes a precedent which may come home to plague each member of this body. Suppose I myself, if this is allowed, should happen to find something charging the Senator from Vermont, what then? Am I, without any specific charge made against the Senator in this body, to rise up and intimate what had been said in the newspapers of the country in reference to the Senator? I hope that the morality of this body will be preserved, and that that precedent will not be established.

Mr. GORDON. If the Senator will allow me I had not finished.

Mr. EDMUNDS. Let us have the point of order settled first, Mr. President.

The VICE-PRESIDENT. The Chair overrules the point of order. It does not understand the Senator from Vermont to have made a charge against any Senator.

Mr. EDMUNDS. Now I will go on if I can have leave.

Mr. GORDON. Mr. President, the Senator from Vermont [Mr. EDMUNDS] has seen fit to arraign by insinuation not only two of his former party associates, but this side of the Chamber for what he is pleased to intimate was a corrupt bargain. And, sir, upon what sort of evidence? Upon newspaper articles, idle reports, and whisperings around the Capitol. Sir, I wish to place that Senator upon notice that if arraignments are in order in the Senate Chamber upon such evidence; if corruption is to be charged by insinuation and innuendo, which I will not follow Webster in saying is the basest subterfuge of cowardice, of malice, and of falsehood; if such indictments are in order in this body, then let the Senator take notice that upon like evidence I could charge that his political associates had essayed to control the judge upon the bench and to invoke a decision in this criminal prosecution to subserve the purposes of his party. I repeat, sir, that while I protest against such insinuations in the Senate, I serve notice now that upon like evidence I could convict republican Senators of the attempt to force the judge of the district court to hold his decision over the head of the Senator from South Carolina to induce him to retrace his steps back into the fold of the party. I could convict them, I say, of seeking to change the very sanctuary of justice into the altar of sacrifice for a Senator who dared to break through the lines of party and vote according to the dictates of his conscience.

Mr. EDMUNDS. Well, Mr. President, I am very glad that my friend has put in that little speech in the midst of mine; and, before I forget it, as I am afraid I may, I wish to tell my honorable friend from Georgia that if he has heard any rumors of that kind that appear to have any responsible source from which they come, or that look to him as if it were possible they could be proved, he cannot be too speedy in bringing the matter to the attention of this body, and he may be quite sure that he will get the little influence and all the votes that I have in aid of an investigation of it now and here.

Mr. GORDON. There is quite as much truth, Mr. President, in the one as the other.

Mr. EDMUNDS. It may be. It may be that there is truth in both; it may be that there is not any in both; but it is for the sake of the morality of this body that we should not stifle inquiry, but whenever the whole public sense is looking with anxious eye, not to the balance of parties, but to the purity of this body, it is not well for the Senators, I think, to put on their night-gown of morality and draw it over the tops of their heads and say, "Don't look at me; don't look at me." It might be too scant in the skirts for that, possibly. [Laughter.]

Now I will go on, Mr. President. I was saying—and this I must be excused also for saying that I am led to say from what has dropped from the Senator from South Carolina and the Senator from Florida—I was proceeding to say that something worthy of attention appears in all the public prints of Friday last and of Saturday perhaps; I should not say all, but in a good many, and I happen to

have one before me, a newspaper having perhaps as great a circulation as any in the United States, in which these things to which I have been speaking are definitely described and spoken of, perhaps untruly; I hope most sincerely untruly; but it is high time, in my opinion, to inquire into them. I may differ from the Senator from Georgia; I may not have the morality of the Senator from Delaware; but in my opinion, with such morality as I happen to be possessed of, it is the highest and the first duty of this body, after what has taken place, not about votes—I beg Senators not to misunderstand me—but about actions and definite statements of alleged matters in the newspapers, that before we determine whether this claimant is to be seated in this body or not, we should first know whether or not he has been in the presence of the Senate itself carrying on a corrupt intrigue to gain votes for his admission, or whether like a high-minded and honorable gentleman, as I hope he is, it will appear on investigation that he is perfectly clean and pure from all such accusations as are made in the newspapers. I do not know how I should feel under such circumstances, and it is impossible for persons to judge of others; but I think I know a great many men in this body and out of it who would never allow their friends, if they could prevent it, to urge upon this body to seat them in such a case until their reputation and their honor had been vindicated from the charges that had been made in the public press, given with date and circumstance. That is what I think.

Now, sir, as preliminary to an amendment that I intend to offer to this resolution, I propose to read to the Senate a statement of the New York Tribune, of Friday, the 23d of November, a telegram to the Tribune from this place. It begins with big head-lines, (and the Senator from South Carolina will excuse me for reading them for the reason I have stated; I wish to vindicate him if the truth will do it, and I hope it will:)

IS THERE A BARGAIN?

PATTERSON'S ACTION ATTRIBUTED ONLY TO A DESIRE TO ESCAPE THE PENITENTIARY—CONOVER'S CASE.

It then proceeds:

[By telegraph to the Tribune.]

WASHINGTON, November 22.—Of course there is but one explanation of Mr. PATTERSON'S behavior to-day. He has had before him the choice of two alternatives—treachery to his party, or confinement in the penitentiary. He has made a strike for liberty, and chosen the former course. It may be that none of the democratic Senators are privy to the bargain which has been made, but it is asserted by those who ought to be informed on the subject that no more open and barefaced a bargain and sale has ever taken place in the history of legislative bodies.

The testimony against Senator PATTERSON which has been taken by the grand jury of South Carolina, which is *ex parte* in its character, is, so far as it goes, overwhelming. A careful examination of it fails to show a single flaw, and unless his defense is much stronger than any one now supposes, his conviction upon trial is morally certain.

He expects, it is believed, as the reward for his treachery to his party in the Senate, and for his part in delivering the control of that body to the democracy, to escape a trial, or, if convicted, to be relieved from the penalty of his crime by executive clemency. How either party can expect to carry out such a bargain as this, is past comprehension. The proceedings upon the application for a writ of *habeas corpus* now pending in the courts of this District may be concluded favorably or unfavorably to him. Judge Humphreys may decide to take him from the custody of the South Carolina officers, but such release can only be temporary. His case must be called in court sooner or later, and when it is called he must be arraigned. Any failure to bring the case to trial will stamp with infamy those who may be responsible for the delay. No district attorney in South Carolina can move a *nolle prosequi* without giving rise to the suspicion (and it would be more than a suspicion) that he was a party to the bargain by which Senator PATTERSON deserted the republicans and assisted to deliver the control of the Senate to the democrats. No governor of the State of South Carolina could grant a pardon, should Mr. PATTERSON be convicted, without bringing disgrace upon himself and the office which he holds.

It seems impossible, therefore, that the democrats, if they have made any bargain with Senator PATTERSON, can possibly carry out their part of the agreement, but he apparently prefers to take the risk of that rather than to face what seems to be inevitable—a term in the penitentiary.

One of the most interesting features of the scene in the Senate to-day was the presence of General M. C. Butler, of South Carolina, and the part he took in the management on the democratic side. During nearly all of the hour when the voting was going on he was either sitting at one of the desks among his political associates, or passing from one to another, and apparently consulting with them in regard to the progress of the contest. On several occasions Senator PATTERSON was noticed to be speaking with him as though he was receiving instructions how he should proceed. A Senator reports having overheard an order given by M. C. Butler to Mr. PATTERSON in one of the cloak-rooms during the progress of a roll-call. The former is reported to have asked the latter, with an oath, why he was in the cloak-room, and to have directed him to go out into the Chamber, and to vote on the right side, too. Mr. Butler's presence was remarked by all the republican Senators, and the belief that a direct bargain had been made between him and PATTERSON made them more than ever unwilling that he should obtain a seat in the Senate.

That, Mr. President, is the statement in a newspaper of high standing and character, as much so probably as any newspaper in the Union, and one that probably goes into more counties and more families in the United States or as many as any other paper printed in this Republic. Now I wish to ask Senators, not as my friend from Georgia says upon some suspicion of some idle gossip of some disappointed man, but when from the very seats that this Senate assigns to the reporters of the New York Tribune statements of that kind are sent into the honest and intelligent families of this country, whether it behooves the Senate of the United States, whether it behooves the honor of the Senator from South Carolina, the honor of the claimant to the seat from South Carolina, or any of their friends, to stand up here and say this is not worthy of inquiry. Would the honorable Senator from Georgia, if it were his case, fail to stand up here and demand that there should be first of all and immediately a complete investigation of such a subject? I feel quite sure that he would be the last man to fail to make such a call.

Mr. McDONALD. Inasmuch as that article says that a Senator heard a certain remark made, would it not be well enough to ascertain who that Senator was or whether that was not a false statement?

Mr. EDMUNDS. Yes, sir; that is exactly what I am trying to do; and I hope to get the vote of my honorable friend to assist me in doing it.

Mr. McDONALD. At the proper time you will.

Mr. EDMUNDS. Therefore, Mr. President, I move to amend this resolution by striking out all after the word "resolved" and inserting what I sent to the Chair; and if when it comes to be read any Senator thinks that it is not broad enough to cover the suggestion of the Senator from Georgia, I shall most gladly have it sufficiently strengthened to cover that, which I never heard of until he spoke of it.

The VICE-PRESIDENT. The words proposed to be inserted will be read.

The CHIEF CLERK. It is proposed to strike out all after the word "resolved" and insert:

That the Committee on Privileges and Elections be, and hereby is, instructed to inquire forthwith, and report as soon as may be, whether any threats, promises, or arrangements respecting existing or contemplated accusations or criminal prosecutions against any Senator, or any other corrupt or otherwise unlawful means or influences have been in any manner used or put in operation, directly or indirectly, by M. C Butler, one of the claimants to a seat in the Senate from the State of South Carolina or by any other Senator or other person for the purpose of influencing the vote of any Senator on the question of discharging said committee from the consideration of said M. C. Butler's credentials or on the other question at the present session of the Senate; and that said committee have power to send for persons and papers and to sit during the sittings of the Senate.

Mr. THURMAN. Mr. President——

Mr. PATTERSON. I wish the Senator would give way to me for a moment.

Mr. THURMAN. Yes, sir; but I want to hold the floor.

Mr. PATTERSON. I do not want to take the floor from the Senator, but I would like to say a word.

Mr. THURMAN. Very well.

Mr. PATTERSON. Mr. President and Senators, I appeal to the manhood and the sense of justice of every Senator upon this floor, be he democrat or republican, if the action of the Senator from Vermont is fair and manly. Every Senator upon this floor, if he has a heart in him, should have some regard for my position. I am here trying to carry out the will of my constituents; and yet the Senator from Vermont rises, reads from a newspaper about my indictment, when he knows and every Senator upon this floor has known that these indictments have been in existence for weeks; and why is it that to-day I am to be dragged before this Senate upon a newspaper charge? I appeal to the record of this Senate, I appeal to the precedents in such cases, and I ask if every man has not been given a fair chance. God knows all I ask is a white man's chance. Is it not a presumption of law that a man is innocent until he is proven guilty? My God, because I will not vote as some people demand, am I to be tried and condemned and sentenced in a minute?

Mr. President, I am ready to meet these charges; I want the Senate to investigate these charges; whenever I am in a position where I know that I can remain in this Senate to meet my accusers. And will the Senator from Vermont ask me to go to trial where I cannot meet my accusers? Does the Senator from Vermont propose to try me in my absence because I do not do his bidding? Sir, through my life I have maintained my manhood. I claim that I have never done any act in South Carolina of which I am ashamed. I claim that I have never done an act in this Senate of which I am ashamed; and I defy any man—I care not who he is, high or low—to make a charge against me. I am ready to meet it. But there is one thing that I do claim: I propose to stand right square up and do my duty.

Did not the Senator from Vermont read this same thing in the papers weeks ago? It was there I read it. Everybody read it. Why is it dragged in here this afternoon? It is charged that I have made a bargain with M. C. Butler. In my remarks before the Senate I tried to explain my position. I showed to the Senate and to the country that my voting for Butler was not a conclusion of yesterday. The court before which I was indicted met in August, and I told the Senate that I agreed with my people in South Carolina—the republicans of South Carolina—in obedience to their wishes, to vote for General Butler, in May last. I so announced in the newspapers; and now because I am carrying out the promise I made to them, because within the last seven weeks indictments have been found against me, I cannot be given credit for one minute for an honest motive; but they say I have made some bargain with General M. C. Butler by which I am to be granted some immunity. General M. C. Butler is my friend and I am his. I stood upon this floor and defended him when he was under the charge of murder all over this country, because I knew he was a gentleman, respected as such throughout the State, and I did not believe then and I do not believe now that the charges against him were true. In the hour of need, when he required a defender on this floor, long before I ever dreamed that he would be a Senator, before Wade Hampton was ever nominated for governor, because it was on the 8th day of August, 1876, and Hampton was not nominated until the 15th of August, I defended

him just as I would expect General Butler to defend me if I were unjustly accused.

All I expect from General Butler is his friendship; I am entitled to that. If he can help me I have no doubt he will do it; but he is not the governor of South Carolina; he is not the attorney-general of South Carolina; he is not a member of the jury in the county in which indictments have been found; he lives in an adjoining county.

Now I say, Mr. President, that the course here pursued toward me is not fair; that it is not manly; that in my case they are departing from the precedents. If it is the desire of the Senate to investigate the charges against me, let it be done in order and in decency; but let not the matter be thrown in here to try to coerce my vote and drag me before the country in this position. There is not a charge made there that I am not prepared to meet before any fair tribunal; but I ask the Senate, and I want it to go to the country, if this is the time and this is the way to do it?

Mr. THURMAN. Mr. President, I have witnessed a good many dramatic performances since I have held a seat in this body, but I can recall to my memory no one more striking than that enacted by the Senator from Vermont in the close of his remarks. The Senator seems to think because some anonymous writer had published an article in a newspaper without furnishing one particle of testimony to support it, the most of it being simply his own speculations, and all of it being hearsay, that this Senate ought to stop an inquiry as to who is entitled to fill a vacant seat on this floor, and go rambling about with one of its committees to ascertain whether the writer of that letter is a blackguard or a gentleman.

Mr. President, I never before have seen such a performance as this. If there was anything in that article of which this Senate could take notice, if the Senate is to set the precedent of taking notice of all the anonymous articles that appear in newspapers with reference to members of the Senate, or in reference to anything else, and refer them to committees for investigation, and thus take all the time of the Senate in investigating and answering newspaper scribblers—if that is to be the business of the Senate, why did not the Senator move in the morning hour his resolution, instead of reserving it, and moving it as a substitute for mine? Ah, no, the Senator intended nothing like that. Then it would have stood as an independent proposition; but moving it here as a substitute for mine, and hoping perhaps that delicacy might prevent some Senator or Senators on the floor from voting on it, because they were implicated in it, or at least one—hoping that by some such means it might be adopted, and the merits of this case might therefore be wholly lost sight of, the Senator reserves that long resolution of his, and comes in and moves it as a substitute for my resolution, and thinks, and expresses it with immense force indeed, that if he were in the situation of the claimant to a seat on this floor he would court an investigation. Sir, I have not had a word with the claimant on this floor since the Senator spoke; but I will say this for him, on my knowledge of his reputation as a man of honor and a gentleman, that he will be ready for any investigation that the Senator from Vermont can institute against him at the proper time and in the proper place, and be able to answer it.

But, sir, that the business of the Senate, the question of seating a Senator, the question of preventing that flagrant wrong to a State that has so long existed, her deprivation of representation on this floor—that such a question as that should be stopped in order to inquire into the statement of an anonymous newspaper scribbler, is a thing that fills me with amazement that any such idea ever should have been entertained, and especially by so experienced and able a member of this body as the Senator from Vermont. No, sir, it will not do.

The whole debate is surprising enough. What is the question before the Senate—the question at which we want to get? It is, who is entitled to fill the vacant chair from the State of South Carolina? It is a judicial question. It is a question into which party has no right to enter; it is a question upon which no man can vote by mere party dictation, and from mere party motives, without violating his honor as a Senator and his sworn duty to his country. It is a simple and pure judicial question. And yet upon this question the Senator rises and reads an article that charges the Senator from South Carolina with what? With deserting his party; and on the strength of that article which charges him with deserting his party, the Senator from Vermont wants an investigation to know why he deserted his party—not why he votes for Butler, but why he deserts his party! Ah, Mr. President, the Senator from Vermont did not think that way when the Pinchback case was up, when he deserted his party, in the language of this writer for a newspaper, and voted solid with the democrats here. Oh, he did not on that occasion; and there were a great many who went with him on that side, and voted with the democrats here, who equally deserted their party, in the language of this writer; but nobody thought of investigating the Senator from Vermont.

Mr. EDMUNDS. May I ask the honorable Senator a question?

Mr. THURMAN. Yes, sir.

Mr. EDMUNDS. Suppose the New York Tribune of that day had stated, and as it seems truly, that I was under indictment in the State of Louisiana for some crime—it could not have been for bribing my own election, because I do not live there—and that the friends of the party who was claiming the other seat had power with the governor of Louisiana, and that he had persuaded me that if I would vote against Pinchback and for him I should go free, and that if I did not I should go to Louisiana and go to the penitentiary, what would the Senator have thought of me if I had stood silent, or what would the Senator have thought of himself if he had stood silent, though I was voting with him to have a matter of that kind brought before the Senate, and particularly if the circumstances had occurred in the presence of the Senate that the Senator has observed, not about votes, but the other things that the Senator knows about?

Mr. THURMAN. The Senator asks me what I would have thought of it. I will tell him. I would have thought if anybody had moved an investigation into the conduct of the Senator from Vermont as a substitute for the resolution before the Senate seating Pinchback, that the man who moved that as a substitute absolutely did not know what he was about. [Laughter.] I should have thought further that if the Senator from Vermont wanted an investigation of his conduct he could have it by an independent resolution whenever he wanted. That I should have thought; but I should have thought that the Senator, certainly for the time being, had lost his senses who should move that as a substitute for the pending resolution seating Pinchback as a Senator from the State of Louisiana.

But, Mr. President, I have said that this is a judicial question, and yet we have it brought up here as a party question. But that is not all the singularity of it. Suppose I wanted to draw inferences dishonorable to the republican side of the Senate, and I utterly disavow any such purpose or motive, what might I say? The Senator from South Carolina, it has been said, is under indictment in the State of South Carolina. Was he not so when the Senate assembled at this session? Everybody knows it. The Senator from South Carolina had said as long ago as May last, and it was published I believe in almost every newspaper in the United States—I certainly saw it in the newspapers in Ohio—that he would vote to seat Butler. His determination, his purpose to vote to seat Butler was as well known in May last as it is known this day, known all over the country, no necessity for any bargain. Now, mark you, that was before the Senator from South Carolina was indicted; that was before there was any talk of indicting him; that was before there was any move made to indict him.

Mr. PATTERSON. Four months before.

Mr. THURMAN. That was when he had no reason to expect any such thing as that. Under these circumstances, that Senator, as it was published in all the newspapers, told his own constituents in the capital of his own State that he would vote to seat Butler. Very well. If I am not mistaken, it was also stated in the newspapers two or three months ago that the Senator from Florida would vote to seat Butler. Well, sir, this session met. Was there any attempt to seduce those gentlemen away by honors conferred upon them? How comes it that the chairmanship of one of the principal committees of this body was given by the republican party to this man under indictment for a penitentiary offense? There he sits, this indicted individual, the chairman of your Committee on Territories, one of the most important committees in this body, and holding it by the gift of the republican members of the Senate; and here is the seat of the Senator from Florida, also promoted to a chairmanship. Were there any honors held out to these gentlemen to induce them to train in the republican ranks without any faltering in their step or wavering whatsoever in their march? I would not charge such a thing; I do not believe it; but how easy would it be to make the charge that there was an inducement held out to these men who had declared a purpose of voting for Butler, and after that failed, a system of terrorism that we now see is resorted to in its stead?

Mr. President, I protest against this. I say let this question be decided on its merits; let the Senator from Vermont move his resolution as an independent resolution whenever he can get the floor to do it; let him do it in the morning hour; let us examine that resolution, and I will say to him, and I think I may say for every man on this side of the Chamber, and I hope for every member in the body, that if there is any foundation for an investigation he shall have our support, and it shall be investigated. But the idea of delaying the question who shall fill the vacant seat from South Carolina until this exceedingly diligent Committee on Privileges and Elections shall investigate a newspaper report of bribery and corruption, and have power to send for persons and papers, and when we have got all that in, then if there shall be no other newspaper report to be investigated, no other libel to be hunted out, then perchance some time about the end of this century we may come to a vote on the question whether Butler is Senator from South Carolina or not! No, Mr. President, I protest against this. I am for fair play in this case. I say that this resolution, the right of South Carolina to representation here, is not to be put down by clamor nor by libel; it is not to be put down by turning it into a personal assault on a Senator on this floor and also a claimant on this floor and then say we must investigate both those individuals and find a verdict of guilty or not guilty before we determine whether South Carolina shall be represented here or not!

Mr. EDMUNDS. Mr. President, I am very sorry that the Senator from Ohio has found himself obliged in his high sense of duty to oppose this amendment. I did not really suppose he would. The Senator says that it is unfair to disturb the even tenor of considering whether Mr. Butler is entitled to his seat, in the body of the Senate and not by a committee, in order to wait an end into an inquiry whether he has been guilty of corrupt influences on this floor and in

our very presence to get that very seat. Does the honorable Senator think that is a very good course to pursue? Suppose it should turn out—and I repeat so as not to be misunderstood that I most sincerely hope it will not turn out to be true—that this thing that the New York Tribune accuses these people of is true and more; would the Senator then be willing to vote to seat Mr. Butler if he knew it beforehand? I pause for a reply if he wishes to make any. Of course he does not. I assume that if what is alleged in these public prints and that fills the air from one part of the Republic to the other is true, the honorable Senator himself would not vote to seat Mr. Butler, and therefore that it is an important thing to know whether it is true or not before you seat him first and then inquire afterward whether you have made a mistake. I should suppose that the honorable Senator would see the force of that. I should suppose that the gentlemen for whom he speaks would see the force of it.

And yet the Senator turns it off as a libel, that it interferes with the ordinary course of affairs, and so on! There is no proof of it, he says. Can the honorable Senator tell anybody how a Senator can bring proof into this Chamber of an arrangement of that kind if it existed? Has there ever been an instance where a man was convicted, before he was tried, by proof furnished? I should think not. I had always supposed, and the history of the Senate bears me out in every instance of inquiries of this character which affect the very right of a party to his seat and whose result would determine one way or the other, if he had ever so clear a title, whether he ought to be sworn, that these were questions which must be settled, and they must be settled by directing a committee having power to administer oaths and to compel the attendance of witnesses to inquire. But now the Senator says Oh, no! It is stated in the public prints—responsible newspapers, as responsible as any, as respectable as any, it fills the air everywhere, with time and circumstance and definition, that here has been improper proceeding, improper influence brought to bear *pro* and *con*, for the Senator from Georgia says there are improper influences in the other direction. So much the worse, so much the more it ought to be investigated; and yet we are to do nothing about it but proceed with the very thing that these transactions affect if they be so, and then afterward try the question. Is that right, Mr. President? Does the Senator himself really think that is right? I doubt if he can. He has fallen into the mistake of confounding two things, confounding the circumstance that some Senators have voted a particular way with the point and *gravamen* of the article in the New York Tribune and of the occurrences that took place here before us all—not of votes let me tell the Senator over and over again; he seems to forget that—but others that he knows just as well as I do. That is the point of it. I take it a man may be corruptly bribed to vote for the best resolution in the world. I take it a man may be corruptly bribed to vote for a necessary appropriation. It would not be any the less a crime. Therefore the Senator seems to confound two things.

Suppose Mr. Butler is entitled to the seat; suppose there is no question about it; but suppose at the same time that he has entered into a corrupt arrangement with myself or my friend or anybody else by which we are to vote for him, and if we do not then certain other things shall happen, would the fact that he was entitled to the seat touch the question that the Senate ought to inquire into, and if they found it to be true would they seat him? I take it not. There is the difference; and yet the Senator says that I have made a personal assault upon somebody. The Senator is entirely mistaken.

I have done what I thought was necessary to vindicate the honor of this body, and to vindicate the honor of the Senator from South Carolina and the claimant from South Carolina, if it should turn out, as, I repeat, I hope it will, that there is no foundation for this thing which appears to fill the air everywhere. That is it. Now, the Senator sees the distinction and everybody else sees the distinction, and he makes a mistake, therefore, in imputing to me a personal assault on anybody whatever; but the fear of having a wrong motive imputed to me, I should hope, would not deter me any more than it would him in asking this Senator to face the very question, not of how these gentlemen have voted, but whether corrupt influences, or threats, or any other thing of that character which ought not to be, and which is criminal and illegal, has been brought to bear or has been attempted to influence their votes, even if their votes were right, which makes no difference. No matter if they had proclaimed from the house-tops twenty years ago that they were going to vote for Mr. Butler when he came; that does not touch the question at all; it does not touch the question of their vindication at all.

If they have lent themselves to the inducements that it is said in this newspaper have been brought to bear, then we ought to know it, no matter how well entitled this gentleman may be to his seat. If they have not, both they and he ought to be vindicated, he certainly before he is sworn in. That is the point; and my learned friend cannot escape by saying that this is not the time and this is not the place to order this inquiry. It is the very time and the very place; for upon its result, no matter whether this man have a title to his office or not, depends the question of whether he is entitled to be sworn in at all. His title to his seat by an election in South Carolina may be as clear as that of my friend from Ohio; and yet, if he has done this thing that is imputed, I take it the Senator from Ohio himself would not vote to allow him to be sworn. We all agree to that. Where, therefore, is the impropriety or the unfairness in this proceeding, that I have simply asked the Senate, before it proceeds to discharge this committee from considering the case, to make this inquiry into the charges that are made in these newspapers and that fill the air everywhere from one end of the country to the other?

The honorable Senator from South Carolina complains. I did not expect that. I thought that he would join with me most gladly in this opportunity to enable him to vindicate his own honor from the suspicions that had been cast upon it in the public press under the circumstances that have existed. He speaks of not being able to be here. I take it that he may be pretty safe in supposing that the Senate of the United States will not try any accusations against him until he has a fair chance to be present. That is not the way the Senate operates, and if from any circumstances that are beyond his control, or within it recently, he is unable on a given day to attend, certainly he shall have an opportunity; but it would be a most extraordinary ground for stopping an inquiry to say that possibly that inquiry might go on when the person affected by it might not be able to be present. To borrow the expression of the Senator from Ohio, that would not do.

The simple question, then, is, Mr. President, whether the Senate has made up its mind to discharge this committee from the consideration of the credentials of this claimant and to swear him in as a member of this body when the newspapers of the land are full of distinct and definite statements of the corrupt, if they exist, and degrading and criminal influences that have been brought to bear to accomplish it. That is the question which the Senate is obliged to meet, and it is one that it ought to meet. If the Senate says the best way is to swear this gentleman in first and try him afterwards, inquire afterwards, very well, I cannot help it; but that has not been the course that I have taken in the Senate hitherto, and I do not propose to take it now.

Mr. THURMAN. Mr. President, the Senator from Vermont not only moves an anomalous amendment to my resolution, but he advocates quite a new departure in the usages of the Senate. Formerly there have been Senators against whom charges were made before they were sworn in, and charges quite as damaging, if possible more damaging, than the charge to which the Senator from Vermont refers. Who has forgotten that once in the Senate of the United States the petition of a large number of members of a State Legislature was presented, protesting against the swearing in of a Senator on the ground that that Senator had obtained his seat by bribery? Did the Senate stop to investigate those charges? Not at all. The Senator was sworn in, and then the Senate afterward even refused to investigate them because of their vagueness, because any man could be libeled, if that was the way, and yet they were more certain than anything in this newspaper article which has been read.

Mr. EDMUNDS. What case does the Senator refer to?

Mr. THURMAN. I will tell the Senator if he wants to know. I do not care about mentioning it here.

Again, Mr. Caldwell, from Kansas, came here and was sworn in. Had nothing been said against him? Certain papers in his State were full of charges that he had bought his way into the Senate before he came here to be sworn. Did the Senator from Vermont ask that they should be investigated before he was sworn? Not at all. Did any Senator? Not at all. He took his seat, and afterward, when the charges were brought to the notice of the Senate in a way that it could not avoid considering them, it did consider them; and what then? Then it was maintained—I was not one who maintained that doctrine, but it was maintained by nearly one-half the Senate—that if the charges were true they furnished no reason why he should not be seated, but that he must be expelled from the Senate by a two-thirds vote after having been seated.

Mr. CONKLING. The Senator does not mean that surely.

Mr. THURMAN. Does not mean what?

Mr. CONKLING. Does not mean that one-half the Senate held the doctrine he mentions.

Mr. THURMAN. I think nearly one-half the Senate held the doctrine that it would take two-thirds to oust him from his seat. I think so. I know the Senator from New York made a very able argument——

Mr. CONKLING. But the honorable Senator says that one-half the Senate held that he was entitled to his seat. One-half the Senate held, and I think both halves, that Mr. Caldwell, having been here for three years a Senator in law and in fact, could not be then declared to have been never elected; but we over here understood the Senator to say that one-half the Senate held he ought to be seated in spite of these things.

Mr. THURMAN. Perhaps the Senator from New York is right in correcting me in the statement of the position taken by the Senate then. It is sufficient he was seated. At the special session last March what did we see? The credentials of the Senator from Oregon [Mr. GROVER] were presented. Charges were then preferred against him. Did anybody seriously object to his being seated? No, sir. Upon Mr. GROVER authorizing it to be stated that he himself would move a resolution to investigate those charges, all objection to his being seated was withdrawn and he was sworn in.

These cases are sufficient to show, and they stand upon the plainest grounds in the world, that, if the Senate were to adopt the practice of investigating newspaper charges against a Senator-elect before they would swear him in, any State in this Union might be de-

prived of its representation on this floor for an indefinite period of time; for who is there, however virtuous he may be, however unstained and unspotted his career in life may have been, who is not liable to be defamed in this way? I dare say that if I were to hunt over the old files of the newspapers, which I certainly shall not do, I could find that when Pinchback's case was pending my friend from Vermont was denounced in divers republican party papers as a traitor, and no better than a Benedict Arnold to his party, and possibly charges might be made against him. If I were disposed to get up charges that must be investigated before a Senator can be seated, suppose that to-morrow, or whenever the resolution comes up for the seating of Mr. Kellogg, I move a substitute for that to investigate Kellogg's doings down in Louisiana, should we not have a nice investigation before we could determine whether Louisiana should have a Senator on this floor?

No, Mr. President, this proposition is not a proposition that the Senate ought to entertain for one single moment. Everybody can see into it, and I hope that the Senate will show its sense of what is right and proper by voting it down, and that it will not be said that a State is to be deprived of her representation on this floor until all the charges that may be written anonymously to newspapers and published therein shall be investigated. I ask again what man would be safe or what State would be secure of her representation if that course should be adopted. Why, sir, a Senator this morning, a gentleman whose reputation as a law-abiding man I believe is not excelled by that of anybody in the Union, told me to my utter amazement that once a fellow has published of him that he had been guilty of murder; a man who never killed anything of more accouut than a squirrel or perhaps a coon, [laughter;] that that mild-tempered man had been guilty of murder! Who is there that can escape accusations of this kind?

I once more submit to the Senate if the right of a State to representation on this floor is to be delayed for any such inquiry as that suggested by the Senator from Vermont. Let the Senator move his resolution as an independent measure whenever he can get the floor, and he shall have as much investigation as he wants.

The VICE-PRESIDENT. The question is on the amendment proposed by the Senator from Vermont.

Mr. THURMAN. I wish to say one word more. If the Senator from Vermont does not see fit to move this resolution of inquiry into the subject and if General Butler shall obtain the seat on this floor, to which I believe he is entitled, I give the Senator from Vermont my word for it that a resolution will be introduced for an investigation into the matter.

The VICE-PRESIDENT. The question is on the amendment of the Senator from Vermont.

Mr. EDMUNDS called for the yeas and nays; and they were ordered.

The Chief Clerk proceeded to call the roll.

Mr. HILL, (when his name was called.) On all political questions I am paired for this day with the Senator from Alabama, [Mr. SPENCER,] and I suppose I am entitled to consider this a political question.

Mr. JOHNSTON, (when his name was called.) I am paired with the Senator from Minnesota, [Mr. WINDOM.] I should vote "nay" and I presume he would vote "yea," if he were present.

Mr. MAXEY, (when his name was called.) On all political questions—and this takes that direction—I am paired with the Senator from Michigan, [Mr. FERRY.] If he were present, I should vote "nay" and he would vote "yea."

Mr. COCKRELL. My colleague [Mr. ARMSTRONG] is paired with the Senator from Kansas, [Mr. PLUMB.] My colleague, if he were here, would vote "nay;" I do not know how the Senator from Kansas would vote.

Mr. CHRISTIANCY. With some reluctance I vote "yea."

The roll-call having been concluded, the result was announced—yeas 27, nays 30; as follows:

YEAS—Messrs. Allison, Anthony, Booth, Bruce, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Christiancy, Conkling, Dawes, Dorsey, Edmunds, Hoar, Howe, Ingalls, Jones of Nevada, Kirkwood, McMillan, Mitchell, Morrill, Oglesby, Paddock, Rollins, Saunders, Teller, and Wadleigh—27.

NAYS—Messrs. Bailey, Bayard, Beck, Cockrell, Coke, Conover, Davis of Illinois, Davis of West Virginia, Dennis, Garland, Gordon, Harris, Hereford, Jones of Florida, Kernan, Lamar, McCreery, McDonald, McPherson, Matthews, Merrimon, Morgan, Randolph, Ransom, Saulsbury, Thurman, Voorhees, Wallace, Whyte, and Withers—30.

ABSENT—Messrs. Armstrong, Barnum, Blaine, Eaton, Ferry, Grover, Hamlin, Hill, Johnston, Maxey, Patterson, Plumb, Sargent, Sharon, Spencer, and Windom—16.

So the amendment was rejected.

Mr. ALLISON, (at four o'clock p. m.) I move that the Senate proceed to the consideration of executive business.

Mr. WITHERS and others called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 27, nays 30, as follows:

YEAS—Messrs. Allison, Anthony, Bruce, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Christiancy, Conkling, Dawes, Dorsey, Edmunds, Hoar, Howe, Ingalls, Jones of Nevada, Kirkwood, McMillan, Matthews, Mitchell, Morrill, Oglesby, Paddock, Rollins, Saunders, Teller, and Wadleigh—27.

NAYS—Messrs. Bailey, Bayard, Beck, Cockrell, Coke, Conover, Davis of Illinois, Davis of West Virginia, Dennis, Garland, Gordon, Harris, Hereford, Jones of Florida, Kernan, Lamar, McCreery, McDonald, McPherson, Merrimon, Morgan, Patterson, Randolph, Ransom, Saulsbury, Thurman, Voorhees, Wallace, Whyte, and Withers—30.

ABSENT—Messrs. Armstrong, Barnum, Blaine, Booth, Eaton, Ferry, Grover, Hamlin, Hill, Johnston, Maxey, Plumb, Sargent, Sharon, Spencer, and Windom—16.

So the motion was not agreed to.

The VICE-PRESIDENT. The question is, will the Senate agree to the resolution offered by the Senator from Ohio, [Mr. THURMAN,] on which the yeas and nays have been ordered.

Mr. WADLEIGH. I supposed, Mr. President, after the debate of the other day, in which nearly all the members of the Committee on Privileges and Elections, including several on the other side of this Chamber, admitted that the committee had been diligent and was entitled to no censure, that I had heard the last of the charge of delay, but I understood my friend the Senator from Illinois—I refer to the independent party of the Senate—to revive the charge which I supposed had been settled forever, and to make the alleged delay of that committee the reason for his action in taking this case from them.

Mr. DAVIS, of Illinois. I did not say one word about the delay of the committee at all—not a word upon the subject. I did not accuse them of any delay.

Mr. WADLEIGH. I may have been mistaken.

Mr. DAVIS, of Illinois. I did not accuse them of any delay—none whatever.

Mr. WADLEIGH. I did understand the Senator from Illinois to say that when the Eustis case went to that committee he voted for sending it to the committee because there was a question of law involved in it which the committee should consider, and that he supposed they would report in a short time. I do not know why the Senator from Illinois stated that fact unless it had some bearing upon the question now before the Senate.

Mr. DAVIS, of Illinois. I stated that fact, if the Senator will allow me, in reply to a charge of inconsistency urged against me by the Senator from Vermont. I did not in my original remarks say one word on the subject of delay, but in the case now before the Senate that was all I said about that.

Mr. WADLEIGH. Perhaps the Senator from Illinois did not use the word "delay," but certainly I understood the general tenor of his remarks to mean that in not taking up the Eustis case and reporting upon it, as he expected they would, the committee had been guilty of something for which they were entitled to censure. So far as that is concerned, the committee took up the case that was before them when they met, as has been before stated. They have proceeded diligently to consider that case, and here let me state again for the information of my friend, the Senator from Illinois, that Mr. Butler never applied to the committee, so far as I know, to have his case taken up; he never came before the committee to ask it, and never presented his brief to nor filed a paper with the committee, nor do I believe that he desired to have the committee take up his case. It now appears that he had at that time pledges from republican Senators to support him, and relied upon those pledges rather than upon the merits of his case.

Mr. SAULSBURY. Will the Senator allow me one word? I desire in justice to General Butler to say as a member of the committee that he was more than once or twice urging the early consideration of his claim.

Mr. WADLEIGH. Yet, Mr. President, as the secrets of that committee have been so thoroughly revealed, I may be allowed to state again that no member of that committee ever made any motion to take up the Butler-Corbin case.

Mr. SAULSBURY. If the Senator will allow me, I do not desire to antagonize anything he said; but he is speaking of what took place in committee. My friend, Senator HILL, did advertise the committee that unless the cases of Butler and Eustis were speedily considered the motion to discharge the committee would be made.

Mr. WADLEIGH. I say that no motion was ever made for that purpose, and my friend, the Senator from Delaware, supports me in this statement. Motions were made to take up the Eustis case, but no member of that committee moved to take up the Butler case. It lay until it was found the committee were about to finish the consideration of the Kellogg case, and then General Butler endeavored to bring it directly before the Senate. My friend, the Senator from Illinois, and my friend, the Senator from Georgia, upon my left, have said here in substance that there is no dispute upon any question of fact between these two contestants. The latter says that the brief furnished by Mr. Corbin is a very fair brief, and my friend, the Senator from Illinois, puts his support of this resolution upon the ground that there is no essential dispute as to the facts; that the facts alleged on the one side are admitted on the other; that there is no need of any investigation, and I understood the Senator from Illinois to intimate what his vote would be on the main question of the seating of Butler.

Mr. DAVIS, of Illinois. Will the Senator allow me? There, sir, you are utterly mistaken.

Mr. WADLEIGH. I may be.

Mr. DAVIS, of Illinois. You may be. That is a direct charge, when I disclaim distinctly and unequivocally that I had expressed any opinion in relation to this subject at all. I expressed none as to whether either of these parties was elected, or which one, or whether the case should go back to the committee. I utterly disclaim it, entirely.

Mr. WADLEIGH. I accept the disclaimer of my friend from Illinois.

Mr. DAVIS, of Illinois. You ought not to make the charge unless you have some foundation for it.

Mr. WADLEIGH. I was misled (forgetting at the moment that the Senator was recently from the bench) by his statement that he thought that the people of the South ought to manage their own affairs. That is a phrase which I have often heard, and we all know what it usually means; but I suppose the Senator from Illinois, who has recently come here, did not give to the phrase its ordinary meaning.

Mr. DAVIS, of Illinois. I used it in a political sense entirely, as giving the reason why I supposed the Senator from Ohio might naturally conclude that I would want to have this matter speedily settled; but upon the merits of the controversy upon the main question, which of these two parties is entitled to a seat here, if either, I said not a word, and disclaim it utterly.

Mr. WADLEIGH. I am glad to hear that from my friend from Illinois. He said there is no dispute about the facts. Now what are the facts alleged in Mr. Corbin's brief? The following allegation is made as one of the facts upon which Mr. Corbin relies:

By the State census of 1875 the whole number of male persons over twenty-one years of age in the county of Edgefield is only 7,122.

Then he alleges that the vote in that county at the last election according to the democratic returns was 9,374. That is one of the facts which the democratic party in the Senate admits. Another fact. Yes, Mr. President, they admit that with a decrease in the republican vote and at least six hundred republicans staying at home there was a vote of 2,252 more than the entire male population of that county over twenty-one years of age. Now, if it is admitted that that is a fact, and my friend, the Senator from Illinois so states, and my friend from Georgia seems to imply that, then of course there is no need of any investigation in this case by a committee, because there can be, I hope, no Senator upon this floor who would vote to seat a man who is elected by the vote of representatives and senators chosen in a county where such a fact exists.

Let us look at another fact. Let me read. Mr. Corbin goes on to say in reference to the county of Edgefield:

This decrease in the republican vote was shown by the evidence before the State board of canvassers to be due, not to a natural change of party connections, but to the fact of an organized and systematic plan of intimidation and violence carried on throughout the canvass, and reaching its culmination on the day of the election.

That is another fact that is admitted. He also states as a fact which he desires to prove, but which is admitted, according to my friend, the Senator from Illinois—

The evidences before the board of canvassers also establish the fact that many of the election officers in Edgefield County were deterred by fear of physical violence from discharging their duties according to their convictions of justice and right.

Mr. HILL. Now will the Senator——

Mr. WADLEIGH. No; I do not desire to be interrupted here. Mr. Corbin proceeds in his brief, as follows:

This result was accomplished in various ways. Some of the managers were prevented by threats from assuming the duties of their offices at all; others again, during the progress of the election, were prevented from rejecting the votes of persons not authorized to vote; others were prevented from making such returns of the election as their judgment dictated, or from forwarding their statements or other written evidences of the fraud and violence practiced at their poll; and, finally, the republican members of the board of county canvassers were coerced by threats of violence into signing returns which they believed registered the results of this overwhelming fraud and violence, rather than the free ballots of the lawful voters of this county.

So much as to the facts in Edgefield County. In regard to the county of Laurens, the other county upon which the result in South Carolina depended, and upon which the lawful election of M. C. Butler depends, it is stated here as a fact that the circumstances there were the same as those in Edgefield County and that Mr. Corbin will prove them. He also goes on to say in regard to Laurens County:

This additional feature appeared: that the return of the board of county canvassers was signed by but two of the three commissioners composing the board, and one of the two signers signed the returns under protest, affixing his protest to the return itself, and afterwards filing his affidavit with the board of State canvassers, in the following terms:

"That so universal was this system of intimidation that deponent, influenced by this knowledge, and also by a personal observation of the illegal way in which the election was conducted in some particulars, did not feel justified in subscribing to the returns of the election in his official capacity as commissioner, and only consented to do so under protest, as said returns will show on its face, when he became satisfied that his life would be placed in jeopardy if he declined to so subscribe the said return."

Whether M. C. Butler was elected or not depends mainly upon what was done in those two counties at and prior to the election in November last. Those are the statements made by Mr. Corbin which he says he expects to prove and which he asks to be allowed to prove before the committee, and in the face of those statements my friend the Senator from Illinois comes into the Senate and says that all the facts being admitted substantially, there being no dispute about the facts, this case should be taken from the committee. Are those facts alleged by Mr. Corbin as being capable of proof, and which he says he desires to have an opportunity of proving, admitted here? Is that so, Mr. President?

Mr. DAVIS, of Illinois. Will the Senator allow me to make a correction?

Mr. WADLEIGH. Certainly.

Mr. DAVIS, of Illinois. He certainly does not want to misrepresent me.

Mr. WADLEIGH. No, I do not.

Mr. DAVIS, of Illinois. I did not say that all the facts were agreed upon between these two contestants. I simply said that the facts upon which they did agree were sufficient to decide this controversy. Now, it is perfectly plain that they did not agree upon what the Senator is talking about at all.

Mr. HILL. Will the Senator from New Hampshire allow me a moment?

Mr. WADLEIGH. Certainly.

Mr. HILL. Now I say, Mr. President, in presence of the Senate, that there is not one particle of issue between Mr. Butler and Mr. Corbin upon the fact that it is charged by Mr. Corbin and was charged before the State canvassers that there was intimidation and violence in Edgefield and Laurens. That is charged by Mr. Corbin, and the evidence of that intimidation was before the State canvassers, and it is admitted by both the contestants, whatever that evidence was. There is no dispute between them as to what the evidence before the State canvassers was. The issue between the gentlemen is, first, we say that that evidence did not give the board of State canvassers any jurisdiction to determine that question. Secondly, that if it did give jurisdiction the evidence that was before them did not authorize the conclusion at which they arrived, but there is no dispute about the fact of the evidence that is before them; not a bit.

Mr. WADLEIGH. Let me ask my friend the Senator from Georgia whether there is any dispute about the facts which Mr. Corbin asks to be allowed to prove?

Mr. HILL. Mr. Corbin does not ask, as I understand him, to be allowed to prove anything other than by the evidence that was before the board of State canvassers, for the question was whether that decision was right on the evidence before them. We concede the evidence that was before them. There is no issue as to what evidence was before them. The only difference is as to what was the effect of that evidence.

Mr. WADLEIGH. I understand that Mr. Corbin expects to prove the truth of these allegations, if he is allowed to do so, before the committee, and I did understand my friend the Senator from Illinois to say that he did not understand that there was any dispute as to any matter of fact between the contestants.

Mr. DAVIS, of Illinois. No; that the facts upon which they agreed were enough to decide the case, not that there was not a dispute between them, because there was.

Mr. HILL. Yes.

Mr. WADLEIGH. That may be the idea of my friend the Senator from Illinois. I do not agree with him. I think that if the State canvassers refused to give certificates to the men who were elected only by such illegal means and they had no lawful evidence of their election—no certificates of election—they could not sit in the Legislature. Without the legal evidence which entitled them to sit in the Legislature they had not the right to sit. If you go beyond the legal evidence which they were required to have in order to entitle them to sit in the Legislature you must go to the bottom facts and find whether there was any fair or free election. The rule of parliamentary law is, that where the result of an election is changed by violence, force, or intimidation, there is no lawful election. If the facts alleged by Mr. Corbin in his brief are admitted, there was no lawful election in those two counties, and if there was no lawful election in those two counties Mr. Butler was not lawfully elected to the Senate.

Mr. President, there is especial reason why it is desirable that the Committee on Privileges and Elections should investigate this case. The Senate sent to South Carolina a committee to investigate the election in that State in November last. A great amount of testimony was taken by that committee, constituting the three large volumes upon this desk. A report is in course of preparation by a member of that committee. I am informed that the evidence there taken not only shows that Mr. Corbin states substantially the truth in his brief, but that it also shows the connection of this contestant with scenes of violence and crime. I do not know whether he was or not, but I am informed those pages contain ample evidence that his path to this Chamber is slippery with blood. In my judgment that furnishes a reason, and a good reason, why the Senate should pause before admitting him into this Chamber long enough to examine that report.

I hope, Mr. President, he was not, but if he was, is there one Senator, whether he be an independent, a democrat, or a republican, who can hesitate to vote against him? As a member of the Senate I voted in favor of unseating a member who had used money to effect his election to the Senate from the State of Kansas. Upon the consideration of his case he was driven from this Chamber; and, sir, after voting to unseat a man who paid money to effect his election, shall I be asked to vote a contestant into this Chamber elected by violence, intimidation, and murder, by horrible crimes inflicted upon the poor people of South Carolina in order to induce them to refrain from voting or to vote the democratic ticket? I hope that our friends upon the other side will wait until they get that report and that the Senate will be allowed to have the facts which are soon to be placed before them. I might say here, in view of the haste that is manifested in this case, that those upon the other side of the

Chamber do not wish the Senate and the country should see that report and evidence until Mr. Butler has been seated in this Chamber. There is nothing more fair, more just than that a contestant for a seat here against whom such charges are made should wait until the evidence which is in print and the report of the committee which I understand is nearly ready to be presented have been before the Senate for their consideration.

Mr. INGALLS, (at four o'clock and thirty minutes p. m.) I move that the Senate do now adjourn.

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

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

The roll-call having been concluded,

Mr. GORDON. I asked the Senator from Illinois [Mr. OGLESBY] to pair with me for half an hour. I am not aware whether he has voted or not.

The VICE-PRESIDENT. He has not voted, the Chair is informed.

Mr. GORDON. I will not vote, then.

Mr. RANDOLPH, (after having first voted in the negative.) I wish to inquire if the Senator from California [Mr. BOOTH] has voted?

The VICE-PRESIDENT. He has not.

Mr. RANDOLPH. Then I withdraw my vote. We are paired.

The result was announced—yeas 26, nays 28; as follows:

YEAS—Messrs. Allison, Anthony, Bruce, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Christiancy, Conkling, Dawes, Dorsey, Edmunds, Hoar, Howe, Ingalls, Jones of Nevada, Kirkwood, McMillan, Matthews, Mitchell, Morrill, Paddock, Rollins, Saunders, Teller, and Wadleigh—26.

NAYS—Messrs. Bailey, Bayard, Beck, Cockrell, Coke, Conover, Davis of Illinois, Davis of West Virginia, Dennis, Garland, Harris, Hereford, Jones of Florida, Kernan, Lamar, McCreery, McDonald, McPherson, Merrimon, Morgan, Patterson, Ransom, Saulsbury, Thurman, Voorhees, Wallace, Whyte, and Withers—28.

ABSENT—Messrs. Armstrong, Barnum, Blaine, Booth, Eaton, Ferry, Gordon, Grover, Hamlin, Hill, Johnston, Maxey, Oglesby, Plumb, Randolph, Sargent, Sharon, Spencer, and Windom—19.

So the Senate refused to adjourn.

Mr. EDMUNDS. Mr. President, I do not wish to proceed with this discussion at the present time, because I am not quite ready; I have not had an opportunity to read these briefs through yet; and I dislike to move to have the doors closed to consider the motion that I am about to make. I will make it in the first place and see what luck it has, without giving reasons that I cannot give in public. I move, therefore, that the Senate proceed to the consideration of executive business.

The VICE-PRESIDENT. The Senator from Vermont moves that the Senate proceed to the consideration of executive business.

Mr. SAULSBURY. On that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. DAVIS, of Illinois. I shall vote for the motion to go into executive session. I know that there is important business that should be reported to the executive session of the Senate, and I am not disposed to spend any more time upon this contest at this period of the day.

The question being taken by yeas and nays, resulted—yeas 29, nays 29; as follows:

YEAS—Messrs. Allison, Anthony, Booth, Bruce, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Christiancy, Conkling, Davis of Illinois, Dawes, Dorsey, Edmunds, Hoar, Howe, Ingalls, Jones of Nevada, Kirkwood, McMillan, Matthews, Mitchell, Morrill, Oglesby, Paddock, Rollins, Saunders, Teller, and Wadleigh—29.

NAYS—Messrs. Bailey, Bayard, Beck, Cockrell, Coke, Conover, Davis of West Virginia, Dennis, Garland, Gordon, Harris, Hereford, Jones of Florida, Kernan, Lamar, McCreery, McDonald, McPherson, Merrimon, Morgan, Patterson, Randolph, Ransom, Saulsbury, Thurman, Voorhees, Wallace, Whyte, and Withers—29.

ABSENT—Messrs. Armstrong, Barnum, Blaine, Eaton, Ferry, Grover, Hamlin, Hill, Johnston, Maxey, Plumb, Sargent, Sharon, Spencer, and Windom—15.

The VICE-PRESIDENT. Upon the proposition of the Senator from Vermont that the Senate do now proceed to the consideration of executive business, the yeas are 29 and the nays are 29. The vote of the Senate being equally divided, the Chair votes in the affirmative, and the Senate decides to go into executive session. The Sergeant-at-arms will clear the galleries and close the doors of the Senate.

AMENDMENT TO DEFICIENCY BILL.

Mr. MITCHELL. Before the doors are closed I wish to submit an amendment to be proposed to the bill (H. R. No. 1526) to provide for deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1878, and for prior years, and for other purposes.

The proposed amendment was referred to the Committee on Appropriations, and ordered to be printed.

PRESIDENTIAL APPROVALS.

A message from the President of the United States by Mr. O. L. PRUDEN, his Secretary, announced that the President had on the 23d instant signed the following act and joint resolution:

An act (S. No. 289) to authorize the Secretary of the Treasury to issue a register and change the name of the schooner Captain Charles Robbins to Minnie; and

A joint resolution (S. R. No. 6) fixing a site for the equestrian statue of General Greene.

The message also announced that the President had on the 24th instant approved and signed the act (S. No. 291) to remove the political disabilities of Charles W. Field, of King George County, Virginia.

EXECUTIVE SESSION.

The Senate proceeded to the consideration of executive business; and after one hour and fifty-five minutes spent in executive session the doors were re-opened.

Mr. EDMUNDS, (at six o'clock and forty minutes p. m.) I move that the Senate do now adjourn.

Mr. HARRIS. On that motion I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 25, nays 27; as follows:

YEAS—Messrs. Allison, Anthony, Booth, Bruce, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Christiancy, Conkling, Dawes, Dorsey, Edmunds, Hoar, Howe, Ingalls, Jones of Nevada, Kirkwood, McMillan, Matthews, Morrill, Oglesby, Paddock, Rollins, Saunders, and Teller—25.

NAYS—Messrs. Bailey, Bayard, Beck, Coke, Davis of Illinois, Davis of West Virginia, Dennis, Garland, Gordon, Harris, Hereford, Jones of Florida, Kernan, Lamar, McCreery, McDonald, McPherson, Morgan, Patterson, Randolph, Ransom, Saulsbury, Thurman, Voorhees, Wallace, Whyte, and Withers—27.

ABSENT—Messrs. Armstrong, Barnum, Blaine, Chaffee, Cockrell, Conover, Eaton, Ferry, Grover, Hamlin, Hill, Johnston, Maxey, Merrimon, Mitchell, Plumb, Sargent, Sharon, Spencer, Wadleigh, and Windom—21.

So the Senate refused to adjourn.

SENATOR FROM SOUTH CAROLINA.

The VICE-PRESIDENT. The question is, will the Senate agree to the resolution offered by the Senator from Ohio?

Mr. EDMUNDS. Let the resolution be read.

The VICE-PRESIDENT. The resolution will be reported.

The Chief Clerk read as follows:

Resolved, That the Committee on Privileges and Elections be discharged from the consideration of the credentials of M. C. Butler, of South Carolina.

Mr. EDMUNDS. I move to amend by adding at the end of the resolution "and that the subject of said credentials be made the special order for Wednesday next, at one o'clock afternoon."

Mr. WHYTE. That is not in order.

Mr. EDMUNDS. I never make a motion that is out of order that I know of.

The VICE-PRESIDENT. The question is on the amendment of the Senator from Vermont.

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

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

Mr. EDMUNDS, (when Mr. DAWES'S name was called.) The Senator from Delaware [Mr. SAULSBURY] has paired with the Senator from Massachusetts [Mr. DAWES.]

Mr. DORSEY. The Senator from New Jersey [Mr. MCPHERSON] has paired with the Senator from Colorado, [Mr. CHAFFEE.] The Senator from New Jersey would vote "nay" and the Senator from Colorado would vote "yea," if present.

Mr. MITCHELL, (when his name was called). On this question I am paired with the Senator from North Carolina [Mr. MERRIMON.] He would vote "nay," if here, and I should vote "yea."

The result was announced—yeas 23, nays 25; as follows:

YEAS—Messrs. Allison, Anthony, Booth, Bruce, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Christiancy, Dorsey, Edmunds, Hoar, Ingalls, Jones of Nevada, Kirkwood, McMillan, Matthews, Morrill, Oglesby, Paddock, Rollins, Saunders, Teller, and Wadleigh—23.

NAYS—Messrs. Bailey, Bayard, Beck, Coke, Conover, Davis of West Virginia, Dennis, Garland, Gordon, Harris, Hereford, Jones of Florida, Kernan, Lamar, McCreery, McDonald, Morgan, Patterson, Randolph, Ransom, Thurman, Voorhees, Wallace, Whyte, and Withers—25.

ABSENT—Messrs. Armstrong, Barnum, Blaine, Chaffee, Cockrell, Conkling, Davis of Illinois, Dawes, Eaton, Ferry, Grover, Hamlin, Hill, Howe, Johnston, McPherson, Maxey, Merrimon, Mitchell, Plumb, Sargent, Saulsbury, Sharon, Spencer, and Windom—25.

So the amendment was rejected.

Mr. EDMUNDS. Mr. President, it seems to be the disposition of the majority not to amend this resolution in any of the ways I have proposed; and before we go on with the discussion of it, which of course may take a good deal of time, I think we ought to have some supper, and I will move therefore, that the Senate take a recess until half past eight o'clock to-night.

Mr. DAVIS, of Illinois. Oh, no.

Mr. ALLISON. Make it eight o'clock.

Mr. OGLESBY. Make it half past nine. [Laughter.]

Mr. EDMUNDS. I will make the motion to take a recess until half past eight.

The VICE-PRESIDENT. The Senator from Vermont moves that the Senate take a recess until half past eight o'clock.

Mr. DAVIS, of Illinois. Say eight.

Mr. EDMUNDS. We should not have time to get supper.

Mr. DAVIS, of Illinois. We could get supper just as well in an hour as in an hour and a half.

Mr. EDMUNDS. Yes, but my capacity for swallowing things is not so great as that of my friend from Illinois. I will make it eight o'clock to accommodate my friend.

The motion was not agreed to.

The VICE-PRESIDENT. The question is, will the Senate agree to the resolution of the Senator from Ohio, upon which the yeas and nays have been ordered?

Mr. EDMUNDS. I think there was a mistake about that last vote. I do not think that the Senate understood the object of my motion; because I am sure, if we are obliged to go on, as it seems to be the disposition—and I am not making this motion to delay anybody—

but it seems to be the disposition of the majority to go on to-night, and if so we ought to have an opportunity to get something to eat. Therefore, with the permission of Senators, I will move that we take a recess until five minutes past eight—so that I shall be in order—which is substantially the same motion.

Mr. THURMAN. I suppose a remark is hardly in order, unless I am permitted to make it. If the Senate will agree that this resolution of mine shall not lose its place, and be proceeded with, and nothing shall be interposed to take precedence of it, and that if it is carried the question of General Butler's right shall not lose any precedence to which it would be entitled, if it is entitled to any, I think we might possibly come to some understanding, and adjourn.

Mr. EDMUNDS. We shall have time to talk that over, and see if we cannot agree upon it between now and eight o'clock; and then there need not any of us stay, and the Senate can adjourn.

Mr. THURMAN. I will say that possibly we might come to some understanding about that. The suggestion I think worthy of consideration. Therefore I shall vote for a recess, because I think there are matters that ought to be considered.

Mr. WHYTE and others. We had better adjourn.

Mr. THURMAN. No, no.

Mr. CONKLING. I should like to mingle in this debate at some time, if there seems to be an opportunity to say a word.

The VICE-PRESIDENT. The debate proceeds by unanimous consent, as the motion is not debatable.

Mr. CONKLING. I have only a word to say. I would vote in accordance with the convenience of Senators if I could appreciate that convenience. I did not suppose that in a proceeding so stimulating and exhilarating as this is, much food was needed on either side of the Senate; but there seem to be Senators who think it would be proper to eat even on such an occasion. The Senators who are going to eat in the Capitol, if anything can be found here to eat, need no recess until eight o'clock to go and get their food. They cannot all get it together, for the accommodations do not admit of any such thing. The Senate will have to feed by platoons, and rather small ones at that, if the feeding is to be done here. If, on the other hand, we are to go into the part of the town in which most of us live, we cannot go and come back by eight o'clock, and therefore I voted against the proposed recess. If it is proposed to take an intermission long enough to enable Senators to go home and get their dinner, I shall vote for that; but if that is not to be done, I submit that we had better go down, two or three, or half a dozen at a time, and get such lunch as we can get in the Capitol, and there is no need of a recess until eight o'clock, during which time all the Senators here cannot find any food in this building; there is not place enough or room enough for the Senate to go and dine or lunch and entertain themselves. Therefore I suggest we had better go on, and while the debate proceeds Senators can go out and replenish and fortify themselves—I would say multiply, but it is unnecessary for the other side to multiply; they seem to be numerous enough. [Laughter.]

The VICE-PRESIDENT. The question before the Senate is the motion of the Senator from Vermont that the Senate do now take a recess until five minutes after eight o'clock.

The motion was not agreed to.

The VICE-PRESIDENT. The question is upon the resolution of the Senator from Ohio, on which the yeas and nays have been ordered.

Mr. EDMUNDS. Mr. President, I will just try once more, because I think if we could have time to consult a little while we could make this as smooth as could be, and that there would be an era of peace here that has not been heard of for three or four days. Therefore, I move to amend by adding the words I did before, only making it "to-morrow at one o'clock" instead of Wednesday, which ought to satisfy the objection which gentlemen had to the other proposition. They cannot of course expect to go on to-night to discuss the merits of the Butler and Corbin controversy, I suppose, and I should hope that that would get a unanimous vote. I really hope so.

Mr. CONKLING. We are curious to know here whether the Senator from Vermont is making any confidential communication to the Chair. We do not hear what he says, and our curiosity is naturally excited to know what it is.

Mr. EDMUNDS. The amendment is offered.

The VICE-PRESIDENT. The amendment will be reported by the Secretary.

The CHIEF CLERK. It is proposed to insert at the end of the resolution the following:

> And that the subject of said credentials shall be made the special order of the day for to-morrow at one o'clock.

Mr. CONKLING. May I ask the Senator from Ohio, who seems specially to have this matter in charge, what possible objection there is to that proposition?

Mr. EATON. There is no necessity for it. We might as well adjourn as agree to it.

Mr. CONKLING. I do not differ with my friend, who usually does not make a parliamentary mistake in that respect, but, for abundant caution, if the Senate makes this a special order at the end of the morning hour to-morrow, what objection can there be to that?

Mr. EATON. There is no necessity for it, because if we adjourn it will come up to-morrow at that time as the unfinished business.

Mr. CONKLING. I agree with the Senator from Connecticut; but I ask if anybody thinks that is not sufficient, what possible objection can there be to an order by the Senate that at the expiration of the morning hour to-morrow it shall come up.

Mr. EATON. We would rather pass it to-night. [Laughter.]

Mr. CONKLING. Oh!

> If it were done, when 'tis done, then 'twere well
> It were done quickly.

That seems to be the idea of the Senator.

Mr. THURMAN. Let me understand. The motion is made to add to the resolution that the credentials of Mr. Butler be made the special order for one o'clock to-morrow. Is that it?

Mr. CONKLING. I did not hear such a thing as that in the amendment.

Mr. THURMAN. I thought that was what it was.

Mr. CONKLING. Let it be read again.

The Chief Clerk read as follows:

> That the subject of said credentials shall be made the special order of the day for to-morrow at one o'clock.

Mr. McDONALD. Is that to be added to the resolution offered by the Senator from Ohio?

Mr. THURMAN. Yes.

Mr. CONKLING. It is the subject of his credentials.

Mr. THURMAN. Butler must be made the special order.

Mr. CONKLING. Does not the Senator see the distinction?

Mr. THURMAN. I did not.

Mr. CONKLING. It is usually one of the difficulties of the honorable Senator from Ohio that he does not see distinctions when they exist, and finding that his customary difficulty is upon him now, I will say to him that my understanding of the distinction is this: To-morrow at one o'clock it will be within the province of the Senate, under the rules of the Senate, to say whether in filling the vacant seats the Senate will proceed first in the case which has been explained and enlightened by not one report but two hostile reports from a committee, which it may be safe to assume, present not only one side but each side of the controversy, or whether the Senate, brushing away these two reports, will proceed first in a case in which no report has been made, and in respect of which, I will venture to say, on this side of the Chamber there is not one Senator in ten who has as yet any exact information. If the credentials of Mr. Butler technically were made a special order for to-morrow at one o'clock, I do not know but that the Chair might hold, might be compelled to hold, that that assigns precedence to those credentials and to the questions to which they give rise. On the other hand, if the subject, merely, which we have been talking about, is made a special order for one o'clock to-morrow, it might not, and probably would not, be held that the Senate had concluded to commit itself to the understanding that the credentials themselves, and the questions arising upon them, should proceed at one o'clock, not being displaced by anything else. There was in our rules (I suppose there is yet; I have not read the last revision of the rules,) a provision requiring two-thirds of the Senate to deal in certain ways with a special order. Therefore, it might become quite important that we should not be committed at one o'clock to-morrow to go on and put the credentials technically from South Carolina in advance of the credentials from Louisiana on which a report of the committee has been made.

Mr. EATON. If my friend will allow me, I should like to suggest to him that the credentials of the claimant from South Carolina are now in advance of the others, because if the Senate vote to take from the committee the consideration of that question, those credentials are on the table of the Senate that moment.

Mr. CONKLING. But, Mr. President, does not my honorable friend from Connecticut fall into an error by forgetting one of the rules of the Senate?

Mr. EATON. I think not.

Mr. CONKLING. There is a rule of the Senate which provides not only that the report of a committee but that the subject-matter from which a committee has been discharged shall, on the objection of one Senator, lie over one day; so that if the resolution offered by the Senator from Ohio were to pass at this moment the Senate could not proceed except by unanimous consent to do anything with the matter of Mr. Butler's credentials.

Mr. EATON. I apprehend my friend from New York is entirely wrong. I do not differ with the honorable Senator with regard to the rule, but this question is a privileged question.

Mr. CONKLING. Not much.

Mr. EATON. It is a question of the highest privilege.

Mr. EDMUNDS. Is it any more privileged than the Kellogg report was this morning?

Mr. EATON. Not a particle, but there happened to be one ahead of the Kellogg report this morning.

Mr. EDMUNDS. I beg my friend's pardon. The Kellogg report went over on objection this morning from the democratic side, and the Chair sustained the objection.

Mr. CONKLING. If the Senator will attend to me a moment, where is the error into which he thinks I have fallen?

Mr. THURMAN. That we are acting under Rule 7, and that Rule 50 is not applicable.

Mr. EATON. That Rule 50 is not applicable at all to a question of the highest privilege. That is my belief. That is general parliamentary law. The question now is, does this special rule to which

the honorable Senator from New York alludes, take it out from the general principle of parliamentary law? I contend that it does not.

Mr. CONKLING. Mr. President, if I am wrong in any respect, I will leave it to the Senator from Connecticut, after hearing me, whether I am wrong in the particular that he has pointed out. Rule 7 provides that—

All questions and motions arising or made upon the presentation of credentials shall be proceeded with until disposed of by the Senate.

I am quite sure that so experienced a parliamentarian as the Senator from Connecticut will not even argue that that rule applies to the case of credentials presented long ago, proceeded with, referred to a committee, and brought back weeks and months afterward on a motion to discharge; so that I think I may leave out of the question the words of Rule 7, which I have read. Then I come to Rule 50——

Mr. THURMAN. When the committee is discharged, and the credentials come back into the Senate, why do they not stand just as they did at the time they were presented?

Mr. CONKLING. I have known of decrees in chancery which undertook to put the parties *in statu quo*; I never heard before that a rule itself fully provisional, not only restrictive, but enabling, dealing with the whole subject, saying that on a certain occasion, and no other, to wit, "the presentation—" a term well defined and known, declaring that at that one time, and at no other, all the questions which then arise shall be proceeded with and disposed of—could be supposed to mean that something else at some other and different time and stage of business was also intended and included.

I think that the question of the Senator is sufficiently answered by being clearly stated. Here is a rule, for example, which provides that upon a report coming in from a committee such or such a thing is to be done. Somebody proposes the question whether when a different proceeding occurs, when no committee has reported, when the proceeding is wholly different, the rule does not apply. The answer to it is that the case which is provided for has not arisen and another case, which it does not provide for, is before the Senate. Let us see what Rule 50 says:

All reports of committees and motions to discharge a committee from the consideration of a subject, and all subjects—

Not all subjects except privileged subjects or privileged questions, but "all subjects"—

from which a committee shall be discharged, shall lie one day for consideration, unless by unanimous consent the Senate shall otherwise direct.

How must the rule read in order to bear out the suggestion we hear now? It must read: Provided however, that the rule shall have no application to questions of privilege.

Perhaps that would be a convenient supplement to the rule, but it is not here. The rule says that all subjects whatsoever, be they grave or trivial, be they privileged or ordinary, all subjects whatsoever from which a committee has been discharged shall lie over one day unless by unanimous consent the Senate proceeds. Is not this a subject from which a committee will have been discharged after a majority shall have been found to vote in favor of a resolution which begins and ends with ordering that the committee shall be discharged? If it is such a subject this rule clearly and exactly provides for it; and could the Senator from Ohio muster all his cohorts now and vote them instantly and finally and adopt the resolution, one objection would carry the subject over until to-morrow. When we reach to-morrow the day will have come to which an objection has postponed the report in the Kellogg case, and then, I repeat, it would be for the Senate to determine whether in the orderly conduct of business, sitting as I heard some Senator say to-day, to try a question as judges, to render a solemn judgment upon law and facts, the Senate will take up first a case which comes regularly before it, which is illustrated by the report of a committee and a minority report, or whether it will postpone that case in order that the more blindfold and less intelligent proceeding shall occur of taking up first a case in respect of which nobody but the initiated knows anything except in general.

I infer that the possession of votes enough to consummate this proceeding was known in the Senate, but it was not known to Senators who sit on this side of the Chamber. They had no forewarning that they must be prepared in the Butler case. On the contrary, they relied upon the expectation that the committee in due time would give information touching the Butler case. Therefore, the question will be whether one-half the Senate, unapprised how near they were to a consideration of this case, are to be compelled to take it up first, to take up first a case which they know nothing of, and postpone a case in respect of which the material will be before us in the morning for a thorough and correct understanding.

I do not mean for one to agree, by arrangement or otherwise that I can prevent, that any order or understanding shall be reached by which the case of Mr. Butler, of South Carolina, must proceed first to-morrow. On the contrary, I wish, so far as the rules of the Senate permit it, to endeavor to have a consideration first of the Kellogg case, not because of any special preference I have for that case, but merely because it happens to be the case upon which a committee has reported, and therefore it is ready for trial, and we can take it up and take it up properly and intelligently.

The PRESIDING OFFICER, (Mr. HOAR in the chair.) The question is on the amendment of the Senator from Vermont.

Mr. CONKLING. Let us hear that read.

The PRESIDING OFFICER. The Secretary will report it.

The CHIEF CLERK. It is moved to insert at the end of the resolution:

And that the subject of the credentials shall be made the special order of the day for to-morrow at one o'clock.

Mr. THURMAN. I move to amend the amendment by striking out the words "subject of the;" so that it will read:

And that the credentials shall be made the special order of the day for to-morrow at one o'clock.

Mr. CONKLING. I should like to ask the Senator from Ohio, as I find him on his feet, whether as he understands the resolution in that form it would refer to the credentials of Butler; would it not?

Mr. THURMAN. Certainly.

Mr. CONKLING. To any other credentials?

Mr. THURMAN. No.

Mr. CONKLING. I hope the Senate will observe that answer. The Senator from Ohio says, and very truly, that it would refer to the credentials of Butler and to no other credentials.

Mr. THURMAN. Certainly not. If the Senator wants the credentials of Mr. Corbin up, we will all unite with him in discharging the committee from their consideration, and make them the special order for the same time with Butler's.

Mr. CONKLING. The Senator now addressed wants nothing on this subject. The Senator will endeavor when his name is called to vote as he thinks he ought. When he has done that, all his wants will be supplied. But I take occasion to direct the attention of the Senate to the fact that by the amendment offered by the Senator from Vermont as changed by the Senator from Ohio, the purpose is in this judicial tribunal, proceeding with fairness, pretending to hold with an impartial hand the even scales of justice, the proceedings in behalf of one party, the claim of one of two contestants and that claim only is to be brought into the Senate for adjudication. I think the court which should proceed with the trial of a cause with the preliminary order that only one of the parties should be heard, that the evidence on only one side should be given, would attract the attention of the bench and of the bar. But I do not object to this; I am not at all sure that it is not symmetrical and harmonious, that the resolution should begin as it does, that the credentials and only the credentials of one of two parties shall be brought before the Senate. Very likely those whom it is foreordained will vote to support those credentials will be less embarrassed than they might be if the credentials of the other contestant were here and in any danger of being heard on the other side of the case. I should think perhaps it might be more convenient, perhaps easier, to pronounce in behalf of one party if no case was heard except his case, and the other party was not allowed to come in at all, than it would be to undergo the inconvenience of having both sides heard and being compelled to choose between them.

Mr. EATON. Mr. President, one would really be led to believe from the remarks of my honorable friend from New York that upon this resolution the question of the antagonist of Butler is not brought up. I am perfectly astonished, for I have no idea that the senior Senator from New York believes any such thing, and therefore I must believe that he is talking for the benefit of all of us, for we all love to hear him talk.

Mr. CONKLING. Will my honorable friend explain to me why he stated a moment ago that the original resolution called for the credentials of Butler alone.

Mr. EATON. I did not.

Mr. CONKLING. I beg my friend's pardon; he said that and said it truly. Carrying the inquiry back one step further, will the Senator tell me how it came that a resolution was perfected and brought forward and has been for days debated, calling simply for those credentials, when it was known the credentials of the other contestant claiming to have been elected to the same seat were before the same committee? Was it for economy of stationary or was it on account of stinginess of ink? [Laughter.]

Mr. EATON. The question of my honorable friend is a long one. I have no idea that it was for the economy of stationery or the stinginess of ink, and there certainly is no necessity to speak about the economy of either. I did not say just now, as my friend supposed I said, that the resolution related to the credentials of Butler alone. I said it was the credentials of Butler as against the credentials of Kellogg about whom the committee have reported. Now, then, I undertake to say this, and I hardly think that my distinguished friend from New York will deny the truth of the position, that you cannot bring before the Senate the facts with regard to the credentials of Butler without bringing the testimony that applies to his antagonist.

Mr. CONKLING. Why not?

Mr. EATON. Because it is a matter that is entirely impossible. The testimony of the case at once brings the briefs of both contestants before the Senate, and then comes the question for the Senate to decide, whether Butler was elected properly or not. If so, he is to be seated. Upon my word I think there is no trouble with regard to this matter.

Mr. BAYARD. Mr. President, the substance of this question, it seems to me, is very plain. This is the second parliamentary day—about the fifth day, otherwise—which we have given to the consideration of the propriety of bringing before the Senate the credentials of Mr. Butler, of South Carolina, for the purpose of taking

its sense whether he is to be sworn or no. The substitution of Mr. Kellogg's case in lieu of Butler's has been before the Senate and has been voted upon unsuccessfully on the part of the movers. It is perfectly plain and clear that the present amendment is designed, under the rules of the Senate, to give the case of Kellogg precedence to-morrow. That is the beginning and the end of it; that is the substance of it; and those of the Senate who desire to see the case of Butler postponed and that of Kellogg taken up can further it by accepting the amendment of the honorable Senator from Vermont. I do not think there can be any doubt about this. I think it is perfectly clear. Certainly, the position the case has now before the Senate is removed from any doubt at all. If we cannot be permitted to come to a vote, if there are no other parliamentary expedients of delay in the budget of those who are opposed to the discharge of the committee from the consideration of Mr. Butler's credentials, there is no reason why the next five minutes should not settle the question and learn the will of the Senate on that subject, and learn with it whether they propose then to follow up the consideration of the case to which this is a fair, open, well-understood preliminary. We moved to discharge the committee for the purpose of taking up the case, and now the question is whether under the machinery of the rules of the Senate we shall accede to a motion that will defeat our object. That is all. I hope the Senate will understand it; I think I do, and therefore I shall vote against it.

Mr. THURMAN. I want to say one word. I moved to amend the amendment offered by the Senator from Vermont. Upon reflection I will withdraw my amendment to the amendment, and ask the friends of the original resolution to vote down the amendment for this reason if for no other: Our rules make it necessary that two-thirds of the Senate should make a special order, as has been settled. I do not profess to know where the rule is. Therefore, if that amendment were made to the resolution, it might be argued, and in possibility it would require two-thirds to pass the resolution. I hope, therefore, that we may have no more complications, and that the amendment offered by the Senator from Vermont will be voted down by the friends of the original resolution. It is plain enough that if we are to come to any understanding of this sort, as to voting at a particular time, it must be brought about, as has usually been done in the Senate, by unanimous agreement. There is no other way by which a vote can be had that I know of. And as the Senator from New York says that he will consent to no arrangement whatsoever that would enable Mr. Butler's case to be disposed of to-morrow, I do not see how that unanimous agreement can be arrived at, and therefore there is nothing left for us but to sit it out.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Vermont, [Mr. EDMUNDS.] The Senator from Ohio withdraws the motion to amend. The Clerk will report the amendment.

The CHIEF CLERK. It is moved to insert at the end of the resolution the following words:

And that the subject of the credentials shall be made the special order of the day for to-morrow at one o'clock.

Mr. CONKLING. I observe that the mover of the amendment, the Senator from Vermont, is not here at this moment. In order to enable the Senator to be here, I will ask for the yeas and nays.

Mr. HARRIS. I will state to the Senator from New York that the Senator from Vermont who moved the amendment is paired with me on that question. He is temporarily absent, and will be back in half an hour.

Mr. CONKLING. I will ask for the yeas and nays, to enable him to come in, if he wishes to do so.

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

Mr. HARRIS, (when Mr. BAILEY'S name was called.) I desire to say that my colleague [Mr. BAILEY] is paired upon this question with the Senator from California, [Mr. BOOTH.] If my colleague were here, he would vote "nay" and the Senator from California would vote "yea."

Mr. KERNAN, (when Mr. JOHNSTON'S name was called.) I was requested to state that the Senator from Virginia [Mr. JOHNSTON] and the Senator from Minnesota [Mr. WINDOM] are paired. The Senator from Virginia would vote "nay" and, I presume, the Senator from Minnesota would vote "yea."

Mr. MITCHELL, (when his name was called.) On this question I am paired with the Senator from North Carolina, [Mr. MERRIMON.] He would vote "nay" and I should vote "yea."

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

Mr. COCKRELL. The Senators from Pennsylvania are paired with each other, and are absent.

The result was announced—yeas 24, nays 25; as follows:

YEAS—Messrs. Allison, Anthony, Bruce, Burnside, Cameron of Wisconsin, Chaffee, Christiancy, Conkling, Dawes, Dorsey, Edmunds, Hoar, Howe, Ingalls, Jones of Nevada, Kirkwood, McMillan, Matthews, Morrill, Oglesby, Paddock, Saunders, Teller, and Wadleigh—24.

NAYS—Messrs. Bayard, Beck, Cockrell, Coke, Conover, Davis of Illinois, Davis of West Virginia, Dennis, Gordon, Harris, Hereford, Jones of Florida, Kernan, Lamar, McCreery, McDonald, McPherson, Morgan, Randolph, Ransom, Saulsbury, Thurman, Voorhees, Whyte, and Withers—25.

ABSENT—Messrs. Armstrong, Bailey, Barnum, Blaine, Booth, Cameron of Pennsylvania, Eaton, Ferry, Garland, Grover, Hamlin, Hill, Johnston, Maxey, Merrimon, Mitchell, Patterson, Plumb, Rollins, Sargent, Sharon, Spencer, Wallace, and Windom—24.

So the amendment was rejected.

The PRESIDING OFFICER. The question recurs on the original resolution.

Mr. MCMILLAN, (at seven o'clock and thirty-five minutes p. m.) Mr. President, I move that the Senate adjourn.

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

Mr. EDMUNDS and Mr. MCMILLAN called for the yeas and nays; and they were ordered.

The Secretary proceeded to call the roll.

Mr. COCKRELL, (after having voted in the negative.) If the Senator from Vermont [Mr. MORRILL] is not here, I am paired with him. In the event that he does not vote, I withdraw my vote for the present.

Mr. WALLACE, (when Mr. GARLAND'S name was called.) The Senator from Arkansas [Mr. GARLAND] is paired with the Senator from Nebraska, [Mr. PADDOCK.]

The roll-call having been concluded, the result was announced—yeas 23, nays 26; as follows:

YEAS—Messrs. Allison, Anthony, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Christiancy, Conkling, Dawes, Dorsey, Edmunds, Hoar, Howe, Ingalls, Jones of Nevada, Kirkwood, McMillan, Matthews, Oglesby, Rollins, Saunders, Teller, and Wadleigh—23.

NAYS—Messrs. Bayard, Beck, Coke, Conover, Davis of Illinois, Davis of West Virginia, Dennis, Gordon, Harris, Hereford, Jones of Florida, Kernan, Lamar, McCreery, McDonald, McPherson, Morgan, Patterson, Randolph, Ransom, Saulsbury, Thurman, Voorhees, Wallace, Whyte, and Withers—26.

ABSENT—Messrs. Armstrong, Bailey, Barnum, Blaine, Booth, Bruce, Cockrell, Eaton, Ferry, Garland, Grover, Hamlin, Hill, Johnston, Maxey, Merrimon, Mitchell, Morrill, Paddock, Plumb, Sargent, Sharon, Spencer, and Windom—24.

So the Senate refused to adjourn.

Mr. MCMILLAN. Mr. President, I ask to have the pending resolution reported.

The PRESIDING OFFICER. The Clerk will report the resolution.

The Chief Clerk read as follows:

Resolved, That the Committee on Privileges and Elections be discharged from the consideration of the credentials of M. C. Butler, of South Carolina.

Mr. MCMILLAN. Mr. President, it is very manifest from the discussions which have taken place here to-day that it is not known whether there are any issues of fact which are not settled between these parties. It has been stated upon the floor of the Senate that there are questions of fact which are not settled by the admission of either party or by the consent of these parties. An attempt to settle issues of fact in the open Senate would be an unheard of proceeding in a case of this kind; and in order that we may be fully advised upon this question, I move to strike from the resolution all after the word "resolved," and insert:

That the Committee on Privileges and Elections be instructed to examine and report what questions of fact, if any, in the Corbin-Butler case are not settled by the admissions of the claimants to the seat now vacant from the State of South Carolina.

Certainly there can be no objection to the adoption of this amendment. To enter upon a decision of this case, to take up and decide the question of the right of Mr. Butler to a seat in the Senate when the facts are not settled by the admission of the parties, would be to enter upon a task which we cannot finish before the close of this session of Congress. I hope, therefore, the motion will address itself to the Senate favorably, and that there will be a unanimous vote in favor of the adoption of the amendment I have proposed.

The PRESIDING OFFICER. The Senator from Minnesota moves to amend the original resolution in a manner which will be read.

The Chief Clerk read the amendment proposed by Mr. MCMILLAN.

Mr. MCMILLAN. I ask that the briefs of the parties may be read to the Senate in explanation of this motion, that we may discover how far they are from agreeing upon the facts.

Mr. WHYTE. I object, sir. They are not papers in the possession of the Senate.

Mr. INGALLS (to Mr. MCMILLAN.) Read them yourself then.

Mr. MCMILLAN. I ask to have them read as part of my remarks.

The PRESIDING OFFICER. The Senator from Minnesota is entitled to have them read as part of his remarks.

Mr. CONKLING. I hope the Clerk will read deliberately and that the Senate will attend to them.

Mr. MCMILLAN. This is the brief of Mr. Corbin which I first send up.

Mr. WHYTE. Mr. President, I desire to inquire whether this is the speech of the Senator from Minnesota, because otherwise it is not a paper to be called for to be read.

The PRESIDING OFFICER. The Senator is not entitled to have the document read on his call, but he is entitled to have it read as part of his remarks.

Mr. WHYTE. Certainly, if he says it is part of his remarks, of course my objection does not hold.

Mr. MCMILLAN. I desire to make this explanation to the Senate.

The PRESIDING OFFICER. The Chair understands the Senator so to say.

Mr. MCDONALD. In what order, Mr. President, does the Senator from Minnesota desire these briefs to be read?

Mr. McMILLAN. I have submitted the brief of Mr. Corbin. That will be read first in order.

The PRESIDING OFFICER. The Clerk will proceed.

Mr. WHYTE. We desire to understand that, Mr. President.

Mr. SAULSBURY. Is that part of the speech the Senator from Minnesota proposes to make?

The PRESIDING OFFICER. The Chair understands the Senator so to state.

The Secretary proceeded to read the document sent up.

After some time had been thus occupied,

Mr. DAVIS, of West Virginia. Is the speech of the Senator done? There is nothing going on.

The VICE-PRESIDENT. The Chair understands it has just commenced.

Mr. McMILLAN. Did I understand the Senator to wish to make a motion to adjourn.

Mr. DAVIS, of West Virginia. I asked for information. I heard nothing going on in the Senate, no reading and no one speaking, and I wanted to know whether there was anything before the Senate. I supposed perhaps the Senator had finished his speech. If I am in error, of course I submit.

The VICE-PRESIDENT. The Senator from Minnesota will proceed.

Mr. WALLACE. Will it be in order to permit the Senator from Minnesota to print?

Mr. McMILLAN. I have not made any such request, if that would be in order. The Senator from Pennsylvania had better not make suggestions that are not within the rules of the Senate.

The VICE-PRESIDENT. The reading will continue.

The Secretary resumed and continued the reading.

Mr. CAMERON, of Wisconsin, (at eight o'clock and thirty-two minutes p. m.) I desire to inquire of the Senator from Minnesota if he he will yield to a motion to adjourn?

Mr. McMILLAN. Yes, sir; I will yield for that purpose.

Mr. CAMERON, of Wisconsin. The Senator having yielded for that purpose, I move that the Senate do now adjourn.

Mr. SAULSBURY and Mr. WALLACE called for the yeas and nays, and they were ordered.

The Secretary proceeded to call the roll.

Mr. McDONALD, (when his name was called.) I am paired with the Senator from California [Mr. BOOTH] unless my vote shall be necessary to make a quorum. If necessary to make a quorum, I shall vote "no," but not otherwise.

Mr. McPHERSON, (when his name was called.) On this question I am paired with the Senator from Nevada, [Mr. JONES.] I suppose he would vote "yea," if present, and I should vote "nay."

Mr. MITCHELL, (when his name was called.) On this question I am paired with the Senator from North Carolina, [Mr. MERRIMON.] If present, he would vote "nay" and I should vote "yea."

Mr. VOORHEES, (when his name was called.) I am paired with the Senator from New York [Mr. CONKLING] during his temporary absence from the Senate Chamber. Were he here, I should vote "nay" and he would vote "yea."

Mr. ANTHONY. My colleague [Mr. BURNSIDE] is paired with the Senator from Kentucky, [Mr. McCREERY.]

Mr. WALLACE, (when his name was called.) I am paired with the Senator from Massachusetts, [Mr. HOAR.]

The roll-call was concluded.

Mr. McDONALD. Has a quorum voted?

The VICE-PRESIDENT. Yes, sir.

Mr. McDONALD. Then I do not vote.

The result was announced—yeas 23, nays 24; as follows:

YEAS—Messrs. Allison, Anthony, Bruce, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Christiancy, Dawes, Dorsey, Edmunds, Howe, Ingalls, Kirkwood, McMillan, Matthews, Morrill, Oglesby, Paddock, Rollins, Saunders, Spencer, Teller, and Wadleigh—23.

NAYS—Messrs. Bailey, Bayard, Beck, Cockrell, Coke, Conover, Davis of Illinois, Davis of West Virginia, Dennis, Garland, Gordon, Harris, Hereford, Hill, Jones of Florida, Kernan, Lamar, Morgan, Patterson, Ransom, Saulsbury, Thurman, Whyte, and Withers—24.

ABSENT—Messrs. Armstrong, Barnum, Blaine, Booth, Burnside, Conkling, Eaton, Ferry, Grover, Hamlin, Hoar, Johnston, Jones of Nevada, McCreery, McDonald, McPherson, Maxey, Merrimon, Mitchell, Plumb, Randolph, Sargent, Sharon, Voorhees, Wallace, and Windom—26.

The VICE-PRESIDENT. The Senate refuses to adjourn. The Senator from Minnesota.

Mr. McMILLAN. I ask that the Clerk resume the reading of Mr. Corbin's statement at the point where he left off.

The Secretary resumed and continued the reading.

Mr. WADLEIGH, (at nine o'clock p. m.) I would inquire of my friend from Minnesota if he will give way for a motion to adjourn?

Mr. McMILLAN. Yes, sir, for that purpose I will yield.

Mr. WADLEIGH. I move that the Senate adjourn.

Mr. WHYTE called for the yeas and nays, and they were ordered.

The Secretary proceeded to call the roll.

Mr. VOORHEES, (when his name was called.) During the temporary absence of the Senator from New York [Mr. CONKLING] I am paired with him. If he were here, I would vote "nay" and he would vote "yea."

Mr. McCREERY, (when his name was called.) I am paired on this subject with the Senator from Rhode Island, [Mr. BURNSIDE.] He would vote "yea" if present, and I should vote "nay."

Mr. McDONALD, (when his name was called.) The Senator from California [Mr. BOOTH] having returned, I will vote "nay."

Mr. McPHERSON, (when his name was called.) On this question I am paired with the Senator from Nevada, [Mr. JONES.]

The roll-call having been concluded, the result was announced—yeas 23; nays 26, as follows:

YEAS—Messrs. Allison, Anthony, Booth, Bruce, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Dawes, Dorsey, Edmunds, Hoar, Howe, Ingalls, Kirkwood, McMillan, Matthews, Morrill, Oglesby, Paddock, Rollins, Saunders, Teller, and Wadleigh—23.

NAYS—Messrs. Bailey, Bayard, Beck, Cockrell, Coke, Conover, Davis of Illinois, Davis of West Virginia, Dennis, Garland, Gordon, Harris, Hereford, Jones of Florida, Kernan, Lamar, McDonald, Morgan, Patterson, Randolph, Ransom, Saulsbury, Thurman, Wallace, Whyte, and Withers—26.

ABSENT—Messrs. Armstrong, Barnum, Blaine, Burnside, Christiancy, Conkling, Eaton, Ferry, Grover, Hamlin, Hill, Johnston, Jones of Nevada, McCreery, McPherson, Maxey, Merrimon, Mitchell, Plumb, Sargent, Sharon, Spencer, Voorhees, and Windom—24.

So the Senate refused to adjourn.

The VICE-PRESIDENT. The Senator from Minnesota.

Mr. McMILLAN. I ask the Clerk to resume the reading of the statement of Mr. Corbin.

The Secretary resumed and continued the reading.

Mr. CAMERON, of Wisconsin, (at nine o'clock and thirty-six minutes p. m.) I observe that the Senator from Minnesota is becoming weary, and if he will give way for that purpose I will move an executive session.

Mr. McMILLAN. I shall yield for that purpose only.

Mr. CAMERON, of Wisconsin. I move that the Senate do now proceed to the consideration of executive business.

Mr. BAYARD and others called for the yeas and nays; and they were ordered.

Mr. EDMUNDS, (at nine o'clock and thirty-eight minutes p. m.) I move that the Senate adjourn.

Mr. BAYARD called for the yeas and nays; and they were ordered.

The Secretary proceeded to call the roll.

Mr. CAMERON, of Wisconsin, (when his name was called.) I am paired with the Senator from Tennessee, [Mr. HARRIS,] who is temporarily out of the Chamber.

Mr. McCREERY, (when his name was called.) I am paired on this question with the Senator from Ohio, [Mr. MATTHEWS.] He would vote "yea" if present and I should vote "nay."

Mr. MAXEY, (when his name was called.) I am paired with the Senator from Michigan, [Mr. FERRY.] If present, he would vote "yea" and I should vote "nay."

The roll-call having been concluded, the result was announced—yeas 25, nays 28; as follows:

YEAS—Messrs. Allison, Booth, Bruce, Burnside, Cameron of Pennsylvania, Chaffee, Christiancy, Conkling, Dawes, Dorsey, Edmunds, Hoar, Howe, Ingalls, Jones of Nevada, Kirkwood, McMillan, Morrill, Oglesby, Paddock, Rollins, Saunders, Spencer, Teller, and Wadleigh—25.

NAYS—Messrs. Bailey, Bayard, Beck, Cockrell, Coke, Conover, Davis of Illinois, Davis of West Virginia, Dennis, Garland, Gordon, Hereford, Hill, Jones of Florida, Kernan, Lamar, McDonald, McPherson, Morgan, Patterson, Randolph, Ransom, Saulsbury, Thurman, Voorhees, Wallace, White, and Withers—28.

ABSENT—Messrs. Anthony, Armstrong, Barnum, Blaine, Cameron of Wisconsin, Eaton, Ferry, Grover, Hamlin, Harris, Johnston, McCreery, Matthews, Maxey, Merrimon, Mitchell, Plumb, Sargent, Sharon, and Windom—20.

So the Senate refused to adjourn.

The VICE-PRESIDENT. The question now is on the motion of the Senator from Wisconsin, that the Senate proceed to the consideration of executive business, upon which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. BECK. My colleague [Mr. McCREERY] is paired on all questions to-night with the Senator from Ohio, [Mr. MATTHEWS.] If present, my colleague would vote "nay."

The roll-call having been concluded, the result was announced—yeas 24, nays 28; as follows:

YEAS—Messrs. Allison, Anthony, Booth, Bruce, Cameron of Pennsylvania, Chaffee, Conkling, Dawes, Dorsey, Edmunds, Hoar, Howe, Ingalls, Jones of Nevada, Kirkwood, McMillan, Morrill, Oglesby Paddock, Rollins, Saunders, Spencer, Teller, and Wadleigh—24.

NAYS—Messrs. Bailey, Bayard, Beck, Cockrell, Coke, Conover, Davis of Illinois, Davis of West Virginia, Dennis, Garland, Gordon, Hereford, Hill, Jones of Florida, Kernan, Lamar, McDonald, McPherson, Morgan, Patterson, Randolph, Ransom, Saulsbury, Thurman, Voorhees, Wallace, Whyte, and Withers—28.

ABSENT—Messrs. Armstrong, Barnum, Blaine, Burnside, Cameron of Wisconsin, Christiancy, Eaton, Ferry, Grover, Hamlin, Harris, Johnston, McCreery, Matthews, Maxey, Merrimon, Mitchell, Plumb, Sargent, Sharon, and Windom—21.

So the motion was not agreed to.

The VICE-PRESIDENT. The Senator from Minnesota.

Mr. McMILLAN. I ask the Clerk to continue the reading of the statement of Mr. Corbin on this subject.

The Secretary resumed and continued the reading.

Mr. PADDOCK, (at ten o'clock and two minutes p. m.) I ask the Senator from Minnesota to give way while I make a motion.

Mr. McMILLAN. Yes, sir.

Mr. PADDOCK. I move that the Senate take a recess until to-morrow morning, at ten o'clock a. m.

Mr. BAYARD. I call for the yeas and nays on that motion.

The yeas and nays were ordered.

The Secretary proceeded to call the roll.

Mr. CAMERON, of Wisconsin, (when his name was called.) On

this question I am paired with the Senator from Tennessee, [Mr. HARRIS.]

The roll-call having been concluded, the result was announced—yeas 25, nays 28; as follows:

YEAS—Messrs. Allison, Anthony, Booth, Bruce, Burnside, Cameron of Pennsylvania, Chaffee, Christiancy, Conkling, Dawes, Dorsey, Edmunds, Hoar, Howe, Jones of Nevada, Kirkwood, McMillan, Morrill, Oglesby, Paddock, Rollins, Saunders, Spencer, Teller, and Wadleigh—25.

NAYS—Messrs. Bailey, Bayard, Beck, Cockrell, Coke, Conover, Davis of Illinois, Davis of West Virginia, Dennis, Garland, Gordon, Hereford, Hill, Jones of Florida, Kernan, Lamar, McDonald, McPherson, Morgan, Patterson, Randolph, Ransom, Saulsbury, Thurman, Voorhees, Wallace, Whyte, and Withers—28.

ABSENT—Messrs. Armstrong, Barnum, Blaine, Cameron of Wisconsin, Eaton, Ferry, Grover, Hamlin, Harris, Ingalls, Johnston, McCreery, Matthews, Maxey, Merrimon, Mitchell, Plumb, Sargent, Sharon, and Windom—20.

So the motion was not agreed to.

The VICE-PRESIDENT. The Senator from Minnesota.

Mr. McMILLAN. I desire to have the Clerk resume the reading of the statement of Mr. Corbin.

The Chief Clerk resumed and continued the reading, but was interrupted by

Mr. HOAR. Mr. President, I rise to a question of order. In order that the Senate may enjoy the benefit of the interesting remarks of the honorable Senator from Minnesota, I raise the question under the second rule that a quorum of the Senate is not present.

The VICE-PRESIDENT, (at ten o'clock and eighteen minutes p. m.) The Secretary will call the roll.

The Secretary proceeded to call the roll, and the following Senators answered to their names:

Messrs. Allison, Anthony, Bayard, Beck, Booth, Bruce, Burnside, Cameron of Pennsylvania, Chaffee, Christiancy, Cockrell, Coke, Conkling, Davis of West Virginia, Dawes, Dennis, Dorsey, Edmunds, Garland, Gordon, Harris, Hereford, Hill, Hoar, Howe, Ingalls, Jones of Florida, Jones of Nevada, Kernan, Kirkwood, Lamar, McDonald, McMillan, McPherson, Maxey, Mitchell, Morgan, Morrill, Oglesby, Paddock, Patterson, Randolph, Ransom, Rollins, Saulsbury, Saunders, Spencer, Teller, Thurman, Voorhees, Wadleigh, Wallace, Whyte, and Withers.

The VICE-PRESIDENT. The roll-call shows the presence of fifty-four Senators—more than a quorum. The Senator from Minnesota will proceed.

Mr. McMILLAN. I ask the Clerk to resume the reading of the statement of Mr. Corbin.

The Chief Clerk resumed and concluded the reading.

The entire statement is as follows:

Statement of the case of D. T. Corbin, esq., who claims to have been duly elected on December 12, 1876, by the Legislature of South Carolina, to represent that State in the Senate of the United States for the term of six years, commencing March 4, A. D. 1877.

STATEMENT OF CONSTITUTIONAL AND STATUTE LAW OF SOUTH CAROLINA.

The constitution of the State of South Carolina, adopted in April, 1868, provides as follows:

ARTICLE 2, SECTION 1. The legislative power of this State shall be vested in two distinct branches; the one to be styled the senate and the other the house of representatives, and both together the General Assembly of the State of South Carolina.

ART. 2, SEC. 2. The house of representatives shall be composed of members chosen by ballot every second year by the citizens of this State, qualified as in this constitution is provided.

ART. 2, SEC. 4. The house of representatives shall consist of one hundred and twenty-four members, to be apportioned among the several counties according to the number of inhabitants contained in each. An enumeration of inhabitants for this purpose shall be made in 1869, and again in 1875, and shall be made in the course of every tenth year thereafter, in such manner as shall be directed by law; and representatives shall be assigned to the different counties, in the above-mentioned proportion, by act of the General Assembly at the session immediately succeeding every enumeration.

* * * * * * *

ART. 2, SEC. 8. The senate shall be composed of one member from each county,* to be elected for the term of four years by the qualified voters of the State in the same manner in which the members of the house are chosen, except the county of Charleston, which shall be allowed two senators.

ART. 2, SEC. 11. The first election for senators and representatives under the provisions of this constitution shall be held on the 14th, 15th, and 16th days of April of the present year, (1868;) and the second election shall be held on the third Wednesday of October, 1870; and forever thereafter on the first Tuesday following the first Monday in November, in every second year, in such manner and in such place as the Legislature may provide.†

ART. 2, SEC. 12. The first session of the General Assembly, after the ratification of this constitution, shall be convened on the second Tuesday of May of the present year, (1868,) in the city of Columbia, * * * and thereafter on the fourth Tuesday of November, annually.

* * * * * * *

ART. 2, SEC. 13. The term of office of senators and representatives, chosen at a general election, shall begin on the Monday following such election.

ART. 2, SEC. 14. Each house shall judge of the election, returns, and qualifications of its own members; and a majority of each house shall constitute a quorum to do business.

* * * * * * *

ART. 2, SEC. 15. Each house shall choose its own officers, determine its rules of proceeding, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but not a second time for the same offense.

ART. 3, SEC. 2. The governor shall be elected by the electors duly qualified to vote for members of the house of representatives, and shall hold his office for two years, and until his successor shall be chosen and qualified, and shall be re-eligible.

* * * * * * *

ART. 3, SEC. 4. The returns of every election of governor shall be sealed up by the managers of election in their respective counties, and transmitted by mail to the seat of government, directed to the secretary of state; who shall deliver them to the speaker of the house of representatives at the next ensuing session of the General Assembly, and a duplicate of said returns shall be filed with the clerks of the courts of said counties, whose duty it shall be to forward to the secretary of state a certified copy thereof, upon being notified that the returns, previously forwarded by mail, have not been received at his office. It shall be the duty of the secretary of state, after the expiration of seven days from the day upon which the votes have been counted, if the returns thereof from any county have not been received, to notify the clerk of the court of said county, and order a copy of the returns filed in his office to be forwarded forthwith. The secretary of state shall deliver the returns to the speaker of the house of representatives at the next ensuing session of the General Assembly; and during the first week of the session, or as soon as the General Assembly shall have organized by the election of the presiding officer of the two houses, the speaker shall open and publish them in the presence of both houses.

The person having the highest number of votes shall be governor; but if two or more shall be equal and highest in votes, the General Assembly shall, during the same session, in the house of representatives, choose one of them governor, *viva voce*.* Contested elections for governor shall be determined by the General Assembly in such manner as shall be prescribed by law.

ARTICLE 1, SEC. 26. In the government of this Commonwealth the legislative, executive, and judicial powers of the government shall be forever separate and distinct from each other, and no person or persons exercising the functions of one of said departments shall assume or discharge the duties of any other.

At the regular session of the General Assembly of the State of South Carolina of 1875-'76, the following act was passed, to wit:

"An act to apportion the representation of the counties in General Assembly in accordance with the requirements of the State constitution.

"Whereas the constitution of South Carolina, article 2, section 4, requires that representation in the General Assembly shall be apportioned among the several counties of the State at the present session thereof; and whereas section 6 of the said article 2 of the constitution provides that the census return of inhabitants, A. D. 1875, shall be the basis of representation, dividing the number thereby found in each county by one one-hundred-and-twenty-fourth of the total population of the State, as determined by the same census, and supplying, on the basis of the greatest fractions so arising, all vacancies thereby left in the membership of the house: Therefore,

"*Be it enacted by the senate and house of representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same*, That the several counties shall, at the session of the General Assembly next following the first general election after the passage of this act, and thereafter until the same shall be repealed, be entitled to representatives as follows: Abbeville, 5; Aiken, 4; Anderson, 4; Barnwell, 5; Beaufort, 6; Charleston, 17; Chester, 3; Chesterfield, 2; Clarendon, 2; Colleton, 5; Darlington, 4; Edgefield, 5; Fairfield, 3; Georgetown, 2; Greenville, 4; Horry, 2; Kershaw, 3; Lancaster, 2; Laurens, 3; Lexington, 2; Marion, 4; Marlborough, 2; Newberry, 3; Oconee, 2; Orangeburgh, 5; Pickens, 2; Richland, 5; Spartanburgh, 4; Sumter, 4; Union, 3; Williamsburgh, 3; York, 4.

"Approved March 2, 1876."—*Sessions Laws*, page 88, 1875-'76.

The laws regulating elections in South Carolina are as follows:

General statutes—Chapter VII—Of qualifications of electors.

SECTION 1. Every male citizen of the United States, of the age of twenty-one years and upward, not laboring under the disabilities named in the constitution, without distinction of race or color or former condition, who shall have been a resident of the State for one year and in the county in which he offers to vote for sixty days next preceding any general election, shall be entitled to vote: *Provided*, That no person, while kept in any almshouse or asylum, or of unsound mind, or confined in any public prison, shall be allowed to vote.

SEC. 2. The polls shall be open at such voting places as shall be designated at six o'clock in the forenoon, and close at six o'clock in the afternoon of the day of election, and shall be kept open during these hours without intermission or adjournment, and the managers shall administer to each person offering to vote an oath that he is qualified to vote at this election, according to the constitution of this State, and that he has not voted during this election.

SEC. 3. That every person who shall vote at any general election, who is not entitled to vote, and every person who shall, by force, intimidation, deception, fraud, bribery, or undue influence, obtain, procure, or control the vote of any elector, to be cast for any candidate or measure, other than as intended or desired by such elector, shall be punished by a fine not less than $100, nor more than $1,000, or by imprisonment in jail not less than three months, nor more than twelve months, or both, within the discretion of the court.

Chapter VIII—Of the manner of conducting elections and returning votes.

SECTION 1. That the general elections in this State shall be held, pursuant to the constitution thereof, on the third Wednesday in October, 1870, and forever thereafter on the same day in every second year, and shall be regulated and conducted according to the rules, principles, and provisions herein prescribed.†

Commissioners and managers of election.

SEC. 2. That for the purpose of carrying on such election, it shall be the duty of the governor, and he is hereby authorized and empowered, at least sixty days prior to any such election, to appoint in and for each county three commissioners of election, whose duty it shall be, and they are hereby authorized and empowered, to appoint three managers of election for each election precinct in the county for which they shall respectively be appointed. The said commissioners of election and said managers of election shall take and subscribe, before any officer authorized to administer oaths, the oath of office prescribed by section 30 of article 2 of the constitution, and the same shall be immediately filed in each instance in the office of the clerk of the county in which said commissioners and managers shall be appointed, and, if there be no such clerk, duly qualified by law, then in the office of the secretary of state.

SEC. 3. That the managers are hereby authorized to appoint a clerk to assist them in whatever duties may be required of them, who shall take the oath of office prescribed by section 30 of article 2 of the constitution, before the chairman of the board of managers.

SEC. 4. That the commissioners aforesaid and the managers aforesaid, at their first meetings, respectively, shall proceed to organize themselves as a board, by appointing one of their number chairman of the board; and such chairman in each instance shall be empowered to administer the necessary oaths.

SEC. 5. The polls shall be open at such voting places as shall be designated, at six o'clock in the forenoon, and close at six o'clock in the afternoon of the day of election, and shall be kept open during these hours without intermission or adjournment; and the managers shall administer to each person offering to vote an oath that he is qualified to vote at this election according to the constitution of this State, and that he has not voted during this election.

SEC. 6. Representatives in the House of Representatives of the Congress of the United States shall be chosen at such election in the several congressional districts by the qualified electors therein.

SEC. 7. The State constables, and other peace officers of each county, are required to be present during the whole time that the polls are kept open, and until the election is completed; and they shall prevent all interference with the mana-

*There are thirty-two counties in the State.

†The last clause of this section is as amended in 1872-'73.

*A statute provides that the General Assembly shall decide a contest for governor.

†Amended, so as to read, "first Tuesday after the first Monday in November, 1872-'73."

gers, and see that there is no interruption of good order. If there should be more than one polling-place in any county, the State constable of such county is empowered and directed to make such assignment of his deputies and other peace officers to such polling places as may, in his judgment, best subserve the purposes of quiet and order.

SEC. 8. All bar-rooms, saloons, and other places for the sale of liquors by retail, shall be closed at six o'clock of the evening preceeding the day of such election, and remain closed until six o'clock in the morning of the day thereafter, and during the time aforesaid the sale of all intoxicating liquors is prohibited. Any person duly convicted before a competent court of a violation of this section shall be punished by a fine not exceeding $50, or by imprisonment not exceeding six months, or by both such fine and imprisonment, in the discretion of the court.

SEC. 9. The voting shall be by ballot, which shall contain, written or printed, or partly written and partly printed, the names of the persons voted for, and the offices to which such persons are intended to be chosen, and shall be so folded as to conceal the contents; and such ballot shall be deposited in a box to be constructed, kept and disposed of as hereinafter provided.

SEC. 10. There shall be one general ticket, on which shall be the names of the persons voted for Representatives in Congress, and State, circuit and county officers.

SEC. 11. The commissioners of election shall provide one box for each election precinct. An opening shall be made in the lid of the box not larger than shall be sufficient for a single ballot to be inserted therein at one time, through which each ballot received, proper to be placed in such box, shall be inserted by the person voting, and by no other; each box shall be provided with a sufficient lock, and shall be locked before the opening of the poll, and the keys retained by the commissioners, and shall not be opened during the election. Such boxes shall be labelled as follows; "Congress," "State," "circuit" and "county officers."

SEC. 12. Each clerk of the poll shall keep a poll-list, which shall contain one column headed "names of voters;" and the name of each elector voting shall be entered by the clerk in such column.

SEC. 13. At the close of the election, and within three days after the day thereof, the chairman of the board of managers, or one of them, who may be designated by the board, shall deliver to the commissioners of election the poll-list and the boxes containing the ballots.

SEC. 14. The commissioners of election shall meet at the county seat, as provided in the last preceding section, and shall proceed to organize and shall form the county board of canvassers.

SEC. 15. They shall meet in some convenient place at the county seat on the Tuesday next following the election, before one o'clock in the afternoon of that day. They may appoint some competent person as secretary. The chairman shall then proceed to administer the constitutional oath to each member of the board as canvassers, and shall administer the constitutional oath to the secretary, and the secretary shall administer to the chairman the same oath that he shall have admistered to the other members of the board.

SEC. 16. They shall then proceed to count the votes of the county, and shall make such statements thereof as the nature of the election shall require within ten days of the time of their first meeting as a board of county canvassers, and shall transmit to the board of State canvassers any protest and all papers relating to the election.

SEC. 17. Duplicate statements shall be made and filed in the office of the clerk of the county, and if there be no such clerk duly qualified according to law, then in the office of the secretary of state.

SEC. 18. They shall make separate statements of the whole number of votes given in such county for Representatives in Congress, and separate statements of all other votes given for other officers. Such statements shall contain the names of the persons for whom such votes were given, and the number of votes given for each, which shall be written out in words at full length.

SEC. 19. There shall be prepared by the commissioners three separate lists of each statement, beside the lists to be filed in the office of the county clerk or secretary of state, and each list shall be certified to as correct by the signatures of the commissioners, subscribed to such certificate.

SEC. 20. After the final adjournment of the board of county canvassers, and within the time prescribed in section 15 of this chapter, the chairman of the board shall deposit in the nearest post-office, directed to the governor, secretary of state, and comptroller-general (the full postage paid) each one of the certified copies of the statement and certificate of votes prepared as provided in the last preceding section.

Of the formation and proceedings of the board of state canvassers.

SEC. 21. The secretary of state shall appoint a meeting of state canvassers, to be held at his office or some convenient place, on or before the 10th day of November next after such general election, for the purpose of canvassing the votes for all officers voted for at such election.

SEC. 22. The secretary of state, comptroller-general, attorney-general, State auditor, State treasurer, adjutant and inspector general, and the chairman of the committee on privileges and elections in the house of representatives shall constitute the State canvassers, four of whom shall be a sufficient number to form a board.

SEC. 23. If a majority of these officers shall be unable or shall fail to attend, the president of the senate, being notified by the secretary of state, shall attend without delay, and with the officers attending shall form a board.

SEC. 24. The board, when thus formed, shall, upon the certified copies of the statements made by the board of county canvassers, proceed to make a statement of the whole number of votes given at such election for the various officers, and for each of them voted for, distinguishing the several counties in which they were given. They shall certify such statements to be correct, and subscribe the same with their proper names.

SEC. 25. They shall make and subscribe on the proper statement a certificate of their determination, and shall deliver the same to the secretary of state.

SEC. 26. Upon such statements, they shall then proceed to determine and declare what persons have been, by the greatest number of votes, duly elected to such offices or either of them. They shall have power, and it is made their duty, to decide all cases under protest or contest that may arise when the power to do so does not, by the constitution, reside in some other body.

SEC. 27. The board shall have power to adjourn from day to day for a term not exceeding ten days.

SEC. 28. That, in case of a contest of the election of governor, (if the General Assembly, by concurrent resolution shall entertain the same,) the senate and house of representatives shall, each separately, proceed to hear and determine the facts in the case so far as they deem necessary and decide thereon who, according to the tenth section of article VIII of the constitution is entitled to be declared elected. If the two branches of the General Assembly come to the same decision they shall, by concurrent resolution, declare who is duly elected and entitled to enter upon and exercise the office of governor; and such person thereupon shall, upon taking the oath prescribed in the constitution, be inducted into office. If the two branches of the General Assembly do not come to the same decision, then a general election shall be called by the governor to take place in not less than sixty nor more than ninety days, at which the qualified electors shall proceed to vote for a suitable person to fill the office of governor.

SEC. 29. The secretary of state shall record in his office, in a book to be kept by him for that purpose, each certified statement and determination which shall be delivered to him by the board of State canvassers, and every dissent or protest that shall have been delivered to him by a canvasser.

SEC. 30. He shall, without delay, transmit a copy, under the seal of his office, of such certified determination to each person thereby declared to be elected, and a like copy to the governor.

SEC. 31. He shall cause a copy of such certified statements and determinations to be printed in one or more public newspapers of this State.

SEC. 32. He shall prepare a general certificate, under the seal of the State, and attested by him as secretary thereof, addressed to the House of Representatives of the United States in that Congress for which any person shall have been chosen, of the due election of the person so chosen at such election as Representative of this State in Congress, and shall transmit the same to the said House of Representatives at their first meeting.

SEC. 33. The secretary of state shall enter in a book, to be kept in his office, the names of the respective county officers elected in this State, specifying the counties for which they were severally elected, and their place of residence, the office for which they were respectively elected, and their term of office.

SEC. 34. If any officer on whom any duty is enjoined in this chapter shall be guilty of any willful neglect of such duty, or of any corrupt conduct in the execution of the same, and be thereof convicted, he shall be deemed guilty of a misdemeanor, punishable by fine not exceeding $500, or imprisonment not exceeding one year.

SEC. 35. The commissioners of elections shall receive, for their compensation, $3 per day for their services, while actually employed, and ten cents per mile for necessary travel; and the managers shall receive $2 per day while actually employed, and ten cents per mile for necessary travel; and the clerks of the commissioners, and the clerks of the managers, respectively, shall receive $2 per day while actually employed: *Provided*, No commissioner of election shall receive pay for more than ten days, and no manager or clerk for more than three days.

Statement of facts connected with the election of November 7, 1876.

Pursuant to the constitution and laws of the State of South Carolina, a general election was held on the 7th of November, 1876, to elect a governor, lieutenant-governor, attorney-general, secretary of state, comptroller-general, treasurer, State superintendent of education, members of the house of representatives, a portion of the members of the senate, electors of President and Vice-President, and circuit and county officers. All officers voted for at the election, by each voter, were named on one and the same ballot.

The managers of election, at the precincts in each county, made returns of the election to the commissioners of election, (county officers,) who, in turn, canvassed the same, and made returns of their canvass to the governor, secretary of state, and comptroller-general.

On the 10th of November, 1876, the secretary of state, pursuant to statute, summoned the board of State canvassers to meet in his office, in Columbia, South Carolina, for the purpose of canvassing the election returns and determining and declaring the election. Pursuant to summons, the board of State canvassers met at the office of the secretary of state.

When assembled, the board consisted of Henry E. Hayne, secretary of state; William Stone, attorney-general; F. L. Cardozo, State treasurer; Thomas C. Dunn, comptroller-general, and William H. Purvis, adjutant and inspector general.

All these officers are, by statute law of the State, declared to belong to the executive department of the State. (Gen'l Stat. S. C., page 105.)

The board of State canvassers proceeded to canvass the election returns, and all papers connected therewith. and finally, on the 23d day of November, 1876, determined and declared the election as follows for members of the Legislature:

STATE OF SOUTH CAROLINA,
Office Secretary of State:

Whereas, in pursuance of the constitution and of the statutes of this State, an election was held on the 7th day of November, A. D. 1876, for one secretary of state, one comptroller-general, one attorney-general, one State treasurer, one adjutant and inspector-general, one State superintendent of education, five members of the Forty-fifth Congress, one member of Congress from the second congressional district for the unexpired term of the Forty-fourth Congress, and for one judge of probate, one sheriff, one clerk of court, one coroner, one school commissioner, and three county commissioners, in the several counties of the State of South Carolina; and also for the following members of the General Assembly of the State of South Carolina, to wit:

One senator from Abbeville County; one senator from Aiken County; one senator from Barnwell County; one senator from Beaufort County; one senator from Charleston County; one senator from Edgefield County; one senator from Fairfield County; one senator from Georgetown County; one senator from Greenville County; one senator from Horry County; one senator from Laurens County; one senator from Lexington County; one senator from Marion County; one senator from Newberry County; one senator from Oconee County; one senator from Orangeburgh County; one senator from Spartanburgh County; one senator from York County; five representatives from Abbeville County; four representatives from Anderson County; five representives from Barnwell County; six representatives from Beaufort County; seventeen representatives from Charleston County; three representatives from Chester County; two representatives from Chesterfield County; two representatives from Clarendon County; five representatives from Colleton County; four representatives from Darlington County; five representatives from Edgefield County; three representatives from Fairfield County; two representatives from Georgetown County; four representatives from Greenville County; two representatives from Horry County; three representatives from Kershaw County; two representatives from Lancaster County; three representatives from Laurens County; two representatives from Lexington County; four representatives from Marion County; two representatives from Marlborough County; three representatives from Newberry County; two representatives from Oconee County; five representatives from Orangeburgh County; two representatives from Pickens County; five representatives from Richland County; four representatives from Spartanburgh County; four representatives from Sumpter County; three representatives from Union County; three representatives from Williamsburgh County; four representatives from York County.

And also for one solictor for each of the eight judicial circuits of the State; and upon examination of the statements which have been received, it appears that the persons hereinafter named have been duly elected to the several offices set opposite their respective names, or therein designated by the highest number of votes; we do, therefore, by virtue of the powers in us vested, certify and declare that the said several persons have been duly elected to the said several offices, as designated herein, to wit:

Abbeville County—Senator, John C. Maxwell; representatives, W. K. Bradley, R. R. Hemphill, F. A. Connor, William Hood, T. L. Moore.

Aiken County—Senator, A. P. Butler; representatives, C. E. Sawyer, J. J. Woodward, L. W. Ashbill, J. G. Guignard.

Anderson County—Representatives, H. R. Vandiver, R. W. Simpson, W. C. Brown, J. L. Orr.

Barnwell County—Senator, J. M. Williams; representatives, J. S. Bamberg, J. W. Holmes, L. W. Youmans, M. A. Roundtree, Robert Aldrich.

Beaufort County—Senator, Samuel Green; representatives, Thomas Hamilton, Hastings Gantt, Joseph Robinson, G. A. Reed, N. B. Myers, T. E. Miller.

Charleston County—Senator, William N. Taft; representatives, E. W. M. Mackey, W. J. Brodie, B. F. Smalls, Robert Simmons, W. C. Glover, F. S. Edwards, Isaac

Prioleau, John Vanderpool, J. J. Lesesne, J. S. Lazarus, S. C. Brown, B. F. Capers, A. P. Ford, Richard Bryan, J. C. Tingman, Abram Smith, W. G. Pinckney.

Chester County—Representatives, John Lee, Samuel Coleman, Purvis Alexander.

Chesterfield County—Representatives, J. C. Coit, D. T. Redfearn.

Clarendon County—Representatives, Syfax Milton, Hampton Boston.

Colleton County—Representatives, H. E. Bissell, William Maree, J. N. Cumming, L. E. Parler, Robert Jones.

Darlington County—Representatives, R. H. Humbert, S. J. Keith, Z. Wines, J. A. Smith.

Fairfield County—Senator, Israel Bird; representatives, John Gibson, P. R. Martin, Daniel Bird.

Georgetown County—Senator, B. H. Williams; representatives, Charles S. Green, P. K. Kinloch.

Greenville County—Senator, S. S. Crittenden; representatives, J. W. Gray, J. F. Donald, J. F. Austin, J. F. Westmoreland.

Horry County—Senator, William M. Buck; representatives, L. D. Bryan, John R. Cooper.

Kershaw County—Representatives, R. D. Gaither, A. W. Hough, E. H. Dibble.

Lancaster County—Representatives John B Erwin, J. C. Blackaney.

Lexington County—Senator, H. A. Meetze; representatives, G. Leaphart, G. Muller.

Marion County—Senator, R. G. Howard; representatives, J. G. Blue, James McRae R. H. Rogers, J. P. Davis.

Marlborough County—Representatives, P. M. Hamer, Thomas N Edens.

Newberry County—Senator, H. C. Corbin; representatives, Thomas Keith, S. S. Bridges W. H. Thomas.

Oconee County—Senator, J. W. Livingston; representatives, B. Frank Sloan, John S. Verner

Orangeburgh County—Senator, S. L. Duncan; representatives, D. A. Straker, James Wells, Shedrach Morgan W. H. Reedish, C. W. Caldwell, Ellis Forrest.

Pickens County—Representatives, D. Frank Bradley, E. H. Bates.

Richland County—Representatives, A. W. Curtis, James Wells, C. S. Minort, R. J. Palmer, William M. Lowman.

Sumter County—Representatives, Thomas B. Johnson, John H. Ferriter, William J. Andrews, John H Westbury.

Spartanburgh County—Senator, Gabriel Cannon; representatives, W. P. Compton, John W. Wofford, E. S. Allen, Charles Petty.

Union County—Representatives, W. H. Wallace, G. D. Peak, William Jeffries.

Williamsburgh County—Representatives, William Scott, J. F. Peterson, John Evans.

York County—Senator, Isaac T. Witherspoon; representatives, A. E. Hutchinson, J. A. Deale, W. B. Byers, B. H. Massey.

Given under our hands and the seal of the State, in Columbia, this 22d day of November, A. D. 1876, and in the one hundred and first year of the Independence of the United States.

[SEAL.]

H. E. HAYNE,
Secretary of State.
F. L. CARDOZO,
Treasurer, South Carolina.
THOS. C. DUNN,
Comptroller-General.
WILLIAM STONE,
Attorney-General.
H. W. PURVIS,
Adjutant and Inspector-General.

STATE OF SOUTH CAROLINA,
Office Secretary of State:

I, H. E Hayne, secretary of state, do hereby certify that the foregoing is a true and correct extract from the certificate and determination of the board of State canvassers, now on file in this office.

Given under my hand and the seal of the State, at Columbia, this 24th day of November, A. D. 1876, and in the one hundred and first year of the Independence of the United States of America.

[SEAL.]

H. E. HAYNE,
Secretary of State.

On the question as to whether the statement of county canvassers of Laurens County should be included in the statement and determination of the board, the vote was as follows:

Those voting in the negative were the adjutant and inspector general, comptroller-general, and State treasurer. Those voting in the affirmative were the secretary of state and attorney-general. On the same question as to Edgefield County, the vote was as follows: those voting in the negative were the adjutant and inspector general, comptroller-general, attorney-general, and State treasurer. In the affirmative, the secretary of state.

The secretary of state submitted the following, and asked that it be entered in the minutes:

"I vote 'yes' on the question of including Edgefield and Laurens County in the certificate and determination of the board, for the reason that the testimony before the board as to irregularities in the conduct of the election in those counties is entirely *ex parte*."

H. E. HAYNE,
Secretary of State.

On motion of the attorney-general, the board then adjourned *sine die*.

Hour, twelve m. to one p. m., 22d.

I certify that the foregoing is a true and correct copy of the minutes of the board of State canvassers for Wednesday, November 22.

HENRY V. JOHNSON,
Clerk of Board.

It appears from the foregoing certificate of the determinations of the board of State canvassers that they found and certified as elected but one hundred and sixteen representatives out of the one hundred and twenty-four voted for at said election; that they declined to certify the election of any senators or representatives from the counties of Edgefield and Laurens.

In those counties it was alleged upon evidence submitted to the board that certain unlawful influences and practices had so far affected the election as to render it impossible for the board to determine and declare who had been duly elected.

Edgefield County.

It may be here stated that the leading evidences against the validity of the election in Edgefield County are:

First. The immense disproportion between the whole number of votes cast at this election, as compared with the entire population of the county, as exhibited by the United States census of 1870 and the State census of 1875.

By the former census (United States, 1870) the entire population of Edgefield County, as then constituted, was 42,486. This included the village of Hamburgh, and the townships of Gregg, Hammond, and Schultz, having at that time, according to the same census, a population of 7,728, all of which were, in 1871, made a part of the new county of Aiken. Deducting this from the entire population, as above stated, we have left 34,758 as the population, in 1870, of the territory now comprised in Edgefield County. A further deduction should here be made for the township of Shaw's Creek, fully one-third of which is in the county of Aiken. For this, however, we have made no deduction.

According to the State census of 1875, the entire population of Edgefield County, as now constituted, is 35,039.

The whole number of votes cast in this county at the late election, according to the returns before the board of State canvassers, was 9,374. Taking, then, either the United States census of 1870 or the State census of 1875 as giving the population of this county, the result is that at that election the votes cast considerably exceeded the ratio of one vote for every four inhabitants. This fact alone would throw a great discredit upon the accuracy of the returns.

But, by the State census of 1875, the whole number of male persons over 21 years of age in the county of Edgefield is only 7,122, showing an excess in the total vote cast at this election, according to the returns, of 2,252 over the entire possible vote of the county.

Second. A comparison of the vote of this county at previous elections will establish the same result as above stated.

In 1870 the entire vote of this county for governor was 8,251. In connection with the vote of this year, it should be remembered that General M. C. Butler was a candidate upon the democratic ticket for lieutenant-governor. It is fair to presume that owing to the fact of his being a citizen of this county, and the acknowledged leader of the democratic party in that county, he brought out the full democratic strength. In the vote of 1870, as given above, is included the vote of that portion of the county which has since been made a part of the county of Aiken. By reference to the United States census of 1870 it will be found, as already stated, that the entire population of the territory now embraced in Aiken County was 7,728, which gives a voting population—reckoning by the same ratio as is established by a comparison of the entire population of the county with the whole number of males over twenty-one years of age—of, in round numbers, 1,500. Deducting this number from the entire votes, 8,251, we have 6,751 as the vote for 1870 of what constitutes the present county of Edgefield.

The aggregate vote of Edgefield County, as reported by the returns for this year, is 9,374, showing an excess over the unusually full vote of 1870 of no less than 2,623, or an excess over the vote of the entire county of Edgefield, before the present county of Aiken was established, of 1,123; or again, an excess in the vote of the present year for the democratic candidates over the entire vote of the old county of Edgefield for General M. C. Butler in 1870 of 2,545.

In 1872, there being no democratic candidate for governor, it will be necessary to take the vote for State senator in that county as the standard of comparison. This vote, in the aggregate, was 5,374, or exactly 4,000 less than the reported votes of this year.

In 1874 the entire vote of the county was 6,298. By the United States census of 1870, the entire population of the territory embraced in the present county of Edgefield was 34,758. Allowing one voter for every five persons, the ratio established by the same census, there would have been in this county in 1874, a total voting population of 6,951. By the State census of 1875, the whole number of males over twenty-one years of age in this county was 7,122. An examination of these figures will show that the above vote of 1874—6,298—is very nearly six-sevenths of the entire number of persons over twenty-one years of age, according to the United States census of 1870, or the State census of 1875. The statistics of popular elections in this county have established the fact that six-sevenths of the entire voting population is the highest limit reached in any election, except in a few extreme and exceptional cases, which do not affect the general rule as here stated.

The conclusion is that the vote in this county in 1874 was a full vote, under all ordinary circumstances, and yet this year the reported vote of this county exceeds the vote in 1874 by 3,076. And, in this connection it may be added that General M. W. Gary, democrat, who claims to have been elected State senator from this county at the late election, has stated, in a public card, that about six hundred colored voters (republicans) did not vote; which number, being added to the excess just named, would give an aggregate excess of 3,676 over the very full vote of 1874.

Third. The evidence before the board of State canvassers also showed that this large excess of voters over the lawful vote of the county was due to the increase exclusively of the democratic vote. For while the vote was at the recent election largely increased over the vote at any previous election, yet the republican vote was decreased. This decrease in the republican vote was shown by the evidence before the State board of canvassers to be due, not to a natural change of party connections, but to the fact of an organized and systematic plan of intimidation and violence carried on throughout the canvass, and reaching its culmination on the day of the election.

The increase of the reported democratic vote of this year over the vote for General M. C. Butler in 1870, before the county of Edgefield was divided, is 2,545, and an increase over the democratic vote in 1874 of 3,367.

Fourth. The evidences before the board of canvassers also establish the fact that many of the election officers in Edgefield County were deterred by fear of physical violence from discharging their duties according to their convictions of justice and right. This result was accomplished in various ways. Some of the managers were prevented by threats from assuming the duties of their offices at all; others again, during the progress of the election, were prevented from rejecting the votes of persons not authorized to vote; others were prevented from making such returns of the election as their judgment dictated, or from forwarding their statements or other written evidences of the fraud and violence practiced at their poll; and, finally, the republican members of the board of county canvassers were coerced by threats of violence into signing returns which they believed registered the results of this overwhelming fraud and violence, rather than the free ballots of the lawful voters of this county.

Laurens County.

In Laurens County the conduct of the election in its leading features was not unlike that in Edgefield County. This additional feature appeared, that the return of the board of county canvassers was signed by but two of the three commissioners composing the board, and one of the two signers signed the returns under protest, affixing his protest to the return itself, and afterward filing his affidavit with the board of State canvassers, in the following terms:

"That so universal was this system of intimidation that deponent, influenced by this knowledge and also by a personal observation of the illegal way in which the election was conducted in some particulars, did not feel justified in subscribing to the returns of the election in his official capacity as commissioner, and only consented to do so under protest, as said returns will show on its face, when he became satisfied that his life would be placed in jeopardy if he declined to so subscribe the said return."

Under these circumstances, and for these causes, of which the foregoing statement is but a brief and imperfect summary, the board of State canvassers reached the conclusion that no valid and lawful election had taken place in the counties of Edgefield and Laurens, and accordingly refused to declare any persons elected from these counties.

Proceedings in the supreme court.

During the sittings of the board of State canvassers, proceedings were instituted in the supreme court for the purpose of controlling the action of the board. It is possible that after the work of the board was fully completed, the court could, as to some officers declared elected, by some process of review, have inquired into the *correctness of its action*, but it was clearly beyond its power to attempt to control its action in advance; and as to the declaration of the election for members of the Legislature, the court could not have, either before or after the work of the board of canvassers was completed, any jurisdiction or right to interfere with, control, or

modify that action. Upon this point the authorities are conclusive and abundant. Cushing, in his Law and Practice of Legislative Assemblies, page 52, section 141, in speaking of returning officers, says:

"It remains to be observed, in conclusion, that the proceedings of these officers, from the necessity of the case, are, in the first instance, uncontrollable by any other authority whatever, so that if on the one hand, notwithstanding an election has been effected, the returning officers refuse or neglect to make the proper return, the party thereby injured is without remedy or redress until the Assembly to which he is chosen has examined his case and adjudged him to be duly elected; and, on the other hand, if the returning officers make a return when no election has in fact taken place, or of one who is not eligible, the person returned will not only be entitled, but it is his duty to assume and discharge the functions of a member until his return and election be adjudged void."

In the celebrated Dorr case Chief-Justice Durfee, of Rhode Island, used the following significant language in his charge to the jury:

"Courts and juries, gentlemen, do not count votes to determine whether a constitution has been adopted or a governor elected or not."

After enlarging upon this principle, he continues:

"And why not? Because if we did so, we should cease to be a mere judicial and become a political tribunal, with the whole sovereignty in our hands. Neither the people nor the Legislature would be sovereign."

This view of the want of jurisdiction in the supreme court is fully sustained by the decision of Judge Bond, of the United States circuit court, in deciding the *habeas corpus* case; and from that decision we quote as follows:

"The first question, then, to be decided at this time, and upon this motion, is whether or not the supreme court of the State of South Carolina had jurisdiction to hear and determine the matter before it.

"Article I, section 26, of the constitution of South Carolina provides: 'In the government of this Commonwealth the legislative, executive, and judicial powers of the government shall be forever separate and distinct from each other, and no person or persons exercising the functions of one of said departments shall assume or discharge the duties of any other.'

"Section 4 of article IV of the same instrument defines the power of the supreme court thus: 'The supreme court shall have appellate jurisdiction only in cases in chancery, and shall constitute a court for the correction of errors at law under such regulations as the General Assembly may by law prescribe: *Provided*, The said court shall always have power to issue writs of injunction, mandamus, *quo warranto*, *habeas corpus*, and such other original and remedial writs as may be necessary to give it a general supervisory control over all other courts in this State.'

"The powers of the board of State canvassers, so far as this case is concerned, are defined by chapter 8, title 2, sections 24, 25, and 26, thus:

"'SEC. 24. The board, when thus formed, shall upon the certified copies of the statements made by the board of county canvassers, proceed to make a statement of the whole number of votes given at such election for the various officers, and for each of them voted for, distinguishing the several counties in which they were given. They shall certify such statements to be correct, and subscribe the same with their proper names.

"'SEC. 25. They shall make and subscribe on the proper statement a certificate of their determination, and shall deliver the same to the Secretary of state.

"'SEC. 26. Upon such statements they shall then proceed to determine and declare what persons have been, by the greatest number of votes, duly elected to such offices, or either of them. They shall have power, and it is made their duty, to decide all cases under protest or contest that may arise when the power to do so does not by the constitution reside in some other body.'

"And the objection to the jurisdiction of the supreme court made by the petitioners is that they are a part of the executive department of the government, charged with the execution of a law of the State, and that they alone are authorized to canvass the votes, and that they are not subject in the exercise of their functions to the control of the judicial branch of the government.

"The Supreme Court of the United States, in a very able opinion by Mr. Justice Miller, in the case of Gaines *vs.* Thompson, 7 Wallace, 347, has very clearly determined what the law is on this subject, and that is, that 'if it appear that the act which the court is asked to compel the officer of the Executive Department of the Government to do be purely ministerial, the court having jurisdiction to issue the writ of mandamus, may compel the executive officer to perform his duty; but, if the act required to be done by the executive officer be not merely ministerial, but discretionary, or one about which he is to exercise his judgment, a court cannot, by mandamus, act directly upon the officer, and guide and control his judgment or discretion in the matters committed to his care, in the ordinary exercise of official duty; and the court further says that the interference of the courts with the performance of the ordinary duties of the Executive Departments would be productive of nothing but mischief, and we are quite satisfied that such a power was never intended to be given them;' and for this Mr. Justice Miller quotes the opinion of Chief-Justice Taney, in the case of the Commissioner of Patents *vs.* Whitely, 4 Wallace, 522; and the law is stated to the same effect in a very celebrated case in Maryland, by Mr. Chief-Justice Bowie, Miles *vs.* Bradford, 22 Md. Reports, 170: a case where the powers of the governor to canvass the votes was not so broadly given as in the case at bar.

"That the duty of this board of canvassers was not ministerial, but that they were clothed with a large discretion, seems to me is very plain. They were not merely to take the returns and aggregate them. They were to canvass them. That is, they were to examine, to sift, to scrutinize them, which implies a power to reject such as were not lawful in their judgment; and more, they were to decide all cases under protest or contest that might arise, when the power to do so did not, by the constitution, reside in some other body.

"They were the executive officers, appointed to declare the election of such persons as had, in their judgment, the majority of the legal votes cast. If they decided erroneously or falsely, the remedy of those candidates who thought themselves wrong was by *quo warranto*; but no court had the jurisdiction to compel the board of State canvassers to do otherwise than their own judgment dictated.

"It remains now to be seen what the court was asked to do by the relators. Their suggestion sets forth: 'That the board is proceeding to hear and determine all matters of contest and protest before them in regard to the election of persons who were candidates at the general election, and is proceeding to certify their determination on such contests and protests to the secretary of state.' And they pray that a writ of mandamus may issue, commanding them to ascertain from 'the managers' returns and statements, forwarded to them by the boards of county canvassers, the persons who, at the general election, held on the said 7th day of November ultimo, had the highest number of votes; and commanding them and compelling them to revoke and annul any determination or decision which they may have made in any case of contest or protest, if any such there be.'

"Under the cases cited in the opinion of the Supreme Court of the United States, 7 Wallace, 347, Gaines *vs.* Thompson, above referred to, I am of opinion that the supreme court of the State of South Carolina has no jurisdiction to entertain any such 'suggestion' or petition."

In the closing portion of his opinion Judge Bond says:

"That the State board of canvassers were clothed, under the law, with discretionary powers, which required them to discriminate the votes, to determine and certify the candidates elected after scrutiny; and that they were a part of the executive department of the government, and were in no wise subject to the control as to what they should do, after they had commenced to perform that duty, to the judicial department."

The supreme court of South Carolina, before this contest arose, composed of the same justices that sat in this controversy, had occasion to express its judgment as to the powers and duties of the board of State canvassers.

In State *vs.* Chairman County Commissioners, 4 S. C., (new series,) 505, the court held that the returns of the election must be sent by the board of county canvassers to the secretary of state, to be passed upon by the board of State canvassers, and that after hearing the protest, they might determine the result of the election different from the county canvassers.

And in the case of State *vs.* Walker, 5 S. C., (new series,) 265, the court said, that "under our laws there are two bodies intrusted with power to ascertain and fix the fact of an election for State or county purposes, the one acting as a primary and the other as a revisory body. The board of county canvassers is the primary body and the board of State canvassers is the revisory body." In conclusion the court held as matter of law and so ordered, that the decision of the primary body stands unless reversed by the revisory body.

The conclusion is irresistible that the board of State canvassers acted justly and properly, in view of the law and the facts, as to the election in Edgefield and Laurens Counties. But it is submitted that the validity of the organization of the (Mackey) house does not depend upon the absolute correctness or justice of the action of the board of State canvassers. That board having completed its work, whether that work was just or not, it was final till reversed by the house when organized, and it only remained for the house to organize and to act in view of their declaration, as it was actually made. It then became the duty of those who were elected to the house to proceed to effect an organization in accordance with general parliamentary law, and the law and usage of the State.

III.—Mode of organizing the house—Statement of facts.

The clerk of the last house of representatives, Mr. A. O. Jones, was charged with the duty of organizing the new house by preparing the official roll of members-elect, and by calling the house to order and presiding during the election of a speaker. Mr. Jones placed upon the roll of the house the names only of the one hundred and sixteen persons bearing certificates of the secretary of state, based upon the decision of the board of State canvassers, the election in Edgefield and Laurens Counties being declared by the canvassers to be void, by reason of fraud and violence.

At twelve o'clock m., of Tuesday, the 28th of November, 1876, the day fixed by the constitution for the assembling of the Legislature, Mr. Jones proceeded with the organization of the house, having previously given orders to the sergeant-at-arms to admit no persons to the floor of the house as members except those holding the certificates of the secretary of state. It may be mentioned here that in enforcing this latter order of the clerk, the sergeant at-arms found himself confronted at the door of the house by the entire body of democratic members, headed by the persons claiming to be elected from Edgefield and Laurens Counties. Having no force at hand sufficient to guard against the entrance of these persons from Edgefield and Laurens, the sergeant-at-arms called upon the United States Army officer on duty in the building to aid him against being overpowered while executing the order of the clerk. The officer complied with the call and assisted the sergeant-at-arms in maintaining his position. The United States forces acted at this point simply as a support to the sergeant-at-arms, who was engaged in executing a lawful order of the clerk.

Upon the refusal of the sergeant-at-arms to admit the persons claiming to be elected from Edgefield and Laurens, the entire body of democratic members retired from the State-house, notwithstanding all who held certificates of the secretary of state were freely permitted, and even invited and urged, to enter the hall of the house.

At twelve m. the clerk proceeded to call the roll of the house, whereupon fifty-nine answered to their names. The clerk then immediately announced that an election for speaker was in order, and immediately called the roll upon this question, whereupon fifty-nine members voted, one democrat, Mr. W. H. Wallace, of Union, who had entered the hall subsequently to the first call of the roll, being present, but not voting. The result of the vote was declared by the clerk to be that E. W. M. Mackey received 55 votes, and was therefore duly elected. Mr. Mackey immediately appeared, took the oath of office, and assumed the duties of speaker. After the election of a clerk, a message was sent to the senate, informing that body of the organization of the house, and immediately thereafter received a similar message from the senate, announcing the organization of that body. A joint committee of the two houses was thereupon appointed and waited upon the governor, and informed him that the two houses were duly organized and were ready to receive any communications which he might be pleased to make. After transacting other business the house and senate adjourned until twelve o'clock, the next day. During the second day's session the committee on privileges and elections reported upon the contest for seats from Barnwell county, and their report seating the republican contestants was adopted, and four of the persons declared elected were sworn in and took their seats; the member from Barnwell subsequently appeared and qualified. The house again adjourned until twelve m., of Thursday, the 30th of November, the senate adjourning until 12 m. of Friday, the 1st of December.

Legality of such organization.

In the well-known case of Kerr *vs.* Trego, 47 Pa. S. R., 292, cited in Brightley's Leading Cases on Elections, (p. 632,) Chief-Justice Lowrie, of the Supreme Court of Pennsylvania, laid down the following principle:

"On the division of a body that ought to be a unit, the test of which represents the legitimate social succession is, which of them has maintained the regular forms of organization, according to the law and usages of the body, or, in the absence of these, according to the laws, customs, and usages of similar bodies in like cases or in analogy to them. This is the uniform rule in such cases."

And in the same case, speaking of the custom of the clerk of the former organization taking charge of the organization of the new body, he says, (p. 638:)

"It has the sanction of the common usage of every public body into which only a portion of new members is annually elected; it is the periodical form of reorganizing the select council and the senate of the State, and also the form of organizing the Senate of the United States, on the meeting of a new Congress, when the Vice-President does not appear, and the last President *pro tempore* does; and we understand this custom to be uniform throughout the United States, though this is not very important. And when there is a President whose term as a member has expired, then the functions of the clerks continue, and they, in all cases, act as the organs of reorganizing the body, and continue to hold office until their successors are chosen and qualified. Our State and Federal Houses of Representatives are illustration enough of this. So universal is this mode of organizing all sorts of legislative and municipal bodies that all departures from it can be justified only as founded on special and peculiar usages or on positive legislation. Whenever this form is adhered to, a schism of the body becomes impossible, though the process of the organization may be very tardy.

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"It is objected that a rule that attributes so much power to the officers of the previous year gives them an advantage which they may use arbitrarily and fraudulently against the new members, so as to secure to themselves an illegitimate majority. No doubt this may be so, but no law can guard against such frauds so as to entirely prevent them, just as it cannot entirely prevent stealing and perjury and bribery; the people are liable to such frauds at every step in the process of an election or organization. But so much the more need for order and law in this part of the process: the law can dictate that, though it cannot furnish honesty and sound judgment to the actors in it. That the law and order which we have announced have existed so long and so generally, is proof, at least, that they are better than no law at all."

In Wilson's Digest of Parliamentary Law, section 1603, page 221, this author says:

"At the commencement of every regular session, the Clerk of the House opens the session by calling the names of members by States and Territories, if in Congress, and by counties if in State Legislative Assembly. If a quorum answer to their names, he will put the following question: 'Is it the pleasure of the House to proceed to the election of a Speaker?' If it is decided in the affirmative, tellers are generally appointed to conduct the vote."

This seems to be the universal custom in the organization of legislative bodies, and such custom not only prevails in this State, but is specially established by the rules of the house of representatives of this State.

Rule 80 of the rules of the house of representatives of this State is as follows:

"In all cases not determined by these rules, or by the laws, or by the constitution of this State, as ratified on the 14th, 15th, and 16th days of April, 1868, this house shall conform to the parliamentary law which governs the House of Representatives of the United States Congress."

Rule 81 is as follows:

"These rules shall be the rules of the house of representatives of the present and succeeding General Assemblies until otherwise ordered."

Turning now to Barclay's Digest, pages 44 *et seq.*, and 126, we find that the parliamentary law governing the House of Representatives of the United States Congress requires the Clerk of the last House to make up the roll of the members of the new House by placing thereon the names of such persons only whose credentials show "that they were regularly elected;" that having ascertained by a call of this roll that a quorum is present, the Clerk then proceeds to call the names of the members for the choice of a Speaker; the Speaker being chosen, assumes the duties of presiding officer, and after swearing in the members, the oath of office being first administered to him, proceeds to complete the organization; pending the election of a Speaker, the Clerk preserves order and decorum.

Such being not only the custom and parliamentary practice of the State of South Carolina, but also the general parliamentary law governing legislative bodies, the question arises: Was the present house of representatives organized on the 28th day of November in accordance with this universally established custom? That it was so organized the facts prove beyond a doubt.

Authority of the clerk of the house to exclude all but members holding certificates of election.

It has already been stated that the board of State canvassers determined that no valid election had taken place in the counties of Edgefield and Laurens, and refused to issue certificates of election to any person in those counties.

Upon the question of the right of claimants from these counties to be placed upon the roll, and to participate in the organization, the following citation from Cushing's Law and Practice of Legislative Assemblies, (section 229, page 87,) is in point:

"The right to assume the functions of a member, in the first instance, and to participate in the preliminary proceedings and organization, depends wholly and exclusively upon the return or certificate of election; those persons who have been declared elected and are duly returned being considered as members, until their election is investigated and set aside, and those who are not so returned being excluded from exercising the functions of members, even though duly elected, until their election is investigated and their right admitted."

To the same effect is section 141, page 52, of the same work.

In section 238, page 91, of the same work, in discussing the principles of parliamentary law governing the assembling and organization of legislative bodies, Cushing says: "Hence it has occurred more than once that struggles for political power have begun among the members of our legislative assemblies, even before their organization; and it has happened, on the one hand, that persons whose rights of membership were in dispute, and who had not the legal and regular evidence of election, have taken upon themselves the functions of members; and on the other, that persons having the legal evidence of membership have been excluded from participating in the proceedings."

In order to avoid such difficulties this distinguished writer lays down the following principles in section 240, which are applicable to the question now under consideration:

"That no person who is not duly returned is a member, even though legally elected, until his election is established.

"That those members who are duly returned, and they alone, (the members whose rights are to be determined being excluded,) constitute a judicial tribunal, for the decision of all questions of this nature."

In Kerr *vs.* Trejo, (Brightley's Election Cases, page 636,) already cited, the chief-justice said:

"In all bodies that are under law, the law is that where there has been an authorized election for the office in controversy the certificates of election, which is sanctioned by law or usage is the *prima facie* written title to the office, and can be set aside only by a contest in the form prescribed by law; this is not now disputed. No doubt this gives great power to dishonest election officers, but we know no remedy for this, but by the choice of honest men."

It is proper here, in this connection, to again refer to the language already quoted from the same authority, (page 638:)

"It is objected that a rule that attributes so much power to the officers of the previous year gives them an advantage which they may use arbitrarily and fraudulently against the new members so as to secure to themselves an illegitimate majority. No doubt this may be so; but no law can guard against such frauds so as to entirely prevent them, just as it cannot entirely prevent stealing and perjury and bribery; the people are liable to such frauds at every step in the processes of an election or organization. But so much the more need for order and law in this part of the process; the law can dictate that though it cannot furnish honesty and sound judgment to the actors in it. That the law and order which we have announced have existed so long and so generally, is proof, at least, that they are better than no law at all."

Applying the law, as now stated, to the facts in the present instance, it is clear, *first*, that there were no representatives from Edgefield and Laurens Counties having certificates of election, according to the law and usage of this State, and, *second*, that, under the law, without such certificates, the clerk had no right to place the names of any persons upon the roll of the house of representatives from these counties.

It is true that certain parties did appear at the time of the organization of the house claiming to represent these two counties and presenting certain certificates signed by the clerk of the supreme court, upon which certificates they claimed that their names should be placed upon the roll and that they should be admitted to participate in the organization of the house. These certificates the clerk of the house very properly refused to recognize as certificates of election sanctioned either by law or usage. But, aside from their validity, it is a fact worthy of notice here that these certificates were not authorized to be issued by the court itself. On the contrary, when asked to do so, the court distinctly refused to grant such certificates, but remarked that the parties in interest before the court could obtain transcripts of the record of the court from the clerk. In the proceedings of the court, as reported at the time in the leading democratic journals of the State, and undisputed up to the present time, the following appears:

"Mr. Youmans then submitted an order that the clerk of court issue certificates to the persons who had received the highest number of votes for members of the General Assembly for the counties of Edgefield and Laurens, and that his certificates stand in lieu of those which should have been issued by the board."

"Judge Willard: 'That we cannot do. There is no authority or precedent for such an order. If our opinion has not weight enough to be respected in the organization of the houses, putting it on paper would not add to it.'" (Charleston News and Courier, November 27, 1876; Columbia Register, November 26, 1876.)

But admitting that the court itself had undertaken to issue certificates of election to persons from Edgefield and Laurens Counties, such certificates would be clearly of no value as certificates of election, entitling the holders to be regarded as representatives of those counties, nor could they be regarded as such *prima facie* evidence of election as entitled the holders to be placed upon the roll of the clerk.

The position assumed and maintained by the republican members of the house before and during this entire contest was:

First. That no persons, except those declared elected and duly returned by the board of State canvassers and holding certificates of the secretary of state, were entitled by law or usage to be placed upon the roll. (Cushing, sections 229 and 240.)

Second. That the organization of the House must be effected by those persons only whose election had thus been declared by the board of State canvassers and certified by the secretary of state, in accordance with the law of the State.

Third. That all other persons claiming to be entitled to seats in the house as representatives must submit their claims to the house after its organization by the members whose seats were undisputed. (Cushing, sections 229 and 240.)

In these just and reasonable demands the democratic members-elect of the house of representatives refused to acquiesce, although in the organization of the senate the course which the republicans had laid down was not only followed, but acquiesced in by all the democratic senators without protest or debate.

Legislative quorum.

Having discussed the proper course to be pursued in organizing the house and the authority of the clerk to exclude all but members having the proper certificates of elections, the only legal question now remaining to be considered is, what number of the duly elected members were sufficient to constitute a quorum for the purpose of organizing the house of representatives and discharging the functions of a legislative body?

By the action of the board of State canvassers in regard to the counties of Edgefield and Laurens, but one hundred and sixteen persons were returned as duly elected members of the house of representatives, and the question now arises, what number of these one hundred and sixteen members were necessary to form a quorum for the purpose of perfecting a valid organization?

By section 4, article II, of the constitution of this State it is provided that "the house of representatives shall consist of one hundred and twenty-four members, to be apportioned among the several counties according to the number of inhabitants contained in each;" and by section 14 of the same article, it is further provided that "a majority of each house shall constitute a quorum to do business."

The language of the Constitution of the United States upon the subject of a legislative quorum is identical with the language used in the constitution of our State: "A majority of each (house) shall constitute a quorum to do business.—Constitution United States, section 5, article I. And while it is true that the number of members of which the two Houses of Congress may consist is not as precisely fixed as in this State, yet the possible number of which each House may be composed at any given time is absolutely as certain as though it was an unalterable number, the possible membership at any given time being always an absolutely fixed number.

This similarity in the constitutional provisions in regard to the Legislature of South Carolina and the Congress of the United States is important in determining what constitutes a quorum of the house of representatives of this State, since, in the absence of all precedents in our own legislative annals, your committee are compelled to refer to the decisions of Congress upon this question.

Fortunately, this matter has been decided by both Houses of Congress, and is no longer a disputed question. During the first session of the Thirty-seventh Congress, in the House of Representatives, the Speaker (Hon. G. A. Grow, of Pennsylvania) decided that a quorum of the House consisted of a majority of the members *chosen*, and in this decision of the Chair the House acquiesced (Journal H. R. 1st session, 37th Congress, p. 117.) This decision was not rendered, as has been erroneously stated on several recent occasions, for the purpose of enabling the House to organize, because several of the States failed to choose Representatives, but it was made fifteen days after the organization, upon a question which in no wise affected the validity of the organization.

The question as to whether a quorum consisted of a majority of the entire number of members provided for by the Constitution or a majority of the members actually chosen was first raised in the Senate of the United States on the 11th of April, 1862; and after a discussion, which was prolonged for several sessions, it was finally decided on May 4, 1864, by a vote of 26 yeas to 11 nays, that "a quorum of the Senate consists of a majority of the Senators *duly chosen*." Among those voting for this decision we find the names of eminent men of both political parties, such as Reverdy Johnson, Lyman Trumbull, Charles Sumner, Henry Wilson, W. P. Fessenden, Benjamin Wade, and others.

Precedents to the contrary may be found in the earlier decisions in Congress and among the earlier writers, but they have been overruled by these later decisions, in which all recent writers concur. For instance, Professor Farrar, in his Manual of the Constitution of the United States, page 166, says, in relation to the constitutional provision in regard to a quorum, that "this has been held to be a majority of the members actually sworn in and entitled to seats at the time, and not a majority of a full delegation from all the States."

This question of a constitutional quorum has also been decided by the Legislature of Indiana. Certain members of the Legislature resigned, in order to leave the Legislature without a quorum, the constitution of Indiana providing that two-thirds of the members shall constitute a quorum. The Legislature, in consequence of the withdrawal of these members, adjourned without passing the regular appropriation bills, and the governor ordered new elections to fill the vacancies and again convened the Legislature. The appropriation bills were passed, when certain members, in order to defeat a vote upon the ratification of the fifteenth amendment, withdrew again, as on the former occasion. The Legislature thereupon decided that two-thirds of the actual membership constituted a quorum, and proceeded to ratify the amendment. This action was certified in forwarding the vote of the Legislature on the ratification of the amendment. No question was raised in regard to it by Congress, and the vote of Indiana, as thus cast, was passed upon and counted.

From this examination of the provisions of the Constitution relating to a legislative quorum and from the precedents in the Congress of the United States which have been cited, as well as the Indiana case, it is clear that the true definition of a legislative quorum, under the constitution of South Carolina, is a majority of the members chosen, and the organization of the house of representatives upon this basis is constitutional and valid.

It is objected to this view presented of a legislative quorum under the constitution that if less than a majority of the possible number of members was elected, it would then place it within the power of but a very few members to organize the house. This your committee admit, for unless we act upon this view of the constitution, in certain contingencies it would become impossible to organize a house of representatives in this State. Without such an organization no speaker could be elected, and consequently no writs of election could be issued to fill vacancies, if by any possibility the people failed at the general election to elect a majority of the one hundred and twenty-four members provided for by the constitution. The government, therefore, would, in such an emergency, be brought to a permanent standstill until the next general election. Such a result cannot be reasonably supposed to be within the scope or intent of the constitution.

Organization of the Senate of South Carolina.

No question is made now, nor has any heretofore been made, as to the organization of the senate in accordance with the constitution and laws of South Carolina. It met on the same day and hour as the house of representatives, to wit, Tuesday, November 28, 1876, at twelve o'clock m. Both political parties were present and assisted in the organization. Thirty members were present. The persons claiming to be elected from the counties of Edgefield and Laurens, (M. W. Gary and R. P. Todd,) but who did not hold certificates of election from the board of State canvassers, (though they had certified copies of the records of the supreme court in the case there made against the board of State canvassers,) were present in the senate chamber, but were not permitted to be sworn or to take part in the organization of the senate.

The senate held precisely as did the house, that those only holding certificates of election from the board of State canvassers had *prima facie* right to seats and were entitled to be sworn and participate in the organization of that body.

The senate having been duly organized by the election of a president *pro tempore*, a clerk, a reading clerk, sergeant-at-arms, &c., notified the house of representatives thereof, and appointed a committee, to act with a similar committee on the part of the house, to wait on his excellency the governor, and inform him that the General Assembly was organized, and ready to receive any communication he might be pleased to make.

A message was received from the house of representatives, informing the senate that it had met; that a quorum was present; that it was duly organized and ready to proceed to business; that Hon. E. W. M. Mackey had been elected speaker, and A. O. Jones, esq., had been elected clerk.

Also, a further message from the house of representatives was received, informing the senate that the house had appointed a committee, to join a committee on the part of the senate, to wait on his excellency the governor, and inform him that the General Assembly had met, was organized, and ready to receive any communication he might be pleased to make.

This joint committee of the senate and house of representatives, soon after the appointment, waited on the governor and informed him of the organization of the two houses, and their readiness to receive any communication he might be pleased to make, and reported the same to their respective houses.

The governor informed the committee that he would communicate with the two houses at an early day.

On Wednesday, November 29, 1876, in the house of representatives, Mr. Thomas, from the committee on privileges and elections, submitted the following:

"The committee having had the case of contest from Barnwell County before them, Frederick Nix, jr., Scipio Bennett, Silas Cave, A. S. Jackson, William Brabham, who claim to be lawfully elected members of the house of representatives of South Carolina from the county of Barnwell, and upon the evidence submitted to your committee we find that the said Frederick Nix, jr., Scipio Bennett, Silas Cave, A. S. Jackson, William Brabham are the legally elected members from said county of Barnwell and entitled to seats in the house of representatives as members thereof."

This report was adopted by the house by a vote of 44 yeas to 15 nays.

The members thus admitted from Barnwell County subsequently appeared and were sworn in.

On Friday, December 1, 1876, the house of representatives adopted the following resolution:

"*Resolved*, That the committee on privileges and elections be, and they are hereby, instructed that in all contested cases of election referred to them for investigation they shall make a full report to this house, giving a synopsis of such evidence as has been brought before them; and that the said committee give notice to all parties concerned in said contest, and grant such reasonable time for the obtaining of evidence as in the judgment of the committee will not defeat the ends of justice: *Provided*, That after notice has been given, should either party to the contest refuse to appear or submit necessary evidence, the committee shall forthwith proceed to hear and determine the case."

On Saturday, December 2, 1876, Mr Thomas, from the committee on privileges and elections, submitted the following report and resolution, which were adopted:

"The committee on privileges and elections beg leave to report that they have considered the elections held on the 7th of November, 1876, in the counties of Edgefield and Laurens, and do now report that in their opinion no legal and valid election was held in said counties on said day.

"That as to Edgefield County the violence was so great and the disproportion between the voting population of said county and the vote reported by the returns to be cast at said election is so great as to leave no doubt in the minds of your committee that no valid election has taken place.

"That as to Laurens County your committee find that no lawful returns of the election in said county have been made, the returns of the commissioners of election of said county being signed by only two of said commissioners, and one of those two doing so under protest on account of fear of bodily injury or death; in addition to which fact your committee find that the election in said county was attended by great frauds and violence, sufficient of themselves to have destroyed the validity of the election.

"Your committee, therefore, recommend the adoption of the following resolution:

"*Resolved*, That this house hereby declare that no valid election was held in the counties of Edgefield and Laurens on the 7th November, 1876."

Also, Mr. Thomas, from the committee on privileges and elections, submitted the following report, which was adopted:

"The committee beg leave to report that in the matter of contest in the case of the county of Abbeville, on the part of Messrs. W. H. Heard, William Pope, H. A. Wideman, B. F. Porter, I. H. White, republican contestants, against R. R. Hemphill, W. R. Bradley, T. L. Moore, F. A. Connor, William Hood, contestees, of the said county of Abbeville, South Carolina, that, after hearing all the evidence submitted, and after serving proper notice for appearance on the part of the contestees, the committee is of the unanimous opinion that the aforesaid W. H. Heard, William Pope, H. A. Wideman, B. F. Porter, and I. H. White are duly elected members of the house of representatives, and legally entitled to seats therein."

These persons, thus declared entitled to seats, subsequently appeared, were duly sworn, and took their seats.

On Tuesday, December 5, 1876, Mr. Thomas, from the committee on privileges and elections, submitted the following report, which was adopted:

"The committee beg leave to report that in the matter of the contest in the case of the county of Aiken, on the part of Messrs. G. H. Holland, L. W. James, Fred. A. Palmer, and P. W. Jefferson, contestants, against C. E. Sawyer, J. J. Woodward, L. W. Asbill, and John G. Guignard, contestees, of the said county of Aiken, South Carolina, that, having served proper notices to the said contestees, and they refusing to appear and answer in the said matter, that, upon the evidence submitted, the committee is of the unanimous opinion that the aforesaid G. H. Holland, L. W. James, Fred. A. Palmer, and P. W. Jefferson are legally elected members of the house of representatives, and legally entitled to their seats therein."

Messrs. F. A. Palmer, P. W. Jefferson, G. H. Holland, and L. W. James, being in attendance, appeared at the clerk's desk, were duly sworn, and took their seats.

On Tuesday, December 5, 1876, at one o'clock p. m., pursuant to a joint resolution previously adopted, the senate and house of representatives met in joint convention in the hall of the house of representatives for the purpose of canvassing the returns of the late election for governor and lieutenant-governor, in accordance with section 4, article 3, of the constitution of this State. The returns were opened and read by the speaker of the house, and when the counties of Edgefield and Laurens were reached, objections being made to the returns from those counties, in accordance with the rules previously adopted, the senate withdrew, and the two houses acting separately decided not to count the votes alleged to have been cast in the counties of Edgefield and Laurens. The canvass of the returns was then completed and the following result was announced:

For governor.

D. H. Chamberlain received	86,216
Wade Hampton received	83,071

For lieutenant-governor.

R. H. Gleaves received	86,620
W. D. Simpson received	82,521

The speaker then declared that Hon. D. H. Chamberlain and Hon. Richard H. Gleaves were duly elected, respectively, governor and lieutenant-governor of the State of South Carolina for the ensuing two years. The joint convention was then dissolved and the senate retired.

On the 7th December, 1876, at one o'clock p. m., the senate and house of representatives met in joint assembly, pursuant to resolution adopted by both houses, for the inauguration of the governor-elect. The constitutional oath of office was then administered to Hon. D. H. Chamberlain, governor-elect, who thereupon delivered his inaugural address, after which the joint assembly was dissolved and the senate returned to its chamber, where the oath of office was administered to Hon. R. H. Gleaves, the lieutenant-governor-elect, thereby perfecting the organization of the government of the State in accordance with the will of the people, as expressed by their legal votes at the general election on the 7th November, 1876.

Election of United States Senator for the term of six years, commencing March 4, 1877.

On Tuesday the 12th day of December, 1876, at twelve o'clock m., the house of representatives, of which Hon. E. W. M. Mackey was speaker, in accordance with the statute of the United States, proceeded to vote for the election of a person to represent the State of South Carolina in the Senate of the United States.

Upon the first vote there was no choice; but the second vote showed the following result, viz.:

Those who voted for Hon. D. T. Corbin are:

Mr. Speaker, and Messrs. Wideman, White, Porter, Heard, Pope, Holland, James, Jefferson, Jackson, Nix, Bennett, Cave, Brabham, Gantt, Robinson, Reed, Miller, Brodie, Smalls, Simmons, Glover, Edwards, Prioleau, Capers, Ford, Bryan, Tingman, A. Smith, Lee, Coleman, Alexander, Milton, Boston, Humbert, Keith, Wines, J. A. Smith, Green, Kinloch, Gaither, Hough, Dibble, Keitt, Thomas, Morgan, Caldwell, Curtis, Minort, Wells, R. J. Palmer, Lowman, Johnston, Feriter, Andrews, Scott, Peterson, and Evans—58.

Those who voted for Hon. C. C. Bowen are:

Messrs. F. A. Palmer, Vanderpool, Lesesne, Lazarus, S. C. Brown, and Pinckney—6.

Those who voted for Hon. R. B. Elliott are:

Messrs. Martin, Bird, Straker, and Forest—4.

Whole number of votes given	68
Necessary to a choice	35

The Speaker announced that Hon. D. T. Corbin, having received a majority of the whole number of votes given, was elected as the choice of the house of representatives, and the proceedings would be read in joint assembly to-morrow at twelve m., and the result declared. (House journal, pages 45 and 46.)

On the same day, Tuesday, the 12th day of December, 1876, at twelve o'clock m., the senate proceeded to vote for a person to represent the State of South Carolina in the Senate of the United States for the term of six years, commencing March 4, 1877. The fifth vote, no choice having previously been had, resulted as follows, to wit:

Those who voted for Hon. D. T. Corbin are:

Messrs. Bird, Carter, Clinton, Cochran, Corwin, Duncan, Gaillard, Green, Johnston, Myers, Nash, Swails, Taft, Walker, Warley, B. H. Williams, and Whittemore—17.

Those who voted for Hon. M. W. Gary are:

Messrs. Bowen, Buck, Butler, Cannon, Crittenden, Evans, Hower, Jeter, Livingston, Meetze, J. M. Williams, and Witherspoon—12.

Whole number of senators voting	29
Necessary to a choice	15

The president declared that Hon. D. T. Corbin had received a majority of the whole number of votes given in the senate.

Ordered, That it be entered on the Journal. (Journal of senate, page 64.)

Declaration of the result of the election.

On Wednesday, December 13, 1876, the senate proceeded to the hall of the house of representatives to unite with that body in joint assembly to hear read the journals of proceedings of the senate and house of representatives relative to the election of United States Senator.

Joint assembly.

The two houses having met in joint assembly, it was called to order by Hon. R. H. Gleaves, president of the senate.

The president announced that, pursuant to act of Congress, the two houses had now met in joint assembly for the purpose of hearing read so much of the journals of both houses as relates to the votes given in each house for a person to represent the State of South Carolina in the Senate of the United States for the term of six years, commencing March 4, 1877.

The clerk of the senate read from the senate journal of Tuesday, December 12, 1876, so much of the proceedings of the senate as related to the election of United States Senator.

The clerk of the house of representatives read from the journal of Tuesday, December 12, 1876, so much of the proceedings of the house of representatives as related to the election of United States Senator.

The president then declared Hon. D. T. Corbin, having received a majority of the whole number of votes given in each house of the General Assembly, duly elected Senator to represent the State of South Carolina in the Senate of the United States for the term of six years, commencing March 4, 1877. (Journal of senate, page 69; Journal of house of representatives, page 49.)

The senate of the State of South Carolina continued in session from the 28th day of November, 1876, to the 22d day of December, 1876, and throughout the whole session recognized as the house of representatives of the State of South Carolina the body of representatives organized in the hall of the house of representatives, in the State-house, on the 28th day of November, 1876, and of which body Hon. E. W. M. Mackey was speaker; and at no time during said session did said senate in any manner recognize any other body as the house of representatives of South Carolina.

The General Assembly of the State of South Carolina, composed of said senate and house of representatives, by joint resolution, adjourned *sine die* on December 22, 1876.

Action of the seceding members of the house of representatives, and the organization of the pretended house of representatives, known as the Wallace house.

After the withdrawal of the fifty-seven democratic members of the house of representatives from the house of representatives, as heretofore stated, they, in conjunction with the eight pretended members from the counties of Edgefield and Laurens, who had no certificates of election from the board of State canvassers,

proceeded to Carolina Hall, in the city of Columbia, and there organized a pretended house of representatives, and elected one of their number, W. H. Wallace, speaker, and John T. Sloan, clerk. (Pages 1, 2, 3, journal of that body.)

On the organization of this body, it was assumed that the fifty-seven members, with certificates of election, and the eight persons claiming seats from Edgefield and Laurens, but who had no certificates of election, constituted a quorum of the house of representatives, and the same was competent to do business.

On the 4th of December, 1876, Thomas Hamilton and N. B. Meyers, members-elect from the county of Beaufort, joined the Wallace house, leaving the Mackey house, which they had assisted to organize, and with which they had acted till that time.

About the same time J. H. Westbury, member-elect from Sumter County, who had assisted in the organization of the Mackey house, joined the Wallace house.

On the 5th of December, 1876, Daniel Bird* and John Gibson members-elect from Fairfield County, who had assisted in the organization of the Mackey house, and acted with that body up to that time, joined the Wallace house.

On the 6th day of December, S. S. Bridges, member-elect from Newberry County, and who had theretofore assisted in the organization of the Mackey house and acted with it, joined the Wallace house.

On the 6th day of December, the Wallace house, though the eight persons from the counties of Edgefield and Laurens, claiming seats, had assisted to organize the house and since acted with it, passed the following resolution:

"That the credentials of the members from Edgefield and Laurens Counties be referred to the committee on privileges and elections, to investigate and report as to the right of said members to hold seats on this floor."

On December 7, 1876, the committee on privileges and elections made a report on the resolution of inquiry as to the right of the members from the counties of Edgefield and Laurens to hold their seats on the floor of this house, and reported the following resolution:

"That Messrs. H. A. Shaw, W. S. Allen, J. C. Sheppard, T. E. Jennings, and James Callison were, on the 7th day of November, A. D. 1876, duly elected members of the house of representatives of South Carolina from the county of Edgefield, and as such are entitled to seats which they now occupy as members of this house."

This resolution was immediately considered and adopted.

The same committee then reported as to the right of the members from Laurens to hold their seats, and reported the following resolution:

"That Messrs. J. B. Humbert, J. Washington Watts, and D. W. Anderson were, on the 7th day of November, A. D. 1876, duly elected members of the house of representatives of South Carolina from the county of Laurens, and as such are entitled to seats which they now occupy as members in this house."†

This resolution was considered immediately and adopted. (Journal of said house of December 7, 1876, pages 4 and 5.)

On this day the Wallace house passed resolutions recognizing and confirming the elections of William H. Wallace as speaker of the house of representatives of the State of South Carolina, of John L. Sloan, sr., as clerk, John D. Brown as sergeant-at-arms, and W. B. Williams, reading clerk.‡ (Journal of said house, pages 3 and 4.)

Election of General M. C. Butler.

On the 12th of December, 1876, the Wallace house proceeded to vote for a United States Senator to fill the office for six years from the 4th of March following.

One ballot was taken, which resulted in no choice.—Journal of that date, pages 2 and 3.

On the 13th of December, 1876, the Wallace house voted again for United States Senator, having sixty-eight members present, and seven members of the Senate present. The speaker declared there was no choice.

On the 14th of December, 1876, the Wallace house again voted for United States Senator, having sixty-seven of its members present and five Senators. The speaker declared that, a majority of the joint assembly not having voted, there was no election.

On the 15th of December, 1876, the Wallace house again voted for United States Senator, with a similar result as on the 14th of December, 1876.

On the 16th of December, 1876, the Wallace house again voted for United States Senator, with a similar result as on the 15th. No senator present.

On Monday, the 18th of December, 1876, the Wallace house again proceeded to vote for United States Senator, with a similar result as on the 16th. No senator being present,

On Tuesday, December 19th, 1876, the Wallace house again proceeded to vote for United States Senator, with the following result:

Total number of senators voting	11
Total number of the house voting	68
Total	79

Necessary to a choice, 40.

M. C. Butler, esq., received votes	65
M. W. Gary, esq., received votes	5
J. B. Campbell, esq., received votes	5
Robert Smalls, esq., received votes	3
J. B. Kershaw, esq., received votes	1
Total	79

And the speaker announced "that M. C. Butler, esq., having received 65 votes, which is a majority, is elected Senator to represent the State of South Carolina in the United States Senate for six years commencing the 4th day of March, 1877."—Journal of December 19, 1876, pages 2 and 3.

Remark.—Among the members who voted for Mr. Butler were the pretended members from Edgefield County, namely, Allen, Sheppard, Callison, Jennings, and Shaw, and also the pretended members from Laurens County, namely, Humbert Watts, and Anderson.

Of the senate there were present but eleven members, six less than a quorum of that body, nine of whom voted for Mr. Butler. (See journal, Wallace house, of December 19, 1875.

The senate, as such, as before stated, never recognized the Wallace house, never received from it any communications or sent any to it, or went into joint session with it.

Declaration of the election of Wade Hampton, governor of South Carolina.

The Wallace house, on Tuesday, December 14, 1876, adopted the following resolution:

"Whereas the secretary of state has failed and refused to deliver to the speaker of this house the original returns of the election held on the 7th day of November last for governor and lieutenant-governor as required by the constitution of this State: Therefore,

"*Be it resolved* That the speaker be directed to publish secondary evidence of the result of the election for governor and lieutenant-governor held on the 7th day of November last."

Immediately upon the adoption of this resolution the speaker announced that the special order for this hour (two p. m.) had arrived, to wit, "to open and publish the election returns for governor and lieutenant-governor of South Carolina," when the speaker opened and published the following evidence, to wit:

"A tabular statement of the votes of the several counties for governor and lieutenant-governor, as sworn to by Mr. John Scoffin."

The footings-up of this tabular statement, which included the vote of Edgefield and Laurens Counties, showed the vote to stand—

For governor.

Hampton	92,261
Chamberlain	91,127
Majority for Hampton	1,134

For lieutenant-governor.

Simpson	91,689
Gleaves	91,550
Majority for Simpson	139

The Speaker submitted, also, the following secondary evidence, to wit:

Vote for governor—election of 1874.

D. H. Chamberlain	80,403
John T. Green	66,818

Vote for governor—election of 1876.

Wade Hampton	92,261
D. H. Chamberlain	91,127

OFFICE OF SECRETARY OF STATE.

I, H. E. Hayne, secretary of state, do hereby certify that the foregoing is a true and correct statement of the vote for governor at the general elections of 1874 and 1876, as appears by the commissioner's returns, now on file in this office.

Given under my hand and the seal of the State, at Columbia, this 9th day of December, 1876, and in the one hundred and first year of American Independence.

[SEAL.] H. E. HAYNE,
Secretary of State.

Whereupon the speaker announced that Wade Hampton, esq., had received a majority of the votes of the people of South Carolina for governor, and W. D. Simpson, esq., had received a majority of the votes of the people of South Carolina for lieutenant-governor. (Journal of Wallace house, December 14, 1876; pages 3, 4, 5.)

Soon after this announcement Wade Hampton and W. D. Simpson appeared, and in the presence of the Wallace house were sworn in as governor and lieutenant-governor by T. J. Mackey, circuit judge. Thereupon Wade Hampton delivered an inaugural address. (Journal Wallace house, of December 14, 1876, page 6.)

Remarks: It will be noticed—

1. That the senate of the State of South Carolina was not present at any time with the Wallace house during the pretended opening and publishing of the election returns for governor.

2. That there was no pretense that the proper election returns were opened and published.

3. That the whole proceeding from beginning to end was in utter contempt and disregard of the provisions of the constitution hereinbefore recited, and was void.

(See report of Messrs. LAWRENCE, BANKS, and LAPHAM, of the House of Representatives, on the recent election in South Carolina, page 65.)

The reference is as follows:

"It is sufficiently shown that D. H. Chamberlain, the republican candidate for governor, was elected over Wade Hampton, the democratic candidate, and the republicans had a majority for all the candidates for State officers and for members of each branch of the Legislature.

"The Legislature was duly organized, the returns of the election for governor were duly 'returned to the speaker of the house of representatives,' who, as the constitution requires, did 'open and publish them in the presence of both houses,' and Chamberlain was declared elected and duly inaugurated. The two houses occupied the proper legislative halls in the capitol.

"It was never pretended that any organized senate existed which did or could hear any returns published for Hampton. The fragmentary house which professed to declare him elected never had the election returns. It met in a private hall, and had no more authority than a town meeting, because there could be but one legal house. But, notwithstanding this, a fragment of the members of the house of representatives, without any authority, organized as a pretended house—a mere revolutionary body—and without a senate proceeded to go through the form of inaugurating Wade Hampton as governor, and, with a few members of the senate, pretended to go through the forms of electing as United States Senator General M. C. Butler. * * *

The two legal, constitutional, and regularly organized houses of the General Assembly elected in proper form Hon. D. T. Corbin, a gentleman of high character, integrity, and talents, as United States Senator, and he has been duly commissioned as such. The General Assembly has adjourned. Governor Chamberlain, duly inaugurated and installed in office, is acting as governor, has the great seal of the State, and occupies the executive office in the capitol, while Wade Hampton is assuming also to act as such. In various forms the right of the rival claimants to act is before the courts. One of the circuit courts has decided that Chamberlain is in fact governor. Another has undertaken, in a collateral way, to decide he is not. (See appendix to evidence, part 1.) But this is so manifestly without authority that it cannot be sustained. Upon the principles already shown, the decision of the speaker of the house in the presence of the two houses of the General Assembly is conclusive as to who is governor. The two houses are authorized to canvass the votes, and the result as declared by them cannot be called in question, (constitution, article 3, section 4,) except by a direct proceeding to contest the right to the office, as provided by the constitution and statutes of the State. (Constitution, article 3, section 4; Revised Statutes of 1873, page 32, section 28; Chase's Decisions, by Johnson Griffin, case 402.) The authorities already cited proved this. 2 Bean *vs.* Thompson, 19 N. H., 115; Ballou *vs.* Bangs, 24 Ills., 184; Taylor *vs.* Skinner, 2 S. C., 696; State *vs.* Bloom, 17 Wis., 54; the decisions of the electoral commission, under the act of Congress of January 29, 1877, also prove it.

* * * * * * *

"It is well settled in all the authorities on evidence that it is the duty of the courts and they are bound to judicially know the officers of the State. They are bound to know the great seal of the State. It requires no proof. There can be but one seal. Whoever, under color of right, occupies the executive office, acts as governor, and authenticates his acts with the great seal, is, in law, governor. There would be no order or peace if every pretender could assert a right to office collaterally in proceedings in court. Law and public policy forbid it.

"The courts cannot inquire whether the regularly-acting houses of the General Assembly are lawfully organized. They have so decided themselves and that decision is final. This is a political question with which courts cannot interfere. Courts only have judicial power. The power to determine the organization of the General Assembly is political. Courts can neither make nor unmake Legislatures. (Paschal, Annotated Constitution, 189–194, notes, 195–199; Scott *vs.* Jones, 5 Howard, 374; Luther *vs.* Borden, 7 Howard, 57; Mississippi *vs.* Johnson, 4 Wallace, 500.) The constitution of the State settles this question. By it each house is made the exclusive 'judge of the election returns and qualifications of its own members.'

* Bird subsequently returned and acted with the Mackey house; voted for United States Senator there. (Journal, page 46.)

†This action shows that the Wallace house doubted its right to accept and swear in the persons claiming seats from Edgefield and Laurens counties, who held no certificates of election from the board of State canvassers.

‡Thus again showing, by this action, that the previous organization and acts of the house were considered invalid.

"This is certain from another consideration:

"It rests with Congress to decide what is the established government in a State. (7 Howard, 57.) Until Congress acts the President must decide, whenever called upon by the governor for troops, in pursuance of the Constitution. And State courts cannot control Congress or the President. The President has recognized Governor Chamberlain as the lawful executive, and this is conclusive until otherwise determined by Congress, or by a 'contest,' in pursuance of the Constitution and laws."

The Wallace house continued in session until the 21st of December, 1876, when, (at one o'clock and thirty minutes p. m.,) upon its own resolution, it adjourned.

Governor D. H. Chamberlain was first elected governor of South Carolina in November, 1874; and he was the unquestioned governor of South Carolina after his inauguration on December 2, 1874, for the term of two years, and by the constitution "until his successor shall be chosen and qualified."

Up to and after his inauguration on December 5, 1876, as hereinbefore recited, he continued to occupy the office of governor in the State-house at Columbia, and was in possession of all the records and property pertaining to that office, and exercised all the functions of said office, except when occasionally obstructed by the machinations of Hampton and his supporters, until the 10th day of April, 1877, when, after repeated effort, failing to obtain the aid of the National Government to suppress the domestic violence systematically organized against his government, he retired from his office and declined further to actively assert his right to the office of governor.

Wade Hampton finally succeeded to the office of governor on the 10th day of April, 1877, after his (Governor Chamberlain's) retirement, and is now in the possession and enjoyment thereof.

It will be noticed from the foregoing statement of facts that D. T. Corbin was elected United States Senator by the separate vote of the senate and house of representatives of the State of South Carolina, duly organized, and while D. H. Chamberlain was governor, and before there was any attempt even by the Wallace house to declare Wade Hampton governor. His credentials are duly signed by D. H. Chamberlain, governor of South Carolina, and those of M. C. Butler by Wade Hampton as governor.

NOTE.—The following documents are filed as exhibits, to wit:

1. Exhibit A, consisting of the journal of the senate of South Carolina, regular session, commencing November 28, 1876, and the journal of the house of representatives of South Carolina, (Mackey house,) regular session, commencing November 28, 1876.

2. Exhibit B, being the journal of the house of representatives of South Carolina, (Wallace house,) regular session, commencing November 28, 1876.

3. Governor D. H. Chamberlain's address on retiring from the office of governor of South Carolina.

Mr. McMILLAN. It will not be necessary, perhaps, to read any further statement from the opposite party in this case to show the propriety of adopting the amendment to the resolution which I have offered. Mr. Corbin in his statement of facts shows that the board of canvassers of the State of South Carolina were unable to decide who were elected members of the Legislature in that State from the counties of Laurens and Edgefield. Therefore no members of the Legislature from either of those counties received any certificate of their election or had any *prima facie* evidence of a right to a seat in the Legislature of South Carolina. The legislature under which Mr. Butler claims title to a seat in the Senate here was composed only of a house of representatives, no senate ever having acted in conjunction with that house, the senate of the State of South Carolina having recognized the Mackey house of representatives. The Wallace house, or the house of representatives under which Butler claims his election, embraced within its members persons who claimed to be elected from the counties of Laurens and Edgefield. The only evidence of their election is that which was furnished to that house of representatives. They have no *prima facie* evidence of their right, so that their right to a seat in that house depends upon the fact of their election. Their election must be proved by other evidence than that prescribed as the *prima facie* evidence of their right to seats in the Legislature. How can that be done? Mr. Corbin denies their right to seats in the Legislature. The law which prescribes what shall be the *prima facie* evidence of a right to a seat in that body is absent in their case. Then the question is an open one, and it is a fact which must be proved by evidence brought before either the Senate of the United States in open session or before its committee appointed to examine into that question. It seems to me, Mr. President, that for the Senate to invite these parties to appear at the bar of the Senate with their witnesses and proofs to sustain allegations of this kind would not be tolerated, and if these facts are to be settled for the Senate, the matter should be committed to the Committee on Privileges and Elections.

I hope, therefore, the amendment submitted by me to the resolution of the Senator from Ohio will be adopted.

The VICE-PRESIDENT. The question is on the amendment proposed by the Senator from Minnesota.

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

The yeas and nays were ordered.

Mr. WHYTE. Let the amendment be reported.

The VICE-PRESIDENT. It will be reported for the information of the Senate.

The SECRETARY. It is proposed to strike out all after the word "resolved," in the resolution, and in lieu thereof to insert:

That the Committee on Privileges and Elections be instructed to examine and report what questions of fact, if any, in the Corbin-Butler case are not settled by the admission of the claimants.

Mr. McDONALD. Was not that proposition submitted once before?

Mr. CONKLING. No, sir.

The VICE-PRESIDENT. The Chair is not aware of it, having been out. The Chair is advised that it was submitted but not voted upon.

The question being taken by yeas and nays, resulted—yeas 24, nays 28; as follows:

YEAS—Messrs. Allison, Anthony, Booth, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Christiancy, Conkling, Dawes, Dorsey, Hoar, Howe, Ingalls, Jones of Nevada, Kirkwood, McMillan, Morrill, Oglesby, Paddock, Rollins, Saunders, Teller, and Wadleigh—24.

NAYS—Messrs. Bailey, Bayard, Beck, Cockrell, Coke, Conover, Davis of Illinois, Davis of West Virginia, Dennis, Garland, Gordon, Harris, Hereford, Hill, Jones of Florida, Kernan, Lamar, McDonald, McPherson, Morgan, Randolph, Ransom, Saulsbury, Thurman, Voorhees, Wallace, Whyte, and Withers—28.

ABSENT—Messrs. Armstrong, Barnum, Blaine, Bruce, Eaton, Edmunds, Ferry, Grover, Hamlin, Johnston, McCreery, Matthews, Maxey, Merrimon, Mitchell, Patterson, Plumb, Sargent, Sharon, Spencer, and Windom—21.

So the amendment was rejected.

The VICE-PRESIDENT. The question recurs on the resolution of the Senator from Ohio, [Mr. THURMAN.]

Mr. WADLEIGH. Mr. President, as I said when I rose before, there are some facts in this case which affect the decision of the question before the Senate. Those facts are contained in the report of the committee of the Senate which went to South Carolina. A part of the evidence taken by that committee relates to what was known as the Hamburg massacre. That massacre was the commencement——

Mr. McDONALD. I rise to a point of order.

The VICE-PRESIDENT. The Senator will state his point of order.

Mr. McDONALD. The Senator from New Hampshire has spoken twice already on the main question.

Mr. WADLEIGH. I have not.

The VICE-PRESIDENT. The Chair is not aware of the fact. He was out for a long time.

Mr. WADLEIGH. I have spoken but once to the resolution. That massacre——

Mr. McDONALD. That is my recollection. I may be mistaken.

The VICE-PRESIDENT. The Chair must leave it to the Senator from New Hampshire. He was out for an hour.

Mr. WADLEIGH. I think I have spoken but once.

Mr. McDONALD. And not twice on this subject?

Mr. MITCHELL. If the Senator from New Hampshire will give way for a moment, I will offer an amendment to the pending resolution. I move to insert at the end of the resolution the following:

And that debate on this resolution shall close at eleven o'clock p. m. to-day and a vote be taken on its adoption to-morrow, November 27, at half past twelve o'clock p. m.

Mr. EDMUNDS. I should like to hear that again. I did not quite understand it.

The Secretary read the amendment of Mr. MITCHELL.

Mr. THURMAN. If that amendment were adopted, the effect of it would simply be this: that if it should be the sense of the presiding officer of the Senate and of the Senate itself that Rule 50 applies in this case, then this resolution, if adopted at the hour indicated to-morrow, would go over until Wednesday. That is not what I desire, and I hope the majority of the Senate will not desire it, and that the amendment will be voted down.

The VICE-PRESIDENT. The Senator from New Hampshire will proceed.

Mr. WADLEIGH. I was proceeding to say, Mr. President, that the Hamburgh massacre, so called, was the commencement of that very vigorous campaign which resulted in the election, or the alleged election, of General Butler to the Senate of the United States. One of the grounds upon which Mr. Corbin relies is, that in the two counties of Edgefield and Laurens there was so much violence and intimidation that there was no lawful election. If there was no lawful election in those counties, then no representatives nor senators had the right to sit for those counties in the Legislature which attempted to elect General Butler. Without the votes or without the presence of those representatives, it is confessed, as I understand it, that there was no quorum in the Legislature by which he claims to have been elected. The question as to whether there was a free and fair election, or an election so free and so fair as to be legal at all, depends upon what was done in that election by the political friends of General Butler to carry the election by the commission of crime or by intimidation. The report of that committee will soon be before the Senate, but knowing that the Senators upon the other side of the Chamber choose to decide this case in ignorance of what lies in that report, and to attempt by their action here to prevent the facts stated in that report from going to the country, I know of no way to get information as to what is contained in that evidence, no way of giving to the Senate such information, except to have read here such portions of it as bear upon the facts which must be in controversy in this case; and I will ask the Clerk to read from this report the evidence of D. L. Adams, who commanded the militia company parading upon the Fourth of July, in reference to which the difficulty which led to the Hamburgh massacre occurred. The Clerk will read.

Mr. WHYTE. I object to the reading of the paper, and I call for the submission of the question to the Senate under the fifteenth rule.

The PRESIDING OFFICER, (Mr. WALLACE in the chair.) The Senator from Maryland raises a point of order.

Mr. WADLEIGH. I ask that this may be read as a part of my remarks.

Mr. CONKLING. What does the Senator ask to have read as a part of his remarks?

Mr. WADLEIGH. A portion of the evidence.

Mr. CONKLING. Appearing how?

Mr. WADLEIGH. Appearing in a report of a committee of the Senate.

Mr. WHYTE. In another case.

Mr. EDMUNDS. Is it in order to hear evidence on a question of this kind? Can it be possible that anybody wants to know the truth?

The PRESIDING OFFICER. The Chair is not advised.

Mr. EDMUNDS. So I supposed.

Mr. WHYTE. I do not object to the reading of evidence in this case, but this evidence is not in this case.

The PRESIDING OFFICER. The Senator from Maryland raises the point of order that the reading of this testimony is not in order, and asks for a submission of the question to the Senate.

Mr. CONKLING. May I be allowed to understand exactly how this point arises, as I was engaged for the moment?

The PRESIDING OFFICER. The Senator from New Hampshire asks to have read as part of his remarks the evidence of D. L. Adams in the report of a committee on South Carolina affairs. The Senator from Maryland raises a point of order, and objects to the reading thereof as not being in order.

Mr. CONKLING. May I inquire? The Senator from New Hampshire is engaged in debating the pending resolution, and as part of his remarks and assigning reasons for the argument he is delivering he proposes to refer to a report found on the files of the Senate, the open files of the Senate, and the point of order is that that evidence was not taken in this case?

The PRESIDING OFFICER. The Chair so understands it.

Mr. INGALLS. May we hear the rule read?

Mr. WHYTE. It is the fifteenth rule.

Mr. INGALLS. Is not the question on the amendment of the Senator from Oregon?

Mr. EDMUNDS. What is the rule?

Mr. WHYTE. I call for the reading of the fifteenth rule.

The VICE-PRESIDENT. The rule will be read.

The Chief Clerk read as follows:

15. When the reading of a paper is called for, and the same is objected to by any Senator, it shall be determined by a vote of the Senate and without debate.

The VICE-PRESIDENT. What is the paper under consideration?

Mr. EDMUNDS. No paper, sir. I am amazed at the point of order of my friend from Maryland, perhaps not more so than he is himself, I will say by way of apology to him.

Mr. WADLEIGH. Mr. President——

The VICE-PRESIDENT. The Senator from New Hampshire.

Mr. WADLEIGH. What I proposed to have read was a part of the evidence, the testimony of one of the witnesses, taken by the Senate committee in South Carolina upon the occurrences that took place preceding the election in the county of Aiken, and bearing upon the occurrences in the two counties where it is alleged the election was invalid on account of violence, the evidence tending to show the degree of violence there was there.

Mr. EDMUNDS. I understand you ask to have it read as part of your reasons, setting it forth.

Mr. WADLEIGH. Yes, sir.

Mr. WHYTE. I raise the point of order that this question is not debatable.

The VICE-PRESIDENT. It is not. The Chair understands that the Senator from New Hampshire proposes to have an extract read as a part of his speech?

Mr. WADLEIGH. Yes, sir.

Mr. CONKLING. I have a right, I believe, to ask a question of the Chair.

The VICE-PRESIDENT. Certainly.

Mr. CONKLING. I beg to inquire whether the Chair rules that this present point comes under the fifteenth rule of the Senate. If it does, it is not debatable, and if it does not it is debatable. It is debatable if the fifteenth rule does not apply to it; and I humbly submit that the fifteenth rule has no more reference to it than the first rule of the Senate which provides for a quorum. The fifteenth rule applies to cases where the President sends a message here or any other paper lies here, and some Senator asks to have it read. It does not apply to the remarks a Senator makes. I am on the floor in order. I take up the Manual. I propose to read a passage from Jefferson's Manual. That is not calling for the reading of a paper, I humbly submit, in the language of the rule; but the Chair sees the point and of course I will not debate upon it, and I submit it to him.

The VICE-PRESIDENT. The Chair thinks that the point of order is not well taken by the Senator from Maryland, if he understands it.

Mr. WHYTE. This fifteenth rule, as I understand, is nothing more than a general parliamentary rule. I ask the attention of the Senate to the rule in Hatsell and the rule in Jefferson's Manual:

For the same reason a member has not a right——

Mr. EDMUNDS. What page does the Senator read from? That is an interesting question to me, and I should like to spend some little time on it. [Laughter.]

Mr. WHYTE. I should like the Senator from Vermont to investigate it. I read from page 251 of the Manual:

For the same reason—

Says Jefferson—

a member has not a right to read a paper in his place, if it be objected to, without leave of the House. But this rigor is never exercised but where there is an intentional or gross abuse of the time and patience of the House.

Mr. EDMUNDS. Will the Senator be kind enough to read the whole of that section 32? He may get some light by reading the context.

Mr. WHYTE. I am sure I have read it quite as often as the Senator from Vermont.

Mr. EDMUNDS. Very much more.

Mr. WHYTE. But the light has not shined as brightly into my intellect as it has into his.

Mr. EDMUNDS. Very likely. [Laughter.]

Mr. WHYTE. But, for the satisfaction of the Senator, I will read it.

Mr. EDMUNDS. I wish the Senator would in all seriousness, because I think he will convince himself that he is wrong if he does.

Mr. WHYTE. Perhaps I shall.

Where papers are laid before the House or referred to a committee, every member has a right to have them once read at the table before he can be compelled to vote on them; but it is a great though common error to suppose that he has a right, *toties quoties*, to have acts, journals, accounts, or papers on the table read independently of the will of the house. The delay and interruption which this might be made to produce evince the impossibility of the existence of such a right.

We were treated to it a little while ago for about an hour. [Laughter.]

There is, indeed, so manifest a propriety of permitting every member to have as much information as possible on every question on which he is to vote, that when he desires the reading, if it be seen that it is really for information and not for delay, the Speaker directs it to be read without putting a question, if no one objects; but if objected to, a question must be put.—2 *Hats.*, 117, 118.

It is equally an error to suppose that any member has a right, without a question put, to lay a book or paper on the table, and have it read, on suggesting that it contains matter infringing on the privileges of the house.—*Ib.*

Now I have read it all, and I am only clearer in my opinion.

A member has not a right even to read his own speech, committed to writing, without leave. This also is to prevent an abuse of time, and therefore is not refused but where that is intended.—2 *Grey*, 227.

And the House is to judge of that itself. Now I have read it all, and I have no doubt about the proposition.

Mr. EDMUNDS. Did the Senator read that by right or by leave of the House?

Mr. WHYTE. In compliance with your polite request, I politely read it for you.

Mr. EDMUNDS. Ah, Mr. President, but I have no dispensing power.

Mr. WHYTE. Now let me repeat this sentence:

For the same reason, a member has not a right to read a paper in his place, if it be objected to, without leave of the House.

There are my authorities, and they are quite light enough to guide me.

The VICE-PRESIDENT. The Chair rules only upon the question presented by the Senator from New Hampshire, that if he chooses to have extracts from that report read as a part of his speech, it is his right.

Mr. WADLEIGH. I am sorry, Mr. President, that an attempt to put before this Senate only part of the testimony of one witness in relation to that transaction should be so vigorously opposed. I supposed that what the Senate desired upon this occasion was light. It seems that I was mistaken; that there are Senators here who wish to keep the facts in obscurity, who wish to veil from this Senate and from the public the atrocities proved beyond doubt to have occurred at the inception of the political campaign in South Carolina at the last election. I hope that the Clerk will now proceed and read as part of my remarks the passage which I have marked.

The Chief Clerk read as follows:

D. L. Adams, Aiken County.

COLUMBIA, SOUTH CAROLINA, *December* 16, 1876.

D. L. ADAMS (colored) sworn and examined.

By Mr. CAMERON:

Question. Where do you live?

Answer. I live in Hamburgh.

Q. How long have you lived there?

A. I have been living in Hamburgh about two years and six months, I guess.

Q. What is your age?

A. I was thirty-eight years old on the 4th day of July.

Q. Where did you live before you went to Hamburgh?

A. In Augusta, Georgia.

Q. How long did you live there?

A. I have lived there about twenty-five or twenty-six years—about twenty-six years, I guess.

Q. Of what State are you a native?

A. I was born in the upper part of Georgia, Talbot County.

Q. Where had you worked or lived?

A. I generally have worked in Augusta, Georgia, up to the 8th of July. I haven't been in Augusta since that time.

Q. On what day did the Hamburgh massacre take place?

A. On the 8th of July.

Q. Where were you on the 4th of July?

A. I was also in Hamburgh.

Q. I will ask you if you were captain of the colored militia company in Hamburgh at that time?

A. Yes, sir.

Q. Of how many men did that company of militia consist?

A. It consisted of eighty-four members. It was called Company A, Eighteenth Regiment National Guards.

Q. State whether or not it was organized under the State laws.

A. It was organized under the State laws.

Q. How long had it been an organized company?

A. It had been an organized company some five or six years, I think, or probably more.

Q. How long had you been captain of the company?

A. I had been captain of the company, I guess, about seven or eight months—somewhere about that, as near as I could come at it.

Q. Who were the other commissioned officers of the company?

A. Louis Cartiledge was first lieutenant; A. T. Attaway was second lieutenant.

Q. How frequently did the company meet for military drill or exercise?

A. According to the rule and according to the law we drilled once every month; but after I got to be captain of the company I drilled them about once or twice a week.

Q. State whether or not the company had a hall or armory.

A. It had a hall; we called it an armory.

Q. How was the company armed?

A. With thumb-loading rifles.

Q. State what occurred on the 4th day of July; begin with the beginning and go through with the narrative.

A. On the 4th day of July about six o'clock in the evening, or probably half past five, to be sure of it, I took the company out on parade. As we were going up a street in Hamburgh called Market street, about six or half past six o'clock, I guess it was, there was a man by the name of Henry Getsen, and Tom Butler, son of R. J. Butler, and also a son-in-law of R. J. Butler, all white men. They had been on one side of the street, sitting in a buggy, looking at us drill up and down the street, I reckon, for about half an hour. After a while they went back down the street from where we were drilling and went around on the street called Main street. Afterward they came back on the street. I was at the upper part of the street and we were going down, marching by fours, in what is called an interval march, open order, having an interval between ranks, I suppose, of twenty or thirty feet.

Q. How wide was the street?

A. It was one hundred and fifty-eight feet wide, and we were about the center of the street going down. They turned the corner and came up the street in a slow trot. I saw that they intended to drive through the company, and I halted the company, and then they stopped. I was at the head of the company, and I went around in front of their buggy and said to him, "Mr. Getsen, I do not know for what reason you treat me in this manner." He asked me, "What?" I said, "Aiming to drive through my company, when you have room enough on the outside to drive in the road." He said, "Well, this is the rut I always travel." Said I, "That may be true; but if ever you had a company out here I should not have treated you in this kind of a manner." Said I, "I would have gone around and showed some respect to you." "Well," said he, "this is the rut that I always travel, and I don't intend to get out of it for no d—d niggers." Said I, "All right; I won't hold any contention with you; I will let you through." So I gave command to the company to "open order," and let him go through; so he went on through, and I then went on down to the ball. Some of the men seemed to have got a little flustrated because they drove through the company, and commenced talking, but I ordered them to hush, and carried them in the hall and dismissed the company. On Monday his father-in-law came down and took out a warrant.

Q. Mr. Getsen's father-in-law?

A. Yes, sir.

Q. What was his name?

A. Robert J. Butler. He took out a warrant, and on Tuesday morning I received a summons. The constable brought it to me, and, after looking at it, I told him that it was all right; I would be there at the time designated. Sure enough I went.

Q. Before what justice?

A. Before Trial-Justice Prince Rivers. So I went down to the court at the time designated, and when I got there Rivers read—I don't know what you call it—but anyhow he did not say that it was a warrant. I asked him if it was a warrant, and he said it was not. He was general of the militia organization, major-general of the State.

Q. Butler was?

A. Rivers was. And he said he wanted to find out from the evidence in the case—he wanted to hear the officers' testimony, and afterward he wanted to find out whether it would be a case that would be suitable or a case calling for his court-martialing officers, or whether it would be a case to prosecute them before a court. He went on to hear Getsen's testimony, and after he got through, if I mistake not, he heard Tommy Miller's evidence—no, he had just heard Getsen's evidence. After he got through he told me, "As you have no counsel you can ask any question of the witness you desire." So I asked him a few questions, and at the same time, said I, "Mr. Getsen, did I treat you with any disrespect when I spoke to you or didn't I treat you politely?" He said, "I can't say that you treated me with any disrespect, but I can say this much, that there was one or two members of the company that showed some impudence to me, and also I saw them load their guns." I said, "Mr. Getsen, didn't you see me examining the cartridge-boxes, and also the pockets of the members of the company, to see if they had any ammunition, before they went on drill?" He said, "Yes," he did. Said I, "Did you see any?" He said, "No, I didn't." I made him recollect this; said I, "Didn't you know that I found one man with a cartridge in his pocket and I took it away from him and scolded him about it?" He said, "Yes," he did. Said I, "Well, then, are you certain that these men loaded their guns?" He said, "I saw them move their guns, and I thought they loaded." Whilst I was asking that question, Rivers, the trial-justice, said to me, says he, "I don't want you to treat my court with contempt." Said I to him, "Judge, I don't mean to do that if I know myself. I never expect to treat any lawful officer with any contempt," and said I, "I was only asking the question, and if the question is not legal then I don't want to ask him." Before he could say anything to me I was taking my seat, and said I, "I will ask the witness no more questions, but will leave it to your discretion." He then said that sitting down was contempt of court; I told him if it was he must excuse me, as I was not accustomed to law, and if it was any contempt I was then asking his pardon for it, for I did not mean contempt of the court. He said it was contempt and he would put me under arrest, and he dismissed the court until Thursday; I think it was Thursday; it was on the 8th of July, anyhow. I was also then under arrest with the constable. He went out to his dinner and came back again, and when he came back he asked me if I would retract. I told him I did not know what he meant. He said if I was willing to beg pardon of the court he would excuse me from the fine. I told him, well, if I had contempted the court I was willing to ask pardon of the court. He said, well, he would relieve me of the fine, and I was to appear again on the 8th of July, at half past four o'clock. I told him all right, I would appear. So it passed off, then, until the 8th of July. During that time I heard a great many threats that were made. These persons would send me notice at different times of what they had heard; what they were going to do with me on that day. I did not pay any attention to them; did not give no notice to them at all. The day before the trial, (on the 7th of July,) I went home to dinner at one o'clock, and when I got home to dinner it was not ready, and it was very warm, and the company's drill-room was joining my house where I lived; it was a part of the house, and I could pass right out of my bed-room into the drill-room; so I went out of my bed-room into the drill-room, and I was sitting by the window when a man by the name of Mr. Melen [Meling] (a white man and a preacher,) him and some other white man were together, and were right by the drill-room, and I got up and looked out of my window and I heard them say, "That's where that d——d militia company drills;" and, said he, "To-morrow they are going to have a trial and we intend to kill the captain of that company before he gets away from that court." Well, I heard a great deal of big talk and of threats, but I did not pay any attention to them. Sure enough, on the 8th of July I came home from work as usual, and I did not go back with the expectation of attending to court. About two o'clock R. J. Butler and Tommy Butler, his son, and Henry Getsen, his son-in-law, and Harrison Butler, another son of his, were there, and I was standing out before my door when they came on down. Henry Getsen had a gun; I supposed it to be a sixteen-shooter; it might not have been; there was another fashion of gun at that time, but it appeared to be a sixteen shooter which he had across his saddle. R. J. Butler and his son Tommy were in the buggy together, and had a sixteen-shooter in the buggy. I supposed from the looks of it they had about seven or eight pistols in the buggy; large Navy pistols. They went on down in the town, and yet I did not pay much attention to that. In a little while there was about thirty men came armed with sixteen-shooters and double-barreled shotguns; they were coming in from Edgefield.

Q. How far does R. J. Butler live from Hamburgh?

A. One part of his place is in Hamburgh and the other just out; I guess from the main part of town he lives three-quarters of a mile, or it may be a mile. I saw about thirty of these men come in, but I did not get scared yet; so about half past two o'clock I reckon there was about one hundred men in the town of Hamburgh, all armed, some with pistols and some with guns also.

Q. White men?

A. White men; they were getting drunk very fast, or drinking liquor and appearing like they were drunk, and saying they were going to kill every God-damned nigger in Hamburgh that day, and especially Dock Adams; that was myself. So, hearing all this, I went down to Judge Rivers's house and told him. Said I, "Judge Rivers, I can't appear before your court to-day, for I feel that you are unable, and your court is unable, to protect my life, and I believe my life to be unsafe. I am willing that you should go to work and draw up a bond that you think proper and I am willing to give bond to a higher court, where I think my life will be safe. The reason I come to you to tell you, is because I don't want you to suppose that I treated your court with any disrespect by not coming, but it is because I don't think my life is safe." He stopped and said to me, "Well, you must use your own judgment; of course, if your life is unsafe, and if these men intended to take your life of course I can't protect you. I haven't protection enough to protect you; my constable can't do much." Said I, "That is my belief, and for that reason I don't want to go before your court without you force me to, and then if I am killed you will be responsible." He said, "You can use your own judgment; I shall go to court at the usual time; your name, of course, will be called, and if you don't answer to your name—well," he says, "you won't be there; that is all; you won't be there to answer." So, sure enough, before I got through talking with him a white man by the name of Sparnick—I forget his other name—before I got out of the house this man Sparnick came up to his house and knocked at the door and came in. He said that Mr. M. C. Butler had met him at the store that they call George Damm's, and he said that he would like to see me; that he appeared as counsel for R. J. Butler and he would like to settle the matter without any difficulty and without going before the court, if it could be settled. I told him, "Well, there is no one more ready to settle it than I am." He said that Mr. Butler wanted the officers of the company, in fact, to meet him. While he was talking another man came in, by the name of Sam. P. Spencer, and said that M. C. Butler also had said that he would like to have a conference with the officers of the company. I told him, "Well, I will go;" but afterward I went to the door and I saw a great crowd down at his place, all armed men, and they were drunk or playing off drunk; they appeared to be drunk any way. I went back and told Mr. Spencer to go and tell Gen. Butler that I would meet him, but I would like for him to come away from where those men were, and that I was willing to meet him at Spencer's house. So Spencer went back and told him, and he agreed to meet me there. In this time I was in my shirt-sleeves; I had just come from work and had pulled off my coat; so I went back and put on my coat to go down there, and sent word that I would come and meet him. One of the officers refused to go. I told him, well, I would go, and I supposed if I went it would be sufficient; and the first lieutenant agreed to go, but the second lieutenant wouldn't go, because he believed he would be killed; he expressed the reason in that way. I went on down to meet Mr. Butler. Before getting there Mr. Butler left; in fact he didn't go to Spencer's house; he left Mr. Damm's store after promising to meet me, but he did not go. He got in the buggy and went on across the river to Augusta. I desire to alter that; he didn't go to Augusta at that time; he went on to the court, where we were to meet the court at. He came on up where Rivers lived and said that the time to meet the court had come, and he was ready to go to court and he was going on there. Rivers got his book and went on down to the court. I didn't go, but they went. I couldn't tell you—I couldn't tell you, but if I was to tell you it would be what I heard, and that wouldn't be relative, I suppose. General Butler came back from the court and sent word for me to meet him at the council-chamber; that was at the town-hall. I sent word back expressing more reasons, that the men were still gathering in the town, and that they had expressed themselves as going to kill me on sight, but that I was willing to meet him to settle the matter any way that it could be settled, that was right; but that I couldn't go down to the council-chamber; that his men were all around him, and he had already expressed himself that he couldn't control them; that they were drunk, and that I wouldn't be able to go to him; but that if he was willing and wanted to see me, of course he could go where I could make it convenient to see him. He said he wasn't going nowhere else, and right there I had to come. So I said I wasn't going to that place. Then he left the council-chamber and went on around to Augusta.

Q. About what time did he go to Augusta?

A. He went to Augusta about 5 o'clock in the afternoon, as near as I can guess at it. He came back from Augusta with a man by the name of S. B. Pieksley, who, I think, was on the committee; and he met him and had a talk with him. I don't know what that talk was.

Q. How long did he remain at Augusta?

A. He remained, I suppose about twenty-five or thirty minutes. He came on back. The intendant of the town went to him and told him that there was a great many women and children, and he believed there was going to be a fuss, and he would like to have some time to get the women and children out. He told me, I think, that he would give him fifteen minutes to get them out. He asked him, then, wasn't there any way in the world that that matter could be settled without a difficulty. He said the only thing that would settle the matter was for the company to surrender the arms and the officers to him and he wanted an answer from me. I sent word back to him that the arms that were borne by that company belonged to the State; that I had received those arms in my charge, and was responsible for them, and I couldn't give them up to no private citizen; but if any officer who had a right to take them would come to me for them, I would give them to him. The intendant of the town asked him in case the arms were surrendered to him, would he guarantee the safety of the town. He said it depended entirely upon how they behaved. He afterward turned around and said he wouldn't vouch for anything; he had nothing to do with that part. So I sent word, in reply to his answer, that I couldn't give them to him; that I had no right, but he could send any officer that had a right to receive them that would relieve me from responsibility, and I would give them to him. So the major-general came, (that is, Rivers,) and told me what Mr. Butler had said, and all about it, and what he said he would do, and that if we didn't give them up he was going to melt the ball down before ten o'clock that night.

Mr. OGLESBY. If I do not interrupt or disturb the Senator from New Hampshire in his remarks, I inquire of him whether the M. C. Butler that this witness Adams is now testifying about or that the

Clerk is reading the testimony from, is the M. C. Butler who is claimant for a seat on the floor of the Senate.

Mr. WADLEIGH. The M. C. Butler who is referred to in the testimony of the witness is the same person, as I understand.

The VICE-PRESIDENT. The Secretary will proceed.

The Chief Clerk resumed and continued the reading, as follows:

I said to him, "General, I see you are major-general of this State, are you not?" He said, "Yes, I am." I said, "Do you demand these arms? If you do, I will give them to you." He says, "I have no right to do it under the law." I says, "Well, I know, come down to the law about a matter of law, of course I don't believe you have a right to do it; but if you do demand them, to relieve the responsibility of any blood being shed in the town from me, I will give them to you." He said, "No, I don't demand them; I have no right to do it; you must use your own discretion about it;" I said, "Well, if that is the way you leave me, I am not going to give them to General Butler." I then wrote a note to General Butler, saying in the note: "General Butler, these guns are placed in my hands, and I am responsible for them, and I have no right to give them up to no private citizen; I can't surrender them to you." He sent me word back that he was going to have them in fifteen minutes. I told him, well, then he would have to take them by force, and then I would not be responsible for them. So then, after that, he commenced placing his men; in the first place, about twenty-five or thirty horsemen—men mounted on horses—in front of the drill-room, near the river bank.

Q. How far from the drill-room were they?

A. I suppose they were about seventy-five or eighty yards. Then he placed behind the first abutment of the N. & C. C. R. R., he placed about fifteen or twenty, as near as I can guess at it without counting. Down below, on the river, under a large tree, he had some thirty or forty. And there was a well about two hundred yards from the drill-room, and just beyond the well, about fifty or sixty feet, there stood, I suppose, eight hundred men, all in arms. He placed them all around the square, back of the drill-room, on the street. I forget the name of the street; but it was back of the drill-room. He had men placed all around there, and up on a hill, about five hundred or six hundred yards—may be a little more. I could see him placing men all around town.

Q. He was stationing them there himself?

A. Yes, sir. He was with the men that was doing it.

Mr. CONKLING. Is this M. C. Butler the person he is now speaking of that stationed these men?

Mr. OGLESBY. Who superintended the arrangement of men that the witness is describing.

Mr. CONKLING. The Secretary says it is.

The CHIEF CLERK. He is designated here as "General Butler."

Q. He was stationing them there himself?

A. Yes, sir. He was with the men that was doing it. Pick Butler was also in the crowd. Colonel Butler was also carrying out the orders. I could go up on top of the drill-room and see them, and I did so. Then I came down off the top of the drill-room into the drill-room, and I placed my men then where they wouldn't get hurt.

By Mr. CHRISTIANCY:

Q. How many had you in the drill-room?

A. Thirty-eight; I suppose about twenty-five were members of the company, and some others were taking refuge there. Those I didn't call in myself. I only had twenty-five members of the company in the drill-room. After he got all the men placed he sent word back to me to know if I was going to give the guns up; that the time was out. I sent word back to him that I could not give them up; that I didn't desire any fuss, and we had gone out of the streets into our hall for the safety of our lives, and there I was going to remain; that I was not going to give the guns to anybody. He did not send no more answer then. About the time he must have got the word his men commenced firing. There was a signal-gun fired; I suppose it was a signal-gun; it was down the river, sorter. It looked like it fired right up into the air. These horsemen that I was telling you about, that had been placed in front of the drill-room, they were removed before the firing commenced, and went down the street back of the square. I didn't see them after they got out of sight, and don't know where they went; and these men, when that signal-gun was fired behind the abutment of the bridge, fired upon the drill-room. They fired rapidly, I suppose for about half an hour. They shot out nearly all the window-panes in the building. There were four windows in front, and they shot mighty near all the panes out; I don't think there were two panes left standing in each one of the windows, but there may be three; anyhow, the most of them was shot out; the glass rattled all over the floor. There was side glass and transom lights over the door, and all those were shot out; the men were standing between the windows and behind the wall. After awhile, just about half past six o'clock, I guess, they kept closing up like they were coming up to the drill-room, and after awhile I gave orders to fire, for it was the only chance of our lives to fire, and they commenced firing then. The firing was kept up, I suppose, for about a half an hour from the drill-room, but only every now and then; not regularly. During that time this man that was said to have been shot (Mackey Merrivale) was killed. He was one of the men that was firing from behind this abutment. Then I went upon the top of the drill-room to see where the largest body of the men was. I had heard somebody holler down the street, and I recognized it to be A. P. Butler's voice; I was very familiar with it; he hollered to a man by the name of Walker McFeeny to go over the river and bring two kegs of powder; that they were going to blow that building up. There was one part of the building that we couldn't see nobody from it. It had then got sort of dark anyway; it was moonshiny, but it was so dark from the trees and houses that were handy to it that we couldn't see them. Of course, then I was afraid that they might do something of that kind, believing that they could do it. I then went to work, and tore up some lumber, and made a ladder, and got out of the back way of the building; there was no way to get down without a ladder; and we escaped from the building the back way.

Q. All of you went out?

A. Yes, sir; we all went out. But before I went out of the building I sent the men out. I seen that in the back part of the yard there was no firing; everything was perfectly still. I had been outside of the building, and went down the street, I suppose, between two hundred and three hundred yards, to see where the men were, and went all around. I went back in front of the building, and went through the front door, the entrance leading up in the hall, and told this Ataway, the first lieutenant; he had got outside somehow or other; he had got scared, and left the building before I knew it. I told him to go down first and receive all the men that were in the building, and keep them together till I came out; that I would stay up there with two or three men, and every once in a while fire and make them think we were in the building, while they were escaping. So he went out, and he got scared, and, I suppose, got excited—I couldn't allege it to be anything else—and controlled off the best part of the company; so when I got to them there wasn't but fifteen men with myself. So I asked for Lieutenant Ataway and the balance of the men, and they told me that he had gone off and tried to carry them off. They said they couldn't tell me where he had gone. Said I, "Men, we are surrounded." I think there was over three thousand men there; they were coming from Augusta at all times, three and four hundred together, all around; the lower part of Market street had been completely blocked up with them for about two hundred yards; it looked like just as thick as they could stand; and in the rear street it was the same way, and also on the street called Main street, which runs across. So I told these few men that were there, said I, "Men, I don't know how we will get out of here, and there is but one way;" and said I, "You will have to fight pretty rapidly to get out that way."

Q. Had you your guns with you?

A. Yes, sir; we all had our guns. We went out that way, and got out on the street, and had to fight pretty rapidly; in fact the fight lasted until about half-past one o'clock that night before we did get out. None of the men that was with me got killed. One of them got wounded in the thigh, but he managed to get away; he didn't fall or anything of the sort. I carried them away in the upper part of the street and put them down next to the river in R. J. Butler's field. Of course they didn't expect us to go there, he being such an enemy to us. I carried them in there, and put them over by the side of a little branch, where it was very thick with bushes. I was very troubled about these men that had hid themselves, and wanted to get them out. I believed if they were caught they would be killed; the men with the second-lieutenant. So after I got these men safe—they were out of ammunition then; they hadn't had very much any way—said I, "You stay here now, and I will go back and find the men, if I can. I will try to work my way back, and will try to bring them out." So I did go back. I was shot at, I reckon, over two hundred times before I got in the square; however, I didn't turn my course; I went on. I went back in the square, and I went under most every house there was in the square; that is, I went far enough to call under it. Some one or two, probably three, men answered; the balance wouldn't answer. They were scared, I suppose, and wouldn't answer. I got three of them. By that time I was surrounded, and couldn't get out no more, but I carried those three men where I thought they would be safe. I knocked out some bricks under a brick house with the but of my gun, and told them to crawl under there. That was under a house that was very near to the ground, and was bricked up all the way from the ground. After they got in there I placed the bricks all back just like they were before, very smooth, so you couldn't discover any hole, especially in the night. Then I went back in pursuit of these other men, but I didn't find them. While standing in a little corner field, near a garden, looking out, one of the men, which was the town marshal, run across the garden, and I called him, but I suppose he didn't recognize my voice, as he did n't stop. He ran on and jumped over the fence, and I managed to get up on some part of the trestle of the railroad and could see through it. The moon was shining very bright. The corn made a shade where I was, and of course they didn't see me. They stopped the town marshal; his name was Jeems Cook. Henry Getsen, a man by the name of Bill Morgan, and I recognized one of the men I thought to be Kenlo Chaffee, but I was not certain whether it was him or not, but I knew Henry Gibson and Bill Morgan. I recognized their voices. They stopped him and told him "God damn you! we have got you. You have been town marshal here going about here arresting democrats, but you won't arrest any more after to-night." Said he, "Mr. Getsen, I know you and will ask you to save my life. I havn't done anything to you. I have only done my duty as town marshal." "Yes," says he, "God damn you, your knowing me ain't nothing; I don't care anything about your marshalship; we are going to kill you;" and they fired. There was four or five men in the crowd, and all of them shot him. He fell. I staid there and saw them taking his boots off, and they took his watch out of his pocket.

By Mr. CAMERON:

Q. Who did that?

A. They were all down in a huddle and I couldn't see who it was took the watch. So some of them said, "By God, I reckon some of us had better go over in the corn-field," Then I moved out of the corn-field. Louis Shiller—his house was in the same square—I went then in his office.

Q. Was Shiller a white man?

A. Shiller was a white man and a trial-justice also. I went in his office, right under his house. I remained there, I suppose, about an hour. They were breaking in the houses everywhere and shooting people. This time they came to the front door and broke in the front door of the office. So I went out of the back door into the back yard. They came in there, and they looked around and found what I didn't find the whole hour that I was in there. I suppose they had lights, and found these men that were in there who wouldn't answer me when I called them. They found one or two colored men in there and took them out. I heard them cursing and say, "God damn you, we have got you." They were beating them with sticks and guns, or something.

Q. Did you know any of the men that went into Shiller's house?

A. No; I didn't know any of them. Whilst I was standing in the back yard I could look right into my bed room window, and also into my sitting-room window, and I saw them taking down my pictures and breaking up the furniture. They broke up everything I had in the world; took all my clothes, my mattresses and feather bed and cut it in pieces and scattered it everywhere, destroying everything that I had. I didn't have a suit of clothes, only what I had on my back. They took all my wife's clothes, and broke up all my furniture and everything. By that time they commenced getting very thick in the square, and they commenced getting thick I jumped over a little cross fence in Shiller's yard; and as I got up on the fence I heard somebody say "Halt!" and I looked over the fence and I saw old man R. J. Butler run out the back part of Lafayette Davis's store, and he shot, and I heard him say "God damn him! I have got him." This was a man by the name of Moses Parks. So he shot him. He turned around and said, "God damn him! I have got him," and shot Parks and killed him. I went then up in the postmaster's house, where he lived. His name is Rawles. I forget his other name. It was a two-story house, and I went up stairs in the veranda and it had slats all along on the top of the banisters along there in front. It was like the house fronted on a street; this way. (Illustrating by diagram on paper.) I was on the back part of it, and here came another street. Right on this street, I suppose there was over a thousand men. They had their headquarters there, and General M. C. Butler was among the crowd, and every time a party would come in and bring a colored man that they had captured they would bring him right up there to what they called the "dead-ring." They had a "dead-ring" down below me there, I suppose about seventy-five or eighty yards, and that is where they would bring the colored men that they would capture. Every time they would come in General Butler would yell, "Good boys! God damn it! turn your hounds loose and bring the last one in." That was General M. C. Butler, and also Pick. Butler. They were together most of the time, and they would ask, "God damn it! can't you find that Doc Adams? We want to get him;" that was myself; and some asked what kind of a man I was, and some would try and agree what sort of a man I was—"a man with side-whiskers and mustache"—and some would roll up their sleeves and write it on their cuffs. One man wrote down my description on the bosom of his shirt, and said, "We'll have him before day," and I was standing right there looking at him. I was looking through the blinds, where, I reckon, there was about a half dozen slabs broke out right at the end, and I could stand there and look at them. I could move back where they could not see me, and it was dark anyhow. So I staid right there till day. I guess that was about between two and three o'clock. So, finally, time commenced running out, and they said, "Well, we had better go to work and kill all the niggers we have got. We won't be able to find that son of a bitch."

Q. Could you distinguish who said that?

A. Well, I don't think I could tell who it was that made use of the expression. It was made in the crowd. Some said "We had better kill all," and some would say, "We had better find out." From what I heard men say, General Butler had

moved men around to the corner house, on Main street, in the rear of the building, and had made that his headquarters. Some would say, "We will go around to Davis's store and there we will find General Butler;" and then he says, "We will do just whatever he says." Some of the men would say, "We had better kill all, because, if we don't, they will give testimony against us some day to come." So they had quite a wrangle among themselves at one time, because some of them did not want to kill all. They wanted to pick out certain men, and some wanted to kill all, and they got up quite a fuss, and talked about shooting among themselves about it. Finally, there was a man from Augusta—I know the man well, but I can't think of his name now, to save my life; he has a kind of a curious name, and I have been trying to think of his name ever since I have been here; but anyhow he told them that they had better have a court-martial of twenty men, and whatever that court-martial decided on, then do it. So they agreed to that; they went off, and when they came back they had the men's names that they intended to kill down on paper, and called them out one by one and would carry them off across the South Carolina Railroad, by that corn-field, and stand them up there and shoot them. I saw M. C. Butler. He came around there once, about the time the court-martial was decided, and was telling them what men to kill and what men he wanted to be killed; and I heard him call Ataway's name distinctly, and another by the name of Dave Phillips. The other names I could not hear. They wanted to kill some who got away.

Q. You heard Butler call those names as the names of the persons who were to be killed?

A. Yes, sir; I did. The men seemed to be very much dissatisfied, and they said that General Butler ought to kill the last one of them. They wanted to kill all of them, and they were sort of dissatisfied about it. Some said they would go off home because they would not kill all.

By Mr. CHRISTIANCY:

Q. What did this Georgia man do?

A. He said there ought to be a court-martial; he was not in favor of killing all. There was one or two men taken out of the ring that they wanted to kill and carried over in Georgia by some one or two of the Georgians. They got a man by the name of Spencer Harris, who was in the dead-ring, and they slipped him off; also Gilbert Miller; and they carried another young man by the name of Frank Robinson across the river to save his life. A man by the name of Pompey Curry, he was to be killed. They called him, and when they called him he answered to his name, and then jumped and run at the same time. They shot him down, but he got up and got away at last; he lingered a good while, but he is up there now. He has never been able to be out much since.

By Mr. CAMERON:

Q. What time of the day were these last men that you have mentioned shot?

A. They were shot, I guess, about three or four o'clock in the morning.

Q. Was it daylight?

A. No, sir; It wasn't quite daylight; the moon was shining very bright—about as bright as ever you seen it shine. It appeared to me that the moon shone brighter than it ever did before.

By Mr. CHRISTIANCY:

Q. You did not want it to shine half so brightly?

A. No, sir.

By Mr. CAMERON:

Q. How many were shot at that time?

A. There were four men killed out of that dead-ring.

Q. Give the names of those who were killed?

A. The first was A. T. Ataway, the first lieutenant; the next was David Phillips.

Q. Was he a member of your company?

A. He was; he was the armorer. The third one was Alfred Minyon.

Q. Was he a member of your company?

A. Yes, sir; he was. There was another one—I can't think of his first name, but his last name was Stephens; but he was not a member of the company.

By Mr. CHRISTIANCY:

Q. They are the ones that were killed in the dead-ring?

A. Yes, sir. Then there was Getsen and Morgan, making in all six. There was two wounded, but they were not killed. Pompey Curry was called up to be killed, but he run away.

Q. Was he a member of your company?

A. Yes, sir; he was a member of the company; and a fellow by the name of Eugene Banks, he was also wounded, but not killed.

Q. How long did you remain in the house?

A. I remained in the house until the main crowd had dispersed, except some few stragglers. I remained there until you could just discover day. I came down then out of the building from where I was and went out of the back lot and looked at Jimmy Cook, the town marshal, that was killed by Getsen and Morgan; and afterward I went right on out through the back way down and got on the South Carolina Railroad, and then I came to Aiken.

Q. How far is that from Hamburgh?

A. Seventeen miles from Hamburgh. We had a good many in this dead-ring; I suppose some twenty-five or thirty. They just went into their houses and took them out of their houses—men who had taken refuge in their own houses to save themselves, and had nothing to do with the affair.

Q. They did not kill them?

A. No, sir, only Stephens; they took him out of his house and killed him. I heard—I am not able to say who the men were, there was such a crowd—but right near where I was standing they expressed their reasons why Minyon and Stephens were killed. A man by the name of Lamar, (I forget his other name—I am sorry I can't recollect it,) but it was from some previous falling out that they had had at some sale prior to that, and he wanted him killed on that account; that was expressed in my hearing by some of the men. Also Stephens was another man that some man had a grudge against him; but these others were killed down there simply because they were leading republicans and also belonged to that company. Prior to the difficulty—I reckon about two months before the 4th of July—Harrison Butler, one of R. J. Butler's sons, was in conversation one morning with me, John Thomas, Pres. Williams, and John Bird, and, if I mistake not, a man by the name of S. B. Picksley. He told me that the democrats had made it up in their own minds, and they had organized all over the State, and also had about thirty men from Texas and Mississippi to come in this State, and they were feeding them, organizing all of the white men into certain different clubs, and before the election that there had to be a certain number of niggers killed, leading men, and if they found out after the leading men was killed that they couldn't carry the State that way, they were going to kill enough so that they could carry the majority. He said he had nothing to do with it; that he wasn't a member of any of these clubs; that all he had to do with was on his own plantation and the people that lived on it, and if any man interfered with them he should protect his home. But he said that it was a fact that that was to be done, and he said in the presence of all these men that it had to start right in Hamburgh. He said Hamburgh was the leading place of Aiken County, and if they could be successful in killing those they wanted to kill in Hamburgh, they would certainly carry the county; but it had to be done in all the counties; that there was no way to prevent it. I says, "Supposing that the colored men should have a poll to themselves and the white men to themselves?" (I was just suggesting that to draw him out.) He said, "It don't make a damned bit of difference what sort of polls they have; these men have got to be killed; the white men have declared that the State has got to be ruled by white men; we have got to have just such a government as we had before the war, and when we get it all the poor men and the niggers will be disfranchised, and the rich men would rule. We can't stand it and won't stand it." And he told me then "Jimmy Cook and Dan will certainly be killed." I asked him why? He said there was men who had a plenty against them, and they would kill them sure. Said I, "Mr. Butler, will I be in that number?" He said, "No,; I don't know whether your name is down or no; but it depends entirely on how you behave yourself." There was one boy that was drummer in my company. He was a minor (under age) and by request of his mother we allowed him to be a drummer in the company. They took that boy up and whipped him.

By Mr. CAMERON:

Q. Who did that?

A. Old man Butler did that.

By Mr. CHRISTIANCY:

Q. Was that before the Hamburgh riot?

A. Yes, sir; just prior to that. They had him whipped once or twice. He whipped him once, and then made his mother do it. He just got up and told her she had to do it. After that I received a note. The note was destroyed when all of my papers was destroyed. I received a letter with my name, and specifying a dozen or two different names that was in the vicinity of Hamburgh that had to be killed, and I was sure to be killed.

Mr. MITCHELL. Will the Senator from New Hampshire yield for a motion to adjourn?

Mr. WADLEIGH. Yes, sir.

Mr. MITCHELL. I shall submit that motion, but before doing so I desire to say a word in reference to the amendment I offered a moment ago. When I offered the amendment I supposed it would receive the unanimous vote of the Senate. If I had not supposed so, I should not have submitted it in the exact form it was; but as my friend from Ohio objected very seriously to it, I ask to modify the amendment so that it will read as follows:

Insert at the end of the resolution these words:
And that this resolution be made the special order for half past twelve o'clock to-morrow, November 27.

Mr. EDMUNDS. There cannot be any objection to that, I am sure.

Mr. MITCHELL. I think not.

The VICE-PRESIDENT. Does the Senator from Oregon move that the Senate adjourn?

Mr. MITCHELL, (at eleven o'clock and fifty-five minutes p. m.) I do.

Mr. HOAR. I understand the amendment is adopted by unanimous consent. [Laughter.]

Mr. WHYTE. Objection was made.

Mr. WALLACE called for the yeas and nays; and they were ordered.

The Secretary proceeded to call the roll.

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

The roll-call having been concluded, the vote was announced—yeas 23, nays 28; as follows:

YEAS—Messrs. Allison, Anthony, Booth, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Christiancy, Conkling, Dawes, Edmunds, Hoar, Howe, Ingalls, Jones of Nevada, Kirkwood, McMillan, Morrill, Oglesby, Paddock, Rollins, Saunders, Spencer, and Wadleigh—23.

NAYS—Messrs. Bailey, Bayard, Beck, Cockrell, Coke, Davis of Illinois, Davis of West Virginia, Dennis, Garland, Gordon, Harris, Hereford, Hill, Jones of Florida, Kernan, Lamar, McDonald, McPherson, Morgan, Patterson, Randolph, Ransom, Saulsbury, Thurman, Voorhees, Wallace, Whyte, and Withers—28.

ABSENT—Messrs. Armstrong, Barnum, Blaine, Bruce, Chaffee, Conover, Dorsey, Eaton, Ferry, Grover, Hamlin, Johnston, McCreery, Matthews, Maxey, Merrimon, Mitchell, Plumb, Sargent, Sharon, Teller, and Windom—22.

So the Senate refused to adjourn.

Mr. WADLEIGH. Mr. President——

Mr. RANSOM. Will the Senator from New Hampshire allow me to ask him a question?

Mr. WADLEIGH. Certainly.

Mr. RANSOM. If the Senator cannot answer me some gentlemen who are members of the committee can. I should like to know if General M. C. Butler had an opportunity of cross-examining this witness?

Mr. CAMERON, of Wisconsin. He did have.

Mr. RANSOM. He did?

Mr. CAMERON, of Wisconsin. Well, Mr. President, Mr. Butler did not, but Mr MERRIMON——

Mr. RANSOM. Ah, yes.

Mr. CAMERON, of Wisconsin. Ah, yes; wait one moment until I state the facts in regard to it. The testimony of this witness was taken down by a stenographer, was written out and was handed to General Butler. Not only the testimony of this witness but the testimony of all republican witnesses who were examined was written out from the notes of the stenographer, was handed to General Butler, and he suggested any witness that he pleased to call to contradict or explain the testimony of those witnesses.

Mr. RANSOM. I will ask the Senator from Wisconsin if this testimony was not taken within closed doors, and if General Butler was not excluded from reading the testimony of these witnesses as it was taken?

Mr. CAMERON, of Wisconsin. I will state the facts in regard to that.

Mr. RANSOM. Well, what are the facts?

Mr. CAMERON, of Wisconsin. Wait one moment.

Mr. EDMUNDS, (to Mr. CAMERON, of Wisconsin.) Are you under cross-examination?

Mr. CAMERON, of Wisconsin. It would seem that I am under cross-examination.

Mr. RANSOM. I did not hear the witness. [Laughter.] I did not hear the Senator. No, I will not correct it; I did not hear the witness then.

Mr. CAMERON, of Wisconsin. Mr. President, the Senator from North Carolina desires me to state the manner in which the testimony was taken by the subcommittee in South Carolina. The committee did determine that they would sit with closed doors, and they did sit with closed doors during the time that they were engaged in taking the testimony; but a person who represented the democratic party was admitted, and he took full notes of the testimony; those notes were handed to General Butler; General Butler remained there in an adjoining room during the whole time that we were engaged in taking the testimony; and as I stated before he suggested the witnesses who should be called for the purpose of contradicting and explaining the testimony.

Mr. RANSOM. Then, Mr. President——

Mr. CAMERON, of Wisconsin. One word more. And he furnished to Senator MERRIMON notes and suggestions upon which that Senator cross-examined the witnesses.

Mr. HOAR, (in his seat.) The usual way with investigating committees.

Mr. CAMERON, of Wisconsin. So far as I know, it is the usual way of proceeding by investigating committees.

Mr. CONKLING. Did General Butler offer himself as a witness, may I ask?

Mr. CAMERON, of Wisconsin. General Butler did offer himself as a witness, and was examined, and his testimony is reported in that volume.

Mr. RANSOM. Then, if the Senator from New Hampshire will allow me, the Senator from Wisconsin states that this testimony was taken within closed doors, in the absence of General Butler?

Mr. CAMERON, of Wisconsin. Yes, sir.

Mr. RANSOM. But he says that General Butler had an opportunity of seeing Senator MERRIMON, and of suggesting testimony to him.

Mr. CAMERON, of Wisconsin. I said more than that. He not only had an opportunity of seeing Senator MERRIMON, but he had an opportunity of seeing the testimony that was taken.

Mr. RANSOM. Then I should like to know why it was that General Butler was not allowed to be present and cross-examine those witnesses?

Mr. CAMERON, of Wisconsin. There are various reasons. One reason is that he did not ask to be, and if he had I do not say that he would have been admitted.

Mr. RANSOM. Does not the Senator know it would have been refused?

Mr. CAMERON, of Wisconsin. No, I do not know that it would have been refused. I think it would have been refused. I would have been in favor of refusing him.

Mr. RANSOM. I heard the Senator from Massachusetts say in a low voice, but it was distinct to me, that that was the usual way of conducting investigations before committees. It is unusual to me, sir, that in any civilized country, before any tribunal in ancient or modern times, testimony shall be taken to damn the character of a man and he not be allowed to confront the witnesses and to cross-examine them.

Mr. DAWES. I should like to inquire of the Senator from Wisconsin whether it was before or after this witness testified that General Butler testified?

Mr. CAMERON, of Wisconsin. General Butler testified after this witness testified.

Mr. DAWES. And after this witness's testimony had been submitted to him?

Mr. CAMERON, of Wisconsin. The testimony of this witness and of all the witnesses was submitted to General Butler, and he had it in his possession days before he testified.

Mr. HOAR. Mr. President——

Mr. RANSOM. Mr. President, I will ask the Senator from Wisconsin one other question and then the Senator from Massachusetts can say what he has to say to me. I will ask him if he thinks Senator MERRIMON, who was not at Hamburgh, who was in North Carolina at the time of the scenes there, could think of putting questions to that witness in a way to draw out the truth as General Butler might have done if he had been allowed to cross-examine the witness.

Mr. CAMERON, of Wisconsin. I will suggest this to the Senator from North Carolina: I was not present at Hamburgh, and I am very glad I was not. I examined the witnesses, and no suggestions were made to me. I knew generally what had been done at Hamburgh, and I examined the witnesses in regard to those general facts.

Mr. RANSOM. I desire to ask the Senator from Wisconsin another question.

Mr. CAMERON, of Wisconsin. Well.

Mr. RANSOM. I desire to ask him if General Butler's competitor for this seat, Mr. Corbin, did not have those witnesses there with him for two or three weeks before this examination took place?

Mr. CAMERON, of Wisconsin. General Butler was under indictment, and nearly all the democratic witnesses were under indictment. A term of the United States circuit and district courts was held in Columbia, and these witnesses were subpœnaed there as witnesses before the term of the court

Mr. RANSOM. I would not be guilty of any discourtesy, of course not. I do not desire to cross-examine my friend from Wisconsin.

Mr. CAMERON, of Wisconsin. I am perfectly willing to give you all the information I can.

Mr. RANSOM. But I asked him this question, if these witnesses had not been there with Mr. Corbin for two or three weeks before their examination? He replies that they had been there as witnesses upon some indictment.

Mr. CAMERON, of Wisconsin. Mr. Corbin at that time was the district attorney of the United States for the State of South Carolina.

Mr. RANSOM. Then Mr. Corbin had been there with the witnesses some two or three weeks?

Mr. CAMERON, of Wisconsin. Mr. Corbin had been there; I did not say——

Mr. RANSOM. If I must continue to examine and cross-examine the Senator from Wisconsin——

Mr. CAMERON, of Wisconsin. I did not say he had been there with the witnesses. The witnesses were there as witnesses before the courts, and Mr. Corbin was there as prosecuting officer before the courts.

Mr. WALLACE. Will the Senator from Wisconsin answer me this: Does the sworn testimony of General Butler contradict the material allegations of this witness?

Mr. EDMUNDS. We shall find out when it is read. We shall get down to it by the afternoon.

Mr. WALLACE. The Senator from Wisconsin will answer that question.

Mr. CAMERON, of Wisconsin. I do not think it does.

Mr. McDONALD. I will ask the Senator from New Hampshire if he would object to the testimony of General Butler being read now as part of his remarks?

Mr. EDMUNDS. No, let us have it in its order.

Mr. McDONALD. Would he consent to it in justice to General Butler?

Mr. WADLEIGH. The proofs put in on the other side come first.

Mr. McDONALD. Will you then call for the other testimony?

Mr. WADLEIGH. Perhaps. We shall see what time it is.

Several SENATORS. There is plenty of time.

Mr. WADLEIGH. But let me suggest to my friend the Senator from North Carolina that this examination and cross-examination, and these inquiries as to what this witness testified and that witness testified, show the force of the argument made by the Senators upon our side of the Chamber that this evidence itself should be considered by the Senate before they are compelled to act upon this case. Here is evidence going to show that the man who claims this seat obtained it by means of horrible crimes.

Mr. RANSOM. Mr. President——

Mr. WADLEIGH. Whether that evidence is contradicted or not——

Mr. RANSOM. Will my friend from New Hampshire allow me to ask him a question?

Mr. WADLEIGH. Certainly.

Mr. RANSOM. I would ask him if he would convict the humblest man who walks the earth for the most trifling crime upon such testimony when the man was not allowed to cross-examine the witnesses and have a fair trial?

Mr. WADLEIGH. My friend the Senator from North Carolina begs the question when he puts that interrogatory.

Mr. RANSOM. No, sir.

Mr. WADLEIGH. He asks me whether I would convict any one who could not cross-examine the witnesses and have a fair trial.

Mr. RANSOM. I will put it in this way——

Mr. WADLEIGH. Of course I will say no.

Mr. RANSOM. I will ask the Senator from New Hampshire if the universal rule under English jurisprudence is not that the defendant shall cross-examine witnesses produced against him, and confront his accusers?

Mr. DAWES. Not unless he wants to.

Mr. HOAR. Mr. President——

Mr. RANSOM. I ask if that is not a part of our bill of rights?

Mr. HOAR. I desire to ask the Senator from North Carolina if he has not been struggling all night to have this case decided without giving General Butler an opportunity to reply to these things?

Mr. RANSOM. I have not. On the contrary, we have been here for six, seven, and eight months with this case undecided, and South Carolina with but one Senator on this floor, asking to have Mr. Butler's right and claim decided.

Mr. HOAR. I did not know that the Senator from North Carolina had been here all the vacation. I am glad to understand from his lips that he has been so industrious.

Mr. RANSOM. That is a quibble unworthy of the Senator and unworthy to be addressed to me. The Senator understands very well what I meant. The Senator knows very well that these credentials were presented here in March last, at the last session of the Senate; we have been here six weeks at this session, and if the Senator still knows nothing of this case it is no fault of mine.

Mr. HOAR. The Senator from North Carolina assumes a style of speech that is entirely unbecoming his character on this floor.

Mr. RANSOM. Mr. President——

Mr. HOAR. I have the floor. I do not yield for an interruption in this style. I propose to proceed with my remarks, if I am permitted to do so by the Chair.

The VICE-PRESIDENT. The Senator from Massachusetts has the floor.

Mr. HOAR. When the Senator from North Carolina said that we had been here eight months, and I called his attention to the fact that a large proportion of that time had been a vacation, to which both parties agreed, and that we had been here but five or six weeks of legislative time, it is a little unbecoming of him to get up and tell me that is a quibble, or tell the Senate that it is unworthy of this place. The Senator from North Carolina took occasion to observe upon a remark, which he says he heard, of mine that this method of proceeding was a usual method in legislative investigations, and said it was a strange thing to him that investigations of this character should ever be entered into where the common law prevails without the presence of the persons whose characters may be affected by it to confront the witnesses. It is a strange thing that anywhere where the common law or the Christian law prevails there should be found communities in which outrages of this character, not one, but a hundred, all over a wide section of country, should prevail, and among the members of one large party, and there should not be found one man who either will refuse to profit by them, will raise his hand to spot them, or even in any kind of investigation will report them honestly.

Mr. RANSOM. Mr. President——

Mr. WADLEIGH. Is this out of my time, Mr. President? [Laughter.]

Mr. RANSOM. Is that quite fair? I know the Senator from New Hampshire will not exclude my reply. I had the floor by the courtesy of the Senator from New Hampshire. The Senator from Massachusetts interrupted me. The Senator shakes his head; but I say that is the fact. He then claimed the floor and would not allow me to interrupt him, and he took occasion, in his remarks which he has just submitted to the Senate, first to reflect upon my character and then to reflect upon the party to which I belong and the section of the Union from which I come.

I should not have alluded to the suggestion made by the Senator from Massachusetts to the Senator from Wisconsin, but I could not presume that a Senator upon this floor could make an utterance loud enough for my ears without his intending that it should be noticed; and before I go further let me say once for all to the Senator from Massachusetts that when I desire to be instructed as to what is becoming me as a Senator here, I trust I shall have the good sense to seek that instruction from other sources than the Senator from Massachusetts.

Why, Mr. President, when I stated that in no civilized country, and certainly in no country where the English common law prevails, could the character, the property, or life of any man be affected by a statement made in his absence and when he had no opportunity of cross-examination—when I make that statement in reply to the Senator from Massachusetts, is it a fit answer of a Senator from that great State to get up and ask when before did it happen that certain outrages existed in certain sections of this country and found no censurer and no man who would not profit by the wrongs? Is that an answer? Is that the answer of a Massachusetts Senator? Sir, I I should do no injustice to my own character as an American citizen, as a man who respects the great State which the Senator represents on this floor, if I said that answer was unbecoming his character and unbecoming the character of Massachusetts. Sir, what right has the Senator from Massachusetts to say that no man of the democratic party and no man of the South has failed to profit by these wrongs? Is the statement true? I say it is not true. Nothing prevents me from using a harsher term to denounce the statement of the Senator from Massachusetts but the proprieties of this Chamber. Who of us has profited by these wrongs? If I was to tell in this Chamber here to-night what we have undergone for the last ten years, there is not a hair upon the head of a Senator here who has the impulses of a man that would not stand on end at what we have undergone. Profited by such wrongs!

Wherever committed, they have been known and admitted to be wrongs and never palliated. There is not a good man in the southern country who has not denounced them. Does not the Senator know that my eloquent friend from Mississippi [Mr. LAMAR] in the other House denounced the affair at Hamburgh? Let the Senator tell me what southern man has undertaken to defend a wrong committed upon any human being in the Southern States in the last ten years.

He speaks of whole communities so engaged. Does it become an American Senator to throw, I will not say dirt, but calumny, upon eight millions of people, upon thirteen great States, upon the sons and the daughters of men who have illustrated American history with a glory that does not pale before that of Massachusetts herself? And if these things are to be denounced, who is responsible for them? Here to-day we have witnessed upon the floor of the Senate an assault by a leading republican upon a republican Senator of this body, one of your own men. You say yourselves by your votes he ought to be investigated; one of the men that your party put over us. Who has had control of the Southern States for the last ten years? The republican party. You have had control of them; you have had the Army; you have had the Navy; you have had the Treasury; you have had the Judiciary; you have had everything in your hands; and then you come here and undertake to lay at our door—when our hands were tied, when we were shackled, when we could not lift up our heads in the land of our fathers—you come here and undertake to lay all crimes resulting from your misgovernment at our door. This is what you have done.

Mr. President, I do not want to say anything personal. I will not say anything personal here. If I could conceive that I had said a word unbecoming myself or unjust to the Senator from Massachusetts, I should retract it. I should hold myself a coward if I did not do so. If my manner is warm, it is my nature; I cannot help it. But let me say to the Senator from Massachusetts that when I see a man come here whom I know of my own knowledge to be his and my peer; when I see a man come here in whose veins flows the blood of Perry—and I need not say who Perry was—when I see a man here, according to the admission of all, in whose heart beats the blood of Butler of the Palmetto regiment; when I see a nephew here of that Butler who was so long the chairman of the Judiciary Committee of this Senate—when I see that honored name sought to be torn down and degraded unjustly, I must rise and defend it. If my manner is warm, I am glad that it is so. I would not permit the character of the humblest negro in the Carolinas, I would not allow the character of the poorest man that walks this earth to be destroyed by such testimony as has just been read, and when he had not been heard in his own defense; and when I appealed to a Senator from Massachusetts, that great cradle of liberty, to stand by these principles, I am mortified, I am ashamed that he should fail to do it.

Mr. WADLEIGH. Mr. President——

Mr. HOAR. Mr. President, I should like to have heard from the honorable Senator from North Carolina who has confessed at least that this Hamburgh massacre was a matter which received, and I suppose he did not mean to deny that it deserved, the indignant denunciation of one of his democratic associates on this floor—whether this very case is not an attempt to profit by the result of that transaction? And I should like to have him tell the Senate who of the party to which he belongs, in the State of South Carolina, has done anything to bring to punishment the persons who committed that crime?

Mr. HILL. If the Senator from Massachusetts is through and the Senator from New Hampshire——

Mr. WADLEIGH. I was not through. I supposed I retained the floor.

The VICE-PRESIDENT. The Senator from New Hampshire is entitled to the floor.

Mr. WADLEIGH. What does the Senator from Georgia wish?

Mr. HILL. I wish to ask the Senator's indulgence a moment if I may.

Mr. WADLEIGH. Certainly.

Mr. HILL. Mr. President, I desire, by the permission of the Senator from New Hampshire, to submit to the sense of justice of every member of this Senate what this testimony and this discussion has to do with any issue between these parties. We are to determine whether M. C. Butler or D. T. Corbin has been duly and legally elected Senator from South Carolina. These transactions to which our attention has been called occurred long before the election of either took place. Nothing in that testimony relates to the constitutional qualifications of either of these gentlemen. Nothing in that testimony relates to the manner of their election. Now, I submit to every Senator if it has anything to do with the question. The question as to whether General Butler or Mr. Corbin is a fit person to be elected Senator was a question to be determined by the Legislature of the State when they elected.

Mr. EDMUNDS. Will the Senator allow me to ask him a question?

Mr. HILL. Yes.

Mr. EDMUNDS. I do not ask it in order to be offensive to any gentleman, but to put a case to him. It has been stated that this testimony affects the candidate for senatorial admission here. I take that to be so. Now the question I wish to put to the Senator who says this has nothing to do with the case is, whether he maintains that the constitutional duty and the law of the Senate is that, supposing Mr. Butler had been tried and convicted of the offense with which it is said this testimony charges him—I do not say it does; I have not listened to it enough to know—but I put the case to him whether it would be the duty of the Senate of the United States to admit him nevertheless, and that it would be bound by the fact that he has been elected by the lawful Legislature. Should we be obliged to admit a person who had been convicted of a crime of that kind?

Mr. HILL. Mr. President, I have this to say. I will answer the question that is before us, and not a case that is not before us. I say that Mr. Butler has been convicted of no crime. He has been charged in the courts with no crime. He has demanded that the charge should be made, over and over again, and the officers of the State have informed him that they did not make the charge, because there was no evidence to sustain it.

Mr. CAMERON, of Wisconsin. Will the Senator allow me to ask him one question, and that is this: Has not General Butler been indicted for a crime?

Mr. HILL. General Butler has not been indicted. He has asked to be indicted, and it has been refused; and a republican solicitor informed him that the reason why he did not indict him was that the evidence was not sufficient. That is the truth. Why is it—no, I will not ask, for after witnessing what occurred this morning I cannot be surprised at anything here, and I do not intend to become excited. I make the legal question, and I desire to confine myself to it. What

has the conduct of General Butler to do with this question? Are we trying the Hamburgh riot? Are we trying the parties to the Hamburgh riot? Are we not trying the question whether he has been duly elected Senator by the Legislature of South Carolina which was elected subsequent to that riot and whose election of Senator took place subsequent to that time? The State of South Carolina by that very election has passed upon his fitness, and I maintain that a State has a right to elect a gentleman to this Senate, if she chooses to do so, that some Senators might think not very fit to be elected. That is a question for the State. That is not a question for this Senate. We are to determine the constitutional qualifications of a Senator. Has he been a citizen of the United States nine years; is he thirty years of age; has he been elected in the manner prescribed by the Constitution and the laws; has he been elected by the Legislature at the time and place and in the manner prescribed by the law? These are the questions we are to settle here. The issue is not whether General Butler is a more fitting man to be elected to the Senate by the State of South Carolina than Mr. Corbin. The question is which has been elected.

I trust, sir, that this Senate is not to resolve itself into an inquisitorial body to inquire into the moral character of every member that a State chooses to send here. There would be no end to that inquiry and we cannot tell who would be permitted to take seats. Here, sir, when we have a plain legal question who has been legally elected Senator from South Carolina, the Senate is going behind that question to inquire into the private conduct of gentlemen on charges preferred by anybody against this gentleman previous to that election.

Now, sir, one more question and I am done——

Mr. WADLEIGH. To me or to the Senator from Massachusetts?

Mr. HILL. I am speaking to the President.

Mr. WADLEIGH. I thought it was a question the Senator spoke of.

Mr. HILL. No, I did not say question; I said "one more remark" or I should have said so.

Mr. WADLEIGH. I am satisfied either way. [Laughter.]

Mr. HILL. I say this testimony not only has nothing to do with the question before the Senate, nothing to do with the issue made up by these parties as to which has been duly elected Senator from South Carolina, but I must say that after the revelations made by the Senator from Wisconsin, I do feel astonished, and I believe the country will be shocked. I believe it is a stain upon its civilization that a gentleman whom a sovereign State deems worthy to be a Senator, and who is claiming a seat, should be assailed by testimony which it is confessed was taken with closed doors and the man charged with it not allowed to be present and cross-examine. If there is one right sacred to Anglo-Saxon history, it is the right to be confronted with the witnesses against you, it is the sacred privilege of cross-examining those witnesses. Do not tell me that he was furnished with the testimony and asked what other witnesses might be called to contradict it. That is not the question. There is nothing more odious in English history than the circumstances which gave rise to this constitutional privilege of being confronted with the witnesses against you. When all liberty had been trampled under foot, it was deemed necessary to secure the liberty of the citizen, the character of the citizen, and the rights of the citizen, that he should never be condemned until he had an opportunity of confronting the witnesses against him. And the Senate of the United States has been treated to a long account given in closed doors, three-fourths of it hearsay, another large portion of it conjecture, belief, suspicion by the witness. I challenge any lawyer to take that testimony and point out fifty lines in it that would be admitted in a court of justice and held to be legal testimony. There is not a justice of the peace in the country that would not exclude nine-tenths of that testimony as inadmissible testimony on any ground.

I have no personal issue with any gentleman, but I do think that in the Senate of the United States we should confine our remarks to the question at issue; and I do hold that a State has a right to send anybody she pleases here who is qualified for the seat under the Constitution; but I understand that if a gentleman has been sent here who after he has been elected, especially after he has taken his seat, does an unfit act or commits a crime, he may be expelled. That is a very different question from that of his qualifications for the office under the Constitution and the fairness or legality of his election. I do say, and I believe I would submit it to the fair candor of every man on this floor, that the question about the Hamburgh riot has no reference whatever to the admissibility or the qualifications of General Butler to a seat on this floor.

Mr. WADLEIGH. Mr. President, my friend the Senator from Georgia makes bis point very clearly, as he always does; and his point, as I understand it, is this, that we cannot make inquiries into the character of the person whom the Legislature of the State of South Carolina selects to represent her on this floor. Now, to this in its fullest extent I agree. That is true; but the evidence in this case, the evidence which is now being read, is not put in for the purpose of showing the character of M. C. Butler. It is put in for two purposes: one is to convince members of the Senate that when this evidence is all before the Senate, three volumes of it, when none of us have had a chance to see it or to weigh it, when it contains such strong testimony showing the circumstances that invalidate, as Mr. Corbin claims, the election in two counties of South Carolina, they should take time to consider it. It was agreed in the beginning that for this Senate to take this testimony, to go into the merits of this case, would take a very much longer time than it would for the case to go to a committee; and I am sorry——

Mr. McDONALD. If the Senator will allow me——

Mr. WADLEIGH. One moment. I am sorry, Mr. President, that after this Senate has decided that this is the tribunal to hear the testimony and hear the facts, certain members of the Senate are so exceedingly anxious that we shall not have any of the testimony or any of the facts presented.

I proceed, Mr. President—and my friend from Indiana will pardon me for a moment—to say that another reason why this evidence is offered is this: As I said, Mr. Corbin contends that in two counties in South Carolina at the last election there was such an enormous amount of violence, intimidation, and crime from the date of this Hamburgh massacre, which commenced that series of tragedies, up to at or about the time of the election, that nobody who wished to vote the republican ticket could feel safe in so doing; that the right of free, fair election was trampled down; that there was nothing of the kind there; that in the language of all the parliamentary writers who have ever written on this subject there was no election at all because there was no freedom of choice.

Mr. GORDON. Were not those two counties taken into account in making up the electoral vote?

Mr. WADLEIGH. I was going on to say that I have had no time to examine this case as I desire to do. I went to my friend, the Senator from Wisconsin, a short time ago and inquired of him whether without the members from these two counties in which this tragedy and others occurred General Butler could have any claim to a seat here.

Mr. HILL. Does the Senator mean to say that a tragedy occurred in either one of the counties to which he has alluded—Edgefield and Laurens?

Mr. WADLEIGH. In the language of the old gentleman who was on the witness-stand, I should say it was thar or tharabouts. [Laughter.] It was either in those counties or——

Mr. HILL. Either there or thereabouts.

Mr. WADLEIGH. It was on the edge of one of the counties.

Mr. GORDON. How far?

Mr. WADLEIGH. I do not know.

Mr. HILL. An entirely different county.

Mr. GORDON. Hamburgh is twenty-two miles from Edgefield.

Mr. CONKLING. In what county is Hamburgh?

Mr. GORDON. Aiken.

Mr. CHRISTIANCY. Hamburgh is in Aiken County, and if I remember aright, the State canvassers counted in the vote of Aiken County.

Mr. CONKLING. They counted them in on the electoral ticket, but not on the State ticket.

Mr. WADLEIGH. Aiken County, I observe on the map before me, which I presume to be correct, joins Edgefield County.

Mr. CONKLING. And was part of it formerly.

Mr. WADLEIGH. And was formerly, as my friend from New York suggests, a part of it. Now I will listen to my friend from Indiana.

Mr. McDONALD. I was going to ask whether Mr. Corbin, in his statement of his case before the committee, which has been read to the Senate to-night, raises any objection whatever to the vote of Aiken County, the county in which Hamburgh is situated? I also desire to ask whether any report has ever been made to this Senate on that testimony?

Mr. WADLEIGH. I suppose that my friend from Indiana knows very well that the report has not been made, because as I stated in the beginning, I thought part of the anxiety to get this case finished was because somebody desired to get through with it before the report came in. It has not been finished, I understand.

Mr. McDONALD. When was that testimony taken?

Mr. WADLEIGH. I do not know.

Mr. McDONALD. Nearly one year ago.

Mr. WADLEIGH. Yes, but our friends on the other side have a habit of counting as a part of our session the many months that have elapsed since we were here in the spring.

Mr. HILL. Have they a right to report in vacation?

Mr. CONKLING. No, because the committees did not exist but fell in vacation and had no right to sit. That is one reason there was no report.

Mr. McDONALD. Another reason why they did not reach a report was that it became unnecessary, inasmuch as the electoral commission settled the question without the testimony.

Mr. WADLEIGH. What I was going on to say was—and I dislike to have these interruptions, because they consume time [laughter]—that, as I understood it, the evidence in this volume here before us shows very clearly that this Hamburgh massacre and other little transactions of that kind, which my friends now condemn so pointedly, had a great deal to do with the fact that in one of these counties they cast more than two thousand votes over the whole male population in the county; that not only when negroes were to be killed, but when votes were to be cast, the citizens of the State from which come my friends behind me, some of them bad men, doubtless, rushed over to the State of South Carolina for the purpose of helping the democrats

to carry that State. My friends, the Senator from North Carolina and the Senator from Georgia, manifest, it seems to me, a very unnecessary degree of excitement over this matter. I see no occasion for it whatever. My friend the honorable Senator from North Carolina—and certainly I have no stronger feelings of friendship toward any man on this floor than I have toward him—seems to assume that I, in bringing this testimony to the light of day, am making an assault upon the people of the South. Sir, I mean no such thing and I have no such sentiment in my heart. I do not accuse the Senator from North Carolina and the Senator from Georgia of being assassins or the associates of assassins; but, because they happen to live in that part of our country, embracing many thousand square miles, known as the South, it does not follow that, when assassinations and outrages are committed in the South, I am not to allude to them because my friends happen to live there or happen to represent certain parts of that country. It has been said here by my friend from Massachusetts that no southern man ever condemned these things. That is not exactly so.

Mr. HOAR. It was not what I said.

Mr. WADLEIGH. It was something similar to that; something, at least, which was so near it that my friend from North Carolina seemed to understand it to be that. But, although I admit that there has been on the part of the democrats in this Chamber in former times, and wise, no doubt, in their view, a judicious reticence in regard to matters of this kind, these matters have been going on for years. The Ku-Klux were raiding over the South for years. I have no doubt my friend the Senator from North Carolina and my friend the Senator from Georgia, whose hearts I believe to be as generous and just as those of any men here, condemn those things in the South. But it so happens that my friend the Senator from Ohio never found time to do it on this floor, that I recollect.

Mr. THURMAN. If the Senator will allow me to set him right, I defy him to show any language ever uttered by man of stronger condemnation of those Ku-Klux outrages than has been uttered by me again and again in this Senate, and by my friend the Senator from Delaware who sits nearest to me, [Mr. BAYARD.] It is the Senator's ignorance that makes him assert what he does.

Mr. WADLEIGH. Mr. President, I have nothing to say in reply to that very senatorial suggestion on the part of my friend from Ohio. I confess that I am not so old as he; my life in public service has not been so long——

Mr. THURMAN. But the Senator alluded to me personally.

Mr. WADLEIGH. And I am willing to admit that I do not know so much as he does; but I am not so ignorant as not to see that the condemnation which the Senator from Ohio speaks of was rather of matters in the abstract than in the concrete. It was always qualified by the suggestion that if the things were so and so he had no words too strong for condemnation of them; but I never heard from him a frank admission that they were so. There was one southern man who did say just what I feel in my heart about those outrages, and what I felt about them when I went to Louisiana at a much later day. There was a southern man who once represented with great honor his State in this Senate—a great advocate, a great lawyer, a man who went abroad to represent our country at a foreign court. He was a democrat. As such and on account of his distinguished, his pre-eminent professional ability, he was selected by those men or by the friends of those men who were prosecuted for Ku-Klux outrages in South Carolina to defend them against those charges. He went down there and went into the trial; and here—and I say it to help my friend from North Carolina and my friend from Georgia—was a southern man, here was a Maryland man, here was a democrat that spoke from his generous heart just what he felt and what every man with any heart does feel about these things. Let me read what he said in reference to the very case in which he was acting as counsel, where as counsel he could admit more than many on this floor as Senators can.

But Mr. Attorney-General has remarked, and would have you suppose, that my friend and myself are here to defend, to justify, or to palliate the outrages that may have been perpetrated in your State by this association of Ku-Klux. He makes a great mistake as to both of us. I have listened with unmixed horror to some of the testimony which has been brought before you. The outrages proved are shocking to humanity; they admit of neither excuse nor justification; they violate every obligation which law and nature impose upon men; they show that the parties engaged were brutes, insensible to the obligations of humanity and religion. The day will come, however, if it has not already arrived, when they will deeply lament it. Even if justice shall not overtake them, there is one tribunal from which there is no escape. It is their own judgment; that tribunal which sits in the breast of every living man; that small, still voice that thrills through the heart, the soul of the mind, and as it speaks gives happiness or torture—the voice of conscience—the voice of God. If it has not already spoken to them in tones which have startled them to the enormity of their conduct, I trust, in the mercy of heaven, that that voice will speak before they shall be called above to account for the transactions of this world; that it will so speak as to make them penitent; and that, trusting in the dispensations of heaven, whose justice is dispensed with mercy, when they shall be brought before the bar of their great tribunal, so to speak—that incomprehensible tribunal—there will be found in the fact of their penitence, or in their previous lives, some grounds upon which God may say, pardon.

There, Mr. President, was one southern man who occupied a position which required him to defend such outrages, if ever any man could be required to defend them, whose obligations as counsel should be stronger than any obligations which any of us owe to party, and you have heard what he said. I should be delighted to hear occasionally from my democratic friends upon this floor some talk of that kind. I would have been delighted to-day, if instead of trying to stifle this testimony, if instead of trying to get action and final action on this case before this testimony went to the Senate and the public, they had come out and condemned these outrages and uncovered them.

My friends, the Senators from North Carolina and Georgia have said very much here about the sacred rights conferred upon men by the common law to meet their accusers face to face and have the privilege of cross-examination. In that they state what I feel and what I believe. But while they say that, how does it happen that they have no word of condemnation for outrages such as were perpetrated at Hamburgh? They are swift to condemn a committee which sits with closed doors for reasons which seemed good to it; but they have not one whisper to utter against atrocities which would make the hardest-hearted man grow pale. Why is it? I will say that as a member of one of these investigating committees I have not enforced the rule which our friends in South Carolina seem to have enforced, in New Orleans where as a member of an investigating committee I took part. Those who were implicated by the evidence were allowed to come before the witnesses, and I want to say frankly here to my friends on the other side that what I saw very strongly leads me to believe that the rule adopted in South Carolina was right.

My friend, the Senator from Alabama, [Mr. SPENCER,] reminds me of the fact which did not occur to me, that committees of the other branch of Congress sat with closed doors the last winter; but I heard so little complaint of it that I had forgotten it. But I was going on to say that my own experience in Louisiana led me to strongly suspect that the rule adopted by the committee which went to South Carolina was the right rule. I have seen witnesses come upon the stand in the face of men who were known to have committed outrages like these in their own parishes and be almost paralyzed with fear. I would not suffer what I have seen them suffer from terror on the stand for all the gold of India, for all the gems that lie in the bosom of the earth. I believe that in order to get the truth, the whole truth, and nothing but the truth, from witnesses who feel in their inmost heart that their own lives and their property and the lives and welfare of those who are dear to them depend upon the good-will of men whom they are to testify against, they should have the poor privilege of testifying when the overpowering influence of that terror does not stand before them in the shape of those whom they have known as their oppressors and their tyrants.

I have endeavored, Mr. President, to show that this evidence is proper to be read and to be heard, and to be considered by the Senate for a two-fold purpose; and I will ask the Clerk to resume the reading of the testimony of this poor unlettered carpenter of South Carolina, who, as my friend from Wisconsin tells me, was a man naturally of strong intelligence and of the most candid appearance.

The Secretary read as follows:

By Mr. CAMERON:

Q. You may give the names of any of the others that you can recollect.

A. James Cook, and Ataway, and Anderson Minyon, and Sam. Spencer, Charley Griffin, Mortimer Mimms, and I don't know that I can think of the balance; but I had the names of all of them.

Q. That letter had no name to it, I suppose?

A. No, sir; it had no name to it.

Q. How did you receive it—through the post-office?

A. I received it through the post-office.

By Mr. CHRISTIANCY:

Q. How long before the Hamburgh affair?

A. That was about three weeks before that.

By Mr. CAMERON:

Q. How old a man is Harrison Butler?

A. I should judge that Harrison Butler was about thirty-six or thirty-seven; I don't know certain. He is a son of R. J. Butler.

He said they had a wild man there from Texas who had been killing people for four or five years; they said he was in the Mississippi fracas; and they said he didn't have more than a word and a blow with a man before he would shoot him right down.

Q. Where have you been since the Hamburgh affair?

A. Well, sir, I have been the most of my time in Aiken; I couldn't possibly stay at home. Whenever I would go home and stay a night or two I would have to lay out in the woods. My wife would be up there, but in fact I had nothing else in the world; I had no furniture, nor nothing; I had to let my wife remain there with her mother in Augusta; but since that time I couldn't go into Augusta There was men over there, on account of that fuss, who expected to be arrested, and they have sworn to kill me if I ever put my foot there, and my wife would see me, and I would lay out in the woods all night. I just laid in the woods regularly from that time; I couldn't sleep in the house.

Q. Have any of the other colored people of Hamburgh been compelled to lie out in the woods?

A. Oh, yes, sir; there has hardly been a time since that riot until just since the district attorney has been down there arresting some. They may have probably run into their houses now and then since that time and prior to that time; but a man darsen't sleep in his house; he couldn't sleep in his house.

Q. Did the women and children sleep in the houses, or did they go out too?

A. Some few of them had to be up all night. Some of the women have got to laying out in the woods.

By Mr. CHRISTIANCY:

Q. During the night while that crowd of armed men were around there, and when they were killing these colored men, was anything said about politics?

A. Yes, sir; that was the whole talk all the time. You could just hear it all the time: "By God! we will carry South Carolina now; about the time we kill four or five hundred more we will scare the rest." You could hear them say, "This is only the beginning of it. We have got to have South Carolina; we have got to go through; the State has got to be democratic; the white man has got to rule; this is a white man's government!" Politics was used all night long, all the time; even in the evening, before it begun, you could hear, "We are going to redeem South Carolina to-day!" You could hear them singing it on the streets, "This is the beginning of

the redemption of South Carolina." And they allowed there was no court in South Carolina that would try them; that every hundred years the law run out, and there was no law now. They tell it constantly up about Hamburgh that they ain't begun to kill out what they are going to kill. They, most all of them around there, say they intend to kill me, if I am the last man on earth; and I have received from time to time, I reckon, a dozen notes. I have got some now, and I wish I had known I would be called in, and I should have presented them.

Q. Do you think it safe for you to return to Hamburgh?

A. No, sir; it is not safe for me to be there, but I am compelled to be there; when I am elsewhere I am on expenses; I haven't been able to make five cents since that time; I am afraid to work.

By Mr. CAMERON:

Q. What is your business?

A. I am a boss carpenter by trade.

Q. Have you heard threats made to colored people since the Hamburgh riot, or at any time during the summer?

A. Every day.

Q. State generally what the nature of these threats was?

A. Well, even up to the election and since the election, it has been usually expressed that they were going to kill out all the radicals, and all those that didn't vote the democratic ticket they would kill. They said there would be clubs after the election until the next election, and every colored man that didn't join the clubs they were going to kill, if they lived in South Carolina.

Q. You have heard those threats yourself?

A. I have heard them myself time and time again. I have heard men make use of it more times than enough, different times.

Mr. ALLISON, (at one o'clock and ten minutes a. m., Wednesday, November 27.) I doubt if there is a quorum of the Senate present. I move that the Senate adjourn.

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

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

Mr. BRUCE, (when his name was called.) I am paired with the Senator from Florida, [Mr. CONOVER.] Were he here, I should vote "yea" and he would vote "nay."

Mr. INGALLS, (when his name was called.) The Senator from North Carolina [Mr. RANSOM] is ill, and I have paired with him.

The roll-call being concluded; the result was announced—yeas 25, nays 27; as follows:

YEAS—Messrs. Allison, Anthony, Booth, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Christiancy, Conkling, Dawes, Dorsey, Edmunds, Hoar, Howe, Jones of Nevada, Kirkwood, McMillan, Morrill, Oglesby, Paddock, Rollins, Saunders, Spencer, Teller, and Wadleigh—25.

NAYS—Messrs. Bailey, Bayard, Beck, Cockrell, Coke, Davis of Illinois, Davis of West Virginia, Dennis, Garland, Gordon, Harris, Hereford, Hill, Jones of Florida, Kernan, Lamar, McDonald, McPherson, Morgan, Patterson, Randolph, Saulsbury, Thurman, Voorhees, Wallace, Whyte, and Withers—27.

ABSENT—Messrs. Armstrong, Barnum, Blaine, Bruce, Conover, Eaton, Ferry, Grover, Hamlin, Ingalls, Johnston, McCreery, Matthews, Merrimon, Maxey, Mitchell, Plumb, Ransom, Sargent, Sharon, and Windom—21.

So the Senate refused to adjourn.

Mr. WADLEIGH. Mr. President——

Mr. CONKLING. Will it be inconvenient for the chairman of the committee if I were to make an inquiry of him?

Mr. WADLEIGH. It will not.

Mr. CONKLING. Mr. President, this proceeding opened with a statement that it was unobjectionable to discharge the committee from the South Carolina case because no disputed fact would be found in it. The exact statement was that every fact material to the inquiry had been agreed on in the briefs of the respective parties. The reading of testimony during the night has awakened somewhat of sensation in the Chamber, not as I believe because the North or the South or the East or the West has been referred to. There is a reason more cogent and pertinent than geographical or sectional feeling for the animated exhibition the Senate has witnessed. The reason is that Senators have had forced upon them the ugly circumstance that there are elements in this case not agreed upon, not even hinted at in the briefs, on either side, aiming as they do to state the law and very little of fact.

The reason is that no Senator can have looked even only so far as I have just now hastily looked into these ponderous pamphlets without discovering a field of inquiry, of pertinent inquiry, which beyond question does bear upon the subject from which the committee is threatened with discharge. I do not mean to assert or even to intimate now that either of the claimants should be excluded or condemned on this evidence. On the contrary, the few observations I purpose are aimed at the question whether these facts or allegations, these depositions, have any bearing legally upon the question which the Senate is to be summoned to decide—whether they have anything to do with the proffered claim to a seat, or whether as asserted by the Senator from Georgia they are wholly abstract, utterly foreign, quite aloof from the real matter before the Senate. I have in my hand a paper which professes to give literally a certificate from the secretary of state of South Carolina. It is brief. I will read it:

STATE OF SOUTH CAROLINA,
Office of Secretary of State:

I, R. M. Sims, secretary of state, do hereby certify that it appears from the records of this office that in determining the number of votes cast at the late general election, held November 7, 1876, the board of State canvassers for South Carolina did count the votes of the counties of Edgefield and Laurens for the presidential electors and State officers, but not for members of the General Assembly.

Witness my hand and the seal of the State, at Columbia, this 12th day of November, A. D. 1877, and in the one hundred and second year of American Independence.

[SEAL OF THE STATE.] R. M. SIMS,
Secretary of State.

I may assume I think, *prima facie*, that the board of State canvassers as here stated held that no votes were cast either in Laurens or in Edgefield deserving to be counted in making up the returns of the election of members of the Legislature of South Carolina. I may assume also, it being so stated in one brief and not denied in the other, that the Legislature, or that body asserting itself to be the Legislature, the house which together with the senate sent Mr. Corbin here, concurred with the board of State canvassers in holding that the proceeding which should have been an election both in Edgefield and in Laurens had been so perverted, so prostrated by violence and fraud, that no election in law or in fact took place on that day in either of these two counties.

Mr. MORGAN. Will the honorable Senator allow me to ask him a question on that subject? Is he not aware that the votes of these two counties were counted by the board of State canvassers in reference to the election for presidential electors and that Mr. Hayes's majority in South Carolina was based upon those votes?

Mr. CONKLING. Is that the question?

Mr. MORGAN. Yes, sir.

Mr. CONKLING. The Senator could it seems hear me read the certificate of the secretary of state without knowing that I was aware of the fact; but I could not read the certificate without knowing myself that it declares that the votes of these counties were counted for the presidential electors, though not for the State officers. My copy of the certificate affirms that for State officers and legislative candidates the votes were not counted. The question the Senator puts to me invites only an answer which is part of the statement I am proceeding to make. I was in the act of saying that in these two counties it happened that the board of canvassers of South Carolina did count the votes for presidential electors, and they did count the votes for the State officers, but not for members of the Legislature.

Mr. WHYTE. Oh, no; it says here they did not count the votes for State officers.

Mr. PATTERSON. Will the Senator from New York allow me a moment?

The VICE-PRESIDENT. Does the Senator from New York yield to the Senator from South Carolina?

Mr. CONKLING. To everybody.

Mr. WADLEIGH. Mr. President, I have not lost the floor yet. The Senator from New York is speaking out of my time.

Mr. PATTERSON. I want to state to the Senator that the board of canvassers in South Carolina counted all the returns by order of the supreme court. The supreme court ordered the State canvassers to cast up full returns of all the counties for presidential electors and for State officers, and not for members of the Legislature, because the Legislature had the right to do that themselves.

Mr. CONKLING. I should not doubt that a better statement will be made by the aid of other Senators than would come from me alone. But still if Senators will forbear I will endeavor to make the facts tolerably clear.

I return to the assertion with which some Senator in his seat took issue a moment ago, that they did count the votes in these counties not for the presidential electors at least. So this certificate says. The Legislature being the judge of the elections, qualifications, and returns of its members, did not count the votes from th se counties cast for the members of the Legislature as the board of canvassers previously had for the like purpose not counted them.

Mr. THURMAN. You say the Legislature did not count them?

Mr. CONKLING. I do say that.

Mr. MORGAN. I ask the indulgence of the Senator from New York again to state the date of the certificate. I inquire as to the date of the certificate which the Senator from New York read?

Mr. CONKLING. November 12, 1877.

Mr. MORGAN. My reason for calling the attention of the Senator from New York to the certificate which he was reading was that either he or myself is in error as to the contents of the certificate. I may read from the same paper or from a different one; I do not know; I will read the one which I hold in my hand:

STATE OF SOUTH CAROLINA,
Office of Secretary of State:

I, R. M. Sims, secretary of state, do hereby certify that it appears from the records of this office that, in determining the number of votes cast at the last general election, held November 7, 1876, the board of State canvassers for South Carolina did count the votes of the counties of Edgefield and Laurens for presidential electors and did not count the same for State officers and members of the General Assembly.

Witness my hand and the seal of the State, at Columbia, this 12th day of November, A. D. 1877, and in the one hundred and second year of American Independence.

[SEAL OF THE STATE.] R. M. SIMS,
Secretary of State.

Mr. CONKLING. It is the same thing except that the certificate read by the Senator affirms that they did not count the votes for State officers. This certificate in my hand affirms that they did. But, Mr. President, this interruption illustrates the working of constant interruptions. If the Senator will wait for what I am going to say, which will be brief, he will find that if the truth be as his certificate imports, it only presents in a more glaring light the repugnance and disorder to which I mean to invite attention. If it be true not only that the board of canvassers discarded the election in these counties not only for members of the Legislature, if it be true not only that the Legislature itself discarded the votes of these counties, but that the board of State canvassers discarded these counties also when

counting the votes or returns for State officers, it but aggravates the condition. There was obviously some great difficulty in these two counties in the estimation of the board of State canvassers, and in the estimation of the Legislature, because both these two bodies concurred in holding that no proceeding had taken place in either of the two counties worthy of the name of an election, or entitling the result to be counted or returned.

Mr. GORDON. I dislike very much to interrupt the Senator from New York, but I should like to ask him which body he means when he designates the Legislature as refusing to count these votes—whether he means the Legislature which the supreme court recognized?

Mr. CONKLING. If the Senator from Georgia will allow me to proceed, one of the things I will state will answer his question. The difficulty is, that being unable to state more than one thing at a time, it is impossible for me simultaneously to gratify the curiosity of all the Senators who thinking of various topics, rise and present them. Quite likely the Senator from Georgia could make a simultaneous and multitudinous presentation of all these things, so that instantaneously we should hear them all at once, but I cannot do this.

Mr. WADLEIGH. Like Morphy's playing ten games of chess at once.

Mr. CONKLING. Yes; and, so, in my poor single-footed gait, I must proceed. Returning again to the short journey I have several times tried to pursue, the Legislature—and I will state which Legislature presently—held that in these two counties something not an election had transpired, on the day appointed as election day. What was the difficulty, and how does it connect itself if at all with a pivotal question now in the mind of the Senator from Georgia, namely, the question which of two rival bodies was the lawful Legislature? How do these facts connect themselves with that question? I will state just here, how they so connect themselves. The first rule of the Senate of the United States, and it is not found on the brief of either contestant, I believe, undertakes to define what a legal quorum is, and it affirms that a quorum is not a majority of all the Senators who could be elected or who could sit, but it is simply a majority of the Senators in point of fact elected and qualified. It was held in South Carolina that although one hundred and twenty-four members was the complement of the Legislature of that State, there had been a failure to choose eight of that number, and that instead of one hundred and twenty-four having been chosen but one hundred and sixteen had been chosen.

The Legislature from which Mr. Corbin comes proceeded to assert, as the rule of this body asserts, that whenever one-half and one more of the members who in truth and in fact had been elected and returned appeared, a quorum was present in the hall. This result was reached by a process of arithmetic. If the eight men apportioned to Edgefield and Laurens Counties had not been chosen, if no election had occurred, it was easy to conclude that fifty-nine and not sixty-three members would constitute a quorum of the house. Finding fifty-nine members present holding certificates from the State returning-board, the clerk of the last house under the statute of South Carolina proceeded to conduct the organization and to call the roll. Thereupon a number of members I think it was fifty-three—am I right in that?

Mr. CAMERON, of Wisconsin. Fifty-seven.

Mr. CONKLING. Fifty-seven. Members to the number of fifty-seven denied that a quorum could be found with only fifty-nine men present, and they withdrew. They took themselves away and established themselves in some other building or close, and there proceeded to organize another house as they called it. Senators on both sides will admit that a very vital question in this case is whether the legislative body of which I first spoke was the true and authorized body, or whether those who seceded and established themselves elsewhere, became the regular and authorized house. The consequence of this point all will admit. The question is vital, because if the body of which I first spoke, and which subsequently along with the senate, the authenticity of which has never, I believe, been disputed, chose Mr. Corbin a Senator of the United States—if that body was the authorized body, then so far as its derivation is concerned, Corbin's title is beyond question. On the other hand, if it was an unauthorized body, inchoate, and lifeless, without function or being, it cannot send Mr. Corbin here; and, if in truth the scepter of regularity and power was in the hands of the rival body, and that body, along with the senate, sent General Butler here, Butler's title in respect of its derivation, is beyond question. Obviously, then, how it came to pass that neither house had sixty-three members to begin with, is of the very *gravamen* of this inquiry.

It appears from a cursory reference to these reports that on election day—and it will be appropriate hereafter to remark upon the connection, if there is one, between what occurred on election day and what had occurred at Hamburgh, connected, if they are connected, by events in the interval—it appears that on election day in Edgefield County a very extraordinary spectacle was seen at the time and place appointed for a free and orderly election. To illustrate this, I will read first from a memorandum which, I believe, is likely in a day or two to become a report to the Senate. I read a statement which, as I understand—and one of the Senators from Wisconsin will correct me if I fall into error—is a literal transcript from sworn testimony given by one of the witnesses, or a verified report made by an official person. It appears in quotations. He is speaking now of election day.

Mr. WADLEIGH. What is the name of the witness?

Mr. CONKLING. I will turn back and look in a moment, but I am quite unfamiliar with the paper. I took it up first only a moment since, and I cannot without further inspection state the names of the witnesses.

> It was very difficult for me to get through the crowd of horsemen. They were packed in as close as they possibly could be in front of the building, between the door and the fence. There were from thirty to fifty in front of it. They were about as thick as they could be, and then extended backwards several rods; not very dense away from the building.

To show the condition of things at the same time and place, I take up other sworn testimony which has not been read, delivered. if I understand aright, by Mr. Butler, that Mr. Butler who is one of the claimants for a seat here. He testifies, and I am told that beside being present on election day in Edgefield, he was the commander of rifle companies or a rifle company. Is that true?

Mr. CAMERON, of Wisconsin. I am not certain on that point.

Mr. CONKLING. I ask the chairman of the committee if he knows?

Mr. WADLEIGH. Unfortunately the chairman of the committee never saw this document.

Mr. CONKLING. I am going to read from testimony taken by a committee of the Senate in South Carolina when it was supposed that the testimony was to determine among other things who was the lawful governor of South Carolina. It was taken by a committee composed of Senators representing both political parties, and some of the Senators on the committee will doubtless know, if it is important, the precise official position held by General Butler. I understand he was in command of a rifle company or rifle companies or other military organizations.

Mr. GORDON. Why, Mr. President, the Senator is wholly mistaken. There was no rifle company parading there on the day of the election.

Mr. CONKLING. Ah, Mr. President, I have not said anything about parading. The affair on election day seems to have been not a parade.

Mr. GORDON. There was not an armed man there except the armed soldiery.

Mr. CONKLING. There was very little parading there. As was said by another, describing a not wholly dissimilar scene—it was "still as the breeze and dreadful as the storm." There was no holiday cavorting. The transactions of that day meant business; substance not show. Now, let us see what General Butler testifies. He knows where he was and what he saw. He says:

> I live off a mile from the village, on the road leading to Columbia. I got down to the village about half past six or seven o'clock. The polls had been open for some time, and the people were in possession of the polls when I got there.

Again he says:

> While standing there, I told him that I thought the real cause of complaint was that the negroes had heretofore generally been in possession of the polls, and kept them until one or two o'clock, but that on this occasion the white people had resolved to vote, and had got possession of the polls and proposed to keep them until they got through voting.

That is the difference between an indefinite postponement and a postponement to a day certain, in the language of the rules of the Senate. It seems that when the black people voted first they kept possession of the polls only till one or two o'clock; but this time it seems the white people had taken possession and they proposed to keep them until they "got through voting." Let me look to see when that was—according to General Butler:

> There was a large crowd of colored people who went up to that poll, and, in fact, all of them left precinct No. 1 to the white people in the main, and I should say that there were perhaps from five to six hundred who did not get an opportunity to vote, not that there was a purpose on the part of the soldiers or the democrats to prevent it, but it was simply a physical impossibility for them to do so. They could not have voted in the nature of things.
>
> Afterward, in the evening, the crowd came into town for the purpose of voting at precinct No. 1, about half past four—

It was not so very late in the evening—

> but they did not do so.

They did not vote.

Here, then, is a statement by General Butler that at this one precinct where he was, five to six hundred men were not permitted to vote. He says it was not in the nature of things. No, sir, it was not in the human nature of things that they should vote, and they did not vote.

Mr. GORDON. I ask the Senator if that is the only place in the county where they could have voted? Were there not ten or twelve other places where they could have gone to vote?

Mr. CONKLING. Mr. President, if the Senator takes me up in geography, I shall be like the poor girl who was rejected——

Mr. GORDON. That is a very material fact, in geography and philosophy also.

Mr. CONKLING. Philosophy! I should not dare to enter that domain with the Senator, and if even in geography he should take me to task I should find myself in the condition of the girl rejected on a competitive examination as a copyist, because she could not tell the names of the three principal rivers that empty into the Caspian Sea and could not define and locate the isothermal line. [Laughter.]

It may be that there were other precincts in the county of Edgefield to which these colored citizens might have repaired had they known of them, and it is possible that had they been able to reach those distant precincts they would not have been wedged out or trampled under the hoofs of horses.

This may be; it may be there were precincts where it would not have been according to the nature of things impossible for them to vote; but to be convinced of it, I should require something more than the map; I should want higher evidence than the fact that there were ballot-boxes and election officers in other places; if that be the only evidence I should fear that these armed horsemen would have proved peripatetic. They might have proved a movable troop going as fast and as far as these poor black men could have gone in pursuit of the shadowy hope of being allowed to deposit their ballots.

Mr. EDMUNDS. And on foot.

Mr. CONKLING. And, as my friend from Vermont says, on foot. The black people in South Carolina are not a mounted race: as a rule they do not ride in chariots or on horses.

From this evidence it appears that General Butler being present, and being an actor and participant, was not without part or lot in governing and characterizing and controlling the condition of things on election day.

I understand further that the testimony shows that the massacre at Hamburgh opened the proceedings of that kind in that campaign. The massacre at Hamburgh was the opening horror in a drama of blood which extended, with what frequency I am not able to say, in the counties of Edgefield and Laurens down to the election day and on that day still proceeded with such momentum that nine or ten hundred colored voters were terrified from the privilege of depositing their ballots, and the so-called election was so far prostrated and overthrown that the board of State canvassers and the Legislature concurred in saying that nothing had happened which could be dignified with the name of an election, that the occasion had been only a carnival of violence and wrong. What connection the doings of election day had with Hamburgh I am not able definitely to say. I present to the Senate however the statement which I am advised is true, that beginning with Hamburgh, and extending on through the interval, and never ceasing till election day, disorders, tumults, acts of violence and barbarity, terrorism enough to have intimidated men not so defenseless and helpless as those against whom these abominations were leveled, continued, and were prosecuted, and prosecuted for political purposes. The results were wrought out. As I have said already these two counties were eliminated altogether in the popular branch of the Legislature. Eight men came from Edgefield and Laurens. Did they bring certificates of election? No, sir. Did they bring the certificate of a court? No, sir. They came bearing a paper certified by the clerk of a court which certificate declared that it was a transcript of something that appeared on the files as the records of that court. The court refused to make an order, or to do any act under which these returns from Edgefield and Laurens would be sent to the Legislature.

It appears in one of the briefs that the court, although moved, refused so far even to sanction the so-called election which had occurred; but the clerk of the court furnished to some parties a transcript or copy of a paper which had been filed, and at the foot of it he put a certificate that it was a true copy. Eight men bearing this copy of a paper came to the State-house and proposed to enter the hall as members of the Legislature; but the house said "no." Under the statutes of South Carolina the clerk of the last house survives for the purpose of organization, and it is his duty to receive and put upon the roll the names of those bearing the certificate provided by law. This transcript of some proceeding in court was not such a certificate; it did not resemble it; and they refused to recognize these men, grounding their refusal upon the fact that Laurens and Edgefield had chosen and had been permitted to choose no one of the eight members by law assigned to them.

Thus the Senate will see that in consequence of these acts of violence perpetrated by somebody, countenanced by somebody, such a result was produced, and upon that result depends the question which one of these two houses, if either, had a legal quorum, and that must be decided by ascertaining whether there had in truth been one hundred and twenty-four or only one hundred and sixteen men elected entitled to seats in the house.

Hinging, as this case ultimately largely must, upon what happened in those two counties and on the question whether the election there was valid and substantial or null, I submit to the Senate whether there is not some legal relationship, some connection between what one of these claimants is charged with having done at Hamburgh and again on election day by countenance and sanction and influence, and the title or claim he now prefers to a seat. Some principles will not be disputed in the case of any claimant, even one wearing such proud distinctions as we have heard of in this debate, "a gentleman, a gentleman deemed important enough by a sovereign State to be talked of for Senator"—and such a personage is entitled to no more consideration than the humble man whose testimony has been read and who whatever his lot, fate, or color, is a born leader of men. He may be unlettered; he may have been painted black by nature's brush; he may be descended from tiger hunters on the gold coast of Africa; but of whatever race he is, no man ever did the acts he recounts unless he had in him the stuff and metal which constitute primacy among men. He may not be "a gentleman" in the estimation of the proud and the dominant, but whether he wears robes or rags, I would accept his plighted faith with more confidence than I would take the word or the oath of any man, no matter if the blood of all the Howards be running in his veins, who was ever, in coldness or in passion, accessory before or after the fact, when the defenseless, the ignorant, the inoffensive, the harmless were brutally shot down as this testimony recounts. [Applause in the galleries.]

The PRESIDING OFFICER, (Mr. HOAR in the chair.) Order!

Mr. CONKLING. Mr. President, what may have been done by one of these claimants disconnected with the election and antedating it, might become a question, if at all, for lawyers and scholars in their profession like my honorable friend from Maryland to discourse upon and tell us whether it could be made an objection unless a conviction had taken place. England's history abounds in cases in which it was held that if an unlawful act had been committed by one afterwards claiming a seat in Parliament and he had been legally convicted and the record was produced against him, he was attainted. It was such evidence of turpitude, in the language of one of the cases, as the house would hear, and hearing would act upon it.

I will not go into such a supposition. The allegations here are of quite another nature. Here is an allegation, not of a stray act of violence, not of a random or isolated felony to which some claimant may be found in some sense to be a party, but the allegation that, addressed to the election, addressed to the decision of the election, addressed to the overthrow of the ballot-box, a series of acts were committed, in some privity with which—greater or less—it is said one of these claimants was.

If it were alleged against one claiming a seat in the Senate that on the day preceding his choice he had gone out and with his own hand done a number of murders, which murders were done upon members of the Legislature who would vote against him, and in consequence of their absence a majority was found for him—a majority thus produced, am I wrong in supposing that such facts would belong to the inquiry when the Senate as to him came to judge of the election, qualification, and return of its members? I once heard it argued in the Senate that a Senator who sat in yonder seat for three years, who presented regular credentials, was regularly sworn in, and continued for three years to act as a Senator, who it turned out had been chosen on joint ballot in his State by 51 majority, had in truth all that time been no Senator at all, never had been elected, never had been a Senator, was from the beginning not a Senator, because it was alleged that proof had been discovered of bribes or inducements given to thirteen of that body of men who by a majority of 51 had elected him, on the day, at the place, and in the manner provided by law. I thought that carrying the doctrine a great way. I heard some Senator to-day refer to the case and say that half the Senate was one way. The Senate never voted on that question. It always quieted me to believe that both halves of the Senate would have been against such a proposition. They might have held that the Senate could expel the member by a two-thirds vote, but I never believed that a majority of the Senate upon that case would have held that no election had ever taken place, and that the man who had been here for three years after he was sworn in, had in truth never been a Senator in any legal sense.

But suppose on the threshold of that case when the credentials were presented or the motion was made to swear in the person referred to, it had been alleged as matter of inquiry that by his violence, or by violence to which he was privy, or had incited, a number of the members of the Legislature had been removed, a number sufficient to cast the die in his favor sufficient to determine his election, and it had been so determined, will it be pretended there would or could have been a division in the Senate on the question whether inquiry into the facts was pertinent and competent? And yet here is an allegation not so brief as the one I have supposed; it begins a remove further back; but an allegation that one of these claimants was art and part—was privy, I prefer to say, rather than to use a more familiar legal phrase—was privy to proceedings unlawful, violent, barbarous, brutal in the extreme, which proceedings had no motive that any man can suggest except political effect, and that those proceedings, ushered in by the fearful horrors at Hamburgh, repeated themselves in greater or less degree now and then, here and there; and it so happens in these two counties in which both the State returning board and the Legislature held that the riot of brutal forces had been such as to expel the election and overthrow it, and all this supplemented by the fact that this very claimant was present himself, apparently the most conspicuous and influential man who was present on election day, observing at least, and taking part, to some degree at least, in the culmination of that reign of terror which in his very presence beat down and overthrew the ballot-box.

Mr. President, I am not arguing that this contestant ought to be condemned on this evidence in any forum—even the forum of public curiosity or sentiment. I am not laboring to show that he is at all stained by these occurrences. That is an ultimate question to be passed upon, if at all, when the evidence is thoroughly out, and presented to the Senate. I can say, without affecting such compunction as does not belong to ordinary men, that it would be a very distasteful duty, should I be called upon to affirm by my vote or by my voice that I believed General Butler to be in guilty complicity with these acts. Certainly I am not arguing that now. I am simply presenting

these considerations to bear, as far as they do bear, upon the pretension with which this motion was introduced to the Senate, that there were no contested facts here, no questions of fact; that everything was agreed upon in these two briefs, and, therefore, why not dismiss the committee, why not bring it in and have these "grave and reverend seigniors" express their opinion upon a pure question of law arising on the face of the papers, which need not ruffle a feather?

I cannot believe, were there only a question of law, that it would be wise to dispense with the ministration of a committee in such a case. I should not so vote unless by that vote I meant to convict the committee of laches, neglect, or mal-proceeding of some kind. But when it turns out that all these matters of allegation exist, not hid under a bushel, but known very generally abroad in their outlines—when such turns out to be the case, I cannot believe it is hostile to the party whose name has thus been mentioned, if, indeed, he can be acquitted of all blame, as I trust he can, I cannot believe it is hostile to him to have a committee sit down and sift this evidence and call upon him, if they wish to call or he wishes to be called upon, to give any explanation or to offer any evidence to resolve all doubts and clear up all suspicion. On the other hand, if it is true that exoneration cannot be, that there are suspicions, something not to be cleared up, then I cannot think it is unkind to the cause of justice or the orderly conduct of proceedings that a committee should be employed—should be left as it has been already employed—to apprise the Senate of the truth.

Mr. WADLEIGH. I should say, Mr. President, that the question of my friend, the Senator from New York, can perhaps better be answered by my friend, the Senator from Wisconsin, [Mr. CAMERON,] than by myself. As I have once said, this evidence never came to my attention at all until within a day or two, and until to-day, this evening in fact, I never saw the report from which the Senator from New York has read. But I do understand the fact to be (and what cursory brief examination I have been able to make of this testimony has confirmed me in the belief) that it was as stated by the Senator from New York, that the ball was opened, so to speak, the campaign was commenced by the atrocious massacre at Hamburgh, which struck terror to the republicans in that and the neighboring counties, and from that day on up to and at the election there was a series of frightful outrages which in my belief rendered the election absolutely null; and I wonder that there is on this floor any man, I care not what his party relations may be, who can directly or indirectly sanction, cover up, excuse, palliate, or pass over testimony like this. I cannot but feel if I were that man that I should be a disgrace to human nature itself. I ask, Mr. President, that the Clerk read——

Mr. SPENCER. Will the Senator yield for a motion to adjourn, as he must be weary?

Mr. WADLEIGH. I will. I should like, however, in this connection, and then I will yield, to have the Clerk read a very brief passage from the testimony of an Army officer, who appears from this passage, which is all I have been able to read, a democrat himself, as to the way the election was conducted down there in that equal country of South Carolina.

Mr. SAULSBURY. Will the Senator from New Hampshire allow me to ask him one question?

Mr. WADLEIGH. Certainly.

Mr. SAULSBURY. I ask him whether he thinks it proper to refer a question to a committee that has prejudged the case, as has evidently been done by three of the Committee on Privileges and Elections this evening?

Mr. WADLEIGH. Mr. President, in answer to a question of my friend, the Senator from Delaware, I will say that I have not prejudged the case, because I have had no opportunity to see the evidence except in fragments. From those fragments I believe what I have stated, and when I see the anxiety on this floor to press this case to a hasty conclusion, to shut out from the Senate and the public evidence like this, I cannot help thinking that somebody on this floor is afraid of the effect that evidence will have upon the Senate and upon this country. I do not believe that a man who comes to this body with evidence concerning him and his election to this high office such as that which has here been read, much more of which is within the pages of the volumes before us, can be pressed into this Chamber in hot haste without revolting the sense of humanity of the people of this country, their sense of justice, their sense of right, be their politics what they may.

Mr. Clerk, will you read the passage I have marked.

The Secretary read as follows:

I can tell you that from my own experience. I came down from Laurens, South Carolina, on my way to Charleston to meet my wife, who was to arrive by steamer from New York.

Mr. WADLEIGH. It was in Laurens County that this happened. This is the testimony of Lieutenant Anderson, of the United States Army.

The Secretary read as follows:

I had about an hour and a half or two hours to spare in Newberry, at the junction of the two railroads. They were having at that place a political meeting—the republicans were trying to have; but they hadn't succeeded very well. because there were about fifteen hundred or two thousand Hampton cavalry there, and every time the republicans commenced to speak they would commence to yell, and would drown the voice of the speaker. I saw no violence at all there. I was dressed in my citizens' clothes at the time, and paid no attention to them. I went and got my dinner with a friend who asked me to dine with him, and after dinner I started to the depot to take the train for Columbia and thence to Charleston. At the depot there was quite a crowd of mounted Hampton cavalry, with red shirts, who rode up around me and commenced to give me very abusive language. I didn't pay any attention to it, because I didn't think at first that it was intended for me. I had been stationed in Newberry previous to that, and I supposed nearly everybody knew me; but it appeared that a number of these men were from Edgefield and belonged to the "Sioux" company of men in Edgefield. I walked along up to the depot, and just before I got there quite a crowd came up and surrounded me, and demanded to know my politics. I hadn't thought of politics that day; hadn't said a word about it. I was simply passing along as a private citizen, and such a question as that was so impertinent that I told the man it was none of his business. Then they rode up and surrounded me and tried to ride their horses over me and endeavored to make them kick, but I got through the crowd and got up on the platform, and then turned round to see what was wanted. They then rode up there and used such language as I never heard in any civilized community and some called "Shoot him! shoot him! the radical son of a bitch," and all that sort of thing, and I just told them to sail in. Finally, there was a man there who knew me, and he rode up and told them to let me alone. He told them that he knew me as Lieutenant Anderson, of the Army. As soon as they found I belonged to the Army they apologized for their conduct and wanted to shake hands with me, and called out "Hurrah! three cheers for Lieutenant Anderson; he is a straight-out democrat." So they cheered me pretty lustily, and pretty soon the train started. I simply relate that to show the general feeling that exists in that up-country against any man who had the courage to stand up and say that he was a republican. It was such a proscription as I don't believe ever existed since the days of the martyrs.

Q. The white men here, for the most part, are democrats—nine-tenths of them, I suppose?

A. Nine-tenths of them.

Mr. SPENCER. I now renew my motion.

Mr. WADLEIGH. Let me first say a word. The testimony which has just been read from an Army officer, who was apparently known as a democrat, shows how the campaign was carried on from the time of its opening by the Hamburgh massacre up to the day of election, when the polls were obstructed by the Butler cavalry. The rifle clubs of South Carolina did not feel themselves quite competent even to take care of the republican meetings in their State; they imported the Sioux Rifle Company from Georgia to help them in the work. I will now yield to my friend from Alabama.

Mr. SPENCER, (at two o'clock and twenty-eight minutes a. m.) I move that the Senate do now adjourn.

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

The yeas and nays were ordered; and, being taken, resulted—yeas 26, nays 28; as follows:

YEAS—Messrs. Allison, Anthony, Booth, Bruce, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Christiancy, Conkling, Dawes, Dorsey, Edmunds, Hoar, Howe, Jones of Nevada, Kirkwood, McMillan, Morrill, Oglesby, Paddock, Rollins, Saunders, Spencer, Teller, and Wadleigh—26.

NAYS—Messrs. Bailey, Bayard, Beck, Cockrell, Coke, Conover, Davis of Illinois, Davis of West Virginia, Dennis, Garland, Gordon, Harris, Hereford, Hill, Jones of Florida, Kernan, Lamar, McDonald, McPherson, Morgan, Patterson, Randolph, Saulsbury, Thurman, Voorhees, Wallace, Whyte, and Withers—28.

ABSENT—Messrs. Armstrong, Barnum, Blaine, Eaton, Ferry, Grover, Hamlin, Ingalls, Johnston, McCreery, Matthews, Maxey, Merrimon, Mitchell, Plumb, Ransom, Sargent, Sharon, and Windom—19.

So the Senate refused to adjourn.

Mr. WADLEIGH. Mr. President, my friend, the Senator from Ohio, suggests that I give him a little more reading; and although I supposed the Senator might be weary at my remarks, yet, to gratify the wishes of my friend, the Senator from Ohio, who is evidently a great deal amused by the treatment of these colored people, I will have a little more of the same sort read. I ask the Clerk now to read Harry Mays's testimony.

The Secretary read as follows:

COLUMBIA, S. C., *December* 18, 1876.

HARRY MAYS (colored) sworn and examined.

By Mr. CAMERON:

Question. Where do you reside?
Answer. In Hamburgh, South Carolina.
Q. How long have you resided there?
A. Nine years.
Q. What is your business?
A. I work over the river in a store. I am what is called a porter in the store.

By Mr. CHRISTIANCY:

Q. By "over the river" you mean in Augusta?
A. Yes, sir.

By Mr. CAMERON:

Q. Where did you live before the war?
A. I lived about twelve miles from the bridge—in South Carolina.
Q. Were you a slave before the war?
A. Yes, sir.
Q. Can you read or write?
A. No, sir; but I know what I am talking about.
Q. What are your politics; are you republican or democratic?
A. I always vote the republican ticket, sir.
Q. You are a voter?
A. Yes, sir.
Q. Where were you on the 4th of July last?
A. I was in Hamburgh.
Q. Where were you on the 8th of July?
A. I was in Hamburgh that day too.
Q. Did you ever have any conversation with Colonel A. P. Butler?
A. Yes, sir.
Q. You may state what the first conversation was and when you had it.
A. On the 9th day of July I met Colonel A. P. Butler up in his field, on Tuesday, and he said, "Harry, what do you think of the times?" I said, "I think the times is mighty rough." He says, "Well, the white people has been imposed upon by Jim Cook, and these marshals around town, and these niggers, and we ain't going to stand that no longer. We are going to start at Hamburgh, and we are going to clean out the Government officers, from Chamberlain down to the last one in South Carolina." I asked him, "Is this the policy you take to carry the State?" He

says, "Well, you see how we have commenced it, but you aint seen nothing yet to what you will see before this is over." I told him, "If that is the case, I am done talking about voting. I am done talking about it." He says, "Well, you had better give it up unless you vote the democratic ticket." I says, "I won't vote none if I have to vote that ticket." He says, "You had better give up voting altogether, because we intend to carry the State." I says, "If that is your plan to carry it, I am done. I don't want to be killed for voting." He said that Jim Cook had arrested people; and I told him that Jim Cook was the town marshal, and only did his duty when he arrested men, I supposed. He said Cook wouldn't allow people to drink at the spring, and he commenced talking that way. I says, "Is it right to kill a man because he has done his duty?" I said, "I don't think it is right to kill him when he has only done his duty." He said that was the plan that they intended to carry the State with. That is the last word he said to me. He told me, "I heard you lost some of your things." I said, "Yes; I have lost everything I had in my house." Then he asked, "How much did you value your things at?" I said, "I don't know; I haven't made up my mind. I have been so bothered about this matter that I haven't put any valuation on them at all." He told me then to make up my mind, and when it got settled to let him know about what it was worth. I told him that I didn't know what I would do about it, and that I thought I would let it go through the legal channel. He says, "Oh, I suppose you expect to sue the county, then?" I says, "I don't know; but if I get anything, I will get it; and if I don't I will let it go." He didn't say anything more after that.

Q. Was Henry Getzen present at this conversation?

A. He was.

Q. What did he say about it?

A. He says, "Harry, I don't believe you done anything actually yourself; but you were there among the crowd of niggers, and you knowed all about what was going on." I said, "I knowed nothing about it." He said I knowed there had been stealing going on. I said, "No; I didn't know nothing about stealing at all." He said I was there among them, and he didn't know why they hadn't accused me, unless it was that I was there among them and was as good as the rest of them. He thought they was all mean.

Q. What did Robert Butler say?

A. Well, he said just about nearly the same thing. He said the white people didn't intend to be ruled by niggers any longer in this State, and that "this year would be the last that the niggers and Chamberlain would rule." Them was the words he said.

Q. Did you have any talk with Harrison Butler on Sunday morning after the massacre?

A. Yes, sir; he came down there about the time the dead man was being moved on the street. He rode down to my door and I was out on the porch, and he said, "Harry, how is it this morning?" I said, "Mighty rough with me." He said, "What's the matter?" I said, "Come up here and look, and you will see what is the matter." He got off his horse then and started up stairs, but I told him "I'll come down to you," and walked down and met him on the street, and he talked to me and he asked me what did they do to me last night? I said, "They took everything in my house—even took all my meat and meal." He said it was none of the men here that done it, but it might have been some of the boys from the factory. I said, "I don't know about that. If the boys hadn't started it the boys from the factory wouldn't have done what they did, and wouldn't have been here." Then he says, "Here's seventy-five cents to get you something to eat today;" and I told him I was much obliged to him.

Mr. EDMUNDS, (at two o'clock and forty minutes a. m.) Mr. President, I am very tired. I move that the Senate adjourn.

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

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

Mr. MITCHELL, (when his name was called.) I am paired for the night with the Senator from North Carolina, [Mr. MERRIMON.]

The result was announced—yeas 26, nays 28; as follows:

YEAS—Messrs. Allison, Anthony, Booth, Bruce, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Christiancy, Conkling, Dawes, Dorsey, Edmunds, Hoar, Howe, Jones of Nevada, Kirkwood, McMillan, Morrill, Oglesby, Paddock, Rollins, Saunders, Spencer, Teller, and Wadleigh—26.

NAYS—Messrs. Bailey, Bayard, Beck, Cockrell, Coke, Conover, Davis of Illinois, Davis of West Virginia, Dennis, Garland, Gordon, Harris, Hereford, Hill, Jones of Florida, Kernan, Lamar, McDonald, McPherson, Morgan, Patterson, Randolph, Saulsbury, Thurman, Voorhees, Wallace, Whyte, and Withers—28.

ABSENT—Messrs. Armstrong, Barnum, Blaine, Eaton, Ferry, Grover, Hamlin, Ingalls, Johnston, McCreery, Matthews, Maxey, Merrimon, Mitchell, Plumb, Ransom, Sargent, Sharon, and Windom—19.

So the Senate refused to adjourn.

The VICE-PRESIDENT. Does the Senator from New Hampshire desire to have the reading continued.

Mr. WADLEIGH. Yes, Mr. President. This is, however, read at the request of my friend the Senator from Ohio, who is at this moment absent from the Chamber.

Mr. EDMUNDS. The reading had better go on. He will come in presently.

Mr. McDONALD. I suggest that the reading at that point be laid aside, and that General Butler's testimony be read.

Mr. EDMUNDS. We shall come to that about day after to-morrow. Let us go on with it as it is.

The VICE-PRESIDENT. The Secretary will resume the reading.

The Chief Clerk read as follows:

Q. What did he say about the white people intending to carry the election?

A. He told me on the 8th of July, the day of the fight, this: It looked like things was getting too stormy around there. He was standing at my corner, and I says, "Mr. Butler, what is going to be the result here?" He said, "By God, we are going to take your guns." I said, "Wouldn't the United States Government interfere with that?" He said, "The United States Government haint got anything to do with it; and Harry, I tell you one thing, there's no Constitution now. It has been one hundred years since the Declaration of Independence, and the Constitution is played out now, and every man can do just as he pleases. There is nothing to be done about it." I said, "then it is a bad country to be in," and I says, "Does you pretend to say there is no law in this State?" He said, "No; there's no law in this State or any other State." And he said, "We are going to get Chamberlain and his crowd out." I said, "How about Grant? You know he is President?" He said, "By God, we will have him too."

Before that the water had been very high there once. We had a big rain and the river was very high.

By Mr. CHRISTIANCY:

Q. How long before?

A. I think about six weeks. Me and Picksley was sitting on the bridge one day and he rode up and asked us what we thought of the weather, and went on talking about the boys. He said, "There is going to be hell to pay here in Hamburgh before long."

Q. Who said that?

A. Harrison Butler said that. I said, "What is that."

Mr. PADDOCK. I should like to inquire of the Senator from New Hampshire who the General Butler is to whom reference is made by this wituess as carrying on the dialogue?

Mr. WADLEIGH. I think from what little examination of the testimony I have made, that always when "General Butler" is spoken of in the testimony it refers to General M. C. Butler, and that Colonel A. P. Butler is always spoken of by the witnesses as "Colonel Butler."

Mr. PADDOCK. Is there any other Butler styled "General?"

Mr. WADLEIGH. No.

Mr. PADDOCK. I understand there is still another, a Mr. A. P. Butler, to whom reference is sometimes made.

Mr. WADLEIGH. Yes, that is Colonel Butler.

Mr. GORDON. I believe that the A. P. Butler, and another Butler spoken of in the testimony are not at all related to General Butler.

Mr. PADDOCK. That is what I should like to inquire.

Mr. GORDON. They are not related at all in any way.

Mr. WADLEIGH. So far as that is concerned, I am happy to learn that there was not so much iniquity and so much wickedness in one family as would appear from the similarity of name in the testimony.

Mr. PADDOCK. So am I.

Mr. WADLEIGH. The Clerk will go on.

The Secretary proceeded to read, as follows:

By Mr. CAMERON:

Q. When did he tell you this?

A. That was about six weeks before the fight. I said, "What's the matter, Mr. Butler?" He says, "Well, there's a fellow from Texas here—some two or three of them—and, by God, they are going to kill Jim Cook and nobody is going to know who does it, and then they are going off." I said, "Who is he; what does he know about Jim Cook?" He says, "He has had some information of his character, and I tell you Cook won't be living in this town three months, and neither will some of the rest of them." He didn't call any of them by name except Cook. I says, "How about the Harmony case?" (the case where they were massacred.) He said he wasn't there, but they done it and there was a programme laid down this year for the white people, and if the white people were doing wrong, no matter, they were going to kill the colored people; that they had no law. He said, "You will see how it will be yourselves." Sure enough, it turned out just as he said.

Q. Did you see any of the trouble on the 4th of July between Captain Adams's company and Butler and Getzen?

A. I was about two hundred yards from them.

Q. State what you saw at that time,

A. Mr. Butler was standing on the corner of a wide street, and Mr. Butler and Mr. Getzen sent Tom right down towards Nunberger's store; the company was coming up from the end of town.

By Mr. CHRISTIANCY:

Q. You were not one of the company?

A. No, sir. They drove down and got out and went into the store. I saw them coming back and when they got within about two hundred yards of the store, he was coming that way and met them and talked a while, but I did not know what they said. And the company came on and he drove off.

Mr. PADDOCK, (at two o'clock and fifty-five minutes a. m.) I should like to ask the Senator from New Hampshire to yield, that I may make a motion for a recess.

Mr. CONKLING. That is right.

Mr. WADLEIGH. I am somewhat reluctant to do that, but I will yield in deference to the wishes of my friend.

Mr. PADDOCK. I know the Senator is anxious to proceed with the debate. Nevertheless, I think we should have a recess. I move that the Senate take a recess until two o'clock p. m. to-day.

Mr. McDONALD. On that motion I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 22, nays 27; as follows:

YEAS—Messrs. Allison, Anthony, Booth, Bruce, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Christiancy, Dawes, Dorsey, Edmunds, Hoar, Howe, Jones of Nevada, Kirkwood, McMillan, Oglesby, Paddock, Rollins, Saunders, and Teller—22.

NAYS—Messrs. Bailey, Bayard, Beck, Cockrell, Coke, Conover, Davis of West Virginia, Dennis, Garland, Gordon, Harris, Hereford, Hill, Jones of Florida, Kernan, Lamar, McDonald, McPherson, Morgan, Patterson, Randolph, Saulsbury, Thurman, Voorhees, Wallace, Whyte, and Withers—27.

ABSENT—Messrs. Armstrong, Barnum, Blaine, Conkling, Davis of Illinois, Eaton, Ferry, Grover, Hamlin, Ingalls, Johnston, McCreery, Matthews, Maxey, Merrimon, Mitchell, Morrill, Plumb, Ransom, Sargent, Sharon, Spencer, Wadleigh, and Windom—24.

So the motion was not agreed to.

The VICE-PRESIDENT. The Senator from New Hampshire will proceed.

Mr. WADLEIGH. The Clerk will resume the reading.

Mr. McDONALD. If my friend from New Hampshire will give way and allow General Butler's testimony to be read, either as a part of his speech or as a part of my interruption, I shall be very glad.

Mr. EDMUNDS. We shall come to that in the regular way in a few hours.

Mr. McDONALD. If we can come to it in a couple of hours, that will be altogether satisfactory.

Mr. WADLEIGH. My friend the Senator from Indiana seems to be afraid of the effect of this testimony, as he insists on our taking up one case before we finish another.

Mr. McDONALD. I think this is *ex parte* testimony.

Mr. WADLEIGH. I am afraid if we should inject into the testimony which is now being read different testimony, it would tend to

confuse the Senator from Indiana so that he would not know on which side to vote. [Laughter.]

Mr. McDONALD. There is not the least danger of that.

Mr. WADLEIGH. The Clerk will proceed.

Mr. EDMUNDS. I should like to hear that testimony, if we can have silence.

Mr. SAULSBURY. We can have testimony read until Saturday night.

Mr. EDMUNDS. Say Sunday night, I suggest, as it is a good deed.

The VICE-PRESIDENT. The Secretary will resume the reading. Time is being lost.

The Secretary resumed the reading, as follows:

Q. Did you notice whether the company opened to let them through?

A. They did; they divided so one party could get through, and the other party drove right on through, and there was no more about that.

Q. You said you were in Hamburgh on the 8th of July?

A. Yes, sir.

Q. State what you saw of the troubles on that day.

A. On the 8th of July, in the morning, Judge Spannick, from Aiken, was in Hamburgh; I do not know what he came for; anyhow we got to talking, and I said, "Judge"——

Q. Who was he?

A. He is probate judge in Aiken; he lives here in Columbia now, I think.

Q. Is he a white man?

A. Yes, sir; he is a white man. The crowd commenced getting pretty thick, and they had pistols and double-barreled shot-guns.

Q. Were they white men?

A. Yes, sir; they were white men, and on horses. They kept on coming in town, more and more, and about one o'clock there was about three hundred men in town. My wife was upstairs, and had been in bed sick for eleven months. I went to her and said, "You have got to go over the river, away from here; I don't know what the result will be here; these men will ravish the women and do everything else." She said, "I ain't able to walk." I said, "I will get you a wagon and carry you out." So I sent her out in the country to some white people's house, where I didn't think they would bother her. Then I walked around and stood about the streets, and General Butler rode by.

Q. This was in the afternoon?

A. Yes, sir; late in the evening, and before that, me and Needham O'Bryan went down to Rivers's office. I says, "Let us go down and see General Rivers about this thing and get him to dispatch to Governor Chamberlain to help us." I said, "I think there is going to be trouble." He said, "I will go with you." So we went down to Rivers's office, and he was sitting back behind his table looking at his books. I says, "General, what is you doing." He said, "I am waiting for people to come into court." I says, "If you wait here a while longer they will make you jump out of here entirely." He said, "What is the matter?" I said there were about four hundred men out there with guns and pistols. He said, "I will go out and see." He got up and went to the corner and when he got there he was surprised. He said, "What is all this?" I said, "I don't know. They are going to take the guns away from the armory." I and him walked around to the next corner and there were Mr. General Butler. Butler rode up to Rivers and said, "Who is the colonel of this regiment?" Rivers said, "Colonel Williams." Butler said, "Where is he?" Rivers says, "At his house, I reckon." Butler said, "I want him."

By Mr. CHRISTIANCY:

Q. Who is this Williams?

A. John Williams; a colored man. He used to be colonel of the regiment. Then General Rivers and General Butler got into a talk. He says, "I want them guns, and, by God, I have got to have them."

By Mr. CAMERON:

Q. Butler said?

A. Yes, sir; to Rivers, and Rivers said, "General, I don't know what to do about them; I'll go up and see the captain and consult with him and see if he says to give them up." Rivers was obliged to do that, I believe, and I don't know what would have happened if he hadn't done so. It was no use to consult anybody about giving the guns up. Rivers said, "I must go up and see him and see what he says." Rivers did go up and see the captain, and I don't know what the arrangement was or what was said. I know he went to the drill-room, and when he come back General Butler said, "I will give you half an hour to give up the guns." Then the intendant of the town asked General Butler would he allow him time to get the women and children out of town. He said, "By God, half an hour and no longer."

By Mr. CHRISTIANCY:

Q. Who was the intendant of the town?

A. John Gardner, a colored man. About half an hour after that I found everything was getting gloomy, and Attaway was up looking out of the window of the armory where the guns was, and he says to me, "How is it down there? How does the times look?" I told him the times looked pretty squally down here. I told him the best way for us all to do was to close the windows up and fasten them, and let the whites shoot at the house; the armory was in a big brick house, and I told him to stay in there and let them fight as much as they wanted to, and then I went on.

By Mr. CAMERON:

Q. Who was Attaway?

A. He was a county commissioner there.

Q. Was he a member of this company?

A. Yes, sir; the second lieutenant, I think; I know he was. I went down to my house where I lived, on the same street, and I went up stairs and shut myself up in the house. Thinks I, "I had better stay here and they won't come in the house when it is all shut up." I went to the window and looked out of the window down on the ground and saw old man Butler.

Q. That is Robert J. Butler?

A. Yes, sir; he and Harrison Butler was standing on the corner with their pistols in their hand, and Sam Picksley started up to go to the drill-room and walked up to old man Butler, and Butler says, "Where are you going?" Sam said, "I am going to the drill-room." He said, "You can't go." Picksley staid a few minutes and consulted about it; but Butler said, "I tell you you can't go." I saw that they kept looking out to see what they were going to do. Butler said, "You can't go, and you may as well go back." Sam said, "All right," and turned around and walked back. Then about three or four minutes after that there was a man walking across on the far corner, a colored man named Charlie Haden, and Butler says, "Where are you going?" He said he was going about his business. Butler said, 'By God! you had better go back; if you don't I'll shoot you."

By Mr. CHRISTIANCY:

Q. Which Butler was this?

A. Old man Robert Butler. So Charlie went back in the yard and got out of the way.

By Mr. CAMERON:

Q. What next?

A. Then after that the firing commenced on the building.

Q. How far was your house from the armory?

A. My house is right on this corner. [Illustrating.] The square is not very wide, and the armory building is on the next corner on the same side. My house and the armory building all front the same way. I could look out of my window and see the flash of the guns when they would shoot.

By Mr. CHRISTIANCY:

Q. Was it dark?

A. No, sir; not when they first commenced; that is how I saw so good.

By Mr. CAMERON:

Q. State whether or not there was a large number of armed white men in the streets at that time.

A. At that time there was between nine hundred and a thousand men there; about a thousand, I think.

Q. How long did they continue to fire with small-arms?

A. They fired with small-arms until about 11 o'clock.

Q. What happened next?

A. Then I heard a cannon fire, and when I heard that I said, "Jesus! God! we are all done killed!" I thought they would shoot every house down in town, but I says, "I will have to take it as it comes." I then slipped off my shoes, easy like, and walked across the house so I couldn't be heard, and peeped out of the window. The moon was shining as bright as day, and I heard Harrison Butler say, "Here they come," and they fired at the niggers and the niggers fired at them. I saw both fires.

Mr. PADDOCK, (at three o'clock and twelve minutes a. m.) As the Senate looks pretty thin, I suggest that there is not a quorum present. I should like to have it determined whether there is a quorum present or not.

The VICE-PRESIDENT. The Secretary will call the roll of the Senate.

The Secretary called the roll, and, after some little delay, thirty-seven Senators answered to their names.

The VICE-PRESIDENT. The roll-call shows the presence of a quorum. The Senator from New Hampshire will proceed.

Mr. WADLEIGH. Let the Clerk proceed with the reading.

The Secretary read as follows:

By Mr. CHRISTIANCY:

Q. The negroes fired from the armory?

A. No, sir; the niggers had done come out and was going across the street, getting out of the way; the white men this way and the niggers that way.

Q. They ran away from each other?

A. Yes, sir. Then I staid in the house and I heard the firing of the cannon. The firing from the building ceased when the cannon fired. After the boys went across the street the cannon fired, I think, four times.

By Mr. CAMERON:

Q. Did you notice afterward whether the cannon-shot entered the building?

A. Yes, sir; I had some of the balls in my house. I went down next morning, and the balls were all over the house, good sized balls, between the size of a hen-egg and a turkey-egg—what they call canister, I think. Then they kept continually firing in the street. Every time they would see a nigger they would shoot at him, and would holler, "Here he comes." They got a fellow in Davis Lepfield's yard by the name of Parks, and they fotch him out. There was white men all around. Good God! I don't know how many. There was about twenty-five men around him, and I think half of them shot him. He fell. I knowed there was a colored man killed, but I didn't know who it was till next morning I found it was Moses Parks. They killed him as close to my house as that door. [Pointing.] The streets are not very wide there.

Q. Did you notice next morning how many shots were fired into him?

A. No, sir; I didn't. I saw him lying there, but it was such a disgusting thing that I didn't want to see it, and turned away. There was another man, Jim Cook, and I heard them say, "I've got the son of a bitch." I heard him holler. I know his voice. He said, "Oh, Lord!" They said, "You call on the Lord, you damned son of a bitch." And it seemed to me that fifteen or twenty of them shot him then. By that time they got done shooting niggers in the street. There was one or two that was killed in the street that way. Then the next man they got was me myself. I was living in the house next to Rivers. There was a folding-door between us. I heard them in Rivers's house. From the smashing up of things and going-on I felt pretty bad myself. I thought the next turn would be mine. And sure enough. I went and stood in the hall, so as to go out the front door, and when I heard them strike the middle door with the butts of their guns I unlocked my door and walked out on the porch, and there was about ten or twelve at the foot of the steps. They hollered, "Come down, you damned big son of a bitch." I said, "I haven't done nothing." They said, "None of you haint done nothing." Then they took me around into this ring.

By Mr. CHRISTIANCY:

Q. What ring did they call that?

A. I don't know. It was just a ring, and they had a whole parcel of men there, and you couldn't see outside after you got inside. You couldn't see among the white folks at all. They then had us in the ring. After they got me there the next man they got was Attaway. They had between twenty-five and thirty of us, I think, in that ring. When they fotch Attaway they set him right down close by the side of me. He said, "Mays, what do you think of this?" I said, "I don't know Attaway, what to think of it." He said, "Do you think they will kill any of us?" I said, "Yes, I do think so; just so." He said, "Do you think they will kill me." I said, "I do;" and I said, "All you have got to do now is to pray to God to save your soul. Just give up your wife and children and everything else, for they are going to kill you." And then he hung his head and commenced crying, and never said a word to me. I was satisfied they would kill him.

By Mr. MERRIMON:

Q. Why did you think so?

A. There had been lies told on him, and they said he was going to kill white folks; the niggers had made up lies on him, and the white folks had been making such awful threats against him before.

By Mr. CAMERON:

Q. You heard the threats before?

A. Yes, sir; and I also heard what Harrison Butler said, that they were going to kill Cook and others. One of them says, "Boys, all get on this side."

Q. One of the white men said?

A. Yes, sir; they had about four hundred white men there, and they said, "All get on this side of these damned niggers." They were all going to get on one side

of us and then were going to fire right into us. A white man, Bill Robinson, Judge Robinson's son, who lives in Augusta—I knew him well—said, "Now, gentlemen, the way to do." He made a speech; he said, "The way to do is to go and hold a court-martial, and whatever the court-martial determines you can do, then you can do it." A big crowd of them then went off, and I suppose they held it. Then they came back and said to us, "All you black sons of bitches get up here; we are going to carry you to Aiken and put you in jail." Some said, "No, we will start to Aiken, but we will leave them on the road;" and some said, "We'll attend to them." They carried us about twenty yards from where we went the first time, and they stopped us in a ring and all circled about us, and said, "Stop here;" and we all sat down in the dirt and sand.

Q. How many colored were there then?

A. Between twenty-five and thirty—about thirty, I think—and he says——

By Mr. CHRISTIANCY:

Q. Who said?

A. A man by the name of John Swaergen, (Swearingen?) He was acting as captain over the killing. So they went out in a crowd and had a big piece of paper about so big, [illustrating with his hands,] and went off a piece—about twenty yards from us—the whole cluster of them together. I saw them go. Then they came back. The first man they killed was Attaway. I sat there. I was talking right ahead then for my own life, and one of them says, "You hush! God damn you, you talk too much!" I said, "I am going to talk. It is life or death with me, and I am going to talk for my life." Then they called Attaway. Attaway says, "Gentlemen, I am not prepared for death." Some of the white men said, "I don't care." I don't know who it was. Attaway says, "Will you allow me to prepare to meet my God?" They said, "I don't care; we are going to kill you;" and they took him off over the hill, and I heard the guns fire. When they come back they called for Dave Phillips. Dave got up just like a soldier. He looked like he didn't care no more for it than he would about eating, and he walked right along. I heard the guns fire, and they came back, but Dave didn't come. Then they came back and called Pompey Curry; he was sitting right by me. Me and him was cousins. I says, "Pompey, you run," just so, and Pompey got up and darted out, and got away from them.

Q. Did they shoot at him?

A. Yes, sir; they shot him right here, [pointing,] but the ball only scalped his leg and he got away. The next one they killed was Hamp Stevens. He was sick. He says, "Oh, gentlemen, I haven't done nothing." They says, "Come out here." He was a big mulatto fellow—a young man. They took him out, and I heard the guns fire, and they came back, but Hamp didn't come. The next time they called Alfred Minyard. He was a small fellow, and was sick. He was grown, but he was only a little fellow. One of the white men said, "Oh, let that boy alone; he is sick;" but they said, "Oh, God damn him, we'll fix him too." I heard the guns fire, and they came back, but Alfred didn't come. That was the last one they killed. He didn't die then; not till the next day at nine o'clock. I saw him after he was killed, and I saw where they had cut off a big piece of meat from off his rump.

Mr. WADLEIGH. Mr. Clerk, the testimony is not finished at that point. It commences again at page 138.

Mr. SAUNDERS, (at three o'clock and twenty-five minutes a. m.) I move that the Senate do now adjourn.

Mr. WHYTE. I ask for the yeas and nays on that motion.

The yeas and nays were ordered; and being taken, resulted—yeas 23, nays 27; as follows:

YEAS—Messrs. Allison, Anthony, Booth, Bruce, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Christiancy, Conkling, Dawes, Dorsey, Howe, Jones of Nevada, Kirkwood, McMillan, Oglesby, Paddock, Rollins, Saunders, Spencer, Teller, and Wadleigh—23.

NAYS—Messrs. Bailey, Bayard, Beck, Cockrell, Coke, Conover, Davis of West Virginia, Dennis, Garland, Gordon, Harris, Hereford, Hill, Jones of Florida, Kernan, Lamar, McDonald, McPherson, Morgan, Patterson, Randolph, Saulsbury, Thurman, Voorhees, Wallace, Whyte, and Withers—27.

ABSENT—Messrs. Armstrong, Barnum, Blaine, Davis of Illinois, Eaton, Edmunds, Ferry, Grover, Hamlin, Hoar, Ingalls, Johnston, McCreery, Matthews, Maxey, Merrimon, Mitchell, Morrill, Plumb, Ransom, Sargent, Sharon, and Windom—23.

So the Senate refused to adjourn.

Mr. WADLEIGH. I ask the Clerk to begin reading again on page 138.

The Chief Clerk read as follows:

By Mr. CAMERON:

Q. Describe again how this man was mutilated, injured?

A. Well, this Alfred Minyard boy had a great big piece of flesh cut off of his rump, just chopped off with a hatchet or something. Then he was cut in his side here; chopped right between his ribs with a hatchet.

By Mr. CHRISTIANCY:

Q. That was before he was dead?

A. Oh, yes, sir; he didn't die until the next day at nine o'clock. Well, when they got through with him, shooting him, they came back to the ring again where he was, and one of them says, "Well, now, I reckon we will turn the rest of these damned niggers loose."

Q. That was what the whites said?

A. Yes, sir; some of them said, "That ain't worth a damn; we had better kill all these niggers; we just as well to kill them all as to do what we have done. If we kill them all there will be nobody left to tell the tale, and if we leave anybody they will go and testify agin us; and I tell you we might as well make a sure thing of this." The other one said, "Oh, no; it won't do to kill them all;" and they said, "Now, you damned rascals get up here," and they all got, and they made them get down again, and they all got down on their knees and held up their right hands. The boys all held up their right hands, and then they swore them, that they never would go into any court to testify and to know nothing about it; don't know who done it; don't know any of the men who was in the party; and carried the thing right along straight in that way all the way down, and then all the boys swore. Then they said, "Now, you damn rascals, get away from here," and the boys all got up in the crowd but me. I was off on one side. One of the captains took me off one side; Captain Roper, a one-armed man, he took me off one side. The boys all got up and started off, and there was about fifteen men got up and leveled their guns right behind them, just so, [indicating,] and some of the men said, "Don't shoot amongst them men that way," and they said, "By God, we don't care;" and after they got about fifteen feet away they fired fifteen or twenty shots.

Q. Were any of them hit?

A. One; that was the last of the ring crowd.

Q. Where was he hit?

A. Shot him in the arm. Mr. Roper asked me, "Harry, where do you live?" I told him, "I live right on the corner, opposite David Lipfield's." Says he, "Go on home." I says, "I can't do it" He says, "Why can't you?" I said, "I am afeared to go through them men by myself." He says, "Come on, I will go with you." So he was on his horse and I was walking, and I took right hold of his horse right by his side, and I walked right along by the side of him, to be sure if any of them shot at me they would hit him as well as me. I took hold of his saddle and we went home; and I got to the next corner and there lay Jim Cooke; and he was talking to me and says, "Well, Harry, by God, now you see what the result is when niggers votes against the white people." Says I, "I don't know what you are talking about." Says he, "Have you always voted?" I says, "Yes, I has; I voted the republican ticket all the time." He says, "Well, you don't intend to say you want to vote it?" And I says, "If this fuss is about I shan't vote no kind of a ticket." This time a man heard me that knew me. His name was Jerry Gardner; we were raised up boys together. He says, "Now, Harry, you needn't talk that sort of talk." He was sitting on his horse on the other side of the street. He said, "You needn't talk that way, for, by God, we know you are a nigger that has got good common sense." He says, "You see where this nigger is lying here"—that Jim Cooke. I says, "Yes; I see him." He says, "Well, just so we will lay you, if you ever vote the republican ticket." I says, "Well, sir, I will vote no ticket of any kind." Says he, "No, by God, that's the plan, and we intend to carry it out, and the only way for you to save yourself is to come over and vote with us, because we know that you know damned well when you vote against us you are voting against our interest;" just so. I says, "I didn't know it was so much against your interest as to kill a man. I had no idea that it was any such thing as that." He says, "You see what the consequence is, and, by God, we are going to carry this State, and we intend to do it, if we have to kill every nigger, and this damned Chamberlain, too; he is the head of all the thieves in South Carolina, and the white people don't intend to stand it no longer; they intend to start and break it up."

This was the last that any of them said to me about it, and I went on and got to my place where I live. Captain Roper says, "Is here where you live?" I told him, "Yes, sir." He says to me, "Harry, I have got a little talk for you. I, to-night, by your being recommended to me, saved your life, and now you can do me a favor, and I will tell you what it is." Says I, "It is all right, Captain; there ain't nothing that I could do that I wouldn't do for you, for you saved my life." He says, "Yes; what I want to say to you is, for you, that you don't know nobody here to-night; you don't know anything about this thing at all; that they had you around there, but you knowed nobody; that these are unknown parties; and if any one come to get you to go into court to testify or say anything about calling anybody's name, you don't know. This time, we will let you off; but next time we get at this thing we'll get you. Now, I will tell you as a friend, you do me a favor and don't you call anybody's name; don't you own to them that you do know, and tell them not to say anything about it; and if anybody asks you anything about this thing, tell them you don't know anything about it; that you seen the boys, but you don't know who it was." These were just the words he said to me: "If any one asks you tell them you don't know; it was unknown parties." That was the last, and then he told me good-night.

By Mr. CAMERON:

Q. What condition did you find your house in when you went back?

A. When I went there, sir, my wife's clothes were taken out of the bureau, and they flung them all over the floor. As I stepped in I stepped on some of her clothes, and says I, "What's this? Same as I expected." Everything was torn up. I had three trunks in my house, three large trunks, and all three of them was broke up.

Q. Were they locked?

A. Yes, sir; locked—all three of them was locked, and they was all three broke open, and every rag I had was taken out, and one piece of my wife's. She lost all her jewelry, watch and chain, and other jewels; and they taken a gown she had made to be baptized in, bran new—had never had it on; it was for her to be baptized in the second Sunday in August, and they stole it. It was very fancy made up, and they taken that; that was all her clothes they taken. They taken all mine and all her jewelry.

Pick. Butler said to me, "I understood they took your fine pin you wore in your shirt." I said, "Yes; they took a pin that didn't cost me but $65."

Q. When was that?

A. This same day of the massacre. He says, "I seen you wear a very fine pin." I said, "I had one, sir, that was pretty good." He says, "I heard they took that." I said, "Yes, sir; it didn't cost me but $65, and I don't suppose some of them white fellers ever had $65 in their lives." He said, "Well, it was some of the factory crowd."

By Mr. MERRIMON:

Q. What do you mean by that?

A. People came from Augusta, you know, over there. He said that was the crowd, and none of his men hadn't done it. I said I don't know; I seed some of his men looked pretty bad, too, and I thought they would take things just as soon us anybody else. He says, "Well, there's bad men in all crowds."

By Mr. CAMERON:

Q. Was the furniture in your house injured?

A. Yes, sir; everything was broke up. The bedstead—the headboard was split open; the things on the bureau was broke; took all my lamps out of my house; tore down the curtains around the room, but didn't carry them off, but tore them down; spit over my wife's clothes and walked over them; just walked right along and spit on them.

By Mr. MERRIMON:

Q. Harry, what did they do all this mischief for?

A. Well, they said to me, sir, before it happened, that I would see it; that the white people intended to carry this State democratic. That's what Harrison Butler told me that night when I was going home, as I said to you before. They told me, after they done killed the men that was lying there, then that, by God, they intended to carry this State; and I asked them how they intended to carry it, and I said, "Well, if that's the way you are going on, I aint going to vote no more; I'm done voting." They said, "You better be done unless you vote the democrat ticket."

Mr. CHAFFEE, (at three o'clock and forty minutes a. m.) I make the point of order that there is not a quorum present.

The VICE-PRESIDENT. The Senator from Colorado raises the point of order that there is not a quorum present. The Secretary will call the roll of the Senate.

The Secretary proceeded to call the roll.

Several SENATORS, (to Mr. MITCHELL, who did not answer to his name.) Why do you not answer?

Mr. MITCHELL. Mr. President, I am paired. I have no right to vote or to be present either. There was a positive agreement between the Senator from North Carolina [Mr. MERRIMON] and myself that we should both go home. He went, and I was not disposed to go.

Mr. HILL and others. That does not excuse you.

Mr. MITCHELL. If I break my pair on this, I shall break it on other matters. I give notice of that fact, because that was the understanding. If the other side desire that I should break the pair now, I shall do it on all matters.

Mr. SAULSBURY. I am in favor of every man exercising his own judgment in regard to his actions. No example ever has been set which has not been followed.

Mr. WALLACE. I do not understand that it is a question of voting now. It is simply a question of the presence of a majority in the Senate in order to make up a quorum. I presume the Senator must answer to his name or that he will do so.

Mr. MITCHELL. I stated precisely what I am willing to do. If the Senate orders me to answer, of course I shall answer; and if it is insisted that I shall answer after the arrangement I have made with the Senator from North Carolina that we both should leave the Senate and go home, I shall consider the pair broken.

Mr. HILL. The Senator from Oregon will understand that we are not insisting upon anything. Still we give our opinion.

Mr. CHAFFEE. I object to debate unless there is a quorum present.

Mr. WHYTE. I desire to inquire whether a quorum have answered to their names.

The VICE-PRESIDENT. The Chair is awaiting the report of the Secretary. He is calling the roll for that purpose. There is not a quorum present, the Chair is informed.

Mr. WHYTE. Then I move that the Sergeant-at-Arms be directed to compel the attendance of absent Senators.

The VICE-PRESIDENT. The question is on the motion of the Senator from Maryland, that the Sergeant-at-Arms be directed to procure the attendance of absent Senators.

The motion was agreed to.

The VICE-PRESIDENT. The Sergeant-at-Arms will execute the order of the Senate.

Mr. DAVIS, of West Virginia. I think there are Senators enough about the Chamber, but they are asleep, and all that is necessary to do is to inform them that their presence is required.

Mr. SPENCER. I rise to a point of order. I do not think the Sergeant-at-Arms can compel the attendance of absent Senators.

The VICE-PRESIDENT. It is the order of the Senate.

Mr. COCKRELL. That is done under one of the new rules adopted at the last session. I helped to make that rule just to meet such an emergency.

Mr. BAYARD. I call for the reading of Rule No. 3.

The VICE-PRESIDENT. The Chair is aware of it. Does the Senator wish it read for the information of the Senate?

Mr. BAYARD. Yes, sir; I ask that it may be read.

The VICE-PRESIDENT. The Secretary will read the third rule of the Senate.

The Chief Clerk read as follows:

3. No Senator shall absent himself from the service of the Senate without leave of the Senate first obtained. Whenever it shall be ascertained that a quorum is not present, a majority of the Senators present may direct the Sergeant-at-Arms to request, and, when necessary, to compel, the attendance of the absent Senators; which order shall be determined without debate; and pending its execution, and until a quorum shall be present, no motion, except a motion to adjourn, nor debate, shall be in order.

Mr. MITCHELL. What is the pending question?

The VICE-PRESIDENT. No motion is in order except a motion to adjourn.

Mr. MITCHELL, (at three o'clock and fifty minutes a. m.) Then I move that the Senate adjourn.

Mr. McDONALD. I ask for the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. GARLAND. Is that motion in order until the Sergeant-at-Arms has executed the order of the Senate?

The VICE-PRESIDENT. It is in order.

Mr. DAVIS, of West Virginia. Mr. President——

The VICE-PRESIDENT. That motion is not debatable.

Mr. DAVIS, of West Virginia. I rise to a point of order.

Mr. MITCHELL. I withdraw my motion for the present.

Mr. DAVIS, of West Virginia. The Senator from Oregon was not present for any purpose a moment ago, and my point is that it is not in order for him to make the motion.

Mr. TELLER. I move that the Senate adjourn.

The VICE-PRESIDENT. The yeas and nays will be regarded as ordered upon that motion.

The question being taken by yeas and nays, resulted—yeas 4, nays 26; as follows:

YEAS—Messrs. Cameron of Pennsylvania, Dawes, Teller, and Wadleigh—4.

NAYS—Messrs. Bailey, Bayard, Beck, Cockrell, Coke, Davis of West Virginia, Dennis, Garland, Gordon, Harris, Hereford, Hill, Jones of Florida, Kernan, Lamar, McDonald, McPherson, Morgan, Patterson, Randolph, Saulsbury, Thurman, Voorhees, Wallace, Whyte, and Withers—26.

ABSENT—Messrs. Allison, Anthony, Armstrong, Barnum, Blaine, Booth, Bruce, Burnside, Cameron of Wisconsin, Chaffee, Christiancy, Conkling, Conover, Davis of Illinois, Dorsey, Eaton, Edmunds, Ferry, Grover, Hamlin, Hoar, Howe, Ingalls, Johnston, Jones of Nevada, Kirkwood, McCreery, McMillan, Matthews, Maxey, Merrimon, Mitchell, Morrill, Oglesby, Paddock, Plumb, Ransom, Rollins, Sargent, Saunders, Sharon, Spencer, and Windom—43.

The VICE-PRESIDENT. The vote discloses that no quorum is present.

Mr. THURMAN. Mr. President, I move that the Sergeant-at-Arms be directed——

The VICE-PRESIDENT. That order has already been made.

Mr. WHYTE. We should like to know whether it has been executed?

The VICE-PRESIDENT. The Chair is not aware of the fact that it has been.

Mr. WHYTE. The Sergeant-at-Arms is present in the Senate.

The VICE-PRESIDENT. The Chair does not know what report he has to make. [The Sergeant-at-Arms communicated with the Chair.]

The Sergeant-at-Arms has informed the Chair that he has notified the Senators, but has no means of compelling their attendance.

Mr. THURMAN. I believe one of the new rules applies to this case.

The VICE-PRESIDENT. The rule has been cited and the order made in pursuance of it. The Sergeant-at-Arms has been directed to compel the attendance of Senators. That is the order of the Senate.

Mr. WHYTE. Does the Sergeant-at-Arms report that he has notified the absent Senators to attend?

The VICE-PRESIDENT. He does.

Mr. WALLACE. Does he make his report in writing to the Clerk's desk?

Mr. COCKRELL. And name the Senators?

Mr. WHYTE. Does he name the Senators who have been notified and refuse to attend?

Mr. WALLACE. We want it upon the record.

Mr. WHYTE. Let that report be made and filed of record.

After a pause,

Mr. CONKLING, (at four o'clock a. m.) Mr. President, is it in order for me to inquire what proceeds now? I have been out for a few moments.

The VICE-PRESIDENT. The Sergeant-at-Arms is executing the order of the Senate in producing absent Senators.

Mr. CONKLING. Does the Senate find itself without a quorum?

The VICE-PRESIDENT. It has on two votes.

Mr. WALLACE. I understand that the business before the Senate now is obtaining the names of Senators who have been requested to attend but have failed to obey the summons of the Sergeant-at-Arms?

Mr. CONKLING. Is there such a motion before the Senate?

Mr. WALLACE. The Sergeant-at-Arms has been requested to present the names of Senators who refuse to attend.

The VICE-PRESIDENT. He is now preparing the report.

Mr. CONKLING. If any business is in order, it is proper for me to be heard on that motion, and I submit that I have a right to debate it.

The VICE-PRESIDENT. The Chair holds that no debate is in order, and no motion is in order except to adjourn.

Mr. CONKLING. Then I have a right to inquire, in order, by what authority less than a quorum the Sergeant-at-Arms is directed to spread on the record anything?

Mr. WHYTE. By the rule of the Senate.

Mr. CONKLING. I want to see the rule.

Mr. COCKRELL. The rule we made at the last session.

The VICE-PRESIDENT. It was not the order of the Senate, but a suggestion of Senators that he make his report in writing.

Mr. CONKLING. I object to that, Mr. President, if I have a right to, and I believe I have under this rule.

The VICE-PRESIDENT. The Senator's objection will be in order when the report shall be presented.

Mr. CONKLING. I object to anything except what this rule calls for, and there is nothing here which authorizes the Sergeant-at-Arms or anybody else to publish to the country absent Senators.

Mr. THURMAN. I call the Senator from New York to order.

Mr. CONKLING. I have a right to submit my point of order to the Chair, which I do, and it is that, in the absence of a quorum, no order can be made and no proceeding had except either to adjourn or to direct the Sergeant-at-Arms to do what this rule specifies; that is "to request, and, when necessary, to compel the attendence of the absent Senators, which order shall be determined without debate." I respectfully submit to the Chair that a motion, or a suggestion, or a hint that the Sergeant-at-Arms present any written report or take any other proceeding to publish to the country Senators who, from infirmity or any other cause, have been compelled to go off now at four o'clock in the morning, is not in order under this rule.

Mr. WHYTE. Mr. President, I rise to a point of order. There is no quorum, and debate under this rule is not in order.

Mr. CONKLING. I have submitted that I agree with the Senator; nor is a suggestion, or an order to the Sergeant-at-Arms to do any such thing in order.

Mr. WHYTE. The Senate is entitled to hear from the Sergeant-at-Arms whether he has executed the order of the Senate.

Mr. CONKLING. Unquestionably.

The VICE-PRESIDENT. The Sergeant-at-Arms is now preparing that report, the Chair understands, in his office.

Mr. ANTHONY. I wish to vote "yea" on the motion upon which the roll-call is proceeding.

Mr. THURMAN. Was there a call of the Senate, Mr. President? I ask that the absentees now be called.

The VICE-PRESIDENT. The roll will be again called.

Mr. THURMAN. Let there be another call of the Senate. I think there is a quorum present now.

The VICE-PRESIDENT. The Secretary will call the roll.

Mr. THURMAN. It is always in order to find out whether we have a quorum.

Mr. CONKLING. The call has taken place. The Sergeant-at-Arms is to report.

Mr. COCKRELL. Is it not proper now to call the names of the absentees?

The VICE-PRESIDENT. The Chair thinks not.

Mr. GARLAND. Is not the rule that nothing can be done until the Sergeant-at-Arms makes his report?

The VICE-PRESIDENT. There is no such rule. A motion to adjourn is in order. The rule does not provide for any report of the Sergeant-at-Arms.

Mr. GARLAND. The Senate ordered him to make a report.

The VICE-PRESIDENT. The only parliamentary motion now is that the Senate adjourn.

Mr. GARLAND. If he was ordered to make a report I contend that that order should be executed.

The VICE-PRESIDENT. The Secretary will call the roll.

Mr. CONKLING. Does the Senator from Arkansas submit a motion to adjourn?

Mr. GARLAND. No, sir; and I do not want the roll called. I want the report from the Sergeant-at-Arms which he has been directed to make. That, in my opinion, is the regular order; and I submit that motion.

Mr. CONKLING. That is not in order.

The VICE-PRESIDENT. That is already the order of the Senate. The Senate is awaiting the report of the Sergeant-at-Arms, and pending that a motion to adjourn is in order, or a suggestion that the roll be called.

Mr. GARLAND. Who has made a motion to adjourn?

Mr. CONKLING. We supposed on this side that the Senator from Arkansas rose to submit that motion.

Mr. GARLAND. That side is very much mistaken; the Senator from Arkansas submitted no such motion.

Mr. CONKLING. The Senator rose, and as no other motion was in order I thought he made it.

Mr. THURMAN. I hope the call of the roll will proceed. It is obviously the right of the Senate to ascertain at any time whether it has a quorum.

Mr. CONKLING. The roll has been called, and it has been ascertained that there is no quorum.

Mr. THURMAN. That was some time ago; and now I know there is a quorum. The roll-call will disclose the fact.

Mr. GARLAND. Now, what becomes of the order which has been entered that the Sergeant-at-Arms make his report?

The VICE-PRESIDENT. Whenever he comes in it will be received, if the Senate desires.

Mr. GARLAND. That is the ruling of the Chair. Then I want to know what becomes of that order.

The VICE-PRESIDENT. The Secretary will proceed with the call of the roll.

The Chief Clerk called the roll; and thirty-seven Senators answered to their names.

The VICE-PRESIDENT. A quorum is present. The Senator from New Hampshire will proceed.

Mr. WADLEIGH. Mr. President——

The VICE-PRESIDENT. The Chair desires first to understand from the Senator from Maryland whether he desires the proceedings to be prosecuted further?

Mr. WHYTE. Yes, sir; I desire to have the report of the Sergeant-at-Arms.

The VICE-PRESIDENT. The Sergeant-at-Arms has placed before the Senate a report, which will be read——

Mr. CONKLING. Do I understand the Chair aright to say that a quorum is present?

The VICE-PRESIDENT. He is so informed by the Secretary.

Mr. CONKLING. Then I believe business is in order and it is in order for me to rise to a question of order, and I do so not because the present instance is of any consequence, the Senate having found itself now with a quorum, but for the future it may be important for us to know how the new rule as it is called operates upon the Senate. I submit to the Chair that this proceeding is not warranted by any rule that ever prevailed in the Senate, and certainly not by this rule which I hold in my hand. A question under the rule was raised by some Senator,—I was out at the time and do not know by whom,—a call of the roll disclosed the absence of a quorum. Thereupon but two motions by any possibility were in order. One was a motion to adjourn. That was not made. The other was a motion that the Sergeant-at-Arms request, or perhaps it was to "compel, if necessary, the attendance of absent members" which the rule says "shall be determined without debate."

That order was passed. Under that order the roll was called, I am told by Senators who were here. On the call of the roll it turned out that a quorum was not present and the Sergeant-at-Arms proceeded to notify absent Senators. Several Senators came in, I among others; and then, on the suggestion of the Senator from Ohio, the roll was called again, having once been called and fully called and the fact disclosed that there was no quorum and the Sergeant-at-Arms was directed to make a report of the absentees. The roll was called again, and now the Chair announces that the fact is that a quorum is present.

Just look at the condition of this proceeding. What has become of the prior order? Certainly it is not in order to proceed now because a quorum is present and the rule permits the proceeding to take place only in the absence of a quorum. Thus we have the order of the Senate fully executed, the Sergeant-at-Arms waiting to make his report, but in the mean time on a fresh roll-call at the suggestion of the Senator from Ohio a quorum is found present, and the Senate has on its hands a partly executed order which a quorum has no power in the world to execute or to do anything about, because the rule says that that power obtains only "whenever it shall be ascertained that a quorum is not present." A fresh proceeding has now ascertained that a quorum is present, and here is this unexecuted order which, according to the rules with which the Chair is very familiar in the other House, as here, must be disposed of in some way or other. Ordinarily when Senators have been invited to come in, they come in and appear, and in that way, not by a fresh roll-call, it turns out a quorum is present, and then a motion is customarily made to dispense with further proceedings under the call. Now, are we to dispense with further proceedings under the call? The call under which this proceeding took place has been superseded by another call, and that call reveals the presence of a quorum, and thus the rule and the proceeding is thrown I submit into utter disorder.

Mr. WITHERS. I submit to the Senator by what process is it possible to ascertain whether a quorum is present except by calling the roll the second or third time or a dozen times if necessary?

Mr. CONKLING. The rule provides that the roll shall be called as it was called in this case.

Mr. WITHERS. Precisely.

Mr. CONKLING. Then it provides that in one event and only in one event, namely the absence of a quorum, this order shall be made. That was done. In place of the Sergeant-at-Arms reporting and the Senate proceeding under that call, a fresh roll-call was demanded and a fresh roll-call has taken place, and that reveals the presence of a quorum.

Mr. WITHERS. Precisely; and in a proper parliamentary mode.

Mr. CONKLING. That is the opinion of the Senator?

Mr. WITHERS. It is.

Mr. CONKLING. I should like to know whether the Senator ever happened in the Senate before to witness such a proceeding as this.

Mr. WITHERS. No, sir; I never did in this Senate, but I often did in other deliberative bodies which were subject to the same rules.

Mr. CONKLING. The Senator has not seen it here, and he has been here some time. I have been here some time, and have not seen it here.

Mr. WHYTE. The new rule governs the case.

Mr. CONKLING. The new rule, I remind the Senator from Maryland, makes no change whatever, material to this point. The change made by the new rule is the introduction of the words, "and, when necessary, to compel." That does not change at all the bearings of the rule which I am now discussing. The point is that this rule is applicable, and applicable only to the absence of a quorum.

Mr. THURMAN. Will my friend let me ask him a question?

Mr. CONKLING. Several.

Mr. THURMAN. Suppose the Sergeant-at-Arms were now to bring in a Senator in custody, (for compelling means bringing in in custody, if it means anything,) would the fact that there was a quorum here deprive us of any right to say what should be done with that member who was brought here in custody: whether he should be censured, or confined, or how dealt with?

Mr. CONKLING. If the Senator were to be brought here in custody, it would arouse my indignation to such an extent that I should not be prepared to say what should be done; but if some Senator that I could endure to see brought in should be brought in under such circumstances, I submit to the Chair that the proceeding would be this: the Senator comes in and answers as the Senator from Rhode Island [Mr. ANTHONY] did, not by a fresh call of the roll, but he comes in to address the Chair and says "I am here." That he has a right to do, not on a new roll-call, but on the old roll-call. That is executing that order. The Sergeant-at-Arms has invited him and he has come in; but the Senator from Ohio suggests that as a fresh proceeding the roll be called again. Now just see for one moment to what this proceeding would reduce a parliamentary body. If a half-dozen Senators were to step out from time to time by accident or design, this calling of rolls might go on eternally and you would never get to an end, whereas the rule means that the roll shall be called, that if that call reveals the absence of a quorum the body shall either adjourn or shall make the order which was made here and that that order shall be executed. When it is executed and a quorum is being brought in, undoubtedly it is in order to move, (as you can make any other parliamentary motion a quorum being present,) that further proceedings under the call be dispensed with. Then the body finds itself with a quorum.

Now, this proceeding supersedes entirely what took place before the Sergeant-at-Arms has any right, I submit, to make any report, and there is no mode of disposing of that prior proceeding, except to say that by another, and, as I think, irregular proceeding, it has been superseded.

Mr. BAYARD. Mr. President, there is another part of this rule which we have had practically in operation here within the last half hour that I think entirely disposes of the objection raised by the Senator from New York, that there is anything in the calling or recall-

ing of the roll that tends to confuse the business of the body. The rule directs that—

A majority of the Senators present may direct the Sergeant-at-Arms to request, and, when necessary, to compel the attendance of the absent Senators; which order shall be determined without debate; and, pending its execution, and until a quorum shall be present——

Mr. CONKLING. "And until."

Mr. BAYARD. "And until a quorum shall be present, no motion, except a motion to adjourn, nor debate, shall be in order."

After the majority of the Senators present had directed the Sergeant-at-Arms to request the attendance of absent Senators, some one moved to adjourn. There had been previously a call of the roll, which disclosed the absence of a quorum. After the order had been made to the Sergeant-at-Arms to request the attendance of absent members, a motion was made to adjourn, and on that the yeas and nays were called, which disclosed still the absence of a quorum. So I say that under the rule it should not be strictly in order to have a repeated call of the roll. A motion to adjourn would test by yeas and nays the presence of the number of Senators requisite; so that no confusion could come in that way; and I have not been able to see how confusion should arise from any motion before the Senate to ascertain the number of persons present to conduct its business according to its rules; but the duplication of the call could be readily supplied, and a test of the number of those present practically had by a motion to adjourn, which was put here.

Mr. CONKLING. The rule provides for it.

Mr. BAYARD. The rule provides for it, and under the rule the roll was called, and so now it can be ascertained in the same way if that were the only method; but I do not think it is.

Mr. CONKLING. Now, Mr. President, just there, to add only a word: my point can be stated fully on the part of the rule which the Senator from Delaware has read:

And pending its execution—

That is, the order to the Sergeant-at-Arms—

And until a quorum shall be present, no motion, except a motion to adjourn, nor debate, shall be in order.

In place of that rule having been observed, pending that order, and in spite of this rule, a motion or suggestion is made by a Senator that the roll be called over again; and when it is called it turns out that there is a quorum present, and this other order which has been made is in a predicament which I do not altogether understand, but in some way it is supposed to be superseded by this fresh proceeding, which the rule forbids, if I can understand the meaning of the language.

Mr. WITHERS. I would inquire of the Senator from New York by what procedure in his opinion is the presence of a quorum to be ascertained. It having once been demonstrated that a quorum is not present, and the Sergeant-at-Arms having been directed to invite or compel the presence of absentees, pending the execution of this order, the Senator from New York says, and until a quorum shall be present, no motion except a motion to adjourn shall be in order. How is it possible to ascertain the presence of that quorum? Is it not perfectly competent for the presiding officer upon motion or upon his own volition to order a call of the absentees in order to ascertain the fact whether a quorum is present or not. If that be not the procedure, by what process does the Senator propose to ascertain the fact?

Mr. CONKLING. Why, Mr. President, whether it would be in order if the Sergeant-at-Arms reported A, B, C, and D were absent, to call those absentees, is another question. The proposition I am combating is that it is in order to have a fresh roll-call *de novo*. Now, the Senator asks me how you are to ascertain the presence of a quorum. In the way in which he and I have so often seen it ascertained, in the way illustrated here this evening by the Senator from Rhode Island, [Mr. ANTHONY,] who being invited or informed came in, rose in his place, addressed the Chair, and answered. He is marked on the roll-call. On which roll-call? The original roll-call——

Mr. WITHERS. That is the roll-call of absentees though, at last.

Mr. CONKLING. It is a part of the original roll-call. He gets up and notes his presence. The thing I am combating is that dispensing with that roll-call entirely, and in spite of this rule, a new proceeding is invented and set on foot. I say that is not within the rule.

Mr. THURMAN. Mr. President, I do not know but that the time of the Senate might as well be occupied with this matter as with any other; but really it does seem to me that the only reason in the world why this question is mooted is that the Senator from New York wants to give some variety to the proceedings. I cannot see anything else.

Mr. President, you have often noticed that in the deepest of Shakespeare's tragedies, those which excite our emotions and stir our hearts to their utmost depths, there is a comic scene. It is not all tragedy. It is tragedy and comedy intermixed.

Mr. EDMUNDS. Here is the book. [Exhibiting a copy of Shakespeare.] Will the Senator point out the passage? [Laughter.]

Mr. THURMAN. I should, with great pleasure, but my friend from Vermont, who feeds on poetry morning, noon, and night, does not need me to point out any poetry to him. That is the only reason I can think of for the Senator from New York at four o'clock in the morning introducing this subject which he has brought to the attention of the Senate. Mr. President, I have a very few words to say in reply to that.

In the first place, I say that there is not one minute in the day when the Senate is in session that it is not in order to ascertain whether a quorum is present, and that no rule can exist, or does exist, or ever did exist in any legislative body which prevented the ascertainment of that fact at any moment of the day. I could have got up and asked you, Mr. President, to stand and count the Senate. It would have been within your discretion whether to do it or not. It would have been a perfectly proper request for me to make. If I had made a motion it would have been perfectly proper for you to say "I cannot put that motion now, because on the last call of the Senate there was not a quorum present. I cannot put it until I ascertain that there is a quorum, and I will ascertain that by counting the Senate."

Mr. CONKLING. The rule says he shall not.

Mr. THURMAN. No; it does not say any such thing.

Mr. CONKLING. Read the second rule. That rule says:

If, either at the commencement of any daily session of the Senate, or at any time during its daily sessions, a question shall be raised by any Senator as to the presence of a quorum, the Presiding Officer shall forthwith direct the Secretary to call the roll of Senators, and shall announce the result to the Senate; and these proceedings shall be without debate.

Mr. THURMAN. To be sure it does.

Mr. CONKLING. The Senator says he has a right to ask that the Senate be counted.

Mr. THURMAN. To be sure it does say that; but that is not the only right the Chair has. The Chair would have had a perfect right, without any request from a Senator, without any request whatsoever, or without any question whatever being made, to have said, if I had made that motion, "I will not put that motion until I ascertain whether there is a quorum." Why, sir, I can recollect in the olden times—and I do not like to talk about the olden times for it makes me old—that the President of the Senate refused to let the Chaplain utter his daily prayer, refused to call the Senate to order until he had stood at your desk and counted and seen that there was a quorum.

Mr. CONKLING. The rule provided for that.

Mr. THURMAN. No; but those who recollect when William R. King, of Alabama, was President of the Senate will remember that he never would call the Senate to order until he saw that there was a quorum.

Mr. EDMUNDS. May I ask the Senator, then, how it could possibly occur if a quorum did not appear that the Senate would be called to order?

Mr. THURMAN. He never would call the Senate to order until there was a quorum.

Mr. EDMUNDS. Yes; but suppose that did not happen, how would he have ruled it?

Mr. THURMAN. That case never did happen. That is sufficient reason. Let us see now has it happened? Here is this very rule which says:

A majority of the Senators present may direct the Sergeant-at-Arms to request, and, when necessary, to compel, the attendance of the absent Senators, which order shall be determined without debate.

Now, suppose this order had been made on the Sergeant-at-Arms to request the attendance of absentees, and that would have been the only order we could have made prior to this new rule. Under the old practice no other order ever was made; the Senate could not compel the attendance of an absent Senator; at least, it never assumed to do it. All it ever assumed to do was to request him. Suppose the first order had been made here that the Sergeant-at-Arms should request the attendance of absent Senators, would it not be right to receive his report that he had made that request? Would it not be right for him to report that he had requested the Senator from New York to attend and that the Senator from New York had told him he would not attend?

Mr. CONKLING. That is not a supposable case.

Mr. THURMAN. It is a supposable case. Would it not have been his right to so report, and would not the Senate have a right to that fact before it in order to determine whether it would compel his attendance? And does not that show conclusively that those who are here have a right to a report from the Sergeant-at-Arms of his proceedings?

Again, sir, suppose that the Sergeant-at-Arms reports, "I have gone under the order of the Senate," which was to compel the attendance of Senators, "and I find Mr. A B sick and Mr. C D sick and Mr. E F sick;" is not that a proper return for him to make in order that the Senate may know what it will do in those cases? Why, Mr. President, it will not do at all to say that there is anything abnormal about this business. The great object of the Senate is to have a quorum to do business, and whenever that fact can be ascertained, whether by a new call or whether by the President of the Senate counting the Senate, it is perfectly right and proper to do it.

Mr. EDMUNDS. May I ask the Senator a question before he sits down?

Mr. THURMAN. Certainly.

Mr. EDMUNDS. I call the attention of my honorable friend from Ohio to page 37 of the book he has, section 5 of article 1 of the Constitution:

Each House shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each House may provide.

Now, what I wish to ask the honorable Senator is where each House is to get that authority which the Constitution says it may be authorized to exercise. Another clause of the Constitution says that Congress shall have power to pass all laws necessary to give due execution to all the provisions of the Constitution. I submit to my honorable friend's judgment, and in all seriousness, whether, without an act of Congress which shall provide for the two Houses exercising this power of depriving a citizen of his liberty, sick or well, there is any authority in either body to do it by any rule, because a temporary order is a rule for the occasion. My question is whether either House by a standing or temporary rule has the power to compel, that is to say, to arrest a member and bring him in—because that is compulsory—without the authority of an act of Congress to provide for it.

Mr. THURMAN. I will answer the question. I answer it by saying that these words, "as each House may provide," apply as well to the words, "may be authorized" as they do to every other part of this section of the Constitution. and each House provides for itself.

Mr. EDMUNDS. Is the Senator quite sure that that is the true construction?

Mr. THURMAN. I will not say that I am if the Senator says it is not so. On a legal question I am never quite sure when he dissents from me.

Mr. EDMUNDS. I do not dissent. I only wish to get the Senator's opinion on the record.

Mr. THURMAN. That is my idea about it, and I think there cannot be any reasonable doubt about it. The reason why heretofore there has never been any authority to compel the attendance of a Senator has been from the fact that the Senate never, until this third rule was passed, authorized any such thing to be done. The House of Representatives did it long ago, and compelled attendance, and did it without any act of Congress; and nothing is more common there than for members to come in and give their excuse, and be excused for their non-attendance, and without any act of Congress at all. That has been the interpretation of this clause of the Constitution from the beginning, I think, and certainly it is the interpretation which I should have placed upon it, for I never believed and cannot believe that either House would agree that the other House should in any manner interfere with or regulate its rules in regard to compelling the attendance of its own members.

Mr. EDMUNDS. Of course not. Neither House can control the other; but everybody knows that each House has, in the sense of law-enacting, regulated the proceedings of the other. Every step in the House of Representatives in respect to contested elections, as I understand from the statute—I am not appealing to their proceedings—is regulated by statute, the methods of proof, and so forth.

Mr. HILL. Allow me to suggest that this is not a question of legislation. This is simply a question of regulating the proceedings of this body, with which the other House has nothing to do and can have nothing to do. The Constitution provides that each House shall adopt its own rules to regulate its proceedings. I do not give the exact language, but the substance. This is a rule for the government of this body, to regulate its own proceedings. This House has adopted a rule to regulate proceedings in the matter of the absence of a quorum, and the rule is that it may direct the Sergeant-at-Arms to request, or, if necessary, to compel, the attendance of the absent Senators. That is the rule of this House and that is the authority. The authority comes from this Senate, and I presume the Senator from Vermont would not say that is a subject of legislation, but simply a rule for the government of this body. Here is the clause:

> Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

This is simply a question of behavior; this is simply a question of order; this is simply a question of the proceedings of this body, and this body has absolute authority under the Constitution to adopt its own rules on this subject, and I must say that I do not think the Senator from Vermont can assert or will pretend to assert that we must pass a law and submit it to the other House and to the President for his approval, providing what rules we shall adopt for the government of this House. We have a right, it is an absolute right, to adopt our own rules for the government of this body without asking any other body's permission, or seeking any other body's concurrence, or asking the approval of the other House or of the Executive. It is none of their business. It is not a question of legislation but simply of the order of proceeding.

I will say while I am up that all rules have to be executed in some intelligent manner. It does appear to me, I will say frankly, that when it is ascertained that a quorum is not present, the members who are less than a quorum may order the Sergeant-at-Arms to compel or request the attendance of absent members. I think it would be a proper rule, and I think it is the parlimentary rule to call the roll of the absentees to ascertain who is absent and to furnish the Sergeant-at-Arms with that list of absent names and tell him to take those names and compel their attendance; and I think that as he brings them in one by one, singly or in platoons, they ought to render an excuse, and as they render their excuse they are recognized as present, and you do in that way ascertain whether there is a quorum. This I think would be the regular course of procedure. I think that is the parlimentary method, because how can the Sergeant-at-Arms know whom to bring in? He is not presumed to be a member of the body; he must have information from those who are here as to who is absent, and he takes that as a list of absentees and he goes to execute the order, and he brings them in until we get a quorum.

I do not see that the Senator from New York can take anything by his point of order, because the offense is committed against the rules of the Senate whenever Senators are absent without leave.

Mr. CONKLING. If the Senator from Georgia will allow me a moment, I do not wish if I can to take anything by my point. A quorum is present; and I commenced by saying that in this instance it was practically unimportant; but I was led to the discovery from the Senator's remarks that he is able to see perhaps more vividly than I am how in future it may be important whether the rule is as he has stated it—and I agree with him entirely—or whether it is that any Senator who chooses can get up and suggest another roll-call, and in that way involve and supersede the previous proceeding so as to let out every Senator who chose to absent himself on the previous roll-call simply by his coming in and answering.

Mr. HILL. I concur with the Senator from New York that it would be more regular to do what he and I think would be the proper way of doing, but the question is what the effect of the second call of the roll was——

Mr. BECK. Mr. President, I rise to a parliamentary inquiry. I want to know what the question is before the Senate?

The VICE-PRESIDENT. The Chair is not aware.

Mr. BECK. Then I object to all this talk.

Mr. HILL. I was simply going to read——

Mr. BECK. I object.

The VICE-PRESIDENT. The Senator from Kentucky objects to further discussion, there being no question before the Senate.

Mr. EDMUNDS. Is there no question at all before the Senate?

The VICE-PRESIDENT. The Chair is not aware that there is any question except the amendment proposed by the Senator from Oregon [Mr. MITCHELL] to the resolution of the Senator from Ohio, [Mr. THURMAN.]

Mr. EDMUNDS. Will the Chair be kind enough to have that amendment reported? I think I have the floor now.

Mr. WITHERS. I ask if the debate did not arise on the proposition that the Sergeant-at-Arms make his report?

The VICE-PRESIDENT. The Chair was not aware of that. The Chair understood the Senator from New York, when he came in, to object to this entire proceeding from the beginning.

Mr. CONKLING. If by that the Chair means the proceeding of starting a fresh roll-call, and abandoning the previous call, I did so object; and I ventured to call the attention of the Chair and of the Senate to it for the future. It has passed practically for this time; but I simply wanted to state, as I thought it was well to do, my understanding of this rule, to the end that at some time when it becomes material we should not be in confusion about our practice.

The VICE-PRESIDENT. The Chair supposes the situation to be this: the last roll-call, which was regular and permissible at all times, as the Senator from Ohio has justly remarked, under the second rule of the Senate, disclosed the fact that there was a quorum present. It remains now for the Senate to determine what disposition shall be made of the Senators who were absent on the previous roll-call. That is for the Senate to determine, and not for the Chair.

Mr. EDMUNDS. On that point, I move, in order to explain my position, that the Sergeant-at-Arms be directed to bring in the other absentees, great and small, black and white—all but the sick——

The VICE-PRESIDENT. That order has already been made.

Mr. HILL.. Mr. President, I rise to a point of order. As the Senator is himself a prisoner at the bar of the Senate, what right has he to make a motion? [Laughter.]

Mr. EDMUNDS. I have no official intimation of that fact, Mr. President.

The VICE-PRESIDENT. The Chair has no official knowledge of such a fact.

Mr. HILL. The Senator has been arraigned for disobedience to the Senate.

The VICE-PRESIDENT. The Senator from Vermont has the floor.

Mr. PADDOCK. I should like to inquire what the exact question before the Senate now is?

The VICE-PRESIDENT. The Senator from Vermont made a motion.

Mr. EDMUNDS. But the Chair said that motion had already been made.

The VICE-PRESIDENT. It had already been made.

Mr. EDMUNDS. Then I move to dispense with all further proceedings.

The VICE-PRESIDENT. The Senator from Vermont moves that all further proceedings under this call be dispensed with, which is in order.

Mr. WHYTE. Was not the Senator from Vermont an absentee himself?

Mr. EDMUNDS. I do not know. I think I am here now.

Mr. WHYTE. But you were not here when the order was made.

Mr. EDMUNDS. I do not know about that.

Mr. WHYTE. The record will show it.

Mr. EDMUNDS. I do not know that.

Mr. CONKLING. The fresh call superseded that.

Mr. WHYTE. He was not present at the fresh call. The roll-call will disclose whether or not he is in default.

Mr. CONKLING. That is a last year's bird's nest.

Mr. GARLAND. Will the Senator from Vermont yield to me for a moment?

Mr. EDMUNDS. I must really explain my position before I yield.

Mr. GARLAND. I want to help my friend to keep the peace.

Mr. EDMUNDS. My friend is very kind. I will call for volunteers presently, if I need them.

Mr. GARLAND. I am ready to volunteer when called for.

Mr. EDMUNDS. I shall certainly need his attendance, and I shall not call for any other if I can have his. He may be sure of that.

Now, on this motion to dispense with further proceedings, I wish to ask——

Mr. GARLAND. Mr. President, I rise to a point of order.

The VICE-PRESIDENT. The Senator from Arkansas will state his point of order.

Mr. GARLAND. Until the Sergeant-at-Arms makes his report to the Senate and they take that report into consideration, nothing else is in order, unless a motion to adjourn.

The VICE-PRESIDENT. The Chair overrules that point of order. A motion to dispense with proceedings under a call is always in order.

Mr. GARLAND. A motion to dispense with the report of the Sergeant-at-Arms?

The VICE-PRESIDENT. To dispense with all proceedings under the call. The Senate can abandon it at any instant.

Mr. GARLAND. Is that question debatable, if the President please?

The VICE-PRESIDENT. The Chair thinks not.

Mr. GARLAND. Very well, then, I raise that point of order.

Mr. WHYTE. Can that proposition be made by an absentee?

The VICE-PRESIDENT. The Chair is not aware that the Senator was an absentee.

Mr. WHYTE. The roll shows it. The roll-call must show whether he was or not.

The VICE-PRESIDENT. The Chair can only judge by analogy to a rule of the House. If a man is adjudged in contempt there he can make no motion, but he must first be adjudged to be in contempt. There is no such judgment of the Senate in the case of the Senator from Vermont.

Mr. EDMUNDS. In order to gratify my friend from Maryland I will move to postpone the question about South Carolina—is that it? It is so long ago I have forgotten—and take up the question of my contempt, in order that we may find out exactly where we are. [Laughter.]

Oh, no, Mr. President, I am sure my friends do not wish to cut this thing off at this moment. What I wish to ask the Senator from Georgia in all seriousness—because this is important, not at the present moment, but afterward; it is right that we should do right now when it is of no consequence, and then all may follow right hereafter, and not scorn the consequences, which some people say they are ready to do—I wish to ask the Senator from Georgia what his theory of this fifth section of the first article of the Constitution is?

Mr. HARRIS. I thought the Senator from Kentucky had objected to further discussion unless there was a debatable question before the Senate.

The VICE-PRESIDENT. The Chair thinks the motion is not debatable. The pending motion is that proceedings under the call be dispensed with. Is the Senate ready for the question on that motion?

Mr. EDMUNDS. I will withdraw the proposition, then. Now, what is the pending proposition?

The VICE-PRESIDENT. The pending question is on the amendment proposed by the Senator from Oregon [Mr. MITCHELL] to the resolution of the Senator from Ohio, [Mr. THURMAN.]

Mr. EDMUNDS. Upon that question I shall be glad to address the Senate if there is no special objection on the part of anybody. Now, if the Secretary will be good enough to read the amendment I will express my views upon it.

The VICE-PRESIDENT. The Secretary will report the amendment.

The CHIEF CLERK. It is proposed to amend the resolution by inserting at the end of it:

And that this resolution be made the special order for to-morrow, November 27th, at half past twelve o'clock p. m.

Mr. EDMUNDS. Now, Mr. President, I wish to consider—and I think if Senators will be attentive they will see that there is force in it—the propriety of that amendment——

Mr. MITCHELL. I ask to modify my amendment by saying "to-day" instead of "to-morrow" at half past twelve o'clock.

The VICE-PRESIDENT. The amendment can be modified by the mover, there having been no action on it.

Mr. MITCHELL. I want to keep up with the time.

Mr. EDMUNDS. Now, Mr. President, as involving these questions under the rule that has been stated here, if there is no special objection to it—and if there is I think I can show it to be sufficiently germane in this body to be entitled to refer to it, as the good old Saunders did at the common law when he wished to cite a civil law authority "for an ornament to discourse"—I wish to ask the Senator from Georgia, in view of what he has stated about his construction of this fifth section of the Constitution, how he reconciles that with his other position. If this be a subject that each House may deal with by itself, by its exclusive authority—taking the first clause and the second together, if you please, which would perhaps be the fairer way—how does he reconcile that with the long continued acts of Congress which regulate and provide for contested elections in the House of Representatives? I am myself, I confess, unable to see how, upon his theory—I do not mean of the construction of our rules, about which I agree with him—but how on his theory of the Constitution he reconciles the legislation which has put the House of Representatives in the trammels, if the law is valid, in respect of the methods by which it shall judge of the election and qualification of its own members?

Mr. HILL. I will answer the Senator that in order to execute the power contained in the first clause it is necessary to appoint committees to take testimony, and of course regulate the manner of taking testimony and examining into an election. I will suppose it to be for the purpose of preserving the rights of parties contestant, preserving the rights of witnesses, regulating the manner of their attendance, and so forth—punishing them for perjury. There must be a legislative act to provide a punishment for perjury. You must have a legislative act declaring that when a witness is summoned before a committee in regard to a contested election in the House he shall be guilty of perjury if he swears falsely. That can only be accomplished by legislation. It may be, and it is true, that there is no legislation necessary to enable each House to carry out a specific power lodged in it; but that is very different from the second clause:

Each House may determine the rules of its proceedings.

That is, the proceedings of the House for its government, for its own regulation, to compel the attendance of its members.

Mr. EDMUNDS. But does the Senator mean to suggest that that supersedes or overrules the preceding clause, which says, on the subject which we are speaking of, the compulsion of attendance, that each House "may be authorized to compel the attendance of absent members, in such manner and under such penalties as each House may provide." Does the Senator think that the next clause about rules supersedes or affects that first one?

Mr. HILL. What clause did you read?

Mr. EDMUNDS. The last part of the first clause of section 5, which says:

A majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each House may provide.

Mr. HILL. Certainly, they may be authorized to compel the attendance of absent members. That is a proceeding peculiar only to that House.

Mr. EDMUNDS. Very well, then, my question is how my honorable friend supports the constitutionality of the act of Congress which regulates, under very strict and specific limitations, contested elections in the House of Representatives.

Mr. HILL. For the reason I have given, that third parties become interested. You have to prescribe penalties; you have to deal with witnesses; you have to deal with persons outside, who do not belong to either House.

Mr. EDMUNDS. Yes, but my friend will readily perceive, if he turns to the statute, with which he is perfectly familiar—more so than I am, as he has lately been a member of the House and I never was—that the statute is not confined to the compulsory attendance of witnesses, which is a parliamentary matter that a committee of either House would compel, and it is not confined to perjury, because the statute of contested elections I think says nothing about perjury; it is another statute that provides for that; but the gist of the election statute is to regulate the method by which the right of a member to his seat shall be tested, and, if that be a constitutional statute, so control the subject. I do not assert or deny it; I only ask for information. If that be so, then I do not see how you can say it does not require a statute to enable either House to deprive a person of his liberty and compel him to come into either House. I only ask the question for information. I express no opinion of my own and will not take up further time.

Mr. HILL. The answer is very simple. In settling a question of this kind——

Mr. BECK. I ask again whether this is pertinent to the issue of bringing the credentials of Mr. Butler before the Senate.

The VICE-PRESIDENT. The Chair cannot determine that question. In debate he must leave that to the propriety of Senators.

Mr. BECK. I am very sorry the Chair cannot.

The VICE-PRESIDENT. There is a very wide range here as compared with the other House, as the Senator from Kentucky well knows. The Senator from New Hampshire is entitled to the floor.

Mr. THURMAN. I raise the point of order that the Senator from New Hampshire has given up the floor.

Mr. ALLISON. He has been standing here all the time.

Mr. THURMAN. That cannot help it. I object to his claiming the floor. If he gives it up once, he must give it up for all.

Mr. WADLEIGH. I did not give it up voluntarily. I was suspended by the roll-call.

Mr. WHYTE. By the departure of the gentlemen on the other side.

Mr. THURMAN. We have had a dozen speeches here and the Senator cannot stand up and say he is entitled to the floor when it has been awarded to other gentlemen in the mean time.

Mr. WADLEIGH. Mr. President, the Clerk was proceeding to read the testimony of Harry Mays. I hope my friend from Ohio will exercise here that patience which he always possesses to such an extraordinary extent. This is the only way in which it is possible to get before this body the evidence bearing upon this case, and I know he wants light always and is anxious for instruction.

Mr. THURMAN. I object to the reading. And now I know that a question of order is not debatable unless there is an appeal; but I beg the consent of the Senate to be allowed to make a brief statement of why I object to that; and if my friend will sit down while I make it I shall be obliged to him. I do not want him to be considered on his feet.

Mr. WADLEIGH. I am afraid my friend from Ohio will think my sitting down is yielding the floor.

Mr. THURMAN. No, I will not. Mr. President, I know that it has been the usage of the Senate to allow a Senator to read almost anything he pleases as a part of his speech, and the reason why it has been the usage is that that privilege has never been abused until to-day. That is the reason; but that the Senate has a right to say whether a paper or book shall be read, or not, no one will deny. The rule is perfectly plain; and the case in which a legislative body will exercise that right of refusing the reading is also very plain. It is very well put in Jefferson's Manual where it is said:

> It is equally an error to suppose that any member has a right, without a question put, to lay a book or paper on the table and have it read, on suggesting that it contains matter infringing on the privileges of the House.
>
> For the same reason, a member has not a right to read a paper in his place, if it be objected to, without leave of the House.

That is exactly the case of a member reading it as a part of his speech.

> But this rigor is never exercised but where there is an intentional or gross abuse of the time and patience of the House.

That is very true, and that is exactly the common sense of the rule. Accordingly, with the indulgence which has been common in the Senate, and which I hope will never cease, it has been usual for a member to read anything that was proper as a part of his speech, the body relying on him and on his sense of propriety, on the respect that he owes to the Senate and to his fellow members, that he will not abuse that privilege. But, when it becomes manifest that what he asks to have read is an abuse, when it becomes manifest that it is a gross abuse, then the Senate owes it to itself to interfere. Why, sir, if the Senator can go on in the way he has gone on to-night and in the way that the Senator from Minnesota [Mr. McMILLAN] went on to-day, he might send up the thirteen volumes of the Ku-Klux report, with the accompanying testimony, and ask that they might be read by the clerk, although the reading would consume more than the whole of the remaining time of this session. That cannot be, sir. It cannot be that the proceedings of this body are at the mercy of a single member who sees fit to say that he will read ten or thirteen volumes, or one volume, as a part of his speech. Therefore, I say the parliamentary rule is precisely as it is laid down here. I grant I have never known a case in which a member has been denied the privilege of reading what he saw fit to read as a part of his speech in this body; but the reason is that that right has never been abused until to-day.

Now, sir, it is as clear as that two and two make four, without charging any intention at all (for that is unnecessary on my part) to the Senator from New Hampshire of abusing this privilege, it is sufficient to say that it is a gross abuse, and there has been a gross abuse of it to-day.

I therefore claim as a right that this question shall be submitted to the Senate, whether or not we shall proceed with the reading of this paper.

The VICE-PRESIDENT. The Chair will submit the question to the Senate.

Mr. WADLEIGH. Mr. President——

The VICE-PRESIDENT. The Chair desires to state before the Senator proceeds that he does not feel at liberty to overrule the long-known practice of the Senate, but will leave the Senate to dispose of the question in its discretion.

Mr. WADLEIGH. Mr. President, notwithstanding that rule, I desire to say one word in answer to what my friend the Senator from Ohio has said. The Senator from Ohio chooses to talk here upon this floor about gross abuse. Gross abuse of what? A gross abuse in laying before this Senate evidence absolutely material and necessary to judge of this case which this Senator and his party friends have sought to prevent coming to the Senate and the country. That is the abuse of which I am guilty. Refusing to let the evidence go to a committee; refusing to let either the evidence or the report in this case, absolutely necessary to judge of its merits, go either to a committee of this body or to the Senate itself, or to the country through the Senate!

Why, Mr. President, if the Senator's position is correct, a Senator who found it necessary to defend himself upon this floor in a matter in which he was concerned or in which his rights as a Senator were concerned would be prevented by the Senator from Ohio and his rule from reading to the Senate evidence absolutely necessary for his exculpation. That cannot be the rule, and it is no gross abuse, either, to make the Senator from Ohio and his political friends hear the testimony which is absolutely necessary to a proper consideration of this case, and to let this country know that in this Senate a party seeks to thrust into it a man whose record will not bear examination upon evidence which they do not dare to present.

The VICE-PRESIDENT. The question is——

Mr. WADLEIGH. I call for the further reading of the testimony.

The VICE-PRESIDENT. The Chair will submit the question to the Senate as he has stated.

Mr. BAYARD. Mr. President, much has fallen to-day in debate in the Senate——

Mr. WADLEIGH. This is upon a point of order, which does not prevent my having the floor.

Mr. BAYARD. I did not mean to take the Senator from the floor, but I rose and the Chair recognized me, and I propose to respond to something that fell from the Senator from New Hampshire upon this point of order. There has been a good deal said to-day in the Senate that I suppose at some time we shall see in print, and charges have been made in the Senate, not to any individual of one of the parties here represented, but to all the members of one party, to which I shall reply in the proper way, I trust, and in due time. But the Senator from New Hampshire says that there is here a desire upon the part of the democratic party, or the members of that party who have seats upon this floor, to exclude from the country, from their own minds, from the ears of the members of the Senate, the facts contained in three large volumes of testimony collected nearly one year ago. Why, Mr. President, the honorable Senator knows that that testimony was not taken in relation to the case before the Senate. He knows that it was taken under a committee called into existence and which passed out of existence before this case had any presence in the Senate or expected presence in the Senate. The testimony which he here has read has no more to do in point of law, in point of parliamentary connection, with the case before the Senate, than any other of the volumes of Southern outrages so called, with which the shelves of the Senate have been so filled in the last ten years. He could just as well and just as pertinently read testimony collected by that joint committee of the two Houses of 1871, of which I was a member, as to read that taken in 1876, and which closed with the session that preceded the last session of the Senate.

The Senator from Ohio has stated the reasonable rule that should govern this case. The rule of the Senate is unlimited debate in the discretion of its members, and so may it ever be. It was proposed a year or two years ago that debate should be trammeled by the introduction of the previous question. That was threatened, but I am glad to say it was never formally brought forward, and never became the rule of this body, and I trust the day is far distant when it shall be. But why is that? It is because there is an individual discretion in the remarks of a member, and there is a termination that a human physique will put at least upon debate. But what have we witnessed here to-night? For all the just purposes of this debate, Worcester's Dictionary might equally as well have been sent to that table and the two Clerks have spent their time and health in reading it aloud to this assembly. This testimony, so called, was in the possession of every member of the Senate and was open to the Senate last March. Had the committee desired to see it, it has been open to it during the entire vacation, and again after Congress convened here on the 15th of October. Therefore it is not within the facts, and it will not do for the honorable Senator from New Hampshire to say that the public or any member of the Senate has been excluded, can be excluded, or has sought to be excluded from a knowledge of all that this committee found in South Carolina in the winter of 1876-'77.

I am willing in all these cases to test the fact, not of the usual courtesy and the ease to a Senator of having remarks read from the desk, when, from any reason, he may be unable to read them or desires the assistance of the clerks; but to test whether the use has become an abuse; and, if so, then it is time for the Senate to vote accordingly. I would not prevent any man from speaking his full mind, were it in my power to do so; but I do not hold that he has the right, under the form of debate, to inflict upon the Senate and upon the public the utterly useless reading of voluminous documents such as we have had to-night. I have been in this body long enough to know what opportunity is given for justifiable delay, and I have assisted in exercising it. When I came into the body, those with whom I voted ordinarily were nine in number. I have lived to see the parties about equal here, and I would not make a rule for a minority that I would not have had made for me; but I do know that, if that which has been attempted to-night and which has been successfully followed to-night had ever been attempted in those days when this small handful were vainly struggling to have some little time given for the consideration of laws which we thought were dangerous to the peace of the country, we should have been stopped, and stopped instantly, if the attempt had been made, as I say it has been successfully made so far during the session of this day. No such attempt ever was made; no such document was sent there then open to the exceptions to which this may be.

Mr. EDMUNDS. May I ask the Senator if he remembers the somewhat historical instance, about 1850, I think it was, when Mr. Jefferson Davis, Mr. Soulé, and one or two other Senators, on a river and harbor bill, or something of that kind, had the whole night occupied in reading the messages of the earlier Presidents of the United States on the subject of the constitutional powers of internal improvements, and when a point was made it was agreed that they had a right, and the reading went on?

Mr. BAYARD. I do not remember that. I have a very clear recollection of many nights passed here in debate and of many long and deliberate attempts made to stay the current of an overwhelming majority; but I never do remember that documents entirely outside of the consideration of the subject before the Senate were brought in to be read at the desk, with a species of vicarious sacrifice of the clerks in the manner that has been followed since this debate began. I have no recollection of that. I can recall no instance of it. I do not mean to say that there may not have been tedious passages——

Mr. EDMUNDS. If my friend will pardon me, I should like to say that I do not maintain that in the instance to which I referred the Senate decided that the clerks were bound to read these papers. That is a matter of courtesy. I agree that the clerks are not bound to read these papers, but do it only as a mere matter of courtesy, but that the Senator has a right to read them I have not a sort of question, and the universal history of the Senate, and the particular instance I have referred to, I think very clearly show it.

Mr. BAYARD. That is a different question, because we have seen to-day nothing of that kind. This has been, as I say, a species of vicarious expiation. Senators have sent to the Clerk's desk all of these things to be read by the two unfortunate gentlemen who so well and ably serve us in their relative capacities. It is just that question; because a gentleman might speak from memory, or he may read a speech to the Senate from written or printed slips. We have seen that here, and to that I make no exception and shall make none, because that is his discretion; but I think there should be some limit. There is a reason which it seems to me is perceptible to all members of the Senate, that it will depend upon the identical case to which the rule is sought to be applied; that if there is a manifest intention that matters outside of the case shall be brought in for the mere purpose of occupying the time, the Senate has a right, and I think it is a duty to arrest it; but I think that should be made manifest.

In the present case let me say further, this is not a motion to swear an objectionable person; it is a motion to discharge a committee from the further consideration of one case; and should that motion prevail, then the motion to swear in the claimant will open the debate upon the merits of his case. I have questioned all the way through whether it was in order to have this discussion of the merits of this case upon a motion to discharge the committee; but as I believe under our rules the discussion is not compelled to be germane to the subject, and a speech may be made upon any subject no matter what, whether the subject is before the House or not, so I have not made the objection that this has been an anticipation by discussion of the merits of this case when the case itself was not before the Senate.

Mr. EDMUNDS. May I not ask my honorable friend whether it is not within his recollection that in comparatively recent times it was the constant practice of the Senate to debate the whole merits of a question on an application for leave to bring in a bill when the bill itself was not before the Senate at all; and whether it is not also within his recollection, that whenever a case has arisen on a motion to discharge a committee that involved serious consequences, the whole subject, not only whether it was wise that the committee should be discharged in the technical sense, from motives of time or otherwise, but the very import of the thing, was under consideration? I will call to his mind one instance, where the Judiciary Committee had under consideration, I think, the subject of something about the State of Georgia. I happened to be a member of that committee, and we were not clear that the legislation which a majority of the Senate desired should be had until we could carefully investigate the matter. The late Senator from Ohio, (Mr. Sherman,) I think it was, moved to discharge the committee in order to get rid of the deliberations of the committee and to allow the majority of the Senate to come to an immediate vote upon it, and on that motion the whole subject was opened.

Mr. BAYARD. Mr. President, I did not rise at all to object to the discussion of the merits of this question under the present motion. I happened to say that I thought it irregular, but I meant that to apply to the charge of the honorable Senator from New Hampshire that by reason of this question being so forced upon him he and those who agree with him were not to have the opportunity of discussing the merits of this case. I mean to say that after this motion is decided the question is still open to him and then will be the appropriate time for him to discuss this question upon its merits. I have not raised, and I do not propose to raise, the question of order that he is discussing the merits on a motion to discharge, but I only say to him it will not do for him to make such an allegation before the Senate and the country when the facts do not sustain him, and he is not cut off from debate by the decision of this question. On the contrary the best opportunity and the most correct time will come to him when this question has been met and decided by the Senate, then to show cause, if he may, why one or the other of these two contestants should not take the place.

As I said, I do not propose now to answer the charge of desiring to suppress from the public mind any fact which existed in any State in this country. I do not care now to answer, and I feel some hesitation in answering a charge that implies any sympathy on my part with lawlessness, violence, or crime. I only know that a man ought not to make a charge on this floor that he would not make in private in conversation. It seems to me the same rule of decorum that prevails between gentlemen in their private intercourse ought to obtain in the debates of the Senate. Nay, there are rules of the Senate obligatory of their own force which should prevent anything like the divergence into a personal channel of debates upon a public subject. In addition to that comes the other rule to which I have referred, that does restrain and does control men from speaking rudely to each other in their private intercourse and making imputations upon the character of those with whom they deal which could not and would not be permitted, and yet this Senate to-day has been filled with such. As I say, I hardly know how upon this floor to answer them. Elsewhere I would know how to answer them. Here our association is compelled. We are compelled in public business to come into association with each other, whether there may happen to be personal predilections or no; and so being brought, with or without our consent, into a certain degree of personal relation, it seems to me it is the right of every man in the Senate, and it is the duty of each man in the Senate, that remarks in debate should contain no impugnment that would not be tolerated in private intercourse. I am sorry to say that the debate to-day has contained much that I think exceptionable on this point, and which perhaps at another time, when I shall have seen these remarks in print, I may possibly feel myself called upon to take some notice of. But, for the present, in order to raise the question whether the reading of these papers which we have heard to-night is to continue from the desk, I am willing that the Chair should make the decision *pro forma* and on an appeal that the Senate should decide the question by a vote.

The VICE-PRESIDENT. The rules of the Senate making no provision for this case, the Chair submits it to the Senate in this form: Shall the Senator from New Hampshire be permitted as a part of his remarks to have further extracts read from the report of the Senate committee on South Carolina affairs?

Mr. THURMAN. I wish to say one word. I made the point of order in perfect good faith. I believe that it was well made, and the Chair, I think, does perfectly right in proposing to submit that question to the Senate, for I think it is for the Senate to decide; but after the debate that has taken place, and after what has been said, I feel it my duty to withdraw that objection and entirely trust to the sense of propriety of the Senator from New Hampshire as to what he will have read or not.

I wish further to say that I agree fully with him or any one else who says that the resolution that is now pending before the Senate opens the doors to the fullest inquiry into the right of Mr. Butler to a seat on this floor. Having said that, I beg leave to withdraw the point of order I have made.

The VICE-PRESIDENT. The point of order is withdrawn.

Mr. EDMUNDS. I wanted to ask the permission of my friend from New Hampshire to make an observation on this very point, but as the Senator from Ohio has withdrawn it, I do not wish to speak out of order; although I submit to him that it is not perhaps altogether fair—I do not mean it in any personal sense—not quite right perhaps I should say, to withdraw the point before gentlemen who take a different view of that point have had an opportunity to express their opinions as well as himself.

Mr. THURMAN. The Senator from Vermont knows as well as anybody that in this Senate no one is required, as it is said, to speak germanely to the subject pending. The Senator can speak upon the point of order which has been withdrawn, just as well now as he could before.

Mr. EDMUNDS. Oh, yes; but I make it a rule of my life, as the Senator knows, never to speak out of germaneliness, as he calls it. So I am cut off for the present.

Mr. WADLEIGH. I think what I have to say in regard to this matter is perhaps germane to the question whether or not this case shall be taken from the committee. I desire to say to my friend from Delaware in all sincerity that I have not done one thing here that I did not really believe to be my duty.

Mr. BAYARD. The Senator would not suppose me to have sinned in the face of my own teaching.

Mr. WADLEIGH. So far as any asperity of debate on my part is concerned on this question, and so far as the criticisms which I have made upon the democratic party are concerned, I apprehend if I should go over the debates of the Senate on the Louisiana question, or on almost any question political in its character which has been before this body, I might cull from even the very refined speeches of my friend from Delaware some very tart and some very bitter denunciations of that party to which he is honestly opposed. But I have never considered that political denunciations of the party to which I belong were a personal offense to me. I do not believe that my good friend from Delaware will upon "sober second thought" be inclined to take any such view of what I have said. Our intercourse ever since I came into the Senate has been such that he must know I would not, and could not, impute to him the doing of anything which he thought to be wrong, and, on the other hand, I am well satisfied and I believe that in his own heart he could say the same thing of me. So much for that, Mr. President.

Now, as to the materiality of this testimony and as to its admissibility in this case, let me say one word. My friend from Delaware has made the point that because this testimony was taken by a committee who were investigating the presidential election, to speak in brief, therefore it is not evidence before the Senate now, and ought not to be read; that for that reason it is not germane to the subject

before the Senate so far as to make it proper for me or any one else to read it to the Senate upon this question. But this testimony was taken with reference to the conduct of and the circumstances attending the very election at which votes were cast for members of the Legislature whose election or non-election validates or invalidates the title of the contestant here, Mr. Butler, and not only his title, but that of Mr. Corbin, his opponent.

Mr. CONKLING. Not only that, but the title of Mr. Hampton the governor who signs Mr. Butler's credentials.

Mr. WADLEIGH. Yes, it involves also that, because if the members from Edgefield and Laurens Counties who were elected by the forcible means which the testimony depicts, as well as by the immense fraudulent vote the evidence of which we have not yet reached, were not lawfully elected, as I believe they were not, then Mr. Corbin had a quorum in the Legislature which elected him, and his election is valid, in my judgment.

Mr. GARLAND. Will the Senator yield to me a moment?

Mr. WADLEIGH. Certainly.

Mr. GARLAND. Admitting all that to be true, I should like to know if the Senator believes it is germane or relevant to the question of discharging the committee from the consideration of these credentials.

Mr. WADLEIGH. I was about coming to that very point, and I propose to answer it.

Mr. GARLAND. If the Senator will pardon me (and I only hold the floor by his courtesy) I will state that I confess all this to be perfectly germane and legitimate when it comes to the question of swearing in Mr. Butler; and the consideration of all those matters I do not understand Mr. Butler or any friend of his here or anywhere else in the country has desired to avoid; but I do submit now to the conscientious conviction of the Senator himself, the chairman of the committee, whether that is legitimate now to be discussed upon the motion to discharge the committee from the consideration of this subject.

Mr. WADLEIGH. In a few moments I will come to the point suggested by my friend from Arkansas.

As I was saying, if the members from Edgefield and Laurens Counties were not elected, if there was no valid election in those counties, then Mr. Corbin had a quorum of the whole number of legally elected members in the Legislature which elected him, and therefore his election is valid beyond all doubt, because he had in his Legislature a senate, and the only senate, which had any separate existence. On the other hand, if the members from those two counties were elected, there was a quorum of legally elected members, as I understand, in the house which elected or undertook to elect General Butler. But the question would arise of course, and would have to be considered, whether or not a fraction of another house of representatives and a senate which recognized the Corbin house, if I may call it such, could secede for an hour or two and go and ally themselves with another house and vote for Senator and then return and resume their place in connection with the Corbin house which they had left; and it is a very serious question.

But, Mr. President, before we get to that question at all, we have got to meet the question, which is the material question in this case, whether the members from Laurens and Edgefield Counties were elected. Some Senator in debate here has said that the supreme court of South Carolina has decided that they were legally elected; but the answer to that is that neither the supreme court of South Carolina nor the governor of South Carolina nor any tribunal in South Carolina can take away from this Senate its constitutional right and duty to judge of the election of a Senator to this body.

Mr. GORDON. Does the Senator from New Hampshire assert the doctrine that this Senate is to be the judge of the election, qualifications, and returns of a member of the house of representatives of the State of South Carolina?

Mr. WADLEIGH. I did not say so.

Mr. GORDON. It is tantamount to that, I think.

Mr. WADLEIGH. I do say, however, that when, as in this case, there are two bodies, or we will say there is one Legislature and the half of a Legislature—for that is all Mr. Butler had—it is for the Senate to decide, and it is their duty to decide, which of those two Legislatures is the Legislature of the State; and in that decision they cannot be foreclosed by the decision of the supreme court of South Carolina.

Mr. DAWES. I should like to make an inquiry of the Senator from New Hampshire, if it will not interrupt him. I should like to know whether the constitution of South Carolina clothes its supreme court with any power to decide for the Legislature of South Carolina who are the members of that Legislature? If that is so, it is the first constitution of any State that I have seen which does not clothe its own Legislature with the power of deciding that question without the aid of its supreme court. I have not examined that constitution, but I suppose the Senator from New Hampshire has.

Mr. WADLEIGH. I was proceeding to add that I do not understand the fact to be that the supreme court did so decide.

Mr. DAWES. I should like to know if the Senator has examined that question, and whether there is any such anomaly in the constitution of South Carolina as takes away from its Legislature the power to decide who constitute that Legislature and clothes the supreme court of the State with that authority.

Mr. MITCHELL. Each house shall be its own judge, is the language of the State constitution.

Mr. WADLEIGH. I was proceeding to say that, although, as of course you know, Mr. President, and the Senate knows, the committee have had no opportunity to examine this matter, I do not consider that the supreme court of South Carolina have decided which was the legal Legislature or whether or not the members from Laurens and Edgefield were elected.

Mr. GORDON. Did I understand the Senator to say the supreme court——

Mr. WADLEIGH. I ask the Senator to let me finish. But I do understand, and that is my belief now, that the supreme court of South Carolina declined to decide the question saying that that question was one for the Legislature itself to decide. That belief of mine I took from what has been read to-night by the Senator from New York; but the fact that there is in the Senate such a want of information upon a question so material as that furnished a very strong reason why some committee should be allowed to investigate and report to the Senate the facts in the case. Now I will hear my friend, the Senator from Georgia.

Mr. GORDON. I understand the Senator to state by implication, if not directly, that the supreme court of South Carolina has never made any decision upon the question at all. My understanding is, and I think it is not difficult to find the decision itself, that the supreme court have decided very positively and pointedly which was the rightful Legislature or which was the rightful house of representatives of the State of South Carolina, and that house of representatives which was decided to be the lawful house and to have the proper quorum under the constitution of the State of South Carolina, did pass upon the contested seats from the counties of Edgefield and Laurens. I should like to hear the Senator upon that point.

Mr. WADLEIGH. Knowing nothing about the fact and having had no opportunity to examine the facts except what is afforded me by the statement of my friend from Georgia made here upon this floor while I am talking, I am not prepared to say. As I have remarked, the facts are all unknown to me, and they are unknown to me because my friend from Georgia and his political friends undertake by bringing the decision of this case at this time and in this way—perhaps not intentionally but really—to prevent me from getting the information which I very much desire to procure.

Mr. THURMAN. May I ask the Senator from New Hampshire if he was not a member of the Committee on Privileges and Elections at the last session, and was not this case before that committee during the fifteen or eighteen days that we were in session?

Mr. CONKLING. Only five days.

Mr. WADLEIGH. My friend from Ohio is continually falling into that mistake. It has furnished the burden of the song about the delay that the committee is guilty of, from the time that this debate began. Let me tell my friend from Ohio once more that the committee was organized and appointed on the 11th day of March, and the Senate adjourned on the 17th. One of those days was Saturday when everybody was busy at the Departments in anticipation of leaving Washington, and one of those days was Sunday. We had before us the Louisiana case, and Senator Morton, the chairman of the committee, had to write the report, which he did in that time; and with all the matters then before the Senate, in three, four, or five days there was really no time to take this case up. As the Senator knows, we all have engagements other than those which keep us in one committee here. There was no delay, nothing that should be complained of; and I dislike very much to hear such a charge brought against the committee. It would have been impossible to have considered this case at the extra session of the Senate last spring.

Mr. CONKLING. Then the committee expired with the session, did it not?

Mr. WADLEIGH. Certainly. There was nothing done in the recess, of course.

Mr. CONKLING. There was no committee in the recess. The committee was not ordered to sit in the recess.

Mr. WADLEIGH. My friend the Senator from Ohio well knows, and everybody knows, that the committee, some of the members of which live in New England, some in the West, and some in the South, could not get together and hold meetings during vacation. It is never done without a special order, and nobody expected it or asked it in this case, or any other election case that is before that committee.

Mr. EDMUNDS, (at five o'clock and forty-five minutes a. m.) Will the Senator give way to a motion to adjourn? I am very tired.

Mr. WADLEIGH. Certainly.

Mr. EDMUNDS. I will change the motion, because I do not wish to displace anything. I move that the Senate take a recess until eleven o'clock, the next eleven o'clock that comes, whether you call it to-day or to-morrow.

Mr. WHYTE. I ask for the yeas and nays on that motion.

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

Mr. EDMUNDS, (when Mr. MORRILL's name was called.) My colleague [Mr. MORRILL] is paired with the Senator from Illinois, [Mr. DAVIS.] My colleague would vote in favor of this motion, and I am almost afraid the Senator from Illinois would if he were here; but they are paired.

The result was announced—yeas 23, nays 26; as follows:

YEAS—Messrs. Allison, Anthony, Booth, Bruce, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Christiancy, Conkling, Dawes, Dorsey,

Edmunds, Howe, Jones of Nevada, Kirkwood, McMillan, Oglesby, Paddock, Rollins, Saunders, Teller, and Wadleigh—23.

NAYS—Messrs. Bailey, Bayard, Beck, Cockrell, Coke, Davis of West Virginia, Dennis, Garland, Gordon, Harris, Hereford, Hill, Jones of Florida, Kernan, Lamar, McDonald, McPherson, Morgan, Patterson, Randolph, Saulsbury, Thurman, Voorhees, Wallace, Whyte, and Withers.—26.

ABSENT—Messrs. Armstrong, Barnum, Blaine, Conover, Davis of Illinois, Eaton, Ferry, Grover, Hamlin, Hoar, Ingalls, Johnston, McCreery, Matthews, Maxey, Merrimon, Mitchell, Morrill, Plumb, Ransom, Sargent, Sharon, Spencer, and Windom—24.

So the motion was not agreed to.

Mr. WADLEIGH. My friend the Senator from Ohio suggests that I was mistaken as to the time when this case came into the hands of the committee at the extra session of the Senate. I may possibly be mistaken a day or two. I said it came into their hands on the 11th of March. That is my recollection.

Mr. CONKLING. There is nothing in the Journal, which I have here, to show the contrary of that, but simply that the committee was appointed on the 9th.

Mr. MITCHELL. Either the 8th or 9th.

Mr. THURMAN. It did not come on the 11th. The 11th was Sunday.

Mr. WADLEIGH. But there were only a very few days, four, five, or six days at the furthest, at the last session, when everybody was busy about something else. There was no want of diligence on the part of the committee.

Mr. THURMAN. Here are the facts, if you want to know them. On Wednesday the 7th of March last—

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

Resolved, That the credentials of David T. Corbin and M. C. Butler, each claiming to be a Senator from the State of South Carolina, lie upon the table until the committees are appointed, and their credentials shall then be referred to the Committee on Privileges and Elections.

That was before the committee was formed. That is the reference. That was treated as a reference. The same kind of order was made in Mr. Kellogg's case:

On motion by Mr. BAYARD,

Resolved, That the credentials of William Pitt Kellogg, claiming to be a Senator from the State of Louisiana, do now lie upon the table until the appointment of a Committee on Privileges and Elections to whom they can be referred.

That was modified afterward as follows:

Resolved, That the credentials of William Pitt Kellogg, claiming to be a Senator from the State of Louisiana, do now lie upon the table until the appointment of a Committee on Privileges and Elections, to whom they shall be referred.

Those were considered referred to the committee whenever the committee was formed. On the 9th day of March the committees were formed, and these cases were considered as referred to the committee on the 9th day of March.

Mr. WADLEIGH. Let me suggest to my friend the Senator from Ohio that, with his knowledge of the way business is done in the Senate, he could not expect a meeting of the committee on the day on which the credentials were referred, because the meetings of the committee are held in the morning, the session of the Senate occupying the rest of the time for the day, although I do not know how the fact was on that particular day. The chairmen of the committees call the meetings, but never for the same day, so far as I know.

Mr. ALLISON. The Journal shows that the reference was made on Friday.

Mr. WADLEIGH. Yes, and no meeting would have been likely to be called before the following Monday. Of course there would be no meeting held on that Friday, for nothing is done in committee on the day when it is organized after the Senate adjourns; so that the time was very short indeed, and what time there was was taken up by other matters. I know that my friend the Senator from Ohio does not intend to unjustly charge the late Senator from Indiana or anybody else upon the committee with any negligence. I state the fact as it is.

It is said here that reading this testimony is not proper at this stage of this business, and that the testimony is not germane to the question before the Senate. I beg my friend the Senator from Ohio to listen to me for a few minutes while I state my view of that matter; and I beg leave to assure him in the beginning, that what I do here I have done not only because I believed I had a perfect right to do it, but because I felt it to be my duty to do it—my duty in a twofold aspect. There are two contestants interested in this question: General Butler, whose friends seem to have a majority in the Senate, and consequently who by mere force of numbers, without any regard to the facts, can put in the contestant that they desire; and, on the other hand, Mr. Corbin, who is necessarily compelled to rest the merits of his cause upon the evidence which he can present, in order to give his claim that force which numbers do not give him. That is the way he stands. He wants leave to present his case to the committee, so as to have a report upon it, and then the case would come to the Senate. I think he has a right to have a full consideration of the facts in the case and of the law; and there are both facts and law in dispute, attention to which we all know cannot be given here in open session. Look at this debate, and observe how it has gone on. I have said that the validity of the election in Laurens and Edgefield Counties is the most material question in this case, whether there was an election there according to the meaning of the word "election." That can only be determined by an inquiry into the evidence in the case. How does this evidence stand with reference to the question? A motion is made here, after Mr. Corbin asked the committee to hear his case, to take the case away from the committee, just as they are proceeding to consider it, and bring it to the Senate. Mr. Corbin's case cannot be intelligently decided without the evidence that is contained in these papers. That committee could of course go over and select such parts of it as are material, and consider them and report them; but the matter coming into the Senate, every one can see just what Mr. Corbin is obliged to do. The only way in which he can get the evidence that is material to his right considered at all is to have it read in this way.

My friends on the other side (and for myself I have no hostile feelings toward them) say in the first place that the evidence shall not be considered by a committee, that it shall come to the Senate; and then when it comes to the Senate an attempt is made to exclude from the consideration of the Senate all the testimony that bears upon the case. Now, if I have spoken warmly on that matter it is because I have felt keenly the injustice of such a course to Mr. Corbin in the first place. I cannot see now how any Senator upon the other side, after Mr. Corbin has asked the committee to consider his case, can vote to take that case from the committee, and then say in this Senate that the Senate shall not have the evidence, that it shall not be presented, and none of us know what this evidence is. What I have read to-night has been culled out from time to time by simply opening the book at places and looking at the evidence which I happened to find at the place where I opened it.

Mr. EDMUNDS. Mr. President, I rise to a question of order. It is evident that there is no quorum here, and the Senate has no right to proceed in the absence of a quorum. I ask to have the roll called. If we are compelled to stay here to listen, I think the Senators who compel us to do so, ought to stay and listen also.

The PRESIDING OFFICER, (Mr. DAWES in the chair.) The Chair directs the roll to be called, in order to ascertain whether a quorum is present.

The Secretary called the roll, and after some delay 45 Senators answered to their names.

The PRESIDING OFFICER. The roll-call discloses the presence of a quorum.

Mr. WADLEIGH. Mr. President, I was saying when interrupted by the call for a quorum, that if I had shown warmth in expressing my views concerning the character of this motion, it was because I felt warmly upon the subject. I know perfectly well that this Senate cannot consider the evidence in this case. I have no idea that a body as numerous as this can take this evidence and digest it so that Mr. Corbin shall have anything like a fair trial; and the motion to take this case from the committee is a monstrous injustice to him, I think, and I do not believe my friends on the other side in a year from now will look at it in a different way from what I do now. Not only that, it is unjust in another point of view. The Senators on the other side of the Chamber have urged as the reason why this case should be taken from the committee, that the State of South Carolina was not represented in this Chamber in one of her seats. That is a strong reason; but is no reason why a man who has no right to a seat here should be admitted. It is just as much the duty of the Senate to find the right man who is entitled to the seat as it is to fill the seat at all; and it has no right to fill the seat until it has ascertained properly, and with due consideration, and by means of witnesses, if necessary, who is the man who is entitled to that seat.

The idea of arguing that the necessity of filling a seat does away with the necessity of inquiring who has the right to fill it, seems to me very absurd, and, as I said before, there is no one who does not know and who does not feel that evidence such as bears upon the vital points in Mr. Corbin's and Mr. Butler's case cannot be considered properly by the Senate, and I cannot help regarding this resolution as an attempt to carry by force of numbers what would not be carried by an investigation into the merits of the case.

Now, Mr. President, I desire to say one word in reference to a suggestion made to me by my friend, the Senator from New York. It is that the committees of the Senate lapse and cease to exist at the end of each session of the Senate. It is that this committee had no power and no right to meet during the vacation of the Senate, and that there was then no committee. That is his view of that matter. I have not examined that point sufficiently to form a judgment for myself, but I do feel that there is no member of the Senate who can, upon a knowledge of the facts, charge the committee with any delay or neglect.

Mr. CONKLING. What is the point the Senator says he understands I presented?

Mr. WADLEIGH. The point whether a committee of the Senate falls with the end of the session.

Mr. CONKLING. If my friend will allow me a moment, I supposed that was one of those obvious things which nobody needed time to examine. I think I may appeal to every Senator present and absent, without hesitation at all, to establish the fact that the universal knowledge, the self-evident truth is that a committee is appointed only during the session of the Senate. It never is and never can be appointed for any longer term, except where by a special exertion of power it is continued in a vacation. Such an exertion of power occurred in the Senate in respect of members of this commit-

tee, and here is the Journal of the 17th of March disclosing it. The Senate on that day ordered:

That the Committee on Privileges and Elections—

Which then existed, because the Senate was in session and to which had been referred a resolution about Mr. GROVER, of Oregon—

be, and the said committee is, instructed to appoint from its members a subcommittee of three who shall take testimony,—

And so on—

and for such purpose such subcommittee shall have power to sit in vacation, and, if they deem expedient, go to the State of Oregon, &c.

Here then, specifically, by the familiar rule *expressio unius est exclusio alterius*, the Senate asserted on the face of its Journal that the Committee on Privileges and Elections did not and could not exist after the Senate adjourned, and proceeded to call out of that committee three members and to invest those three members as a subcommittee with power to exist, and, then, for one purpose, and one purpose only, to wit, to consider a resolution touching a Senator in Oregon. So, I think, the answer to these multiplied accusations, if such they are, that the Committee on Privileges and Elections has neglected its duty during all these months, is that there was no duty to neglect; there was no committee to neglect it. Any other seven or nine members of the Senate, with just as much authority as these seven or nine, might have volunteered or undertaken to consider the case of Butler and Corbin from South Carolina; the Committee on Finance, or the men who had constituted it, or those on the Judiciary, or on Contingent Expenses of the Senate might just as well have undertaken it as these gentlemen, and all for the simple reason that there was no committee on any subject whatever, except those specially constituted to endure by the Senate, which were the Committee on Contingent Expenses and a subcommittee for one purpose, to wit, exploring a resolution touching a Senator in Oregon.

Mr. WADLEIGH. I want to say further, Mr. President, that I have selected here no testimony to be read which does not bear directly upon the point as to the validity of the election in Laurens and Edgefield Counties. The testimony concerning the Hamburgh massacre was read for the reason that that was the opening of the campaign in that part of the State, and by that massacre there was created a state of terror and alarm which did not cease to exist before the election, which evidently, from all the testimony, lasted up to the time of the election, and, of course, the character of that massacre and who were the parties in it, to what party they belonged, and what their purposes were, is vital testimony to Mr. Corbin in this case, and any attempt to exclude it from the consideration of the Senate would, in my judgment, be very unjust, and it is material here because it shows that the statements made here, no doubt without any intention of being incorrect, are incorrect in that there is a controversy of fact with reference to the circumstances and the events, which, as it seems to me, rendered the election null and void in those two counties.

Mr. EDMUNDS. Will the Senator, as it is now daylight and time to have a little breakfast, give way for a motion for a short recess, in order that we may get something to eat?

Mr. WADLEIGH. Certainly.

Mr. EDMUNDS, (at six o'clock and fifteen minutes a. m.) I move that the Senate take a recess until ten o'clock.

Mr. WHYTE called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 17, nays 26; as follows:

YEAS—Messrs. Allison, Anthony, Booth, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Christiancy, Dawes, Edmunds, Howe, Kirkwood, Paddock, Rollins, Saunders, Teller, and Wadleigh—17.

NAYS—Bailey, Bayard, Beck, Cockrell, Coke, Davis of West Virginia, Dennis, Garland, Gordon, Harris, Hereford, Hill, Jones of Florida, Kernan, Lamar, McDonald, McPherson, Morgan, Patterson, Randolph, Saulsbury, Thurman, Voorhees, Wallace, Whyte, and Withers—26.

ABSENT—Messrs. Armstrong, Barnum, Blaine, Bruce, Conkling, Conover, Davis of Illinois, Dorsey, Eaton, Ferry, Grover, Hamlin, Hoar, Ingalls, Johnston, Jones of Nevada, McCreery, McMillan, Matthews, Maxey, Merrimon, Mitchell, Morrill, Oglesby, Plumb, Ransom, Sargent, Sharon, Spencer, and Windom—30.

So the motion was not agreed to.

Mr. PADDOCK, (at six o'clock and twenty minutes a. m.) I move that the Senate do now adjourn.

The VICE-PRESIDENT. The Senator from Nebraska moves that the Senate do now adjourn.

Mr. WHYTE called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 19, nays 26; as follows:

YEAS—Messrs. Booth, Bruce, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Christiancy, Conkling, Dawes, Dorsey, Edmunds, Howe, Kirkwood, McMillan, Paddock, Rollins, Saunders, Teller, and Wadleigh—19.

NAYS—Messrs. Bailey, Bayard, Beck, Cockrell, Coke, Davis of West Virginia, Dennis, Garland, Gordon, Harris, Hereford, Hill, Jones of Florida, Kernan, Lamar, McDonald, McPherson, Morgan, Patterson, Randolph, Saulsbury, Thurman, Voorhees, Wallace, Whyte, and Withers—26.

ABSENT—Messrs. Allison, Anthony, Armstrong, Barnum, Blaine, Conover, Davis of Illinois, Eaton, Ferry, Grover, Hamlin, Hoar, Ingalls, Johnston, Jones of Nevada, McCreery, Matthews, Maxey, Merrimon, Mitchell, Morrill, Oglesby, Plumb, Ransom, Sargent, Sharon, Spencer, and Windom—28.

So the Senate refused to adjourn.

Mr. WADLEIGH. Mr. President——

Mr. PADDOCK. Mr. President, to those of us who have been here all night it seems to me that it would be nothing more than justice that we should at least have an hour or two to perform our morning ablutions and get our breakfasts: and for that reason I move that the Senate take a recess until nine o'clock.

Mr. WHYTE. Is that in order, no business having intervened?

The VICE-PRESIDENT. It is a different hour. The motion is in order. The Senator from Nebraska moves that the Senate take a recess until nine o'clock.

Mr. SAULSBURY. I desire to be heard one moment. I think this is unjust to the Senator from New Hampshire. He has been interrupted very often during the night. These continual interruptions must be very burdensome to him.

The VICE-PRESIDENT. The motion is not debatable.

Mr. WHYTE called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 16, nays 26, as follows:

YEAS—Messrs. Allison, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Christiancy, Conkling, Dawes, Dorsey, Edmunds, Howe, McMillan, Paddock, Rollins, Saunders, and Wadleigh—16.

NAYS—Messrs. Bailey, Bayard, Beck, Cockrell, Coke, Davis of West Virginia, Dennis, Garland, Gordon, Harris, Hereford, Hill, Jones of Florida, Kernan, Lamar, McDonald, McPherson, Morgan, Patterson, Randolph, Saulsbury, Thurman, Voorhees, Wallace, Whyte, and Withers—26.

ABSENT—Messrs. Anthony, Armstrong, Barnum, Blaine, Booth, Bruce, Conover, Davis of Illinois, Eaton, Ferry, Grover, Hamlin, Hoar, Ingalls, Johnston, Jones of Nevada, Kirkwood, McCreery, Matthews, Maxey, Merrimon, Mitchell, Morrill, Oglesby, Plumb, Ransom, Sargent, Sharon, Spencer, Teller, and Windom—31.

So the motion was not agreed to.

Mr. WADLEIGH. Now, Mr. President, in order to show the character of the election in the county of Edgefield on the 7th of November last, and to show thereby the impropriety of taking this case from a committee which can consider the testimony much better than the Senate, I will proceed to read to the Senators, who I have no doubt will give me that patient attention which they have given me during my previous remarks, the testimony of Captain Kellogg, of the United States Army, who was present——

Mr. THURMAN. Will the Senator from New Hampshire allow me to interrupt him for a moment?

Mr. WADLEIGH. With great pleasure.

Mr. THURMAN. In consideration of the fact that the Senator has been on his feet for over twelve hours, in the common courtesy of humanity I move that he be allowed to speak sitting in his chair. [Laughter.]

Mr. WADLEIGH. Mr. President, I am very much obliged, indeed, exceedingly grateful to my friend from Ohio for this and the uniform kindness which I have experienced at his hands; but it is a little easier to speak standing, and I would prefer that he should not press the motion he has indicated. I will read this testimony:

CAPTAIN E. R. KELLOGG, EDGEFIELD COUNTY.

COLUMBIA, S. C., *January* 4, 1877.

E. R. KELLOGG, sworn and examined.

By Mr. CHRISTIANCY:

Question. What is your profession?

Answer. I am a captain in the Eighteenth Infantry and brevet major in the United States Army.

Q. Where were you stationed during the last election, on the 7th of November last?

A. I was stationed at Edgefield Court-House, in Edgefield County, in this State.

Q. Who was the officer in command?

A. General Brannan was in command of the post.

Q. Well, were you at either of the polling-boxes during that day, or near them?

A. I was.

Q. Which one of the polling-boxes were you near mostly?

A. At box number 2.

Mr. HARRIS. I hope the Senator from New Hampshire will read louder. I do not hear him distinctly.

Mr. WADLEIGH. If my friend the Senator who has last spoken will sit near me, I will endeavor to make him hear. Let him come a little nearer to me. [Laughter.]

Q. We wish to ascertain whether there was anything took place that day, during that election, calculated to intimidate the colored voters or prevent them from voting the republican ticket; and whether any of them were prevented from voting by any means, and the conduct generally that you observed there of whites and blacks.

A. If you desire me I can state in a very short time what I actually saw and did there.

By Mr. CAMERON:

Q. That is just what we want, captain.

A. I was sent for about half past nine o'clock in the morning by General Brannan, and was directed to take my company and go to box No. 2, and it was reported that the poll there had been closed; that I should go there, and I would receive instructions from the deputy United States marshal, a Mr. Beatty. I marched my company there, and on my way there I was passed by a large number of mounted and armed white men who rode ahead of us, evidently for the purpose of getting there before I did, and who did get there before I did. It was between a quarter and half a mile from the court-house, where box No. 1 was held, to the place where box No. 2 was held, and about the same distance from where my company started.

I marched to the place, and halted my company about fifty yards from the school-house or church (I do do not know which it was) where poll No. 2 was held. There were two buildings there; one was a church and one a school-house; whether it was the church which was used as a polling-place I am not certain, but I think it was the school-house. They were quite near each other. I located my company about fifty yards from the voting-place, and the deputy marshal came to me then and reported that there was a large crowd of white men, mounted men, in front of the house in which the box was, and that they were preventing the admission of any one to the box except democrats. I saw this crowd was in front of the house and a large number of mounted white men, and back of them were negroes.

Q. Were these white men armed that you saw there?

A. I did not see a single white man, sir, who was not armed, to the best of my recollection, at that place. I do not think I saw above six men that were not armed in the whole town—white men—that came under my observation. The marshal requested me to send some men to open a passage to the door leading into the building where the box was, and I sent Lieutenant Hoyt with four men with the marshal to open a passage to the box. Soon afterward I gave instructions to my

company, and then went down there myself to see the condition of affairs. It was very difficult for me to get through the crowd of horsemen; they were packed in as close as they possibly could be in the front of the building, between the door and the fence. There were from thirty to fifty in the front of it. They were about as thick as they could be, and then they extended back several rods, not very dense, away from the building. I should think there were altogether three hundred horsemen there. I finally got through the crowd, but I had to request men to move their horses' flanks one way and then to move their heads another way, and in that way I worked my way through the crowd. As I was getting through I came up behind General Gary, and just before I came to him, before he saw me, and before I spoke to him, I saw him reaching down for his pistol—about taking hold of his pistol, which was in his saddle-bag. He said—I think these were his identical words nearly—"If there is going to be a row here, by God, there will be a lively one."

All these white men in front of the building and near it were shouting and cursing, and a great many of them shouting out, "Shoot! shoot! God damn it, shoot!" I really apprehended that there would be some trouble, and I knew that if there should be that there would be bloodshed. I spoke to General Gary then, and asked him if he would not endeavor to quiet the crowd. He paid no attention to me at first. I spoke to him again and said, "General, you have some influence over these men, and I wish you would exert it, and see if you cannot keep them quiet," and he said, "Well, I am a deputy sheriff, and that is what I am here for." Very soon afterwards I spoke to him again. I saw that there were a number of men who had their pistols drawn, these mounted men, and I asked him if he would not direct those men to put their pistols up. He did not do it, but he called out to some of the men, "Tell those fellows to keep quiet," meaning, I suppose, those men that were brandishing their pistols. The men who had their pistols—I saw the most of them—were right in near the soldiers when I worked my way through the crowd.

When I worked myself through I found that Lieutenant Hoyt had made a passage from four to six feet in width to the boxes. These men who had their pistols drawn were the men right next to the soldiers. I saw a number of them with their revolvers in their hands and with their thumbs on the locks and their fingers on the triggers. I staid there a few minutes until there was less disorder than there had been, and then I returned to my company, where I remained during the day.

Lieutenant Hoyt requested me to send some more men, as he did not have a sufficient number to keep the crowd back, and I sent him four more men.

Just before I went down there, and just as Lieutenant Hoyt got down to this place, there was some disorder there and around in the crowd, which, I suppose, was caused by his going through the building. He entered the building and went out through the front door. He could not go through the crowd very well and get into the building in any other way, and he went through a window, then opened the door and stepped out in front; and I suppose this commotion was excited by that. I saw that there was a movement in the crowd when he moved out of the house, and a great many of the negroes who were some distance back, that is four or five rods from the house, immediately began to shout, "It's commenced! It's commenced!" and started to run; and I called to them to stop and keep quiet, and they stopped then.

By Mr. CHRISTIANCY:

Q. What way did they begin to run—to run away?

A. Away from the building; yes, sir. A large number of these white men, or at least I saw a number, a dozen or more, in addition to their fire-arms, had heavy clubs in their hands. I observed two or three men who had ax-helves, and others with large bludgeons of every description. I saw that the negroes were shouting occasionally; they would shout, make a hurrah for Hayes and Wheeler, or for Chamberlain. I noticed that when they did it it seemed to anger some of the white men. I remember of hearing on one or two such occasions some such remarks as this from white men, "Now, there is going to be a fuss;" and I observed some of them handling their pistols at such times; and I therefore requested the negroes—I went down and spoke to a number of them and told them to tell others not to shout; to keep quiet; that there was no need of shouting for any one, but to just deposit their ballots as soon as they could and then get away; and they obeyed my request, and there was very little shouting after that. The polls were closed at six o'clock——

Q. What time was it when you left there and went back to the post?

A. When I left the house, do you mean?

Q. Yes, sir.

A. I might say I was at the house all the time. I was within fifty yards of it after I went back to my company. The polls were closed at six o'clock. At that time there was a large number of negroes there who claimed that they had not voted. I cannot say whether they had or not; it is my opinion that they had not, as a great many of them came to me in the afternoon, when they saw it would be impossible for them to vote, and asked me if they could vote on the next day. I told them, of course, that they could not; that the polls would be closed at six o'clock; and as it became evident that they could not get to vote, about five o'clock they began to leave; but when the polls were closed there were still a large number remaining there who claimed they had not voted, and I don't believe they had.

Q. Were you up, at any time, close enough to the polls to observe how the voting was going on at the polling-places—the putting in of the votes?

A. No, sir. There was no obstruction though to any man's going in there after Lieut. Hoyt opened that passage. They usually went in then in squads; one of the managers would open the door and call for voters, and from six to ten would go in at a time. That was the way they were doing while I was there, and I believe that was kept up during the day. What was done inside of the building I have no knowledge of my own.

Q. Did you observe anything in connection with poll No. 1?

A. No, sir.

Q. You were not at that poll?

A. No, sir; I saw nothing of that poll at all, except from a distance of eight or ten rods. I could see the crowd about it before I went up to poll No. 2; that is up to half past nine o'clock in the morning. There was a great deal of disorder around there, and armed men riding about that place constantly.

Q. Armed white men?

A. Yes, sir. I did not see any negro whom I knew to be armed. I don't know whether any of them had concealed pistols or not.

Q. State then, generally, which, the colored or the whites, appeared most orderly and least noisy.

A. The colored men were perfectly orderly so far as I observed, except that men shouted for their candidate; and that shouting, as I said before, was stopped where I was at the poll, No. 2, when I requested it; and there was only individual shouting after that, and very little of that.

By Mr. CAMERON:

Q. What was the condition of the town on the evening of the election, after the polls were closed; was it orderly or boisterous; and were the men whom you saw on the streets sober or drunk?

A. Well, sir, I never saw more disorder or boisterousness in my life than I saw there, both the day before and during election day, and the day after.

[At this point Mr. EDMUNDS read the extract at the suggestion of Mr. WADLEIGH.]

By Mr. CHRISTIANCY:

Q. And the night before the election?

A. And the night before the election, during the election, and day after. I have been in a great many places that I thought needed regulating a great deal by the police, but I never was in one where there was so much disorder, and so much drunkenness, and so little respect for the comfort of other people as there was there. It was almost impossible to sleep for three nights there, and I don't think it was altogether safe. There were pistols fired about the town. I do not know that any one was shot at directly, but there was a great deal of pistol firing during all three of those nights.

By Mr. CAMERON:

Q. Will you state particularly in regard to those demonstrations the night before the election, that is, the night of the 6th of November?

A. Yes, sir; the armed white men were coming into town—I observed them along in the afternoon; whether any had come in before that I don't know. They were coming in in squads of from twenty to thirty generally; I think there would be from six to a dozen, and from the noise and riding of these men about the town, and their shouting there all night, I don't believe that there were very many that were sober. I did not see one that was not drunk that came under my observation. I did not go around the town to look at them; I simply only saw those who came near me; and, as I said before, it was impossible, almost, for a man to sleep that night. I know my own family complained to me that they were not able to sleep any.

Q. What were the cries and shouts of these white armed men?

A. Well, it was not any one particular thing; it was hurrahing for Hampton, and generally shouting for Hampton, not much hurrahing for Tilden; and the singing of hymns, or campaign songs set to hymn-tunes, and interspersed with a great deal of swearing.

Q. Their hymns were interspersed with swearing——

By Mr. CHRISTIANCY:

Q. Swearing at what?

A. A man would sing a verse of a hymn, and then they would say, "God damn my soul, hurrah for Chamberlain," and something of that sort. It was disgraceful, the way that many of them behaved—disgraceful, I mean, to the town that it was permitted.

By Mr. CAMERON.

Q. Do you know where Senator Cain, of Edgefield, resides; where his house is?

A. Yes, sir; I had to pass it whenever I went to my company from where I boarded.

Mr. EDMUNDS. I may remark, with the permission of my friend, that I am very glad to read some part of this, as it seems to be the only opportunity that the majority design to give to the minority of understanding what this case is. I continue the reading of this testimony at my friend's request:

Q. Do you know whether, on the night of the 6th, his house was surrounded by those armed white men?

A. Only from hearsay.

Q. That you need not state. If there is anything else that occurred at that time, which you can answer, within the scope of our general inquiry, you may state it.

A. Well, sir, I do not——

Mr. CONKLING. Mr. President, I am so much impressed myself by this reading that I think there ought to be a quorum here to hear it. I suggest to the Chair that there is nothing like a quorum in the Chamber.

The VICE-PRESIDENT. The Secretary will call the roll.

The Chief Clerk called the roll, and forty-four Senators answered to their names.

The VICE-PRESIDENT. A quorum is present.

Mr. ALLISON, (at seven o'clock a. m.) I move that the Senate do now adjourn.

Mr. WHYTE called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 19, nays 26; as follows:

YEAS—Messrs. Allison, Booth, Bruce, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Conkling, Dawes, Dorsey, Edmunds, Howe, Jones of Nevada, McMillan, Paddock, Rollins, Saunders, Teller, and Wadleigh—19.

NAYS—Messrs. Bailey, Bayard, Beck, Cockrell, Coke, Davis of West Virginia, Dennis, Garland, Gordon, Harris, Hereford, Hill, Jones of Florida, Kernan, Lamar, McDonald, McPherson, Morgan, Patterson, Randolph, Saulsbury, Thurman, Voorhees, Wallace, Whyte, and Withers—26.

ABSENT—Messrs. Anthony, Armstrong, Barnum, Blaine, Christiancy, Conover, Davis of Illinois, Eaton, Ferry, Grover, Hamlin, Hoar, Ingalls, Johnston, Kirkwood, McCreery, Matthews, Maxey, Merrimon, Mitchell, Morrill, Oglesby, Plumb, Ransom, Sargent, Sharon, Spencer, and Windom—28.

So the Senate refused to adjourn.

The VICE-PRESIDENT. The Senator from New Hampshire.

Mr. EDMUNDS. My friend from New Hampshire requests me to continue the reading of this testimony for him:

A. Well, sir, I do not know any facts that have a bearing upon that. I do not know whether any opinion is desired from me in regard to it.

Mr. CAMERON. No, sir.

The WITNESS. I may say that after the election was over, just after the polls closed, General M. C. Butler came around and requested permission from me to make a speech to my company; I told him I had no objection, although I had; yet I could not very well say so; so I said I had no objection, provided he would not say anything about politics; and he said certainly, that he wished simply to thank us; and I then called the company to attention, and he made us a little speech in which he thanked us for the courtesy and the impartial manner in which we had performed our duty during the day.

That is rather a difficult thing to find out even in these days, Mr. President.

After the poll closed, one, or I don't know but two—I know one of the managers of the election requested me to leave a guard in the building while they counted the votes. Well, I was adverse to doing it, and one of the managers—I don't know whether he was a republican or democrat; I did not know any of them—said he did not think it was necessary, but he had no objection; and one of the others, and I think both, requested that the crowd should be left. I therefore sent to General Brannan for instructions, and he directed me, if the managers desired it, to leave a guard there; so I left an officer and ten men, I believe it was; a few men with the managers while they counted the votes.

Cross-examination by Mr. MERRIMON:

Q. One witness, Jesse Jones, has sworn that General Brannan did not do his duty there that day. What do you say on that subject?
A. I do not think that I am called upon, as an Army officer, to criticise my superiors.
Q. You could say whether he responded to applications made to him, could you not?
A. I cannot tell; of course, I cannot tell what applications were made to him. I only know what he told me. I merely received my orders from him.
Q. What time did you go to the box No. 2?
A. I think it was about half past nine o'clock when I started, and about quarter to ten when I got there.
Q. How long did you stay there after that?
A. I staid there until about half past six in the evening.
Q. Was the voting steady from the time you went there until the polls were closed?
A. From the time the lieutenant opened the passage there, there was steady voting until the polls were closed.
Q. Do you know how many men voted there?
A. I can only state from my recollection of it—that is, what I heard. I think there were about nine hundred votes; that is my recollection. I may be several hundred out of the way.
Q. How long did it take a man to vote?
A. Of my own knowledge I could not say. I did not go into the building at all. I should say, however, from what few minutes that I was down there, that it was very slow voting.
Q. Each man had to take the oath?
A. That was what I understood; I didn't see.
Q. After your subordinates were stationed there, Lieutenant Hoyt and Lieutenant Williams, do you know that they kept the soldiers stationed there and that the negroes just marched in by sixes and eights and tens?
A. Whenever a man inside had voted, then the door was opened by some one inside, and they called for more voters. Then from six to ten would go in, either white or black. There were very few whites, I think that voted there after I got there. There were not many that wished to vote, I believe.
Q. But everybody that could vote voted after you got there?
A. They were not prevented from going in to vote after I got there.
Q. That is what I mean, Captain Kellogg. What was your relation with those white people around there, friendly or otherwise?
A. I had nothing to do with them at all.
Q. I ask you whether you wrote an unfriendly letter about them to a paper in Ohio?
A. No, sir; I never wrote a letter.
Q. Did any member of your family?
A. There was a private letter written by my wife, which was published in a paper in Ohio, and I have reason to believe that the paper in which it was published was stolen out of the post-office in Edgefield by the editor of the Edgefield democratic paper, and published in his paper.
Q. Was it a very unfriendly letter?
A. I did not regard it as unfriendly. I regarded it simply as a statement of facts, as I believed them, by my wife. In some particulars she was not strictly correct, and in some things she might have said more than she did. It was written without my knowledge and without my consent. My wife writes her own letters and I mine.
Q. Was it partisan in its tone?
A. I do not know what you mean.
Q. Did it take sides in this contest between these people?
A. I have only seen the letter—I only succeeded in getting a copy of it a few days ago, and I read it over hastily. It was a matter I did not take any interest in; but I think that it condemned the action of the white people there, and stated, in substance, that the negroes were prevented from a free expression of their will at the ballot-box. I cannot pretend to give any one quotation from the letter.

By Mr. CHRISTIANCY:

Q. You had nothing to do with writing it?
A. I do not know anything about it.

By Mr. MERRIMON:

Q. To what political party do you belong when you are at home?
A. I am an officer of the United States Army, and I have never affiliated, according to my understanding of the word, with any political party since I have been in the Army.
Q. You do not vote?
A. I have voted when I have been at home on two or three occasions. I voted for Abraham Lincoln in 1864 when I was at home wounded. I voted in the State of Ohio in 1867 against the amendment of the constitution permitting negroes to vote. I believed it to be my duty to vote in that way; and I have voted there since in a congressional election. I vote nowhere else. I don't consider that I have a right to vote anywhere else.

HENRY W. PURVIS, RICHLAND COUNTY.

COLUMBIA, SOUTH CAROLINA, *January* 5, 1877.

HENRY W. PURVIS (colored) sworn and examined.

By Mr. CHRISTIANCY:

Question. Where do you reside?
Answer. In Columbia, South Carolina.
Q. How long have you resided here?
A. About ten years.
Q. What is your age?
A. Thirty-one.
Q. Do you know anything about the organization of Captain Dock Adams's company of militia in Hamburgh, Aiken County?
Mr. MERRIMON. State what you know of your own knowledge.
A. I will certainly do that. It was a part of the organization of the militia under Governor Scott.

By Mr. CHRISTIANCY:

Q. Before you begin, you may state what means you have of knowing about this.
A. I was adjutant-general of the State.
Q. You were adjutant-general of this State?
A. Yes, sir. The company was commanded by Prince W. Rivers.

By Mr. MERRIMON:

Q. When was that company organized?
A. During the first administration of Governor Scott, in 1869 or 1870, I think, sir. He was promoted afterward, and the company was commanded by a man named Williams. It was connected with a regiment known as the Ninth Regiment, South Carolina National Guard.

By Mr. CHRISTIANCY:

Q. At that time?
A. Yes, sir; and on promotion of Williams to the colonelcy the company had dwindled down very much, and was commanded by this man Adams, who was elected captain of it; and since 1872 he has been captain of it. I was elected in 1872 as adjutant-general, and he was then captain of this company—Company A.
Q. Who was?
A. Adams.
Q. In 1872?
A. Eighteen hundred and seventy-two, sir.

By Mr. MERRIMON:

Q. Are you sure of that?
A. I am, sir.

By Mr. CHRISTIANCY:

Q. Was it Adams or Williams who was captain in 1872?
A. Williams was promoted, and Adams was elected captain of the company.
Q. Are you sure about the year?
A. I will not be right positive. My reports, anyhow, will show for that. The present adjutant-general is, I believe, making out a statement of that fact, anyhow.
Q. You do not, then, pretend to give the dates exactly?
A. No, I will not be precise about that.
Q. After Williams had been promoted to the colonelcy——
A. The command of the company fell upon this man Adams, by election of the company.
Q. When did you cease to have any connection with the adjutant-general's office?
A. In December, 1876.

Mr. MITCHELL. Will the Senator give way for a motion to adjourn?

Mr. WADLEIGH. I will give way for that purpose.

Mr. MITCHELL, (at seven o'clock and fifteen minutes a. m.) I move that the Senate do now adjourn.

Mr. GARLAND called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 18, nays 26; as follows:

YEAS—Messrs. Allison, Bruce, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Christiancy, Conkling, Dawes, Edmunds, Jones of Nevada, Kirkwood, McMillan, Oglesby, Rollins, Saunders, Teller, and Wadleigh—18.

NAYS—Messrs. Bailey, Bayard, Beck, Cockrell, Coke, Davis of West Virginia, Dennis, Garland, Gordon, Harris, Hereford, Hill, Jones of Florida, Kernan, Lamar, McDonald, McPherson, Morgan, Patterson, Randolph, Saulsbury, Thurman, Voorhees, Wallace, Whyte, and Withers—26.

ABSENT—Messrs. Anthony, Armstrong, Barnum, Blaine, Booth, Conover, Davis of Illinois, Dorsey, Eaton, Ferry, Grover, Hamlin, Hoar, Howe, Ingalls, Johnston, McCreery, Matthews, Maxey, Merrimon, Mitchell, Morrill, Paddock, Plumb, Ransom, Sargent, Sharon, Spencer, and Windom—29.

So the Senate refused to adjourn.

Mr. WADLEIGH rose.

Mr. GARLAND. Mr. President, what is the question now before the Senate?

The VICE-PRESIDENT. The Senator from New Hampshire is addressing the Senate.

Mr. GARLAND. Upon what question?

The VICE-PRESIDENT. Upon the amendment proposed by the Senator from Oregon, [Mr. MITCHELL.]

Mr. GARLAND. The amendment of the Senater from Oregon to the original resolution?

The VICE-PRESIDENT. The amendment to the resolution of the Senator from Ohio.

Mr. EDMUNDS. My friend from New Hampshire desires me to continue to read this testimony for him:

Q. This last December?
A. Yes, sir.
Q. Have you any of the records of the office here with you?
A. I have not.
Q. Do you know anything about the furnishing of arms to that company?
A. No arms were furnished during my administration as adjutant-general. There were no arms furnished except under the administration of Governor Scott.
Q. The arms, then, whatever they were, were furnished during Governor Scott's administration?
A. Yes, sir.
Q. When you were not adjutant-general?
A. When I was not adjutant-general.
Q. Was any ammunition furnished them while you were adjutant-general?
A. Not any.
Q. Was any commission actually issued to Adams as captain of the company?
A. Application was made, but none actually issued; at least, it never left the office.
Q. What was the reason that it was not done?
A. They never called for it.
Q. Was there something wanting—some returns to be made to the office?
A. Under the act of 1874 of the Legislature, reorganizing the militia, this company, after its reorganization, elected Mr. Adams as captain, but he never was commissioned, I don't think, under the reorganization.
Q. Never was commissioned under the reorganization?
A. Never was commissioned under the reorganization; and the other officers of the company, they held over—their term of office had not expired as officers, and they held over.
Q. Whatever the cause was, he did not receive a commission?
A. He did not receive a commission, but at the same time the company had elected him as captain. It was a mere matter of form, the commission was, as far as that was concerned.
Q. Were you with Governor Chamberlain during the political campaign last fall, or any part of it?
A. Yes, sir; I was at several places with him.
Q. At what places?
A. I was at Edgefield and Newberry.
Q. Were you at Abbeville?
A. No, sir.
Q. You were only at those two places?
A. Only at those two places.
Q. If you know anything of any intimidation of the colored voters in this State that has come under your own observation, from the beginning of the campaign down to its close, you can state it; intimidation by the democratic party, the whites, against the republican colored voters.
A. Well, I do not know as against the colored voters, but against all republican voters. At all the meetings that I attended, with one or two exceptions, there was

a general intimidation; where I voted I did not see any intimidation; I voted here in Columbia, but during the campaign at all the meetings I attended there was almost in every instance on the part of the democracy an open source of violence or intimidation.

Q. Well, sir, just describe what it was; what you saw and what you know of your own knowledge.

A. For instance, notice was given that a republican meeting would take place at such and such a time and at such a place, and the whites would go there in large bodies, generally armed men on horseback, and surround the stand and demand part of the time; and, if that was not granted, the result has been in many instances that there has been no meeting. In some instances republican speakers—where the meeting was called at the village of Edgefield particularly, where I saw it—time was allotted to the republican speakers by the democrats, although it was a republican meeting, a meeting held under a republican call. The same thing occurred in the county of Newberry.

Q. That was so both at Edgefield and Newberry, was it?

A. Yes, sir.

Q. Well, during the time that the republican speakers were speaking what was the conduct of the whites, the democrats present?

A. If there was reference made at all to the acts of the democratic party they were interrupted; they were not allowed to proceed.

It is a good deal so here, too.

Mr. GARLAND. I wish to ask the President who has the floor; whether the Senator from Vermont or the Senator from New Hampshire?

The VICE-PRESIDENT. The Senator from New Hampshire.

Mr. GARLAND. Then the Senator from Vermont has no right to interject these remarks into his reading. He is a mere agent, a mere clerk, and a mere fungus of the Senator from New Hampshire.

Mr. EDMUNDS. I must subside under that last term, Mr. President.

Mr. GARLAND. It does not make any difference what you subside under.

Mr. EDMUNDS. That high-bred observation of my friend would silence me at once.

Mr. GARLAND. It does not make any difference what silences you. I make the point.

Mr. EDMUNDS. I will go on.

Q. Any names called, any threats of violence?

A. Well, abusive language and obscene language used against prominent men who happened to be present; such as calling them—

There is a term that I think I will leave out, if I shall be allowed to interject anything in this performance. The Senator can read it for himself.

Q. Did you see at those meetings any pistols drawn out?

A. No; I do not remember of seeing anybody draw any pistol; but these bodies of armed men were generally present at these political meetings and they were known as rifle-clubs, and they existed without any guarantee of law. Under a charter here obtained from the General Assembly, in 1874, these clubs organized as charitable clubs; but that act was repealed, and all the clubs that are now in existence exist without any guarantee of law at all and in utter violation of law.

Q. Well, upon this point I will ask you one question in reference to the military organizations here. It is said that none but colored men have been organized as State militia; will you state what was the reason they were not; does the law make any difference between the two?

A. There is no distinction in the law; it was the same as under the laws of the United States. All persons of certain age are subject to military duty, but under this national guard system the governor had the right to select out of this militia element those whom he deemed fit to constitute that national guard. There has been no proscriptive element, or no proscription about it. The white men objected to joining the militia with the colored companies, and wherever there has been an application from them they desired to be a separate and distinct body of armed men.

Q. That is, they wished to make the distinction of color, and that was impossible under the general law?

A. Yes, sir; that could not be done under the general law. As far as the falsity of the statement, if any such has been made, is concerned, I will say that a majority of the commanding officers, I think, of the military organizations in this State are white men who have affiliated with the republican party generally; or a great many of them are, at least.

Q. Have you been out through the State enough to know anything of the riding about at night by these rifle-clubs, as you call them?

A. I have been all over the State a good many times, but I have never seen any of those parties riding out any more than the evidence in the Ku-Klux trials and the evidence taken before various committees.

Q. I do not inquire into that. Unless you know of some other facts of intimidation of these colored people or republicans by the democrats, I have no further question to ask; but if any other facts are within your mind that now occur to you, you can state them.

Mr. ALLISON, (at seven o'clock and thirty minutes a. m.) Mr. President, I ask the Senator from New Hampshire to yield to me to make a motion that the Senate take a recess now until nine o'clock or half past eight. I will say nine.

The VICE-PRESIDENT. The Senator from Iowa moves that the Senate take a recess until nine o'clock.

Mr. GARLAND called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 21, nays 26; as follows:

YEAS—Messrs. Allison, Bruce, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Christiancy, Conkling, Dawes, Dorsey, Edmunds, Howe, Jones of Nevada, Kirkwood, McMillan, Oglesby, Paddock, Rollins, Saunders, Teller, and Wadleigh—21.

NAYS—Messrs. Bailey, Bayard, Beck, Cockrell, Coke, Davis of West Virginia, Dennis, Garland, Gordon, Harris, Hereford, Hill, Jones of Florida, Kernan, Lamar, McDonald, McPherson, Morgan, Patterson, Randolph, Saulsbury, Thurman, Voorhees, Wallace, Whyte, and Withers—26.

ABSENT—Messrs. Anthony, Armstrong, Barnum, Blaine, Booth, Conover, Davis of Illinois, Eaton, Ferry, Grover, Hamlin, Hoar, Ingalls, Johnston, McCreery, Matthews, Maxey, Merrimon, Mitchell, Morrill, Plumb, Ransom, Sargent, Sharon, Spencer, and Windom—26.

So the motion was not agreed to.

Mr. CHAFFEE. I ask the Senator from New Hampshire to further give way to enable me to make a motion which I have very important reasons for making, which is that the Senate proceed to the consideration of executive business.

The VICE-PRESIDENT. The question is on the motion of the Senator from Colorado.

Mr. COCKRELL called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 20, nays 25; as follows:

YEAS—Messrs. Allison, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Christiancy, Conkling, Dawes, Dorsey, Edmunds, Howe, Jones of Nevada, Kirkwood, McMillan, Oglesby, Paddock, Rollins, Saunders, Teller, and Wadleigh—20.

NAYS—Messrs. Bailey, Bayard, Beck, Cockrell, Coke, Davis of West Virginia, Dennis, Garland, Harris, Hereford, Hill, Jones of Florida, Kernan, Lamar, McDonald, McPherson, Morgan, Patterson, Randolph, Saulsbury, Thurman, Voorhees, Wallace, Whyte, and Withers—25.

ABSENT—Messrs. Anthony, Armstrong, Barnum, Blaine, Booth, Bruce, Conover, Davis of Illinois, Eaton, Ferry, Gordon, Grover, Hamlin, Hoar, Ingalls, Johnston, McCreery, Matthews, Maxey, Merrimon, Mitchell, Morrill, Plumb, Ransom, Sargent, Sharon, Spencer, and Windom—28.

So the motion was not agreed to.

Mr. EDMUNDS. I will continue the reading of the testimony for my friend from New Hampshire:

Q. I do not inquire into that. Unless you know of some other facts of intimidation of these colored people or republicans by the democrats, I have no further question to ask, but if any other facts are within your mind that now occur to you, you can state them.

A. I know of nothing more, sir, than what I suppose you have heard from witnesses summoned, that they have been abused and whipped; after they were whipped I have seen them.

Q. Well, state that.

A. There has been a great many instances of men here—men that were in the Hamburgh riot and the Ellenton riot; they have been here, large numbers of them, that I have seen that have been whipped and abused.

Q. Did you see the marks on them where they were whipped?

A. Yes, sir. I think there is a gentleman here now as one of your witnesses that has got a wound where he was shot not yet healed up.

Q. What was his name?

A. He was from Marion County.

Q. What was his name?

A. I do not remember his name.

Q. Simon Crawford?

A. Crawford, I believe, his name was.

Q. Have you seen any others?

A. I do not know as I could remember the names, but there have been a great many of them here within the last six weeks before the United States court that were wounded and abused. I know nothing further. I was a member of the canvassing board here. I suppose you have got that evidence, though.

Q. Were you a member of the State canvassing board?

A. Yes, sir.

Mr. CAMERON. Well, we do not propose to go into that question of the State canvass at all.

MR. MERRIMON. I do, if you will let me do it.

Mr. CAMERON. You can examine the witness, Mr. MERRIMON.

Cross-examination by Mr. MERRIMON:

Q. There was an act passed in 1874 which required the reorganization of the militia of this State?

A. I believe it was in 1874.

Q. That act provided that, in order to reorganize it, any companies might be formed consisting of not less than the number fixed in the statute?

A. Yes, sir.

Q. It required application to be made to the adjutant-general's office that companies that had a prior existence might reorganize if they reorganized within a specific time: that is, by the 1st of January, 1875. I ask you whether, under that reorganization, the companies that had an existence prior to that time—the persons reorganizing—had a right to elect their officers?

A. I don't believe they did; not until after they reorganized.

Q. Well, after they reorganized, did they have a right to elect their officers?

A. They did.

Q. In that case did you issue commissions to them?

A. I did when they made application.

Q. How did it happen that you did not issue commissions to Dock Adams's officers?

A. The application was not made.

Q. If application had been made, you would have issued commissions to them?

A. Very likely to have done so.

Q. The persons composing the company had a right to elect their officers?

A. Their superior officers.

Q. And after the reorganization regularly they would have been commissioned?

A. They would have been.

Q. And you say that no commission was issued to Dock Adams's company, or any officer of it, after the reorganization took place?

A. I did not say so.

Q. What did you say?

A. I said that Dock Adams was not commissioned; the other officers of the company were commissioned.

Q. When were they commissioned?

A. After the reorganization and before.

Q. The present adjutant-general stated yesterday that they were not.

A. They were, and it so appears upon the records; Cartledge and some other man; I forget now; Coleman, I think.

Q. When did Dock Adams's company reorganize?

A. I do not remember.

Q. Do you know that it ever was reorganized?

A. I do.

Q When was the muster-roll filed in your office?

A. I do not remember.

Q. Was it filed there before the Hamburgh riot?

A. It was.

Q. You swear that?

A. Yes, sir.

Q. You are sure of it?

A. Yes.

Q. Now, I caution you about that.

A. I am pretty positive of it; the record will show if it was not so.

Q. I now ask you whether that muster-roll was filed there before the Hamburgh riot?

A. Well, I would not swear positively, because the record will show if it was.

Q. You said awhile ago that it was.

A. I am under the impression that it was.

Q. Why didn't you, then, issue to Dock Adams his commission?

A. He never applied for it.
Q. Never has applied to this day?
A. I was not to know that Dock Adams was captain of that company until he applied for his commission.
Q. When a muster-roll is forwarded does not the statute require you to commission the officers?
A. It does not. They have the right to elect their officers whenever they see fit to.
Q. This company was reorganized by Dock Adams; when?
A. I do not remember the date.
Q. When was it reorganized?
A. It was reorganized under this act; I don't remember the date.
Q. Do you know whether it was before the 1st of January, 1875?
A. The date of this act is 1874; March, 1874.
Q. That act provides that they must be reorganized by the 1st of January, 1875, unless the officer mentioned in the act shall extend the time; were they reorganized before that time expired?
A. They may have been between 1874 and 1875; my reports will show it.
Q. And your reports are all filed in the office?
A. They are, sir.
Q. The records are regularly kept there, and reports made touching this company are on file in the office you lately held?
A. They are.
Q. When did you issue any ammunition to those men last?
A. I never issued any to them at all.
Q. Never while you were in office at all?
A. No, sir.
Q. I ask you particularly whether any ammunition has been issued regularly or not within the last ten months?
A. I would not be likely to let them have any unless it was regularly issued.
Q. How is it; did you or not?
The WITNESS. What do you mean?
Q. I ask you if you did do it?
A. I say, no.
Q. Are you positive that you did not?
A. I would say positively that there is no use of my answering any such question.
Mr. CHRISTIANCY. Answer the question.
The WITNESS. I say, no; they have had none since I have been adjutant-general.
Mr. MERRIMON. They got none from the office whether it was issued officially or otherwise?
A. No, sir.
Q. State whether you issued to any portion of the militia, during the Combahee riot, any ammunition.
A. I issued to General Smalls, commanding that division, under requisition of his excellency the governor, six thousand rounds of ammunition.
Q. While the Combahee riot was going on?
A. Yes, sir.
Q. Did you issue any arms?
A. I did not.
Q. Did you issue any arms after that?
A. I did not.
Q. Did you send any arms to the chief of police at Charleston?
A. I did.
Q. How many.
A. I think there were thirty or forty; I do not remember just now.
Q. Did ammunition go with the arms?
A. It did.
Q. How much?
A. I forget exactly.
Q. Where else did you issue any arms since January last?
A. None except to the State penitentiary.
Q. Nowhere else but to the State penitentiary?
A. And to the agricultural school at Orangeburgh.
Q. Did you issue any arms to any militia at all?
A. None at all.
Q. Did you issue any ammunition to any of the militia?
A. Not any.
Q. I ask you whether any arms were sent to a man at Newberry Court-House, put up in a box marked "Shoemakers' tools?"
A. None that I know of.
Q. You swear that no arms went from your office?
The WITNESS. As "Shoemakers' tools?"
Mr. MERRIMON. Yes, sir; marked "Shoemakers' tools."
A. Not any, sir.
Q. And sent to Newberry?
A. Not any.
Q. You swear that none were issued there?
A. Yes, sir.
Q. And that none were sent from your office?
A. None were sent from my office.
Q. Or ammunition?
A. Nor ammunition.
Q. I would like to ask what was the object of this Hamburgh matter?
A. Do you want to know the truthfulness of it?
Mr. MERRIMON. Certainly.
The WITNESS. I could not understand what that had to do with the organization of this militia. I could not understand the drift of this thing. I could not see the pertinency of this matter, whether that company existed at all or not.
Q. We want to know whether it had a legal existence?
A. Then that would be a guarantee that these men were legally murdered.
Q. I ask whether you directed the colonel commanding that regiment over there to gather up the arms belonging to that Dock Adams company?
A. I did not.
Q. Did Williams write you a letter before you left the office going on and telling you where he had found various guns?
A. I did get a letter from Mr. Williams, colonel of the regiment that was, I believe, from Augusta, saying that after the Hamburgh riot a lot of democrats had possession of the State arms, and I wrote him that I would be very glad indeed if he could get them back. I believe that they captured them from the fellows that they shot.
Q. Did you get all the guns?
A. He did not get any.
Q. He did not get any at all?
A. No, sir; he said he did not get any. The members of the regiment do not generally get the guns when they get in the hands of the democracy in that region.
Q. He said he did not get any of the guns?
A. He did not get any.
Q. He said he did not in a letter?
A. No, I don't think that he did. Company A, commanded by Dock Adams, is a regular organized company, and a part of the National Guard of this State, and was at the time that these men raided on it.

By Mr. CAMERON:
Q. That was prior to the 4th of July?
A. Yes, sir; and was one of the first companies organized in this State, and has been ever since.
Q. And recognized by the State authorities as a legally-constituted company?
A. Yes, sir; I made a report to his excellency the governor in reference to that matter, which I suppose could be seen at any time.

That ends the testimony of Mr. Henry W. Purvis.

Mr. WADLEIGH. I will now read, Mr. President, the testimony of Raphael Stewart, of Laurens County.

RAPHAEL STEWART, LAURENS COUNTY.

COLUMBIA, SOUTH CAROLINA, *December* 21, 1876.

RAPHAEL STEWART (colored) sworn and examined.

By Mr. CAMERON:
Question. Where do you live?
Answer. In Laurens County.
Q. At what place?
A. In Waterloo Township.
Q. How long have you lived there?
A. I have lived there since '56.
Q. How old are you?
A. About thirty-nine years old; will be forty next fall.
Q. What official connection had you with the last election held in your town?
A. I was one of the managers of the box at Hamilton precinct, in Waterloo Township; chairman of the board.
Q. You may state whether there were any rifle-clubs there on the day of election.
A. Yes, sir; there were rifle-clubs; the first one that voted was a rifle-club.
Q. Where was that club from?
A. From Saluda, the Saluda rifle-club, about two miles on the other side of the river—

Which I suppose means people from Georgia—

Q. What did they do, if anything, in regard to taking down names of colored men who voted?
A. Well, there were a man outside of the house where the votes was taken in, who had a paper, and was taking down names whenever they would invite them to come up and vote; and I asked him what he was doing, and he said he was keeping a list. I says, "What are you keeping a list for?" And he says, "It is a list of all that vote the republican ticket;" and he would mark them on his list as radical, so that he would know all that did vote that ticket; and I asked him what he was doing that for, and he said it was authorized by the clubs, and he would furnish that list to the clubs, and they would know all who voted that ticket, and they was going to get no employment in the county or State.

Mr. MITCHELL. Will the Senator from New Hampshire give way?
Mr. WADLEIGH. Certainly.
Mr. MITCHELL, (at seven o'clock and fifty minutes a. m.) I move that the Senate proceed to the consideration of executive business.
Mr. WALLACE called for the yeas and nays, and they were ordered.
Mr. DENNIS. I have paired with the Senator from Pennsylvania [Mr. CAMERON] for two hours on all questions except where my vote is necessary to make a quorum.
Mr. PATTERSON. I am paired with the Senator from New Hampshire [Mr. ROLLINS] for a couple of hours.
The question being taken by yeas and nays, resulted—yeas 12, nays 23; as follows:

YEAS—Messrs. Anthony, Burnside, Cameron of Wisconsin, Chaffee, Conkling, Dawes, Edmunds, McMillan, Oglesby, Saunders, Teller, and Wadleigh—12.
NAYS—Messrs. Bailey, Bayard, Beck, Cockrell, Coke, Davis of West Virginia, Garland, Gordon, Harris, Hereford, Hill, Jones of Florida, Lamar, McDonald, McPherson, Morgan, Randolph, Saulsbury, Thurman, Voorhees, Wallace, Whyte, and Withers—23.
ABSENT—Messrs. Allison, Armstrong, Barnum, Blaine, Booth, Bruce, Cameron of Pennsylvania, Christiancy, Conover, Davis of Illinois, Dennis, Dorsey, Eaton, Ferry, Grover, Hamlin, Hoar, Howe, Ingalls, Johnston, Jones of Nevada, Kernan, Kirkwood, McCreery, Matthews, Maxey, Merrimon, Mitchell, Morrill, Patterson, Plumb, Ransom, Rollins, Sargent, Sharon, Spencer, and Windom—38.

The VICE-PRESIDENT. No quorum has voted.
Mr. COCKRELL. Mr. President, I move a call of the Senate.
The VICE-PRESIDENT. The Secretary will call the roll of the Senate.
The Secretary proceeded to call the roll, and thirty-nine Senators answered to their names.
The VICE-PRESIDENT. A quorum is now present. The question is, will the Senate proceed to the consideration of executive business, on which the yeas and nays have been ordered.
The Secretary proceeded to call the roll.
Mr. COKE, (when his name was called.) I am paired on this question with the Senator from Iowa, [Mr. KIRKWOOD.] If he were here, he would vote "yea" and I should vote "nay."
Mr. PATTERSON, (when his name was called.) I am paired with the Senator from New Hampshire, [Mr. ROLLINS.] If he were here, he would vote "yea" and I should vote "nay."
The result was announced—yeas 15, nays 23; as follows:

YEAS—Messrs. Anthony, Booth, Burnside, Chaffee, Christiancy, Conkling, Dawes, Edmunds, Gordon, McMillan, Mitchell, Oglesby, Saunders, Teller, and Wadleigh—15.
NAYS—Messrs. Bailey, Bayard, Beck, Cockrell, Davis of West Virginia, Garland, Harris, Hereford, Hill, Jones of Florida, Kernan, Lamar, McDonald, McPherson, Merrimon, Morgan, Randolph, Saulsbury, Thurman, Voorhees, Wallace, Whyte, and Withers—23.
ABSENT—Messrs. Allison, Armstrong, Barnum, Blaine, Bruce, Cameron of Pennsylvania, Cameron of Wisconsin, Coke, Conover, Davis of Illinois, Dennis, Dorsey, Eaton, Ferry, Grover, Hamlin, Hoar, Howe, Ingalls, Johnston, Jones of Nevada, Kirkwood, McCreery, Matthews, Maxey, Morrill, Paddock, Patterson, Plumb, Ransom, Rollins, Sargent, Sharon, Spencer, and Windom—35.

So the motion was not agreed to.

Mr. WADLEIGH. The testimony proceeds as follows:

Q. You may state whether the democrats forced republicans and colored men to vote the democrat ticket, or said if they voted the radical ticket they would not furnish them with any employment?

A. Yes, sir; they did; they said they that voted the radical ticket would get no employment.

Q. Who told you that?

A. Several white men.

Q. Give the names of any that you can remember.

A. One man, named Mr. Henry Fuller, told me so; and another man by the name of B. F. Cloridy, he told me that was the language of the clubs.

Q. Were they both democrats?

A. Both democrats.

Q. White men?

A. Yes, sir; white men.

Q. Do they reside in your township?

A. Yes, sir.

Q. What did they tell you about that being the language of the clubs?

A. Yes, sir; said that was the language of the clubs. There was a resolution that had passed the club that if a colored man voted the republican ticket he would get no employment in the county, nor even in the State; said it was a known thing all over the State; that when he was out of work at one place he would be out of work at all places.

Q. You may state whether or not they told the colored men that on the day of the election.

A. Yes, sir; I heard them tell them on the day of election.

Q. State where you heard that said, and who said it.

A. Well, sir, there was three or four men I can't name; they was there watching who would vote the republican ticket; and when they voted the republican ticket, if they was living with that man, they would tell him that he was out of employment.

There was one man by the name of Downing; a Mr. Dave Valentine, he had the man hired, and when he voted the republican ticket at that box he turned him off that night when he got home. The man came to my house after I went home, and told me that was what he turned him off for.

Q. This man rented land of Valentine?

A. He had him hired for wages.

Q. Who was the democratic supervisor of election at that time?

A. Mr. Gabriel Pinson.

Q. A white man?

A. Yes, sir; a white man.

Q. How did Gabriel conduct himself there?

A. He acted very gentlemanly there; he did not say anything wrong against any party. He assisted me in everything I undertook. We had two supervisors, one a white man and then a colored one.

Q. Well, what, if anything, did the democrats say to this effect: that they did not care how they carried the election if they only carried it?

A. So they carried it, that's all. They said they allowed to carry this election; that they did not care how they carried it, so they carried it. I think that was Mr. Culverson, one of them was named; there was so many said it I can't recollect the names; it was general talk. They didn't care how they carried it so they carried it; so they beat Chamberlain.

Q. How did the rifle-clubs carry on in your town the night before the election!

A. They was riding through the country, and when they were going they were hollering at everybody's house as they passed by in great gangs; riding in big companies of about fifty or sixty in a gang; and they were hollering and hooping; but they didn't interfere with nobody only about his principles; and when they came down in gangs that way, if they knew you was a republican, they would tell you to hide out, and holler and hoot at you, and tell you, "We are going to beat you this time."

Q. Is your precinct a republican or a democratic precinct? Which party has the majority in the precinct?

A. Well, the democrats have been always carrying the majority at that precinct. I have been manager of that precinct right smart—well three or four elections; but the republicans fell shorter than they ever did this time.

Q. How much shorter?

A. We always got about one hundred and fifty or sixty, and this time we only got sixty-three.

Q. Did the democrats poll more this year than formerly?

A. Yes, sir; they polled more than they generally polled.

Q. How many did they poll?

A. They polled three hundred and thirty-seven at our precinct.

Q. How much did they poll two years ago?

A. I think it was about two hundred and forty and some odds.

Q. Where did they get the extra hundred this year?

A. I don't know, sir; that is hard for me to tell.

Q. Did any colored men vote the democratic ticket?

A. Yes, sir; right smart voted the democratic ticket; yes, sir; I allowed that was so; and a good many didn't vote at all.

Q. A good many colored men?

A. Lots of them right round me where I live didn't vote no way.

Q. What reasons did they give for not voting?

A. They said the white people told them there wouldn't be any voting done at Hamilton precinct; that they had moved to Laurens; told them about that the day before election; and some of them said that the reason they didn't vote that they were afeared of losing their homes; that they was told that if they voted that ticket they would have to leave. That was general talk among them, why they didn't vote. There was a much more shortly vote, and that was the reason they stated they didn't vote; they said if they voted the republican ticket they would have to leave; and if they didn't vote at all they could stay; but if they went to the polls they must vote the democratic ticket; and if they voted the republican ticket they had to leave. They said that to me.

By Mr. MERRIMON:

Q. You say a great many colored men voted the democratic ticket?

A. At that place, right smart.

Q. Were they red-shirt fellows?

A. Yes, sir; there wasn't any who voted at all but had joined the club.

Q. Everything went along quietly and nicely the day of election?

A. Yes, sir; some of the club when they started to Laurens hollered and whooped. We couldn't poll until they went by. They went to Laurens after they voted at my box.

Q. You voted?

A. Yes, sir.

I will now read the testimony of William H. Rutherford, of Laurens County:

WILLIAM H. RUTHERFORD, LAURENS COUNTY.

COLUMBIA, SOUTH CAROLINA, *December* 23, 1876.

WILLIAM H. RUTHERFORD (colored) sworn and examined.

By Mr. CAMERON:

Question. Where do you live?

Answer. I live in Laurens.

Q. How long have you lived there?

A. Six or seven years.

Q. Where did you live prior to going there?

A. In Columbia.

Q. How old are you?

A. I am going on twenty-six.

Q. Of what State are you a native?

A. Georgia.

Q. How long have you lived in South Carolina?

A. Since the first of 1870.

Q. Where were you on the 7th of November last?

A. Laurens Court House.

Q. Do you hold any office in Laurens County?

A. I don't now.

Q. Have you held any office there?

A. I have.

Q. You may state what office you have held in that county.

A. I were jury commissioner for two years.

Q. Have you held any other office?

A. Yes, sir; I was commissioner of election.

Q. Are you a republican?

A. I am, sir.

Q. Do you know of any threats having been made by the democrats against republicans prior to the last election? If so, you may state what they were.

A. Yes, sir. How far shall I commence back?

Mr. CAMERON. Well, commence at any time during the last year.

The WITNESS. Well, sir, there was a general system of intimidation, such as threats of violence, and turning off hands, and of driving republicans out of the county—those who voted the republican ticket. Those that was considered leaders had to leave the county. White republicans were driven out of all society.

Q. Whom did you hear make threats of that description?

A. I heard Colonel W. B. Ball, in a speech that he made at Laurens, at the time the democrats broke up republican meeting. As near as I can remember, he said that the democrats didn't intend to employ any republicans to work their lands. I heard Dr. Ervey, also, in a speech at Clinton. He said there that any one who voted the republican ticket, and voted for that damn thief, shouldn't work any land in the county.

Q. Whom did he refer to as a damn thief?

A. Chamberlain and his party, was the words he used. I also heard Mr. Richard C. Watts make the same assertion; and I also heard Mr. W. B. Bell, postmaster at Clinton, make the assertion; and I also heard Mr. Finney. He advised me to vote the democratic ticket, and get as many others as I could.

Q. You may state whether or not threats similar to those you have mentioned were general in the county.

A. They were general, sir, through the whole county. It was an understanding you may say, among all democrats, that those who voted the republican ticket couldn't get any part of this year's crop, or get homes another year.

Q. How could they deprive them of their share of the crop for this year?

A. They could take it away from them.

Q. Without any right?

A. Without any right; yes, sir.

Mr. EDMUNDS, (at eight o'clock and twenty minutes a. m.) I rise to a question of order. I submit to the Chair that it is obvious there is no quorum here. I do not wish to cause delay but the Chair can see for itself that there are not twelve Senators in the Chamber

Mr. COCKRELL. It is exceedingly important that a quorum should be here to see what transpires!

Mr. EDMUNDS. It is important if the quorum cares anything about the truth.

Mr. CONKLING. It is that part of the quorum which has not gone that cares anything about the truth.

The VICE-PRESIDENT. The Secretary reports that no quorum is present. The Secretary will call the roll of the Senators.

The Secretary called the roll of the Senate, and after some time thirty-five Senators answered to their names.

Mr. EDMUNDS. I move that the Sergeant-at-Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

The VICE-PRESIDENT. The Sergeant-at-Arms will execute the order of the Senate.

Mr. WHYTE. I suppose he will have a list of absentees, so as not to get into the same difficulty as he did on the proposition of the Senator from New York.

The VICE-PRESIDENT. He can get the list by applying to the Secretary. It is a matter of record.

Mr. VOORHEES. I was paired with the Senator from Nebraska, [Mr. SAUNDERS,] but not with the understanding that it should affect a call of the Senate. Therefore I answer, "here."

Mr. EDMUNDS. I thought we were executing an order of the Senate.

Mr. VOORHEES. I just came in.

Mr. EDMUNDS. I do not object to my friend putting in an appearance, but we are executing an order of the Senate, and nothing can be done until we dispense with it. I shall make that point of order on everybody else.

Mr. GARLAND. I heartily co-operate with the Senator from Vermont in this movement. It is something like the proposition we had fifteen hours ago. I hope the Sergeant-at-Arms will execute the order.

Mr. EDMUNDS. I agree with my friend from Arkansas entirely. It is the only way to get a quorum here.

Messrs. CAMERON of Wisconsin, CHAFFEE, DENNIS, HARRIS, and MCMILLAN entered the Chamber and answered to their names.

Mr. GARLAND. Are those answers in response to the request of the Sergeant-at-Arms, I should like to ask?

The VICE-PRESIDENT. They are. The Chair is informed that these Senators have responded to the request for attendance, being about the Capitol, and that officers have been sent to invite those who are away from the Capitol.

Mr. GARLAND. In order to ascertain whether it is necessary to compel the attendance of absent Senators, I ask for a call of the Senate.

The VICE-PRESIDENT. That call is already pending.

Mr. EDMUNDS. The only motion the Senator can make is to dispense with the call, and that will disclose whether we have enough here.

Mr. GARLAND. I can put the motion in either way. I will move, then, to dispense with the call.

The VICE-PRESIDENT. The Senator from Arkansas moves that further proceedings under the call be dispensed with.

Mr. EDMUNDS. On that motion I ask for the yeas and nays.

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

The roll-call having been concluded,

Mr. VOORHEES, (after having first voted in the affirmative.) I voted under the impression that the Senator from Nebraska [Mr. SAUNDERS] had returned and was in the Senate Chamber. As he has not returned, I withdraw my vote. I am paired with him.

Mr. DORSEY. I am paired with the Senator from Tennessee, [Mr. BAILEY.] If he were here, he would vote "yea" and I should vote "nay."

The result was announced—yeas 22, nays 15; as follows:

YEAS—Messrs. Bayard, Beck, Cockrell, Coke, Davis of West Virginia, Garland, Gordon, Harris, Hereford, Hill Jones of Florida, Kernan, Lamar, McDonald, McPherson, Morgan, Randolph, Saulsbury, Thurman, Wallace, Whyte, and Withers—22.

NAYS—Messrs. Anthony, Booth, Burnside, Cameron of Wisconsin, Chaffee, Christiancy, Dawes, Edmunds, Jones of Nevada, McMillan, Merrimon, Mitchell, Oglesby, Paddock, and Wadleigh—15.

ABSENT—Messrs. Allison, Armstrong, Bailey, Barnum, Blaine, Bruce, Cameron of Pennsylvania, Conkling, Conover, Davis of Illinois, Dennis, Dorsey, Eaton, Ferry, Grover, Hamlin, Hoar, Howe, Ingalls, Johnston. Kirkwood, McCreery, Matthews, Maxey, Morrill. Patterson, Plumb, Ransom, Rollins, Sargent, Saunders, Sharon, Spencer, Teller, Voorhees, and Windom—36.

So the motion to dispense with further proceedings under the call was agreed to.

Mr. EDMUNDS. Who is entitled to the floor?

The VICE-PRESIDENT. The Senator from New Hampshire [Mr. WADLEIGH] was occupying the floor.

Mr. EDMUNDS. Will the Senator from New Hampshire give way to me to move, as, of course, we shall finish this business by twelve o'clock, that when the Senate adjourn it be to meet to-morrow at two o'clock? I suppose "to-morrow" will be to-day by the sunshine overhead. I make the motion in order that we may get a little breathing-spell.

Mr. WADLEIGH. I yield for that motion.

The VICE-PRESIDENT. The Senator from Vermont moves that when the Senate adjourns to-day it be to meet to-morrow at two o'clock.

The question being put, there were on a division—ayes 12, noes 19; no quorum voting.

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

Several SENATORS. Oh, no!

The yeas and nays were ordered.

Mr. WITHERS. I withdraw the call for the yeas and nays.

Mr. CONKLING. There is not a quorum present.

The VICE-PRESIDENT. No quorum has voted.

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

Mr. EDMUNDS. I move that absent Senators be sent for.

Mr. THURMAN. I call for the yeas and nays. They will disclose the presence of a quorum.

Mr. EDMUNDS. Ah! Mr. President, I hope my friend who loves the law so well will let us have the law. This vote has disclosed that no quorum is voting. I move, therefore, within the rules, that there be a call of the Senate.

The VICE-PRESIDENT. The Senator from Vermont moves that there be a call of the Senate.

The motion was agreed to.

The VICE PRESIDENT. The Secretary will again call the roll.

The Secretary proceeded to call the roll; and thirty-nine Senators answered to their names.

The VICE-PRESIDENT. The Secretary reports that there is a quorum in the Chamber.

Mr. EDMUNDS. The question then recurs on the motion that when the Senate adjourns to-day it be to meet to-morrow at two o'clock.

The VICE-PRESIDENT. The yeas and nays were ordereed on that proposition, and the Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. SAUNDERS, (when his name was called.) I am paired temporarily with the Senator from Indiana, [Mr. VOORHEES.] I do not see him in his seat, and therefore I shall not vote.

The roll-call having been concluded, the result was announced—yeas 12, nays 24; as follows:

YEAS—Messrs. Anthony, Burnside, Cameron of Wisconsin, Chaffee, Christiancy, Dawes, Edmunds, Jones of Nevada, McMillan, Mitchell, Teller, and Wadleigh—12.

NAYS—Messrs. Bailey, Bayard, Beck, Cockrell, Coke, Davis of West Virginia, Garland, Gordon, Harris, Hereford, Hill, Jones of Florida, Kernan, Lamar, McDonald, McPherson, Merrimon, Morgan, Randolph, Saulsbury, Thurman, Wallace, Whyte, and Withers—24.

ABSENT—Messrs. Allison, Armstrong, Barnum, Blaine, Booth, Bruce, Cameron of Pennsylvania, Conkling, Conover, Davis of Illinois, Dennis, Dorsey, Eaton, Ferry, Grover, Hamlin, Hoar, Howe, Ingalls, Johnston, Kirkwood, McCreery, Matthews, Maxey, Morrill, Oglesby, Paddock, Patterson, Plumb, Ransom, Rollins, Sargent, Saunders, Sharon, Spencer, Voorhees, and Windom—37.

The VICE-PRESIDENT. No quorum has voted.

Mr. MCMILLAN. Mr. President, the subject of the action of the Committee on Privileges and Elections has been referred to frequently in the Senate——

Mr. EDMUNDS. It is not in order to speak when there is no quorum.

The VICE-PRESIDENT. No motion is in order except to direct the attendance of absentees or to adjourn.

Mr. MCMILLAN. I was just about to say that, as the Committee on Privileges and Elections have a meeting appointed for this morning, and in order that they may fulfill the duties of that committee, I move that the Senate do now adjourn.

The VICE-PRESIDENT. The Senator from Minnesota moves that the Senate adjourn.

Mr. SAULSBURY. Is there a quorum present? Is the motion in order?

The VICE-PRESIDENT. A motion to adjourn is always in order. Less than a quorum can adjourn.

Mr. DAVIS, of West Virginia. I ask for the yeas and nays on the question of adjournment.

The yeas and nays were ordered; and being taken, resulted—yeas 15, nays 25; as follows:

YEAS—Messrs. Anthony, Booth, Burnside, Cameron of Wisconsin, Chaffee, Christiancy, Edmunds, Hoar, Jones of Nevada, McMillan, Mitchell, Oglesby, Saunders, Teller, and Wadleigh—15.

NAYS—Messrs. Bailey, Bayard, Beck, Cockrell, Coke, Davis of West Virginia, Dennis, Garland, Gordon, Harris, Hereford, Hill, Jones of Florida, Kernan, Lamar, McPherson, Merrimon, Morgan, Randolph, Saulsbury, Thurman, Voorhees, Wallace, Whyte, and Withers—25.

ABSENT—Messrs. Allison, Armstrong, Barnum, Blaine, Bruce, Cameron of Pennsylvania, Conkling, Conover, Davis of Illinois, Dawes, Dorsey, Eaton, Ferry, Grover, Hamlin, Howe, Ingalls, Johnston, Kirkwood, McCreary, McDonald, Matthews, Maxey, Morrill, Paddock, Patterson, Plumb, Ransom, Rollins, Sargent, Sharon, Spencer, and Windom—33.

So the Senate refused to adjourn.

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

Mr. SAULSBURY. I ask for the yeas and nays on that motion.

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

Mr. COCKRELL, (when Mr. ARMSTRONG'S name was called.) I desire to state that my colleague [Mr. ARMSTRONG] is paired with the Senator from Kansas, [Mr. PLUMB,] and I presume that neither one of them will be here during the remaining portion of this called session.

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

Mr. ROLLINS, (when his name was called.) I am paired temporarily with the Senator from South Carolina, [Mr. PATTERSON.] If he were here, he would vote "nay" and I should vote "yea."

The roll-call was concluded.

Mr. DENNIS. I was paired with the Senator from Pennsylvania, [Mr. CAMERON.] He is not present, and as it requires but one to make a quorum, I will vote "yea," as that is the way he would have voted if he had been here.

The result was announced—yeas 13, nays 24; as follows:

YEAS—Messrs. Anthony, Burnside, Cameron of Wisconsin, Chaffee, Dawes, Dennis, Edmunds, Hoar, Jones of Nevada, McMillan, Mitchell, Saunders, and Teller—13.

NAYS—Messrs. Bailey, Bayard, Beck, Cockrell, Coke, Davis of West Virginia, Garland, Gordon, Harris, Hereford, Jones of Florida, Kernan, Lamar, McPherson, Merrimon, Morgan, Randolph, Saulsbury, Thurman, Voorhees, Wallace, Whyte, and Withers—24.

ABSENT—Messrs. Allison, Armstrong, Barnum, Blaine, Booth, Bruce, Cameron of Pennsylvania, Christiancy, Conkling, Conover, Davis of Illinois, Dorsey, Eaton, Ferry, Grover, Hamlin, Howe, Ingalls, Johnston, Kirkwood, McCreery, McDonald, Matthews, Maxey, Morrill. Oglesby, Paddock, Patterson, Plumb, Ransom, Rollins, Sargent, Sharon, Spencer, Wadleigh, and Windom—36.

So the motion was not agreed to.

Mr. BURNSIDE, (at nine o'clock and twenty-five minutes a. m.) I move that the Senate take a recess until half past ten. That will give us an opportunity to get our breakfast.

Mr. WHYTE. Does the Senator from New Hampshire waive the floor?

Mr. WADLEIGH. At the request of my friend, the Senator from Rhode Island, I yield the floor for the purpose of his motion only.

Mr. BURNSIDE. I did not ask the Senator publicly to yield. I asked him in a low tone in his seat.

The VICE-PRESIDENT. The question is on the motion of the Senator from Rhode Island.

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

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

The yeas and nays were ordered.

Mr. DAVIS, of West Virginia. Do I understand that the yeas and nays have been ordered?

Mr. BURNSIDE. I will withdraw the demand.

The PRESIDING OFFICER, (Mr. HOAR in the chair.) The call for the yeas and nays is withdrawn. The motion appears to be lost by the sound. The motion is lost.

Mr. WADLEIGH. I ask my friend the Senator from Rhode Island to read the testimony of Mrs. Joanna Baily, one of the South Carolina witnesses.

Mr. BURNSIDE read as follows:

MRS. JOANNA BAILY, AIKEN COUNTY.

COLUMBIA, SOUTH CAROLINA, *December* 19, 1876.

Mrs. JOANNA BAILY (colored) sworn and examined.

By Mr. CAMERON:

Question. Where do you live?
Answer. At Ellenton Station, Aiken County.
Q. How long have you lived there?
A. I have lived there all my life.
Q. Were you a slave before the war?
A. Yes, sir.
Q. Whose slave were you?
A. Dr. Samuel J. Baily's.
Q. How old are you?
A. Well, sir, I reckon I am about fifty.
Q. Was your nephew killed last fall?
A. Yes, sir.
Q. What was his name?
A. His name was Wilkin Hamilton.
Q. Where was he killed?
A. In my house at Mr. Newman's—to William Newman.
Q. On what day was he killed?
A. Killed Monday, about three o'clock in the evening.
Q. Now you may tell the circumstances of his death, who killed him, and how it was done.
A. Paul Bows and John Barrs [Bowers?] killed him. They two killed him. I wouldn't have knowed them, but I seed them when a big drove of white men was coming, and it frightened me very much; and I was frightened before, because I saw two come up to the gate.
Q. Two white men?
A. Yes, sir; and before that, Mr. Newman went off; I don't know where he went to, and I don't know whether he was in it or no, but he was gone directly after he had his breakfast; and he took breakfast very soon, and after that then Sam Newman soon he took breakfast, and the first crowd of white men came right along. I reckon there was about three hundred directly came along the back road. Then he put out and went somewhere, but where he went to I don't know; I can't say; and this Mr. Bill Barrs asked where he went to; and directly after he was gone, there came two men right up to the gate, to Samuel Newman's gate, and I had been home sick over six weeks, and I had been very low myself. I didn't get out; I just begun to get better, and so I thought to myself—I saw them ride up there, and it kept running in my mind that they were after colored people; but nobody had told me so; and I goes out, and with my hand on the post standing in the shed; and they staid there, and they talked, and, after a while, they, too, rid off. Well, by and by there came three others and when they three came I got uneasy, sure enough; and they three, they stood there and talked with George Newman—Samuel Newman he was not home then—and stood and talked, and one of them, I think, must have shot his eye at him to let him know that I was looking at him; and all the time that they done it he looked round to me, and he said so and so, and so and so; but I never did make a word out of it. When I saw him talking he was waving his hand just that way, [indicating,] and saying so and so; and went right straight to the kitchen of my house, and I says, "Wilkin" says I, "why, you are a dead man." He says, "Why, aunty, what do you mean; why do you say so? Don't talk that a way." I says, "I have got a right to talk that way, because these white men have so talked at the gate; they are going to kill you." And I stood looking out of the door, and beyond to the corner of the fence was drawn the white men waiting for them three; and Wilkin says, "Aunty, do you think they will kill me?" and I says, "Yes, it runs in me so; and," I says, "I can't get it out of me." I got some water in the pan to wash my face, but I was so frightened I didn't wash my face. I didn't know what was ailing me, and I went to my back door and I opened the door, and I looked down to where I saw George Newman waiving his hand. I seed the men coming, and says I to Wilkin, "You is a dead man." I says, "Look at them men." And they all came to the house then, and I counted, and he looked and said, "Oh, my Lordy, aunty, what must I do?" I said, "I can't tell you what to do. You is dead and that is all the satisfaction I can give you." And, well, he ran under my bed and begged me to lock the door. I went out to lock the door and Mr. Paul Bowers said to me, he says, "Aunty." I says, "Sir." He says, "Aint there a wounded man at your house?" And I said, "Yes, sir." I couldn't tell him nary a story, because I knowed that he knew he was there.

By Mr. CHRISTIANCY:

Q. Was he wounded then?
A. Yes, sir; got wounded at Union Runs there that Sunday night; after that he said, "You go in the house and stay there until we come;" and, first, I unlocked the door and put my head in, and I says, "Wilkin, come from under the bed there, you are going to be killed, and don't let them burn my bed-things shooting under there;" and he came out and run round the shed, and some of the people came in there and found him.
Q. Who did?
A. Paul Bowers; he shot him three times, but Johnny came at me—came with his pistol just in this way, and I stood right in the house with my back to the wall looking right at him. The first time he shot him, he didn't hit him; it looked like he aimed to put the ball through here, [indicating the back of the head,] but it must have missed and cut the floor just like we would take a hatchet and cut the floor across; and if anybody don't believe it, there is good proof of it right there to-day; and then it bounced from the floor to the ceiling, and as he jumped up he held his pistol just down right close to him and shot him in his breast. He hallooed, and looked at me, and hallooed for me, and was trying to get to me, and the thing hurt me so—well, I couldn't say nothing, but when I put my foot on the ground to make my last attempt to get out of the door, they shot him then five times before he came across the house, after I got out; but I don't know how he got across; he was out of the house; and they had had their two pistols going all the time. They took the door off its hinges, and I don't know how it was done; and he fell, and right where he fell the blood was fully that high—a foot high right back of his neck where the blood was coming from, here, [indicating,] it run right down, and it was there, and I had to get a bucket; and then it run there, and I got my bucket and weeding-hoe and had to scrape it back just the same as you would take up manure. I placed it there for everybody to see; I hated to look at it, so that I put ashes over it, because I never did see such a thing before. Mr. Newman told me to get ashes and clean it up clean. Mr. Newman took him up; him and Sam Newman knew Bush, and knew Bush was there when they shot him, and when he was about dead and gave his last gape, my daughter was there looking at him. I couldn't go back; and when I went back he was done dead. I took up the blood, but I never did scour the house.

Mr. WADLEIGH. Now I ask my friend from Rhode Island to read the testimony of Governor Chamberlain.

Mr. BURNSIDE read as follows:

DANIEL H. CHAMBERLAIN, THE STATE AT LARGE.

COLUMBIA, S. C., *January* 12, 1877.

DANIEL H. CHAMBERLAIN sworn and examined.

By Mr. MERRIMON:

Question. What official occupation do you now occupy?
Answer. I am governor of the State of South Carolina.
Q. When did you come to the State of South Carolina?
A. In December, 1865.
Q. You may, if you please, give a brief account of yourself since you came to the State, as connected with the public affairs of the State, up to the time that you were elected governor.
A. I was engaged in private business entirely from the time I came to the State, in December, 1865, until January, 1868, except that in the fall of 1867 I paid a little attention to the matter of the first registration of voters, &c., in the vicinity where I lived, and in that election I was chosen as a member of the constitutional convention. I took my seat in the convention in January, 1868. I served there for something like two months, and at the close of the sittings of that convention I was nominated by the republican party as candidate for attorney-general, and was elected in April, 1868, and entered upon my duties in July of the same year, when the new government was organized. I held that office for four years from the following November. From that time, 1872 to 1874, I was out of office entirely; had no connection with public affairs in any way. In the fall of 1874 I was nominated by the republican party for governor, and was elected in that election, and entered upon my office as governor on the 1st day of December, 1874.
Mr. CAMERON. The committee have allowed Mr. Haskell, the chairman of the State democratic executive committee, to state, without regard to technical rules, the democratic side of the so-called South Carolina question. We regard him as a representative democrat, and he is so regarded by his own party. You, as a representative republican, may go on and state the republican side of the so-called South Carolina question.
Mr. MERRIMON. You will understand, Mr. Chamberlain, that this embraces only the late canvass. The committee have strenuously refused to go into the merits or demerits of the administration of the government in the State. I protest against going into any question outside of the late campaign, and if you allow the witness to go on and give the republican side of the administration of the government of this State, I shall consider it unfair and unjust.
Mr. CAMERON. You may go on and give a general history of your administration from 1874 to 1876.
A. I was nominated and elected in 1874 as the candidate, as I understood it, of that portion of the republican party who were disposed more strenously than others to give the State a good home administration. There had been complaints made, and some of them that were very just, against previous administrations under the republican party, and I was elected upon pledges, personal and party, that we would make all possible efforts to give the State a good government. I was very bitterly opposed in the campaign by some republicans, and by the democratic party, on the ground that I was not a sufficiently firm and determined reformer, as I was called. But I was elected, and I delivered an inaugural address in which I set forth what my purposes and plans were, and it met the approval of those who had opposed me, and I entered upon my work; and I may say generally that my course through the two years of my administration was such as to command the approval of the entire people of the State, so far as practical matters were concerned. I do not mean to say that politically I was sustained by everybody, but that the practical details of my administration were such that there was very little fault to find with me even here in South Carolina, where the distinctions of party are wider and deeper than they are in some other places.
The tendency during my administration was to unite a certain part of the democratic party and a certain part of the republican party in an effort to bring about a continuance of good government for South Carolina without reference to the dissent of parties upon national questions; without regard to republican or democratic names. There was a very strong tendency in that direction, and in the beginning of last year, in the spring and early summer of 1876, the question that was presented to the people of this State was whether they would divide upon the line of democrats and republicans, or whether they would unite the better men of both parties, and leave national and party politics out of the question of the State government.
My name was connected with the movement, and I was generally spoken of, I suppose, as a matter of fact, as the person who, if that plan had succeeded, would have been offered at least the nomination and support of those who took that view.
Q. I would ask you right there, governor, have you received indorsements pretty generally from the democracy of the State?
A. Oh, yes, sir; I could furnish you volumes of indorsements from the democracy of the State, and I have here some specimens of them, slips from papers, which were published from time to time. Here is a copy of the Union Herald, of this State, which contains specimens of them, a small fraction of the number which I received. (See Documentary Evidence, vol. 3, Part X, i.)

By Mr. MERRIMON:

Q Are those merely sketches of the proceedings of meetings, or are they all the proceedings?
A. No, sir; they are significant passages from much longer articles of the same tenor.
Q. Could you not furnish us with the papers that contain the proceedings and editorials to which they refer?
A. I have in my private scrap-book the full articles from which those are selected. I could not furnish you with the original papers, the files.
Mr. MERRIMON. It is not fair or just to submit these; they are mere excerpts.
The WITNESS. If it were desirable I could submit to the committee my scrap-book, which contains the whole of them.
Mr. MERRIMON. I have no objection to your putting in the whole articles, but I think it is not proper to put in the extracts from them. I object to this copy of the Union Herald as part of the testimony.
Mr. CAMERON. The governor will furnish his scrap-book and the committee will select such of them as they think proper.
The WITNESS. These extracts in the Union Herald, while all the surroundings——

Mr. HILL. I rise to a point of order.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. HILL. We cannot hear the Senator from Rhode Island; he reads so low.

The PRESIDING OFFICER. The Chair is of the opinion that that suggestion must be addressed to the Senator reading, and is not a point of order.

Mr. BURNSIDE read as follows:

Q. Are those merely sketches of the proceedings of meetings, or are they all the proceedings?
A. No, sir; they are significant passages from much longer articles of the same tenor.

Q. Could you not furnish us with the papers that contained the proceedings and editorials to which they refer?

A. I have in my private scrap-book the full articles from which those are selected I could not furnish you with the original papers, the files.

Mr. MERRIMON. It is not fair or just to submit these; they are mere excerpts.

The WITNESS. If it were desirable I could submit to the committee my scrap-book, which contains the whole of them.

Mr. MERRIMON. I have no objection to your putting in the whole articles, but I think it is not proper to put in the extracts from them. I object to this copy of the Union Herald as part of the testimony.

Mr. CAMERON. The governor will furnish his scrap-book and the committee will select such of them as they think proper.

The WITNESS. These extracts in the Union Herald, while all the surroundings are not presented there, are fair samples. The practical working of my administration was also stated in the public papers, and especially in the Charleston News and Courier, and I have here an article published July 11, 1876, in the News and Courier, in which are detailed the practical results of my administration of the State government as they chose to state them, item by item. (A. See Documentary Evidence, volume 3, Part X, ii.)

By Mr. MERRIMON:

Q. Is that an editorial in that paper?

A. That is an editorial.

Mr. MERRIMON. I object to its being inserted in the testimony.

Mr. CAMERON, (to the witness.) You can proceed.

The WITNESS. The people of the State became divided to some extent upon that theory early in the beginning of last year, and the two parties took the name, so far as the State was concerned, of the "straight-outs" and the "conservatives"—sometimes called by an old South Carolinian name, the "co-operation policy." The straight-out party insisted upon nominating democratic candidates and inaugurating a strictly party campaign and the conservatives approved of the policy which I have indicated and were in favor of nominating somebody who would represent good home government without reference to his feelings in national politics. The democratic party held a convention here in May, 1876, and in that convention the question was presented.

By Mr. MERRIMON:

Q. Was that a State democratic convention?

A. That was a State democratic convention. The primary object of it was to select delegates to the Saint Louis democratic national convention, but this question of the proper policy to be observed in State politics came up. There was no decisive action taken; they declined to commit themselves to the straight-out movement, and it was understood in that convention that the prevailing sentiment of the convention was in favor of the other policy, the conservative policy, which I think at that time there is very little doubt the majority of the democratic party in the State were in favor of. Then came influences, the approach of the national conventions, the stirring up of political feeling upon both sides, and I think it had a tendency to make such a policy—the policy of co-operation or the conservative policy—impracticable; and we come down then to July. Early in July there was an event happened which has had probably great influence upon party politics and upon the constitution of political parties here since, and that is what I call the Hamburgh massacre, which occurred on the 8th of July. That, however intended or from whatever immediate cause it arose—there is, of course, a dispute about that as well as about the individuals who were responsible for it; but there can be no doubt that its effect was very considerable upon the politics of the State, and tended to make the conservative policy which I have spoken of still less practicable. That event, I believe, has been very fully described to you. After I had learned, as I believe, the essential facts of the case, I spoke officially and publicly with reference to it in letters. I had no occasion to speak orally in public, but in various official communications I characterized it as brutal murder. I have never charged it upon any individual. I have been charged with holding individuals responsible for it. That is a thing that I have never done, however much I might have been tempted to do it and thoroughly as I might be convinced as to who the individuals were who were responsible. I did not consider, in advance of a judicial trial, that it was becoming in me as governor to do more than characterize the event; that I did freely and fully, as I believed it to be. I have here, if the committee will allow me, some official documents in connection with the matter that I think it proper to submit in giving a history of these times, as well as for the information of the committee.

Q. Will you state what they are to the committee?

A. I will present them in this order: First, the official letter of the attorney-general of the State, who went, under my direction, to Hamburgh to investigate the matter. (See Documentary Evidence, vol. 3, Part X, iii.)

The next paper that I present is an official letter of mine addressed to Senator Robertson. (See Documentary Evidence, vol. 3, Part X, iv.)

Then an official letter of mine to the President of the United States and the President's reply. (See Documentary Evidence, vol. 3, Part X, v, vi.)

Then a letter from the sheriff of Aiken County, in which Hamburgh is situated, respecting the riot there, addressed to me officially, and also the verdict of the coroner's inquest. (See Documentary Evidence, vol. 3, Part X, vi, viii.)

Here is also a statement of the affair as contained in the address of a colored convention, held in Columbia, to the people of the United States. (See Documentary Evidence, vol. 3, Part X, ix.)

Relating to a later stage of the Hamburgh matter, but still connected with it, I present the letter of the attorney-general to me relative to his reasons for postponing the trials or consenting to a postponement of the trials of the parties engaged in the Hamburgh affair, at the September term of the court at Aiken. (See Documentary Evidence, vol. 3, Part X, x.)

Those papers, I think, cover the Hamburgh matter so far as it is officially stated by me.

As I stated, the effect of the Hamburgh massacre was to arouse a very strong feeling, which took the line, to some extent, of white and colored. It was, in point of fact, the killing of a number of colored men by white men; it was also the killing of a number of republicans by democrats; and it had naturally, and in point of fact, a very great effect upon the relations of parties here; but, perhaps more than anything else, the anxiety that I felt in denouncing the Hamburgh affair led gradually to a very different feeling on the part of the people of the State as to my approval. The publications which I made respecting the Hamburgh affair were regarded by some portion of the people of the State as reflecting upon the people of the State generally, and had a political effect.

The democratic party held their State convention in August—I do not remember the exact date—and by that time (owing to two causes I should say; first, the approach of the national contest, which called out party feeling, but more especially to the influence of the Hamburgh affair) the conservative policy had lost ground, and when that convention met in August it was found that those in favor of the conservative policy were in the minority.

The conservative policy, though, still had a strong minority in that convention. I think, upon one or two test questions which arose in that convention, the vote was about sixty in favor of the conservative policy and about eighty in favor of the straight-out party; but the action of the convention resulted in the nomination of General Wade Hampton and a full democratic ticket, and no effort at co-operation, but a straight democratic movement. Of course that ended, then, all disposition there might have been among republicans to sacrifice somewhat of party feeling for the sake of the government of the State, and made no course possible except the nomination of a straight republican ticket. The republican convention met on the 10th of September, and at that convention I was renominated for governor, and a full republican ticket was nominated along with me. Thus the canvass was opened with General Wade Hampton as the candidate of the democratic party with a full democratic ticket behind him, and myself as the candidate of the republican party with a republican ticket associated with me.

In order to describe the campaign in its early developments before the Hamburgh affair, I will mention that during the months of July and August I made a canvass of the State in the interest of the movement of which I have spoken. I was very much in favor of a movement that should subordinate party politics, so far as the government of South Carolina was concerned, to good government, and in the division of parties here I thought it would be necessary that both parties should have some share in the government of the State; and while I was always a republican, and a radical republican, and am still, yet I looked upon the government of South Carolina as something that should be conducted upon a less partisan basis than we would act upon in other States; and I made a canvass during the months of July and August in the State, a sort of personal canvass, speaking in behalf of good government and in favor of such action on the part of my own party as would bring that about. It was during this canvass that I came to know the spirit of the opposition and the mode proposed of conducting the campaign on the part of the democrats.

I think it was on the 12th of August that I went to Edgefield Court House to attend a meeting called at my instance by the republicans and arranged for by the republicans, and that was a very notable occasion. Doubtless the committee have heard a great deal about it, and I need not describe it in detail. The public meeting was practically broken up and prevented. There was nothing like free speech allowed by the democrats who were assembled there. The demonstration was so overawing and threatening in size and so brutal and determined in its character as to make it a practical denial of free speech; and although, as I have stated, the meeting was called by republicans and the platform erected by republicans and no invitation extended to any other party to take any part in it, yet the white people, led by General Gary and General Butler, did take possession of it and did practically deny free speech. I was myself abused and insulted, from the moment I arrived at Edgefield Court House until I left the town, in a manner that would surpass the belief of one who had not become familiar with the same course of treatment in this State. I hardly think there are any other States that would furnish an experience that would cause a man to lose his surprise at knowing what occurred that day in Edgefield. I do not know that it is necessary to undertake to give the language, but it was in all respects as opprobrious on the part of General Gary, for instance, as he could find language in which to express himself. He was not content with attacking me as a public man, or as a politician, but he descended to very low personalities

As I said, the meeting was taken possession of by the white people who were armed. So far as I observed, every white man on the ground was armed with from one to three or five pistols. They surrounded the stand, crowded upon it, and broke it down, and climbed into trees over our heads, and during the time I was attempting to speak (about half an hour) I was frequently interrupted with remarks which were intended simply as insults to me.

At that time I saw also the organization that has since become well known under the name of rifle club, of which the committee must have heard something; organizations of a military appearance, and of military conduct, mounted, marching under officers who were recognized and obeyed as military officers, and who issued military commands. They appeared on that day in numbers, I should judge, ranging from six to eight hundred, perhaps more. They came into town in military array. I saw there were a number of these clubs. They took particular pains to pass in front of the hotel where I was stopping, to convey whatever insults they could to me, knowing that I was lodged at that house. They were marshaled and taken command of at the court-house square, and proceeded from there to the grove in advance of my going there with the greater part of the republican audience; they maintained their attitude, and the exhibition of armed force throughout the day, and left the town, some of them, about the time I did, still marching in military order, recognizing their officers; and carrying their weapons in their hands, in many instances, as they marched out of town, and as they marched about the town.

I subsequently, during the same month, and a few days after, went to Newberry Court House and had a similar experience, perhaps not quite so violent as that at Edgefield. Soon after that I went to Abbeville Court House, and there, in some respects, my experience was equal to that in Edgefield. The array of rifle clubs was greater. I think there were ten or twelve hundred of them mounted, armed, and marching, as I stated, in military order, and under the command of persons who were obeyed as officers. I speak now from personal observation. They came not only from Abbeville but from the surrounding counties, and there were said to be about eighteen clubs there. Certainly there appeared, according to all our estimates, to be from ten to twelve hundred. They did not interfere so much with our speaking as they did at Edgefield Court House; we were allowed to occupy the time that was agreed upon; but their demonstration had the same effect, and evidently had the same purpose, and that was the overawing and threatening of the republicans and the speakers generally. The speeches of Colonel D. Wyatt Aiken and Colonel Cothran were calculated to intimidate the republicans and lead them to think that there was danger to the republican leaders; that it would not be safe——

By Mr. MERRIMON:

Q. State what they said, governor.

A. I could hardly state all that.

Q. The substance of what they said?

A. They said that the white people had made up their mind to rule this country hereafter, and that we might as well understand that at once; and that we leaders, if any disturbance occurred, would be held personally responsible. They were very careful to repeat that on all occasions, and to announce that they were armed and prepared. Colonel D. Wyatt Aiken, in the most inflammatory manner and style, declared that they were ready to assert their rights by war; and he added the well-known phrase, "War to the knife, and the knife to the hilt." That was one specific expression, and that was the tone of all of them. I cannot repeat them in detail, though I wish I could, because they would convey a more correct impression and a more graphic idea of the kind of speeches that were made.

I had the same experience in general at Midway, down in Barnwell County, a few days later, and the same again at Lancaster Court House, in another distant part of the State, bordering on North Carolina, where the rifle clubs appeared in force and conducted themselves in the same general manner that I have described.

At Midway I think I encountered the most—next to General Gary's speech at Edgefield, certainly, I think that in sheer brutality, unmixed and unrelieved by anything like wit or sense, the most brutal speech that I ever listened to, from one D. G. Tillman, then, or afterwards, a candidate for Congress on the democratic ticket from that district. The speeches on all these occasions, as I stated before, were of the same general character, but I mention this as an exceptionally vicious and indecent speech. There was another feature connected with these meetings that I want to speak of, aside from what I have already mentioned. It was the policy of demanding a division of time at meetings called by republicans to discuss the political affairs of the country, and to defend republican principles and policy. The democrats came there and insisted that they had equal rights with the republicans. It is an incredibly impudent claim.

By Mr. CHRISTIANCY:

Q. They demanded equal rights at the meetings?

A. They demanded equal rights at the meetings. They came upon the platform and they practically enforced their demand of equal rights with us at those meetings, without any leave or license, as at Edgefield, where they took possession of the meeting, and General Butler and General Gary both addressed the audience before the republicans, who had called the meeting, were at all recognized; and General Gary announced that they had come there to be heard, and they were going to be heard; if there was any trouble in consequence of the enforcement of the demand to be heard, that he wanted it to be understood that the responsibility would be with the republicans, and the republican leaders, intimating that if there should be trouble and bloodshed, the leaders would be killed or injured first. Well, that was division of time, a thing that I had never heard of before, and that I regarded as the height of impudence and injustice; but as the republicans were not armed, and were not prepared for physical collision with these people, this demand was yielded to at those four meetings that I have spoken of. I yielded to them simply because I was not willing to take the responsibility of a massacre. We would not have yielded to them if it had not been that the lives of a great many innocent persons would doubtless have been sacrificed if we had made the offer to assert our rights. The democrats insisted upon having half the time, and usually occupied more than half the time. At the meetings which I attended democratic speakers were always listened to with patience and silence.

Q. Not interrupted by republicans?

A. Not interrupted at all; I never heard a discourteous word spoken by a republican speaker of a democrat who was present, or an offensive word of any kind; while I never attended one of those meetings that the republicans were not covered with the most violent abuse. There were, of course, exceptions among the democratic speakers. I will mention that General McGowan, at the Edgefield meeting, made a fair democratic argument, and it was a very notable exception. The rest of the speeches were violent, personal, abusive, and calculated to stir up the bad feeling of the people and to alarm the colored people. There was at these meetings also the presence of armed bodies of men, called "rifle clubs," and they were generally overawing at these gatherings of republicans; and that, with this enforcement of the impudent and intolerable demand for a division of time at the republican meetings, constituted the two chief features of the campaign, so far as it took the form at all of public discussion. The democrats made it a point to assemble their rifle clubs and to have them present, and to march about the village uttering their cries, which are commonly called "rebel yells," and making all the demonstrations possible short of actual violence on these occasions, and intimidating and putting in fear the republicans. Then they forced themselves on the meetings as I have said, and took those occasions to make it so uncomfortable for the republican speakers as to induce them to abandon the canvass. So far as my observation went, the object of these features which I have described was to prevent a canvass by the republicans of the State.

By Mr. CAMERON:

Q. You have spoken of rifle clubs; now give the committee, as correctly as you can, a statement of the number, character, objects, and organization of those rifle clubs.

A. Some of the rifle clubs that existed during the late campaign had existed for some time. They were professedly social, exclusively so, in their object, and were generally accepted as such by the people of the State, so far as I know, and certainly so by myself; but they constituted comparatively few. Some of them had received charters of incorporation, and they had, therefore, some legal organization and basis; but the majority of them, by far the larger part of them, were organized and used—I cannot give the motives of the men, and can only speak, of course, of what occurred; they were used for political purposes in the late campaign; they were used as a basis of organization, if I may so speak: the rifle club appeared to be the unit of organization. The number of rifle clubs in the county ordinarily measured the effective democratic organization of that county, as far as I could learn, and they extended all over the State. I think there was no county in which there was not a good many of them. As I said before, they had every form of a military organization; they had their officers who were addressed as captains and lieutenants and sergeants and corporals. I myself heard all those addresses used, and commands given by using those military terms.

Mr. MITCHELL. Will the Senator from New Hampshire yield?

Mr. WADLEIGH. Yes, sir.

Mr. MITCHELL. At the suggestion of my friend, the Senator from Connecticut, I move an adjournment.

Mr. EATON. I am somewhat astonished——

Mr. WADLEIGH. I call the Senator to order.

Mr. EATON. What is the matter with my friend from New Hampshire? He has been on the floor all night.

Mr. WADLEIGH. My friend from Connecticut is out of order.

The PRESIDING OFFICER. The debate proceeds by unanimous consent. The Senator from Oregon moves that the Senate do now adjourn, [at ten o'clock a. m.]

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

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

Mr. MITCHELL, (when his name was called.) I am paired with the Senator from Delaware, [Mr. SAULSBURY.]

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

Mr. MERRIMON, (when Mr. RANSOM'S name was called.) I beg to state to the Senate that my colleague [Mr. RANSOM] is ill and is paired with the Senator from Kansas, [Mr. INGALLS.] If my colleague were here, he would vote "nay" and the Senator from Kansas would probably vote "yea" on this motion.

The roll-call was concluded.

Mr. CAMERON, of Pennsylvania. I am paired with the Senator from Maryland, [Mr. DENNIS.]

Mr. ROLLINS. I am paired with the Senator from South Carolina [Mr. PATTERSON] until ten o'clock. Although it is slightly past that time, I am disposed to withhold my vote.

The result was announced—yeas 18, nays 25; as follows:

YEAS—Messrs. Allison, Anthony, Booth, Burnside, Cameron of Wisconsin, Chaffee, Christiancy, Conkling, Dorsey, Hoar, Howe, Kirkwood, McMillan, Morrill, Paddock, Saunders, Teller, and Wadleigh—18.

NAYS—Messrs. Bailey, Bayard, Beck, Cockrell, Coke, Davis of Illinois, Davis of West Virginia, Garland, Gordon, Harris, Hereford, Hill, Jones of Florida, Kernan, Lamar, McDonald, McPherson, Merrimon, Morgan, Randolph, Thurman, Voorhees, Wallace, Whyte, and Withers—25.

ABSENT—Messrs. Armstrong, Barnum, Blaine, Bruce, Cameron of Pennsylvania, Conover, Dawes, Dennis, Eaton, Edmunds, Ferry, Grover, Hamlin, Ingalls, Johnston, Jones of Nevada, McCreery, Matthews, Maxey, Mitchell, Oglesby, Patterson, Plumb, Ransom, Rollins, Sargent, Saulsbury, Sharon, Spencer, and Windom—30.

So the Senate refused to adjourn.

Mr. WADLEIGH. Mr. President——

Mr. CAMERON, of Wisconsin. If the Senator from New Hampshire will yield to me for a short time, I should like to occupy the floor.

Mr. WADLEIGH. I will yield to the Senator from Wisconsin.

Mr. CAMERON, of Wisconsin. Mr. President, the Senator from Delaware [Mr. BAYARD] remarked yesterday, perhaps I ought to say he remarked to-day, because it is the same legislative day, that the claim of Mr. Butler to a seat in this body cannot be discussed without at the same time discussing the claim of Mr. Corbin to a seat in this body. I agree with that Senator that the claims of these two gentlemen are so blended together, so to speak, that one cannot be discussed without at the same time to a greater or less extent discussing the other.

Mr. Corbin claims to have been elected a Senator from the State of South Carolina on the 12th day of December last. Mr. Butler claims to have been elected a Senator from that State to fill the same seat on the 19th day of December last. If the election of Mr. Corbin was legal, there was no vacancy at the time that Mr. Butler claims to have been elected. A very excellent brief has been handed to me, discussing the claims of Mr. Corbin to a seat in this body; and, inasmuch as the Committee on Privileges and Elections has not had an opportunity of reporting upon this case, I will ask the indulgence of the Senate while I read this brief. I do not read it merely for the purpose of killing time; I read it because it clearly, and at the same time succinctly, states the facts upon which the claim of Mr. Corbin to a seat in this body is founded, and also clearly states the law arising from those facts.

Mr. HILL. Is that the same brief that was read in the speech of the Senator from Minnesota, [Mr. MCMILLAN?]

Mr. CAMERON, of Wisconsin. It is not. It is one equally as good, however.

Mr. EATON. And no better.

Mr. CAMERON, of Wisconsin. I think it is a little better; but Senators will have an opportunity of deciding that for themselves after they hear it. If they do not choose to listen to it, it will go into the RECORD and they will have an opportunity of reading it in the RECORD at their leisure. I now proceed, Mr. President, to read this brief:

The facts upon which Mr. Corbin's claim to a seat in the Senate rests are as follows:

The term of T. J. Robertson as Senator from South Carolina expired March 4, 1877.

A general election was held in that State November 7, 1876, for State and county officers, and for members of the house of representatives of the State Legislature, and for a part of the members of the State senate.

The returns of this election were made, first, by the several boards of precinct managers—each board consisting of three members—to the commissioners of election for their respective counties, called, in this connection, boards of "county canvassers;" second, by the several boards of county canvassers to the board of State canvassers at Columbia, the capital of the State; and, third, by the board of State canvassers who finally acted upon the returns and determined and declared the results.

The board of State canvassers on November 22, 1876, completed their canvass of this election and returned as duly elected sixteen State senators and one hundred and sixteen members of the house of representatives.

Subsequently, and previous to November 28, 1876, the secretary of state delivered the official certificate of his election to each person declared elected by the board of State canvassers.

On the 28th day of November, 1876, the newly elected senators, with those holding over from the former election, met and organized as the senate, in the senate chamber of the State-house. The legality of the senate as a legislative body and the regularity of its organization have never been questioned.

On the same day, fifty-nine of the persons declared elected by the board of State canvassers met in the hall of the house of representatives in the State-house and organized as the house of representatives.

The two bodies thus organized recognized each other, respectively, as the senate and house of representatives of the State by the interchange of official communications pertaining to legislative business. They also officially recognized Governor Chamberlain as the governor of the State and were officially recognized by him as the senate and house of representatives, together constituting the General Assembly of the State.

On November 29, 1876, five persons who contested the election of the persons declared elected by the board of State canvassers as representatives of Barnwell County were declared by this house of representatives to be entitled to seats and were admitted and sworn in as members.

On December 2, 1876, five persons who in like manner contested the election of the persons declared elected by the board of State canvassers as representatives of Abbeville County were declared by this house to be entitled to seats and were admitted and sworn in as members.

On December 5, 1876, four other persons, contestants for seats from Aiken County, were in like manner admitted and sworn in as members.

The members thus admitted, with the original membership of fifty-nine, make the whole number of members of this house of representatives (commonly known as the Mackey house) seventy-three.

On December 2, 1876, this house of representatives considered the matter of the election for members of the house of representatives in Edgefield and Laurens Counties, and declared that no valid election was held in those counties on the 7th of November, 1876.

On the 12th day of December, 1876, being the second Tuesday after the said 28th day of November, 1876, the two bodies above described, proceeded in the manner prescribed by the statutes of the United States (United States Revised Statutes, title II, chapter 1, page 3) to elect a Senator in Congress.

D. T. Corbin received a majority of all the votes cast in both bodies on December 12, 1876.

On the following day, December 13, 1876, the two bodies convened in joint as-

sembly, at twelve o'clock m.; the journal of each house was read, and it appearing that D. T. Corbin had received a majority of all the votes in each house, he was declared duly elected Senator.

Mr. Corbin's credentials were signed on December 13, 1876, by Governor Chamberlain, who was until December 14, 1876, the unquestioned governor of the State; General Hampton not claiming to hold the office until after his inauguration on December 14, 1876.

It is now proposed to consider the following questions:

First. Was the election of Mr. Corbin valid on the 13th of December, 1876?

It has already been stated that no question has ever been made as to the complete validity as a legislative body and a constituent house of the General Assembly, of the senate which sat in the State-house and co-operated with the house of representatives, in which Mr. Corbin received a majority of votes. No other body ever claimed to be the senate.

This senate never in any manner recognized the existence, as a legislative body, of the other assemblage which assumed to be the house of representatives, (commonly known as the Wallace house,) and which met in a public hall in Columbia.

The action of this senate, therefore, so far as it enters into the title of Mr. Corbin, need not be further discussed. It was undeniably valid.

The part performed by the house of representatives which sat in the State-house, in the election of Mr. Corbin, presents the most important question which arises in this case.

The validity of this body is called in question. It is claimed, in denial of Mr. Corbin's title, that this body was never a valid legislative body under the constitution and laws of South Carolina; that it never had a quorum of lawfully elected members; that all its acts were null and void.

The facts upon which this question must be decided are these:

The constitution of the State, article 2, section 4, provides as follows:

"The house of representatives shall consist of one hundred and twenty-four members, to be apportioned among the several counties according to the number of inhabitants in each."

Article 2, section 14, is as follows:

"Each house shall judge of the election returns and qualifications of its own members, and a majority of each house shall constitute a quorum to do business."

At the election of November 7, 1876, one hundred and twenty-four persons were to be voted for as members of the house of representatives. Of this number, constituting a full house, the board of State canvassers declared that only one hundred and sixteen were duly elected, and the secretary of state issued certificates of election to only one hundred and sixteen, the canvassers at the same time placing upon the records a declaration of their inability to determine that any persons had been duly elected as representatives for the counties of Edgefield and Laurens.

Of the one hundred and sixteen persons thus declared elected by the board of State canvassers and holding certificates of election from the secretary of state, fifty-nine took part in the organization of the house of representatives in the State-house on November 28, 1876, being a majority of all the members declared elected by the board of State canvassers and holding certificates of election from the secretary of state.

Was the body thus composed and organized the legal house of representatives of the State?

Attention is directed in the argument against Mr. Corbin's claim to the fact that after the organization of the house of representatives which elected Mr. Corbin, certain of those who took part in that organization withdrew and acted with another assemblage calling itself the house of representatives, thereby reducing the number of canvassing board members sitting in the Mackey house from fifty-nine to fifty-three, of whom only forty-four voted for Mr. Corbin.

There is no force in these suggestions, because the fact is that the number of members who acted with the Mackey house was never reduced below fifty-nine. It is true that under peculiar influences which cannot be presented here, a few of those who formed part of the original fifty-nine canvassing-board members of the Mackey house, left their seats and joined the Wallace house; but before a single such person had left, the Mackey house had admitted other members in number more than equal to those who afterwards left.

If, therefore, the original house of fifty-nine members was a lawful house on the day of its organization, it was a lawful house at all times thereafter till its final adjournment, December 22, 1876. If it was a lawful house for any purpose, it was a lawful house for the purpose of deciding contested elections of its own members and for admitting those whom it might adjudge to be lawfully elected.

The statement that out of the original fifty-nine who organized the Mackey house only forty-four voted for Mr. Corbin, has no significance. The inquiry is not how many canvassing-board members voted for Mr. Corbin, but how many lawful members voted for him? If the house was lawfully organized on November 28th, then the members admitted on the 29th or subsequently were lawful members, entitled to all the rights and powers belonging to any members.

The constitutional provisions which regulate the matter of a legislative quorum in South Carolina are (1) that "the house shall consist of one hundred and twenty-four members," and (2) that "a majority of each house shall constitute a quorum to do business."

Stated in its most condensed form the inquiry here is, what is the meaning of the phrase, "a majority of each house?" Does it mean a majority of one hundred and twenty-four, or a majority of the members duly elected or qualified?

As an original question it would seem that there are strong reasons why the latter view should be adopted.

If the former view be adopted a contingency may easily occur in which it will be absolutely impossible to organize a lawful house. If under any circumstances there should be a failure to elect a majority of the whole possible representation the Government would be brought at once to a dead stop, nor would there be any power anywhere to remove the obstruction.

In opposition to this view, it is said that if it be held that a number less than a majority of the whole possible representation constitute a quorum, then under some circumstances it will be in the power of a small fraction of the whole representation to hold and exercise the powers of the house. This is admitted, but such a danger will not menace the life itself of the State. The Government will be able to go on without recourse to extra-legal remedies.

All governments aim at self-perpetuation. No element of self-destruction is intentionally admitted into the frame-work or fundamental law of a State. All constitutional provisions should therefore receive a construction, if possible, which shall be in harmony with this idea of the perpetuity of the government, of its unbroken life and efficiency. If the rule were adopted that a quorum of the house of representatives of South Carolina must consist of at least sixty-three members, then if from any cause sixty-three members should not be elected it would be impossible by any constitutional methods to obtain a house of representatives, at least until the next general election.

No speaker could be chosen; no writs of election could be issued.

The most commanding precedents or decisions upon this question are those of the two Houses of Congress.

The Constitution of the United States and the constitution of South Carolina may be said to contain identical provisions upon this point. The Constitution of the United States provides as follows:

"Article 1, section 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof for six years."

"Article 1, section 2. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative."

The only respect in which these provisions differ from the corresponding provisions of the constitution of South Carolina is, that here the numerical aggregate of senators and representatives is not stated. The rule of representation is laid down, and under that rule there is always, at any specified point of time, a fixed number of senators and representatives in Congress, precisely as much so as in South Carolina.

In principle, and for the purposes of the present discussion, these two constitutional provisions are identical, and it is idle to insist that the mere verbal difference is of the least importance.

The provisions respecting a quorum in the Constitution of the United States and that of South Carolina are identical in terms, namely: "A majority of each House shall constitute a quorum to do business."

It will be found that in the Senate of the United States prior to 1862 it was held as a matter of parliamentary practice, in some instances, that a quorum consisted of a majority of the whole possible representation, and in other instances of a majority of the Senators elected and qualified.

The question does not appear to have been discussed by the Senate, or to have been maturely considered in that body, until after April 11, 1862. On that day Mr. Sherman, of Ohio, offered a resolution, which was referred to the Committee on the Judiciary, in these words:

"*Resolved*, That a majority of the Senators, duly elected and entitled to seats in this body, is a constitutional quorum."—*Congressional Globe*, April 11, 1862.

On July 9, 1862, this resolution was debated in the Senate, and laid upon the table by a vote of 19 to 18.

On March 7, 1864, Mr. Sherman offered a resolution, which was referred to the Committee on the Judiciary, in these words:

"*Resolved*, That a quorum of the Senate consists of a majority of the Senators duly chosen or qualified."

On May 3, 1864, the Committee on the Judiciary having been discharged from the further consideration of the resolution, it was taken up and debated. On this and the following day the subject was elaborately discussed, especially by Senators Carlisle and Davis against the resolution, and by Senators Johnson and Sherman in its favor. The words "or qualified" having been struck out, the resolution was adopted by a vote of 26 to 11, May 4, 1864, in these words:

"*Resolved*, That a quorum of the Senate consists of a majority of the Senators duly chosen."—*Congressional Globe*, March 7, May 3 and 4, 1864.

As has already been remarked, the precedents in the House of Representatives prior to 1861 had been varying, but here, as in the Senate, the subject does not appear to have been maturely considered until 1861. During the first session of the Thirty-seventh Congress, in the House of Representatives, Speaker Grow finally decided that a quorum of the House consisted of a majority of the members chosen, and he was sustained by the House in this decision. (Journal House Representatives, first session, Thirty-seventh Congress.)

The effort has sometimes been made to disparage this precedent, by stating that it was made under the stress of a necessity to secure an organization of the House. This is a mistake. The decision was made fifteen days after the organization of the House, and upon a question which did not involve the question of the validity of the organization.

The resolution adopted by the Senate in 1864 has since been adopted by the Senate as a permanent rule of that body, and now appears among its "Rules."

If, in opposition to these precedents, it is argued that they were made because of special circumstances then existing, or upon certain constitutional theories regarding the status of the States then in rebellion, the answer is, that there is no doubt that the peril of an opposite construction did not lead to the final reversal of former precedents. And justly so. One of the truest canons of constitutional construction is that which adopts the construction which best effectuates the purpose of the instrument or provision to be construed. A construction which leads directly to the practical paralysis of the legislative power of a State can never be admitted.

Professor Farrar, in his Manual of the Constitution of the United States, page 166, says in relation to the constitutional provision respecting a quorum, that "this has been held to be a majority of the members actually sworn in and entitled to seats at the time, and not a majority of a full delegation from all States."

Another precedent arose in the Senate of the United States on March 2, 1861, when a proposition to amend the Constitution was on its passage. The Constitution, upon this point, provides that "Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution," &c.

When the vote was taken in the Senate, March 2, 1861, Mr. Trumbull raised the point of order that this provision required two-thirds of all the Senators which all the States were entitled to elect. The presiding officer overruled the point of order, and upon appeal the ruling was sustained by a vote of 33 to 1.

Another precedent of considerable force is found in connection with the ratification of the fifteenth amendment to the Constitution. The constitution of Indiana provided that two-thirds of each house should constitute a quorum. In 1867 certain members of the Legislature resigned in order to defeat a vote upon the ratification of the amendment. The remaining members thereupon decided that two-thirds of the actual membership constituted a quorum and proceeded to ratify the amendment. This action was certified in forwarding the vote of the Legislature on the ratification of the amendment. No question was raised by Congress in regard to the legality of the vote, and the vote of Indiana, as thus cast, was accepted and counted.

The case of State *vs.* Huggins, 1 McCord, 139, decided in the court of appeals in South Carolina, is in point. Eighteen managers of election were appointed by the Legislature for the district of Georgetown. Two had refused to qualify, one was dead, and one was disqualified, reducing the number to fourteen. It was held by the court that a majority of fourteen properly formed the board of managers for the district to determine the validity of the election of a sheriff, a majority of those qualified to serve, and not a majority of the whole number appointed, being a lawful quorum.

It may be remarked here that in the present argument it will be assumed that the Senate has the right to pass upon any and all matters and things which enter into the question of the election, returns, or qualifications of its own members; that the Senate is not concluded to any extent in this inquiry by the action of any other body or authority. This seems to be clearly the meaning of the words "each house shall be the judge of the elections, returns, and qualifications of its own members."

The action, opinion, or decision of any other body is, therefore, entitled to such weight or respect only as may be due to the reasons which support it.

We come now to the connection of the supreme court of the State with this case. And it may be remarked that this presents the most remarkable and perhaps unfortunate feature of the controversy. That court may be said, without injustice, to have taken part in the purely political contests of the State. Instead of leaving such contests to be settled by other departments of the Government, the court readily and zealously engaged in those contests.

The action of that court, which it becomes necessary to examine at this point, was taken under these circumstances: After the Mackey house and the Wallace house were each organized, the former with fifty-nine and the latter with fifty-seven members declared elected by the canvassing board, a petition was presented to the supreme court by Mr. Wallace, as speaker of the Wallace house, asking a mandamus to compel the secretary of state and the speaker of the Mackey house to deliver to him the returns of the election for governor and lieutenant-governor.

By article 3, section 4, of the constitution of the state, these returns are required to be sent by the managers of the election to the secretary of state, who is required to return them to the speaker of the house of representatives.

By the return of the secretary of state to the rule to show cause, issued by the supreme court upon the petition above stated, it appeared that that officer had delivered the returns to the speaker of the Mackey house.

The return of the speaker of the Mackey house showed that he had received the returns from the secretary of state, and held them by virtue of his office as speaker, and he denied the power and jurisdiction of the court in the matter.

The court thereupon reserved the question as to the secretary of state for further argument, and dismissed the petition as to Speaker Mackey.

In coming to this conclusion, the court said that "sixty-three members were in their seats when Mr. Wallace was elected. * * * That the house of representatives consisted of one hundred and twenty-four members, and sixty-three were necessary for a quorum to do business. * * * That all the members had certificates from the secretary of state except eight, and the qualification of these eight was established by the proceedings in this court. * * * That no matter what was the character of the certificates they had, the return of the board of State canvassers to the court showing that they had received the greatest number of votes in their particular counties entitled them to access to the floor for the purpose of organization."

It is submitted here that in taking cognizance of this matter and rendering a decision therein the court plainly transgressed the limits of its judicial powers, and that its decision is void and binding on no one, being entitled only to such consideration as its reasonings may claim.

The constitution of the State, in section 26 of article 1, provides that "in the government of this Commonwealth the legislative, executive, and judicial powers of the government shall be forever separate and distinct from each other."

That the due organization of the house of representatives is a legislative power or function, and not a judicial one, seems too clear for argument. Two bodies were claiming each to be the lawful house of representatives. This was confessedly a purely political question. No rights of property, no personal rights were involved. It was a question between two sections or parts of one legislative body, each claiming to represent that body. No other questions were involved.

It is not denied that out of such a controversy judicial questions may arise. Whenever the action of either of the contending bodies involves the rights of other persons, as, for example, if a statute had been passed by either of these bodies affecting the personal or property rights of any citizen of the State, it is not necessary for the purposes of this argument to deny that the courts of the State might have inquired into the question of the due organization of the house. But no such question was before the court. Two persons, acting in a professedly legislative capacity, were seeking to obtain possession of certain papers which were deemed essential to the success of either party. No action of either house, affecting any rights except its own rights as a legislative body, was drawn in question.

The case was, of course, disguised in the form of judicial procedure. There was plaintiff and defendant, relator and respondent. The ordinary judicial writ of mandamus was invoked, but looking beneath the forms and regarding the question involved, it must be evident that the question bore no judicial aspect. Whether Mackey or Wallace was entitled to have the election returns was a question which directly involved the action of the members of the legislative body, not in its effects upon citizens generally, but in relation to the due organization of that body under powers granted to it alone by the constitution.

The conclusion of the court itself shows its want of jurisdiction over the case. It held that Mackey, not being an official person, could not be reached by mandamus and dismissed the petition. It could grant no relief, accomplish no result, and yet it proceeded to express an opinion. This was extrajudicial. The court must have recognized this dilemma at the outset, namely, if Mackey is speaker he is the lawful custodian of the returns, if he is not speaker he is not such an official person as can be reached by mandamus. Hence, in either event no writ could have been issued, and nothing remained but to dismiss the petition.

Under these circumstances, the expression of an opinion that Wallace was the speaker and that sixty-three members are necessary to form a quorum was utterly uncalled for, a mere empty *obiter dictum*.

When, therefore, it is claimed that the supreme court of the State is empowered to construe the constitution, and hence to decide upon the question of a quorum, we answer that this is true only when the court has a proper case before it requiring the decision of such a question.

What reasons, then, did the supreme court give for holding the opinion that sixty-three members were necessary to form a quorum? None. It was their unsupported opinion, a *dictum* in every sense, not expressed in the course of reasoning or discussion leading to a judgment, and wholly unsupported by argument.

In Carroll *vs.* Lessee of Carroll, 16 How., 287, Judge Curtis said: "This court, and other courts organized under the common law, has never held itself bound by any part of an opinion which was not needful to the ascertainment of the right or title in question between the parties. In Cohens *vs.* Virginia, 6 Wheat., 399, this court was much pressed with some portion of its opinion in the case of Marbury *vs.* Madison. And Mr Chief-Justice Marshall said: 'It is a maxim not to be disregarded that general expressions in every opinion are to be taken in connection with the case in which those expressions are used. If they go beyond the case, they may be respected, but ought not to control the judgment in a subsequent suit, when the very point is presented. The reason of this maxim is obvious. The question actually before the court is investigated with care, and considered in its full extent; other principles which may serve to illustrate it are considered in their relation to the case decided, but their possible bearing on all other cases is seldom completely investigated.' The cases of *ex parte* Christy, 3 How., 292, and Jenness *vs.* Peck, 7 How., 612, are an illustration of the rule that any opinion given here or elsewhere cannot be relied on as a binding authority, unless the case called for its expression. Its weight of reason must depend on what it contains."

There is another question lying back of those already discussed, which will doubtless receive the attention of the Senate, viz: Was the action of the board of State canvassers, in refusing to certify the election of members of the house for Edgefield and Laurens Counties, legal?

How far the Senate will feel authorized or inclined to go in an inquiry into the right of members of State Legislatures to their seats, is of course matter of doubt. It is believed, however, that the case of Sykes *vs.* Spencer, presents the extreme limit reached hitherto. In that case two Legislatures were organized. One had a quorum made up of members holding regular certificates of election; the other had a quorum of members a part of whom held no certificates of election. Subsequently to the election of Sykes and Spencer by these bodies respectively, a fusion was effected, and it was conceded in effecting such fusion that a part of those who voted for Sykes were not in fact elected though holding certificates; and on the other hand, that a part of those who voted for Spencer were in fact elected though holding no certificates. This admitted fact the Senate took notice of, and upon it held that the election of Spencer was good. The Senate did not then undertake for itself to inquire into disputed questions of fact regarding the election of members of the Legislature, nor to pass upon disputed questions of law regarding such elections.

The present case presents disputed questions of law and fact regarding the right of any persons to sit for Edgefield and Laurens Counties in the organization of the house, or until their seats were determined by the house itself.

The fact has already been stated that the board of State canvassers did not determine and declare any person elected to the house of representatives for Edgefield and Laurens Counties. It may also be mentioned here, that in consequence of this action of the board of canvassers, no persons representing Edgefield or Laurens County took part in the organization of the Mackey house.

The provisions of the statutes of South Carolina defining the powers and duties of the canvassing boards which are important to the present question are as follows:

SEC. 16. The board of county canvassers shall then proceed to count the votes of the county, and shall make such statements thereof as the nature of the election shall require, within ten days of the time of the first meeting as a board of county canvassers, and shall transmit to the board of State canvassers any protest, and all papers relating to the election.

SEC. 24. The board of State canvassers shall, upon certified copies of the statements made by the board of county canvassers, proceed to make a statement of the whole number of votes given at such election for the various officers, and for each of them voted for, distinguishing the several counties in which they were given. They shall certify such statements to be correct, and subscribe the same with their proper names.

SEC. 25. They shall make and subscribe, on the proper statement a certificate of their determination, and shall deliver the same to the secretary of state.

SEC. 26. Upon such statements they shall then proceed to determine and declare what persons have been by the greatest number of votes duly elected to such offices, or either of them. They shall have power, and it is made their duty, to decide all cases under protest or contest that may arise, when the power to do so does not, by the constitution, reside in some other body.

SEC. 27. The board shall have power to adjourn from day to day for a term not exceeding ten days.

A large mass of evidence in the form of affidavits was laid before the board of State canvassers, tending to show irregularities and illegal influences affecting the election in the counties of Edgefield and Laurens, to such an extent as to render it impossible for the board to determine and declare who had been duly elected.

Edgefield County.

It may be here stated that the leading evidences respecting the election in Edgefield county were:

First. The immense disproportion between the whole number of votes cast at this election, as compared with the entire population of the county, as exhibited by the United States census of 1870 and the State census of 1875.

By the former census (United States, 1870) the entire population of Edgefield County, as then constituted, was 42,486. This included the village of Hamburgh, and the townships of Gregg, Hammond, and Schumltz, having at that time, according to the same census, a population of 7,728, all of which were, in 1871, made a part of the new county of Aiken. Deducting this from the entire population, as above stated, we have left 34,758 as the population, in 1870, of the territory now comprised in Edgefield County. A further deduction should here be made for the township of Shaw's Creek, fully one-third of which is in the county of Aiken. For this, however, we have made no deduction.

According to the State census of 1875, the entire population of Edgefield County, as now constituted, is 35,039.

The whole number of votes cast in this county at the late election, according to the returns before the board of State canvassers, was 9,374. Taking, then, either the United States census of 1870 or the State census of 1875, as giving the population of this county, the result is that at that election the votes cast considerably exceeded the ratio of one vote for every four inhabitants. This fact alone would throw a great discredit upon the accuracy of the returns.

But by the State census of 1875 the whole number of male persons over twenty-one years of age in the county of Edgefield is only 7,122, showing an excess in the total vote cast at this election, according to the returns, of 2,252 over the entire possible vote of the county.

Second. A comparison of the vote of the county at previous elections.

In 1870 the entire vote of this county for governor was 8,251. In connection with the vote of this year, it should be remembered that General M. C. Butler was a candidate upon the democratic ticket for lieutenant-governor. It is fair to presume that, owing to the fact of his being a citizen of this county, and the acknowledged leader of the democratic party in that county, he brought out the full democratic strength. In the vote of 1870, as given above, is included the vote of that portion of the county which has since been made a part of the county of Aiken. By reference to the United States census of 1870, it will be found, as already stated, that the entire population of the territory now embraced in Aiken County was 7,728, which gives a voting population—reckoning by the same ratio as is established by a comparison of the entire population of the county with the whole number of males over twenty-one years of age—of, in round numbers, 1,500. Deducting this number from the entire vote, 8,251, we have 6,751 as the vote for 1870 of what constitutes the present county of Edgefield.

The aggregate vote of Edgefield County, as reported by the returns for this year, is 9,374, showing an excess over the unusually full vote of 1870 of no less than 2,623, or an excess over the vote of the entire county of Edgefield, before the present county of Aiken was established, of 1,123; or again, an excess in the vote of the present year for the democratic candidates over the entire vote of the old county of Edgefield for General M. C. Butler, in 1870, of 2,545.

In 1872, there being no democratic candidate for governor, it will be necessary to take the vote for State senator in that county as the standard of comparison. This vote, in the aggregate, was 5,374, or exactly 4,000 less than the reported vote of this year.

In 1874 the entire vote of the county was 6,298. By the United States census of 1870, the entire population of the territory embraced in the present county of Edgefield was 34,758. Allowing one voter for every five persons, the ratio established by the same census, there would have been in this county, in 1874, a total voting population of 6,951. By the State census of 1875, the whole number of males over twenty-one years of age in this county was 7,122. An examination of these figures will show that the above vote of 1874—6,298—is very nearly six-sevenths of the entire number of persons over twenty-one years of age, according to the United States census of 1870, or the State census of 1875. The statistics of popular elections in this country have established the fact that six-sevenths of the entire voting-population is the highest limit reached in any elections, except in a few extreme and exceptional cases, which do not affect the general rule as here stated.

The conclusion is that the vote of this county in 1874 was a full vote, under all ordinary circumstances, and yet this year the reported vote of this county exceeds the vote in 1874 by 3,076. And in this connection it may be added that General M. W. Gary, democrat, who claims to have been elected State senator from this county at the late election, has stated in a public card that about 600 colored voters (republicans) did not vote, which number being added to the excess just named would give an aggregate excess of 3,676 over the very full vote of 1874.

Third. The evidence before the board of State canvassers also showed that this large excess of voters over the lawful vote of the county was due to the increase exclusively of the democratic vote; for while the vote was at the recent election largely increased over the vote at any previous election, yet the republican vote was decreased. This decrease in the republican vote was shown by the evidence before the State board of canvassers to be due not to a natural change of party connections, but to the fact of an organized and systematic plan of intimidation and violence carried on throughout the canvass, and reaching its culmination on the day of the election.

The increase of the reported democratic vote of this year over the vote for General M. C. Butler in 1870, before the county of Edgefield was divided, is 2,545, and an increase over the democratic vote in 1874 of 3,367.

Fourth. The evidences before the board of canvassers also establish the fact that many of the election officers in Edgefield County were deterred by fear of physical violence from discharging their duties according to their convictions of justice and right. This result was accomplished in various ways. Some of the managers were prevented by threats from assuming the duties of their offices at all; others, again, during the progress of the election, were prevented from rejecting the votes of persons not authorized to vote; others were prevented from making such returns of the election as their judgment dictated, or from forwarding their statements or other written evidences of the fraud and violence practiced at their poll; and, finally, the republican members of the board of county canvassers were coerced by threats of violence into signing returns which they believed registered the results of this overwhelming fraud and violence rather than the free ballots of the lawful voters of this county.

Laurens County.

In Laurens County the conduct of the election in its leading features was not unlike that in Edgefield County. This additional feature appeared, that the return of the board of county canvassers was signed by but two of the three commissioners composing the board, and one of the two signers signed the returns under protest, affixing his protest to the return itself, and afterwards filing his affidavit with the board of State canvassers, in the following terms:

"That so universal was this system of intimidation that deponent, influenced by this knowledge, and also by a personal observation of the illegal way in which the election was conducted in some particulars, did not feel justified in subscribing to the returns of the election in his official capacity as commissioner, and only consented to do so under protest, as said return will show on its face, when he became satisfied that his life would be placed in jeopardy if he declined to so subscribe the said return."

Upon the provisions of the statutes which have now been presented, and upon the evidences affecting the election in Edgefield and Laurens Counties, of which the foregoing statement is but a brief and imperfect summary, the board of State canvassers determined that they could make no statement or determination of the election in these counties. They did not, as has sometimes been stated, declare in terms that the election in these counties was invalid or void; but simply that no statement or determination of the election should be made by them.

That the board of State canvassers was authorized to reach such a conclusion, if in their judgment the facts presented to them warranted it, appears from the statement of the law under which they acted. They were required "to proceed to determine and declare what persons have been by the greatest number of votes duly elected to such offices or either of them." In the present instance they found themselves unable to determine and declare that any persons had been by the greatest number of votes duly elected as representatives for Edgefield and Laurens Counties, and they so declared. If for purposes of argument it were here admitted that it was the duty of the board to declare what persons appeared to be elected upon the face of the returns, still until they did so declare, or until the house of representatives itself had acted upon the question, the persons claiming to be elected as representatives for these counties would have no claim to take part in the organization or proceedings of the house of representatives.

It has been claimed in argument that the action of the board of State canvassers was illegal because they undertook to decide a case under protest or contest when the power to do so resided, by the constitution, in the house of representatives itself. The answer to this is, that they did not undertake to decide any cases under protest or contest, or to decide at all upon the final right of any person to sit as representative for Edgefield or Laurens County. Their action may more properly be described as a mere reference of the matter to that body which by law had a right to pass finally upon the question of the election, qualifications, and returns of its own members.

It is true that in many, and perhaps most of the States, the powers and duties of the returning or canvassing boards, have been held to be merely ministerial, consisting in the aggregation of the several returns from the various voting precincts throughout the State. The question, however, whether the powers and duties of a particular canvassing board are merely ministerial or not, will always depend upon the law under which they act; and it does not follow that, because as a general rule, the powers of canvassing boards are merely ministerial, that they are so in any particular instance.

While the board of State canvassers were engaged in the canvassing of the election, proceedings were instituted in the supreme court of the State for the purpose of controlling their action. And it is proper to consider the relations of those proceedings to the present question.

Those proceedings consisted of the petition of the democratic candidates for the various State offices, first, for a writ of prohibition to restrain the State canvassers from doing anything except the ministerial acts of ascertaining from the returns and statements forwarded by the boards of county canvassers for the respective counties the persons who have received the highest number of votes for the offices for which they were candidates, and declare the same and certify the statements to the secretary of state; second, for a writ of mandamus to compel the board to ascertain from the said returns and statements the persons who received the greatest number of votes for the offices for which they were candidates, and to declare the same and certify such declaration to the secretary of state, &c.

Upon this petition a rule to show cause was granted by the court, to which a return was made by the board of State canvassers, setting forth the powers conferred on them by the statute, alleging that they were then proceeding to discharge their whole duty according to the constitution and laws of the State, &c. Thereupon the court made an order commanding the board to proceed to aggregate the statements forwarded to them by the boards of county canvassers, and ascertain the persons who have received the greatest number of votes for the offices for which they were candidates respectively at the general election, and to certify their action in the premises under this order of the court.

The board accordingly made a return to the court under this order, giving the various aggregates of the votes for the various candidates as they appeared on the face of the county canvassers' return. The portion of this return relating to the counties of Edgefield and Laurens is as follows:

"The board of State canvassers, respondents herein, hereby certify that it appears by the statements of the several boards of county canvassers laid before the board that the following-named persons have received the number of votes set opposite their respective names for the several offices designated, namely:

* EDGEFIELD COUNTY.

Senator.

M. W. Gray	6,368
L. Cain	3,121

Representatives.

W. S. Allen	6,250
J. C. Sheppard	6,250
James Callison	6,245
T. E. Jennings	6,250
H. A. Shaw	6,251
Paris Simpkins	3,123
Elisha B. Harris	3,118
David Graham	3,120
Archie Weldon	3,118
Augustus Simpkins	3,119

* This county is allowed one senator and five representatives.

LAURENS COUNTY.

Senator.

R. S. Todd	2,898
J. Y. P. Owens	1,813

Representatives.

J. B. Hubert	2,911
J. Washington Watts	2,909
D. Wade Anderson	2,908
A. T. B. Hunter	1,811
W. H. Rutherford	1,810
Harry McDonald	1,809

The board further certifies that "This statement is made to the court in obedience to its order of November 17, 1876, but it is respectfully submitted that under the present proceedings in this court this board is not by law compelled to report any of its action to the court."

* * * * * * *

This board further shows to this court that allegations and evidences of fraud have been filed with this board as to the election held in Edgefield County by many of the managers of election in said county; but similar allegations have been made and filed as to one or more precincts in Barnwell County; that the statements of the commissioners of election for Laurens County laid before this board were signed by two commissioners only, one of whom signed, as he certifies, under protest; said commissioner has also filed an affidavit that the reason he signed said statements was because he was in fear of bodily injury if he refused to do so; that various protests and notices of contest have been filed from many other counties of the State, alleging irregularities on the part of election officers, illegal voting, &c.

That in view of said allegations, protests, and notices of contests, none of which have been heard or passed upon by this board, because of the pendency of these proceedings, this board cannot, in their opinion, properly ascertain and certify who have actually received the greater number of legal votes in said counties for the several offices voted for, unless they have the opportunity of investigating these allegations and hearing evidence upon these protests.

This statement having been made to the court, the next day the court made the following order:

"*It is ordered*, That a writ of peremptory mandamus do issue, directed to the chairman and members of the board of State canvassers and the secretary of state, commanding the said board forthwith to declare duly elected to the offices of senators and members of the house of representatives the persons who by said certificates of the said board to this court have received the greatest number of votes therefor, and to forthwith deliver a certified statement and declaration thereof to the secretary of state, and commanding the secretary of state to make the proper record thereof in his office and without delay transmit a copy thereof, under the seal of his office, to each person thereby declared to be elected, a like copy to the governor, and cause a copy thereof to be printed in one or more public newspapers of this State."

Before this latter order was served upon the members of the board, the ten days allowed by law having expired, the board completed its canvass of the election returns, declared the election, and adjourned *sine die*.

The course of the supreme court in this case is deserving of notice in several respects.

First. When the petition and the return were before the court there had been no refusal by the board to do any duty imposed upon it. The board had only begun their work as canvassers when the court issued its order in mandamus. It is an elementary principle of law that a refusal to perform a duty must precede an application for mandamus. Eight of the ten days within which they could act still remained.

Second. The court immediately issued an order requiring the board to report to the court itself the result of the face of the returns. The object of this order cannot be mistaken. It was to secure for the court the information necessary to determine beforehand the order to be made in order to accomplish a desired end. Can any other purpose be suggested? The court is asked to order the board to aggregate the returns and certify the results as the law directs. The court say in reply, Let the board show us first what the results will be. When those results are presented to the court then the order is made to declare those persons elected who, according to the report made to the court, have received the highest number of votes.

Third. Aside from all these evidences of partisan purposes, the action of the supreme court was wholly without jurisdiction. This is true as to all the officers voted for at that election, and particularly of members of the Legislature. It was in fact a plain usurpation of power, whereby the functions of the board of State canvassers were usurped by the supreme court, and the board required by the court to declare a specified result dictated to it by the court.

The board had an undeniable right to deliberate and consult, and not until the expiration of its ten days could it be said to have refused to do any act imposed upon it by law.

If at the end of that time it could be reached by mandamus, the court might have had the power to grant the writ, though this is more than doubtful.

What the court actually did was to attempt to control its action in advance of any decision of the board, or of any failure or refusal to act.

After the board had acted, the courts could by *quo warranto* have reversed the action of the board in cases where such a writ would lie; but as to members of the Legislature it was without jurisdiction at any time, either before or after the final action of the canvassers, to entertain the case.

Such action on the part of the court was without precedent in South Carolina. It is believed to be without precedent in any State.

The board had a right to reach a conclusion uninfluenced and uncontrolled by any power within the time limited by law for the completion of its work. If at that time it acted wrongly or illegally, its action could by various means be reviewed and corrected.

No power could rightfully compel any decision, and especially any particular decision, until the expiration of the ten days allowed for its action.

The only subsequent action of the court in this case was the imprisonment of the board for contempt of the order which was not served on them till after their adjournment *sine die*.

Cushing, in his Law and Practice of Legislative Assemblies, (page 52, section 141,) speaking of returning officers, says:

"It remains to be observed, in conclusion, that the proceedings of these (returning) officers, from the necessity of the case, are, in the first instance, uncontrollable by any other authority whatever; so that if, on the one hand, notwithstanding an election has been effected, the returning officers neglect or refuse to make the proper return, the party thereby injured is without remedy or orders until the assembly to which he is chosen has examined his case and adjudged him to be duly elected; and, on the other hand, if the returning officers make a return when no election has in fact taken place, or of one who is not eligible, the person returned will not only be entitled, but it his duty to assume and discharge the functions of a member until his return and election be adjudged void."

After the final adjournment of the board of State canvassers, November 22, 1876, the orders of the supreme court already recited were served upon them.

That the board then had no power to reassemble and act upon the returns is clear. (Cooley on Constitutional Limitations, 622; Clark *vs.* Buchanan, 2 Minnesota, 346; 33 New York, 603.)

In Minnesota it has been held, in accordance with the principle just stated, that if the board of canvassers, after annulling the votes, adjourn without day, their

power in the premises is at an end, and they cannot reassemble; neither can a court, by mandamus, compel them to reassemble, or give them any power in case of their doing so. (Clark *vs.* Buchanan, 2 Minnesota, 346. See also Gooding *vs.* Wilson, Forty-second Congress; State *vs.* Daumwirth, 21 Ohio, 216.)

The court proceeded to imprison the members of the board for contempt.

After their imprisonment a writ of *habeas corpus* was sued out before Judge Bond, United States circuit judge, sitting at Columbia. Judge Bond delivered an elaborate decision in which he held that the proceedings in the supreme court of the State were without jurisdiction, and that its order was void. He says:

"The first question to be decided at this time and upon this motion is whether or not the supreme court of the State of South Carolina had jurisdiction to hear and determine the matter before it."

After quoting the sections of the constitution which confer upon the supreme court its jurisdiction, and the sections of the statute which define the powers of the board of canvassers, he continues:

"The objection to the jurisdiction of the supreme court made by the petitioners is that they are a part of the executive department of the government charged with the execution of a law of the State, and that they alone are authorized to canvass the votes, and that they are not subject, in the exercise of their functions, to the control of the judicial branch of the government."

The Supreme Court of the United States, in a very able opinion by Mr. Justice Miller, in the case of Gaines *vs.* Thompson, 7 Wall., 347, has very clearly determined what the law is on this subject, and that is, "that if it appear that the act which the court is asked to compel the officer of the executive department of the government to do be purely ministerial, the court having jurisdiction to issue the writ of mandamus may compel the executive officer to perform his duty; but if the act required to be done by the executive officer be not merely ministerial, but discretionary, or one about which he is to exercise his judgment, a court cannot, by mandamus, act directly upon the officer, and guide and control his judgment or discretion in the matters committed to his care in the ordinary exercise of official duty." And the court further says that "the interference of the courts with the performance of the ordinary duties of the executive departments would be productive of nothing but mischief, and we are quite satisfied that such a power was never intended to be given them." And for this Mr. Justice Miller quotes the opinion of Chief Justice Taney in the case of the Commissioner of Patents *vs.* Whitely, 4 Wall., 522, and the law is stated to the same effect in a very celebrated case in Maryland, by Chief Justice Bowie—Miles *vs.* Bradford, 22 Md. Rep., 170—a case where the power of the governor to canvass the votes was not so broadly given as in the case at bar.

That this duty of the board of canvassers was not merely ministerial, but that they were clothed with a large discretion, it seems to me is very plain. They were not merely to take the returns and aggregate them. They were to canvass them. That is, they were to examine, to sift, to scrutinize them, which implies a power to reject such as were not lawful in their judgment; and more, they were to receive all cases under protest or contest that might arise, when the power to do so did not, by the constitution, reside in some other body.

They were the executive officers, appointed to declare the election of such persons as had, in their judgment, the majority of the legal votes cast. If they decided erroneously or falsely, the remedy of those candidates who thought themselves wronged was by *quo warranto;* but no court had the jurisdiction to compel the board of State canvassers to do otherwise than their own judgment dictated.

It remains now to be seen what the court was asked to do by the relators. Their suggestion sets forth "that the board is proceeding to hear and determine all matters of protest or contest before them in regard to the election of persons who were candidates at the general election, and is proceeding to certify their determination in such contests and protests to the secretary of state." And they pray that a writ of mandamus may issue, commanding them to ascertain from "the manager's returns and statements, fowarded to them by the boards of county canvassers, the persons who, at the general election on the said 7th day of November, ultimo, had the highest number of votes; and commanding them and compelling them to revoke and annul any determination or decision which they may have made in any case of contest or protest, if any such there be."

Under the cases cited in the opinion of the Supreme Court of the United States, Gaines *vs.* Thompson, 7 Wall., 342, above referred to, I am of opinion that the supreme court of the State of South Carolina had no jurisdiction to entertain any such "suggestion" or "petition." * * * The board of State canvassers is required to meet on the 10th day of November for the purpose of sifting, scrutinizing, not merely aggregating the statements of the county boards. * * *

We have shown from the "suggestion" itself that in our judgment the court had no jurisdiction to entertain it, and though the returns (to this writ) show that the parties are in custody solely for not obeying the mandate of the court respecting State officers, it is our duty to go behind the returns and look at the case as it presented itself to the supreme court at its inception. What the relators asked the court to do in their original suggestion is perfectly plain, and we have above quoted the paragraph of the "suggestion" which constituted the ground of complaint of the relators. In my judgment the whole matter was beyond the jurisdiction of the supreme court, and any order passed by them upon such "suggestion" is void.

* * * * * * * *

I think this proceeding in the supreme court was beyond the jurisdiction of that court; that the board of State canvassers were clothed, under the law, with discretionary powers which required them to discriminate the votes, to determine and certify the candidates elected after scrutiny, and that they were a part of the executive department of the government, and were in no wise subject to the control, as to what they should do after they had commenced to perform that duty, of the judicial department."—*Judge Bond's opinion.*

Great importance is attached to the action of the Wallace house in passing upon the right of the persons who claimed to represent Edgefield and Laurens Counties. From the journal of the Wallace house it appears that on December 6 the credentials of the persons claiming to be elected for Edgefield and Laurens Counties were referred to the committee on privileges and elections, to investigate and report as to their right to hold seats.

On December 7, this committee reported that the persons referred to were duly elected and entitled to their seats, and this report was adopted.

The chief and only real significance of this action is that it is evidence of the want of confidence on the part of the Wallace house in the legality of its own original organization, as well as in the right of the persons claiming to be elected for Edgefield and Laurens Counties, to take part in the proceedings of their body.

The claim is that on the 7th of December, when the Wallace house adopted the resolution seating the Edgefield and Laurens members, that house contained sixty-three canvassing-board members, and hence that the action of the house in seating those members cannot be questioned. It is to be noted, first, that this claim is a concession that that house, to be a valid house, must have a majority of one hundred and twenty-four holding the certificates of the canvassing board.

If this be so, then the Wallace house, on the day of its organization, was clearly without a quorum to do business, for it had only fifty-seven members holding such certificates.

The six members who joined that house between November 29 and December 7 had all been sworn in as members of the Mackey house, and had acted with that house.

If, now, the Mackey house was a valid house of representatives at its organization, the subsequent withdrawal of these six members to join another body could have no effect, either to impair the validity of the Mackey house or to cure the invalidity of the Wallace house. If their absence had reduced the body below a quorum, the house could do no business, but in point of fact their absence did not reduce the Mackey house below a quorum.

On the same day, December 7, the Wallace house also adopted resolutions declaring valid the election of the speaker and subordinate officers of that house, on the 28th of November.

This action is another evidence that the Wallace house regarded its organization on the 28th of November as at least of doubtful validity.

Passing now from questions affecting the legality of the action of the board of canvassers, we come to questions concerning the mode of organizing the Mackey house, and especially the exclusion therefrom of all persons not declared elected by the canvassing board.

Mr. ALLISON, (at eleven o'clock and thirty minutes a. m.) If the Senator will yield, I desire to make a motion now that a recess be taken until one o'clock. We have been here in session nearly twenty-four hours.

Mr. MERRIMON. I ask the Senator from Iowa to yield until I can offer an amendment to the deficiency bill, which I desire to offer, to be referred to the Committee on Appropriations.

The PRESIDING OFFICER, (Mr. HOAR in the chair.) If there be no objection the proposed amendment will be received and referred to the Committee on Appropriations. The Chair is not aware who has the floor.

Mr. WALLACE. I understood that the Senator from New Hampshire yielded the floor to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from New Hampshire yielded the floor conditionally for the purpose of a motion to take a recess.

Mr. WALLACE. I did not so understand.

Mr. WADLEIGH. Yes, sir.

Mr. WALLACE. Is it the understanding, then, that the Senator from New Hampshire has the floor?

The PRESIDING OFFICER. The Chair so understands. The present occupant has been absent from the Chamber, but he is so informed. The question is on the motion of the Senator from Iowa that the Senate take a recess until one o'clock.

Mr. WALLACE and others called for the yeas and nays, and they were ordered.

The Secretary proceeded to call the roll.

Mr. MAXEY. I am requested by the Senator from Indiana [Mr. VOORHEES] to state that he and the Senator from New York [Mr. CONKLING] have paired.

Mr. MATTHEWS, (when his name was called.) I am paired on this question with the Senator from Kentucky, [Mr. MCCREERY.]

The roll-call was concluded.

Mr. INGALLS. Upon this question I am paired with the Senator from North Carolina, [Mr. RANSOM,] who is detained from the Chamber by illness.

Mr. ALLISON. I think I ought to announce that the Senator from Maine [Mr. BLAINE] is paired on this question with the Senator from Oregon, [Mr. GROVER.]

Mr. DAVIS, of West Virginia. I ask the Senator from Mississippi [Mr. BRUCE] whether or not the Senator from Florida [Mr. CONOVER] is paired with him?

Mr. BRUCE. He is not. He is paired with the Senator from Alabama, [Mr. SPENCER.]

Mr. INGALLS. I omitted to state when the name of my colleague [Mr. PLUMB] was called that he was compelled to leave the city several days ago, and is paired on this and all such questions with the Senator from Missouri, [Mr. ARMSTRONG.]

The result was announced—yeas 21, nays 25; as follows:

YEAS—Messrs. Allison, Anthony, Booth, Bruce, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Dawes, Dorsey, Hoar, Howe, Jones of Nevada, Kirkwood, McMillan, Morrill, Paddock, Rollins, Saunders, Teller, and Wadleigh—21.

NAYS—Messrs. Bailey, Bayard, Beck, Cockrell, Coke, Davis of Illinois, Davis of West Virginia, Garland, Harris, Hereford, Hill, Jones of Florida, Kernan, Lamar, McDonald, McPherson, Merrimon, Morgan, Patterson, Randolph, Saulsbury, Thurman, Wallace, Whyte, and Withers—25.

ABSENT—Messrs. Armstrong, Barnum, Blaine, Christiancy, Conkling, Conover, Dennis, Eaton, Edmunds, Ferry, Gordon, Grover, Hamlin, Ingalls, Johnston, McCreery, Matthews, Maxey, Mitchell, Oglesby, Plumb, Ransom, Sargent, Sharon, Spencer, Voorhees, and Windom—27.

So the motion was not agreed to.

Mr. CAMERON, of Wisconsin. Mr. President, I will proceed.

Mr. COCKRELL. Before the Senator proceeds, I desire to announce that the Senator from Georgia [Mr. GORDON] is paired with the Senator from Rhode Island, [Mr. BURNSIDE.]

Mr. BURNSIDE. That is the fact if the Senator from Georgia has not come in. He said he wanted a pair for half an hour so that he could go to his breakfast. That was three quarters of an hour ago. Still it is true that we are paired, but not absolutely for the whole time. I withdraw my vote.

The PRESIDING OFFICER. A vote cannot be withdrawn after the result has been announced.

Mr. CAMERON, of Wisconsin. I will proceed with this brief:

The legal and parliamentary principles on which the Mackey house was organized may be stated as follows:

First. That no persons, except those declared elected and duly returned by the board of State canvassers, and holding certificates of the secretary of state, were entitled by law or usage to be placed upon the roll. (Cushing, sections 225 and 240.)

Second. That the organization of the house must be effected by those persons only whose election had thus been declared by the board of State canvassers and certified by the secretary of state, in accordance with the law of the State.

Third. That all other persons claiming to be entitled to seats in the house as rep-

resentatives must submit their claims to the house, after its organization by the members whose seats were undisputed. (Cushing, sections 229 and 240.)

"It is to be observed in the outset that when a number of persons come together, each claiming to be a member of a legislative body, those persons who hold the usual credentials of membership are alone entitled to participate in the organization."—*McCrary's Law of Elections*, 377.

"It is apparent that the case of Sykes *vs.* Spencer is not in conflict with the rule that in the organization of legislative bodies persons holding the usual credentials are alone authorized to act."—*McCrary's Law of Elections*, 392.

In the well-known case of Kerr *vs.* Trego, 47 Pa. S. R., 292, cited in Brightley's Leading Cases on Elections, (page 632,) Chief-Justice Dowrie, of the supreme court of Pennsylvania, laid down the following principle:

"On the division of a body that ought to be a unit, the test of which represents the legitimate social succession is, which of them has maintained the regular forms of organization, according to the law and usages of the body, or, in the absence of these, according to the laws, customs, and usages of similar bodies in like cases, or in analogy to them. This is the uniform rule in such cases."

And in the same case, speaking of the custom of the clerk of the former organization taking charge of the organization of the new body, he says, (page 638:)

"It has the sanction of the common usage of every public body into which only a portion of new members is annually elected; it is the periodical form of reorganizing the select council and the senate of the State, and also the form of organizing the Senate of the United States on the meeting of a new Congress, when the Vice-President does not appear and the last President *pro tempore* does; and we understand this custom to be uniform throughout the United States, though this is not very important. And when there is a president whose term as a member has expired, then the functions of the clerks continue, and they, in all cases, act as the organs of reorganizing the body, and continue to hold office until their successors are chosen and qualified. Our State and Federal houses of representatives are illustration enough of this. So universal is this mode of organizing all sorts of legislative and municipal bodies that all departures from it can be justified only as founded on special and peculiar usages or on positive legislation. Whenever this form is adhered to, a schism of the body becomes impossible, though the process of organization may be very tardy.

* * * * * * *

"It is objected that a rule that attributes so much power to the officers of the previous year gives them an advantage which they may use arbitrarily and fraudulently against the new members, so as to secure to themselves an illegitimate majority. No doubt this may be so, but no law can guard against such frauds, so as to entirely prevent them, just as it cannot entirely prevent stealing and perjury and bribery; the people are liable to such frauds at every step in the processes of an election or organization. But so much more the need for order and law in this part of the process. The law can dictate that, though it cannot furnish honesty and sound judgment to the actors in it. That the law and order that we have announced have existed so long and so generally is proof, at least, that they are better than no law at all."

In Wilson's Digest of Parliamentary Law, section 1603, page 221, this author says:

"At the commencement of every regular session, the Clerk of the House opens the session by calling the names of members by States and Territories, if in Congress, and by counties, if in State legislative assemblies. If a quorum answer to their names, he will put the following question: 'Is it the pleasure of the House to proceed to the election of a Speaker?' If decided in the affirmative, tellers are generally appointed to conduct the vote."

This seems to be the universal custom in the organization of legislative bodies, and such custom not only prevails in South Carolina, but is specially established by the rules of the house of representatives of this State.

Rule 80, of the rules of the House of Representatives of this State, is as follows:

"In all cases not determined by these rules, or by the laws, or by the constitution of this State, as ratified on the 14th, 15th and 16th days of April, 1868, this house shall conform to the parliamentary law which governs the House of Representatives of the United States Congress."

Rule 81 is as follows:

"These rules shall be the rules of the house of representatives of the present and succeeding General Assemblies, until otherwise ordered."

Turning now to Barclay's Digest (pages 44 *et seq.*, and 126) we find that the law governing the House of Representatives of the United States Congress requires the Clerk of the last House to make up the roll of the members of the new House, by placing thereon the names of such persons only whose credentials show "that they were regularly elected;" that having ascertained by a call of this roll that a quorum is present, the Clerk then proceeds to call the names of the members for the choice of a Speaker; the Speaker being chosen assumes the duties of presiding officer, and after swearing in the members, the oath of office being first administered to him, proceeds to complete the organization; pending the election of a Speaker, the Clerk preserves order and decorum.

Upon the question of the right of the claimants from Edgefield and Laurens Counties to be placed upon the roll and to participate in the organization, the following citation from Cushing's Law and Practice of Legislative Assemblies, section 229, page 87, is in point:

"The right to assume the functions of a member, in the first instance, and to participate in the preliminary proceedings and organization, depends wholly and exclusively upon the return or certificate of election; those persons who have been declared elected and are duly returned being considered as members until their election is investigated and set aside, and those who are not so returned being excluded from exercising the function of members, even though duly elected, until their election is investigated and their right admitted."

To the same effect is section 141 (page 52) of the same work, which has already been cited in connection with the action of the supreme court.

In section 238 (page 91) of the same work, in discussing the principles of parliamentary law governing the assembly and organization of legislative bodies, Cushing says:

"Hence it has occurred more than once that struggles for political power have begun among the members of our legislative assemblies even before their organization; and it has happened on the one hand that persons whose rights of membership were in dispute, and who had not the legal and regular evidence of election, have taken upon themselves the functions of members; and, on the other, that persons having the legal evidence of membership have been excluded from participating in the proceedings."

In order to avoid such difficulties, this distinguished writer lays down the following principles in section 240, which are applicable to the question now under consideration:

"That no person who is not duly returned is a member, even though legally elected, until his election is established.

"That those members who are duly returned, and they alone, (the members whose rights are to be determined being excluded,) constitute a judicial tribunal for the decision of all questions of this nature."

In Kerr *vs.* Trego, (Brightley's Election Cases, page 636,) already cited, the chief-justice said:

"In all bodies that are under law the law is that where there has been an authorized election for the office in controversy, the certificate of election which is sanctioned by law or usage is a *prima facie* written title to the office, and can be set aside only by a contest in the form prescribed by law. This is not now disputed. No doubt this gives great power to dishonest election officers; but we know no remedy for this but by the choice of honest men."

It is proper here in this connection to again refer to the language already quoted from the same authority, (page 638:)

"It is objected that a rule that attributes so much power to the officers of the previous year gives them an advantage which they may use arbitrarily and fraudulently against the new members, so as to secure to themselves an illegitimate majority. No doubt this may be so; but no law can guard against such frauds so as to entirely prevent them, just as it cannot entirely prevent stealing and perjury and bribery; the people are liable to such frauds at every step in the processes of an election or organization. But so much the more need for order and law in this part of the process; the law can dictate that, though it cannot furnish honesty and sound judgment to the actors in it. That the law and order which we have announced have existed so long and so generally is proof at least that they are better than no law at all."

Applying the law as now stated to the facts in the present instance, it is clear, first, that there were no representatives from Edgefield and Laurens Counties having certificates of election according to the law and usage of this State; and second, that under the law, without such certificates, the clerk had no right to place the names of any persons upon the roll of the house as representatives from these counties.

Mr. McMILLAN. I ask that the Senator from New Hampshire will yield to me for the purpose of moving an adjournment.

Mr. WADLEIGH. Certainly.

Mr. McMILLAN, (at eleven o'clock and fifty-four minutes a. m.) I move that the Senate do now adjourn.

Mr. THURMAN called for the yeas and nays, and they were ordered.

The Secretary proceeded to call the roll.

Mr. INGALLS, (when his name was called.) I am paired upon this question with the Senator from North Carolina, [Mr. RANSOM.] He was taken ill suddenly last night, and is unable to occupy his seat to-day.

Mr. McMILLAN, (when Mr. WINDOM'S name was called.) My colleague [Mr. WINDOM] is paired with the Senator from Virginia, [Mr. JOHNSTON.]

Mr. SPENCER, (when his name was called.) I desire to announce that on this question I am paired with the Senator from Florida, [Mr. CONOVER.] If he were here I should vote "yea" and he would vote "nay."

The roll-call having been concluded, the result was announced—yeas 24, nays 28; as follows:

YEAS—Messrs. Allison, Anthony, Booth, Bruce, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Christiancy, Dawes, Dorsey, Edmunds, Hoar, Howe, Jones of Nevada, McMillan, Matthews, Mitchell, Morrill, Oglesby, Rollins, Saunders, Teller, and Wadleigh—24.

NAYS—Messrs. Bailey, Bayard, Beck, Cockrell, Coke, Davis of Illinois, Davis of West Virginia, Dennis, Gordon, Harris, Hereford, Hill, Jones of Florida, Kernan, Lamar, McCreery, McDonald, McPherson, Merrimon, Morgan, Patterson, Randolph, Saulsbury, Thurman, Voorhees, Wallace, Whyte, and Withers—28.

ABSENT—Messrs. Armstrong, Barnum, Blaine, Conkling, Conover, Eaton, Ferry, Garland, Grover, Hamlin, Ingalls, Johnston, Kirkwood, Maxey, Paddock, Plumb, Ransom, Sargent, Sharon, Spencer, and Windom—21.

So the Senate refused to adjourn.

The VICE-PRESIDENT. The Senator from New Hampshire will proceed.

Mr. WADLEIGH. Do I understand that the Senator from Wisconsin has finished reading?

Mr. CAMERON, of Wisconsin. I yield the floor to the Senator from New Hampshire.

Mr. WHYTE. You cannot do that.

Mr. WADLEIGH. Mr. President——

Mr. WHYTE. I dislike very much to interfere with our friend from New Hampshire; but is it practicable and possible under the rules for him to hold the floor and yield it to other gentlemen to make speeches, and continuously hold the floor, and not come under that rule which prohibits his speaking more than twice upon the same subject?

The PRESIDING OFFICER, (Mr. HOAR in the chair.) It seems to the Chair that that question of order does not arise at present, for the reason that when the Senator from Wisconsin was addressing the Senate the Chair inquired of him whether he was yielding to another Senator in his own right or in the right of the Senator from New Hampshire. The reply was made that the Senator from New Hampshire had yielded a portion of his time to him, to which no objection was made at that time, when the right so to yield might have been questioned. What the ruling of the Chair would have been upon it if it had been questioned it is unnecessary now to state; but the propriety of the Senator from New Hampshire yielding a portion of his time to the Senator who has just addressed the Senate cannot now be questioned, and the Senator from New Hampshire is entitled to continue his remarks.

Mr. WADLEIGH. If my friend from Maryland had waited a single moment he would have found that there was no necessity whatever for making the suggestion he has made. I rise, Mr. President, to suggest to the Senate what perhaps they may be ignorant of, that we have had a very long and tedious session; many of us have had no breakfast, and it is nearly time for lunch. I move that the Senate take a recess until two o'clock.

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

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

Mr. McPHERSON, (when Mr. MORGAN'S name was called.) The Senator from Alabama [Mr. MORGAN] requested me to state that he is paired with the Senator from Colorado, [Mr. CHAFFEE.] The Senator from Alabama would vote "nay" and the Senator from Colorado would vote "yea."

Mr. PADDOCK, (when his name was called.) On this question and

all other political question I am paired with the Senator from Arkansas, [Mr. GARLAND.] If he were here, he would vote "yea" and I should vote "nay."

The result was announced—yeas 22, nays 27; as follows:

YEAS—Messrs. Anthony, Booth, Bruce, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Christiancy, Dawes, Dorsey, Edmunds, Hoar, Howe, Kirkwood, McMillan, Matthews, Mitchell, Morrill, Oglesby, Rollins, Saunders, Teller, and Wadleigh—22.

NAYS—Messrs. Bailey, Bayard, Beck, Cockrell, Coke, Davis of Illinois, Davis of West Virginia, Dennis, Gordon, Harris, Hereford, Hill, Jones of Florida, Kernan, Lamar, McCreery, McDonald, McPherson, Merrimon, Patterson, Randolph, Saulsbury, Thurman, Voorhees, Wallace, Whyte, and Withers—27.

ABSENT—Messrs. Allison, Armstrong, Barnum, Blaine, Chaffee, Conkling, Conover, Eaton, Ferry, Garland, Grover, Hamlin, Ingalls, Johnston, Jones of Nevada, Maxey, Morgan, Paddock, Plumb, Ransom, Sargent, Sharon, Spencer, and Windom—24.

So the motion was not agreed to.

The PRESIDING OFFICER. The Chair calls the attention of the Senate to the fact that the hour of twelve o'clock, noon, which is the hour under the rule for the daily meeting of the Senate, has arrived. In the judgment of the Chair the legislative day goes on continuously until the actual adjournment of the Senate, notwithstanding the arrival of twelve o'clock upon a new day; and the Chair will so proceed unless some Senator shall request to have the question submitted to the Senate. The Chair recognizes the Senator from New Hampshire.

Mr. WADLEIGH. I yield the floor, Mr. President.

Mr. WALLACE and others called for the question on the pending motion.

Mr. EDMUNDS. What is the pending motion?

The PRESIDING OFFICER. The main question is the resolution of the Senator from Ohio to discharge the Committee on Privileges and Elections from the consideration of the credentials of M. C. Butler, of South Carolina, and the Senator from Oregon has moved to amend by inserting at the end of the resolution the following:

And that this resolution be made the special order for to-morrow, November 27, at half past twelve o'clock p. m.

Mr. SAULSBURY and Mr. EDMUNDS called for the yeas and nays; and they were ordered.

Mr. DORSEY, (at twelve o'clock and ten minutes p. m.) I move that the Senate proceed to the consideration of executive business.

The PRESIDING OFFICER. The Senator from Arkansas moves that the Senate now proceed to the consideration of executive business.

Mr. DORSEY. On that question I ask for the yeas and nays.

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

Mr. MCPHERSON, (when Mr. MORGAN'S name was called.) The Senator from Alabama [Mr. MORGAN] being still absent I again announce his pair with the Senator from Colorado, [Mr. CHAFFEE.]

Mr. OGLESBY, (when his name was called.) The Senator from Indiana [Mr. MCDONALD] desiring to be absent from the Senate Chamber for a short time, we temporarily paired upon this question and all similar questions until his return.

Mr. PADDOCK, (when his name was called.) As before stated, I am paired with the Senator from Arkansas, [Mr. GARLAND.]

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

The roll-call having been concluded, the result was announced—yeas 22, nays 25; as follows:

YEAS—Messrs. Anthony, Booth, Bruce, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Christiancy, Dawes, Dorsey, Edmunds, Hoar, Howe, Jones of Nevada, Kirkwood, McMillan, Matthews, Mitchell, Morrill, Rollins, Saunders, Teller, and Wadleigh—22.

NAYS—Messrs. Bailey, Bayard, Beck, Cockrell, Coke, Davis of Illinois, Davis of West Virginia, Dennis, Gordon, Harris, Hereford, Hill, Jones of Florida, Kernan, Lamar, McCreery, McPherson, Merrimon, Patterson, Randolph, Saulsbury, Thurman, Wallace, Whyte, and Withers—25.

ABSENT—Messrs. Allison, Armstrong, Barnum, Blaine, Chaffee, Conkling, Conover, Eaton, Ferry, Garland, Grover, Hamlin, Ingalls, Johnston, McDonald, Maxey, Morgan, Oglesby, Paddock, Plumb, Ransom, Sargent, Sharon, Spencer, Voorhees, and Windom—26.

So the motion was not agreed to.

Mr. MERRIMON. Mr. President, I do not rise to enter upon a general discussion of South Carolina affairs as they appeared to me while serving as a member of a subcommittee of the Committee on Privileges and Elections in Columbia, in that State, in December and January last. On some other occasion, when the Senate is in better temper to hear, I may find it convenient to do so. For the present my purpose is to show by a few statements and statistics, which cannot be successfully questioned, how dissembling, how unfounded, how false, how utterly false, are the suggestions that any considerable number of persons were intimidated and prevented from voting at the general election in South Carolina in November last. I say that it is utterly false, and that the statistics which I wish to bring to the attention of the Senate put this statement beyond question.

The constitution of South Carolina, as framed by the republican party of that State, requires and commands that the voters of that State shall be registered. The evidence taken before the subcommittee, of which I was a member, shows that on repeated occasions the democrats in the Legislature made arduous and anxious efforts to induce the Legislature to pass a registration law, but that the majority had uniformly refused to do so. The whole State, all the co-ordinate branches of the State government, were in the possession and under the control of the republican party. They controlled the State government and almost all the county governments in the State. Their majorities in the State Legislature at every Legislature were overwhelming. They could do as they would, and they did do as they pleased to do.

The striking fact that I want to bring to the attention of the Senate is this: In the year 1875, in pursuance of a law passed by an overwhelmingly republican Legislature, a census of the State was taken. Nine-tenths of the census-takers were republicans, and the census was taken by them. Many of them, it is true, were incompetent, and it was suggested to the committee and sworn to that in many of the counties of the State they, by instructions and through intrigue, made false reports as to the strength of the colored people, with a view to future political contests; the number of negroes over twenty-one years of age was made larger than in fact it was. By that census, by which at least they ought to be bound, there were male persons in that State over the age of twenty-one years and entitled to vote in 1875, 184,943. At the election in 1876 there was polled a vote of 183,388, the aggregate vote cast for the two candidates for governor. It will be seen thus far that almost the whole voting population of the State voted in that election. Now I ask any sensible man, I ask any man who is willing to give an honest judgment upon the question, how any considerable number of persons could be intimidated in view of that result, when the whole political power of the State was exercised on that occasion? How could there be intimidation which prevented voters from voting?

There is another striking fact in connection with the election of 1876. The republican candidate for governor received, by many thousands, more votes than any republican had ever received in the State of South Carolina before. I ask any fair mind how that could be if there was any considerable intimidation affecting results? For the convenience of Senators I wish to call their attention to the state of the vote in the general elections for governor from 1870 down to 1876. In 1870 Scott, republican, received 85,071 votes; Carpenter, his opponent, received 51,537; majority for Scott, 34,534. In 1872 Moses received 69,838 votes; he was the regular republican candidate for governor; Tomlinson received 36,533 votes; majority for Moses, 33,305. In 1874 Chamberlain, the republican candidate for governor, received 80,403 votes; Green, his opponent, but not a democrat, received 68,818 votes; majority for Chamberlain, 11,585. In 1876, at the general elections, Hampton, the democratic candidate for governor, received 92,261 votes; Chamberlain, 91,127 votes; majority for Hampton, 1,134 votes.

These figures, which seem to my mind conclusive upon the subject as to any considerable intimidation, and put to shame any one who would attempt to show there was, can leave no doubt that almost every man who wanted to vote at the last election in that State did vote.

But this is not all, Mr. President. The subcommittee I have named sat there for a month. We heard hundreds of witnesses. Any one may take the testimony and cull and analyze it, and he will find that although there were disturbances and the campaign was most extraordinary in zeal and energy, the testimony does not show that as many as fifty men swore that they were actually intimidated. I challenge any man, I care not where he comes from, to take the testimony and find a greater number. I state further, that the testimony shows beyond any sort of question that more democratic colored men were actually intimidated and prevented from voting than colored republicans at that election.

I do not care to enlarge upon this subject. I submit these facts. There they stand in the volumes of testimony before us and any one, whatever may be his political affiliations, who will examine them will find that I have stated the substance of the truth as developed before the committee. I should like to see how any reasonable republican here or elsewhere can get over these facts and assert truly that there was intimidation.

I feel that I would not do my duty for the contestant, Mr. Butler, if I failed to say a word in his behalf, in view of the unusual manner in which he has mercilessly been assailed here when he could not speak for himself. I undertake to tell the Senate and to tell the world that any fair-minded man who will examine the testimony taken by that subcommittee with reference to the "Hamburgh riot" cannot come to the conclusion that General Butler was responsible in any sense for the atrocious crimes and outrages perpetrated there, whether by the white people or the black people. He was there in his capacity as a practicing lawyer to appear in a suit pending before a justice of the peace in the town of Hamburgh. This riot was the consequence of a quarrel and many other circumstances connected with that lawsuit, and it was likewise and in a large degree the consequence of a long series of outrages and crimes that have been perpetrated in the town of Hamburgh and in that neighborhood by vicious negroes who lived in and frequented that place. The evidence shows that Hamburgh was for the most part a perfect Sodom. Very few white people lived there; the negroes had complete mastery, and ruled the town as they pleased. Neither life nor property was safe there. All manner of crimes were perpetrated there. Robberies on the highway near the town were common, as the evidence shows.

It was in evidence that on one occasion, I believe more than one occasion, negroes there had opened and robbed the graves of the

dead. The bones of the dead were found lying exposed there. One witness swore that he saw by the side of a grave that had been opened the long, flowing hair taken from the head of a dead female. Many outrages of all classes and characters had been perpetrated by colored people living in and frequenters of that town. I repeat, that any one who will take a just view of affairs in Hamburgh at the time this riot took place, and of the condition of society there for a long time before it, would be bound to say that it was a second Sodom, and the riot was the offspring of grievances that had been accumulating for a long while. This riot was the consequence of an accumulation of outrages. Mr. Butler happened to be there on professional business, and he sympathized, I have no doubt, with the white people; but to hold him responsible for the atrocities, homicides, shocking murders if you please to call them so, that were perpetrated there, is an outrage upon him and gross injustice. I say that unhesitatingly. Many things that were done there horrified me. The very remembrance of them horrifies me. I well remember what indignation I felt at the time I first heard of the riot, and when I heard the testimony taken before the committee. But I feel bound, constrained to say in justice to this contestant, that he was not responsible for that terrible transaction. The evidence shows that at that time the most atrocious deeds were being committed by negroes there. When the riot was at its height men were taken out and shot down like wild beasts while some of them were praying for mercy. At the time the most atrocious deeds were done Mr. Butler was not there at all; he had left the town of Hamburgh and gone off to the place where he spent the night. The testimony is here, and in my judgment any fair man who will read it will come to the conclusion that I have in respect to Mr. Butler's connection with that riot. I do not believe he instigated it. I am sure he was powerless to stop or control it. It was uncontrollable by any one.

I noticed that in debate last night something was said as to Butler's opportunity to be heard before the subcommittee. I always regret to say anything about what happened in committee. There is a parliamentary rule which provides that members of a committee shall not disclose what happens or is said in committee, and I would be the last one to commit a breach of that wholesome parliamentary rule; but when other gentlemen of the committee do it, I am forced, in justice to the innocent, to give my version of what transpires there. I am bound to say that there seemed to be a set purpose, not on the part of my colleagues on the committee, but on the part of others, interested parties in South Carolina, some of them occupying important stations, to make a direct and persistent assault upon Mr. Butler, and to crush and ruin him in the esteem of all good people, if it were possible to do so. The witnesses against him touching the Hamburgh riot were examined in private. He did not see them when they were examined; he did not hear them when they were examined; he had no opportunity to cross-examine them, and it was impossible in view of the way in which the proceedings of that subcommittee were conducted that he could have done so. It is true that he saw a summary of what they swore against him after the testimony was taken, but he was not there to cross-examine them. The cross-examination had to take place presently, after the examination in chief. He was not there; nor, indeed, could he be there under the rule governing the examination to suggest to me, who cross-examined the witnesses, what questions I should put. I, like my colleagues upon the committee, was ignorant of the country and the state of affairs in South Carolina. I was wholly unacquainted with the witnesses and ignorant of the many transactions testified about, a knowledge of which was necessary to enable me to cross-examine the witnesses testifying, as they should have been to elicit the truth, more particularly when such witnesses had been drilled and prompted as to what they were stating. Most of them were very ignorant, and could easily be prevailed upon to make any statement and stick to it.

Mr. KERNAN. He saw only a summary of their testimony after the witnesses left the stand.

Mr. MERRIMON. He saw the summary only of their testimony, and sometimes it was very imperfect as to what the witnesses swore, and after they had left the stand and gone away. More than that, after we had examined as many I think as two hundred witnesses, from twenty to thirty witnesses were examined touching the condition of affairs in the county of Edgefield, and such a class of witnesses I have never seen in a court of justice or anywhere else. They swore with fearful looseness. They had manifestly been trained as to the monstrous statement of facts to which they swore. A memorandum was sent in to a majority of the committee, suggesting what questions to put to each witness, and he answered them in most instances as if he had learned his lesson. Highly respectable citizens, some in official stations and others not, asked, insisted, and implored the committee to allow them to bring good people from that county, but the committee more than once refused to do it. Gentlemen in Columbia sent a protest to the committee, protesting against the treatment which they received at the hands of the committee in refusing to allow them to produce witnesses to disprove much of what had been said against the white people in Edgefield county.

I wish I had time here to turn over the pages of these volumes and read the testimony touching Edgefield County and the Hamburgh riot. If this Senate and the American people could read it, no longer would they, if they do now, believe that Mr. Butler was the instigator and leader of that Hamburg riot. It is just to him here, inasmuch as the republican side of the Chamber have paraded in fearful colors all that they can against him, that he should at least, although time is now precious, have an opportunity to be heard as to what he has to say on that subject; and at the risk of detaining the Senate some time, I propose to give Mr. Butler's version of his connection with the Hamburgh riot. He was anxious to be examined. The committee did not have to send for him. He came and told the committee that he had been anxious for an opportunity to give an explanation of his connection with that affair under oath. He was glad to have an opportunity, and he proceeded to do it in the way with which I shall now acquaint the Senate by reading his testimony. In his testimony he touched upon many other subjects that are interesting to the Senate at this time besides those matters which relate to himself; and I propose to give all that he said so that it may go into the RECORD for his benefit here and wherever the RECORD may be read.

M. C. BUTLER, EDGEFIELD COUNTY.

COLUMBIA, SOUTH CAROLINA, *January* 2, 1877.

M. C. BUTLER sworn and examined.

By Mr. MERRIMON:

Question. State your age, your place of residence, your business, and with what political party you affiliate.

Answer. I am forty years of age; I live in Edgefield Court House; I am a lawyer by profession, a planter also, and I belong to the democratic party.

Q. State whether you took any part in the late political campaign in this State; and, if you say yes, give the committee to understand the manner of conducting the same, and its temper and spirit, so far as it came under your observation

A. I was one of the canvassers, I suppose, in the State in behalf of the democracy. I made several speeches in my own county; I can't say exactly how many. I made a speech at Greenville in this State, one at Marion, one at Lexington, and one at Winnsborough, in Fairfield County. Those are the points that I visited in connection with my canvass on behalf of the democracy. Of course in my own county I was quite active in aid of the democracy. I do not exactly understand what the purport of your question is as to the spirit of the canvass.

Q Was it peaceable, and were there any special grounds for a peaceful policy in this State?

A. That was my understanding of it wherever I went. I certainly used no other argument, and I heard of none being used. I think it was the general policy of those who were running on the ticket to use persuasive measures and produce a change in the republican party if possible. That was the general tenor and purpose of the campaign, I think.

Q. How were the white people affected politically? Were they all democrats, or were they divided?

A. I think they were almost entirely democrats.

Q. The main object, then, I suppose, was to win over the negro vote?

A. Yes, sir. Wherever I went in company with General Hampton I found that to be the case, and even when I was not with him I know it was the purpose of other canvassers to get access to the colored people with their arguments, and I remember of seeing General Hampton on two occasions, at Winnsborough and Edgefield Court House especially. His plan was generally to request the white people in front of the stand to give way in front and make room for the colored people to come up, in order that he might reach them with his speech, and I think that was very generally done. I know at Greenville, where I went to make a speech, Mr. Moise was candidate for adjutant and inspector-general, and the citizens there seemed to be very anxious indeed that we should reach the colored people, and we requested those sitting in front of the stand to move their seats in order that the colored people might be allowed to come in and take those seats, so they could hear, which was done. A number of the leading citizens, I remember, were sent out to invite them in, and they were given front seats. At Edgefield Court House I was requested by the chairman of the democratic executive committee to act as chief marshal for the purpose of preserving order, and I was requested to make that arrangement there. I did not do it. I thought that they ought to come in and take their seats in the crowd with the balance of the people, and I made no such arrangement. In the main, however, that was the plan pursued wherever I went, and the purpose on the part of all the democratic speakers appeared to be to get access to the colored people. It was pretty generally, as we knew, the policy of the republican leaders not to allow them to come and hear us, and hence it was that there was such an anxiety. We thought perhaps in that way we might reach the negroes and pursuade them to attend our meetings.

Q. Do you know of any purpose, plan, or policy to intimidate the negroes or force them by any means to vote the democratic ticket?

A. Not within my knowledge. I do not know of any such purpose. I know that exactly the opposite was the case.

Q. You may state anything that you may know, specially, about the campaign in your own county. Did you attend any meeting there?

A. There has been a good deal said in reference to one meeting that I should like to refer to—when Governor Chamberlain came to Edgefield. I have been made rather conspicuous in the newspapers by Governor Chamberlain, and I should like to state what I did do there.

Governor Chamberlain came there. I presume it was one of his regular appointments. We understood in Edgefield that the State committees of the two parties had made some arrangement by which there might be a division of time. We consequently sent a committee to the committee of the republican party in Edgefield to ask them for a division of time, and it was declined after a certain time. We, however, went over and attended the republican meeting at the academy, I suppose about half a mile from the court-house, and went upon the stand with Governor Chamberlain and Judge Mackey. The proposition was then and there renewed to Governor Chamberlain, who consented to have a division of time, and himself proposed that each of us should occupy a half hour, to which those of us on the side of the democrats assented. It was then agreed that Governor Chamberlain should open the debate; that I should follow him: that Judge Mackey should follow me, and General Gary should follow him, &c. Governor Chamberlain did speak his half hour out, and was subjected to a great many questions, some of them, I have no doubt, very annoying to him; not more annoying, though, I think, than most politicians have been subjected to. I have been very often, I know, in a canvass I made in South Carolina once. When I got upon the stand I found quite a number present, perhaps a thousand or twelve hundred white men, and I saw, perhaps, fifteen hundred or two thousand negroes I got up and appealed to the white men, and told them that Edgefield had a reputation for being turbulent, violent, &c., and I hoped that they would conduct themselves in such a manner as to contradict this charge. It seemed to me that everybody was in a good humor. They were laughing, and put a good many hard questions to Governor Chamberlain.

It has been alleged that in my reply to him I was extremely bitter. Well, I expect I was. I confess very frankly that I felt bitterly. He had, I thought, treated me very shamefully in his report of the Hamburgh matter, and I felt bitterly, and I suppose I did use pretty bitter language. I said in the outset of my remarks,

however, that with Governor Chamberlain's personal character I had nothing to do; but as a citizen I thought I had a right to speak, and I should take the liberty to do so. I think I confined myself to legitimate argument on that occasion, except on that one point. I said, "I see sitting in that wagon Congressman Smalls; he represents the Beaufort district in the Congress of the United States. He has seen fit upon the floor of Congress to assault me, and to represent me as a leader of riots, irregularities, &c., in South Carolina, and Governor Chamberlain has done the same; and I now demand that they shall get up and make good that charge before this large crowd of their own political party, or stand confessed before the world as public liars." I did say that. That was pretty harsh, I admit. I felt bitterly, and I feel bitterly toward them now. That was about as far as I said anything personally, and that was simply a personal matter between Chamberlain and myself.

After I had finished my speech Judge Mackey replied to me. He was frequently interrupted, and it has been reported that the white men crowded the negroes away from the stand. That is not true. The negroes came up in front of the stand and the white people went around to the rear.

He spoke his half hour out, and General Gary replied to him. General Gary was pretty severe upon Governor Chamberlain, very severe. It has been reported that he called him a damned bald-headed scoundrel, which is not true. He used no such language as that. After he had concluded Judge Mackey felt called upon to vindicate himself and friends, I presume, and for that purpose he replied. We had all made our speeches, and I suppose it was not right for me to reply, but I got up and asked the privilege, and they allowed me to go on; and then a reply was made to that, and a running debate was kept up between Judge Mackey and myself for I do not know how long; and I think this Mr. Sheppard also spoke.

Governor Chamberlain left the stand and went off, and most of the negroes went with him. Judge Mackey went after a while, and the next place I saw him was over on the public square, half a mile off, making a speech to the democracy. Some little badinage passed between myself and himself, and Mr. Chamberlain left the town that evening and came back to Columbia.

There was another republican meeting there somewhat later, I think, at which quite a number of democrats were in attendance; he had come into town, and they had a meeting of the democracy over on the public square. Those were the only two noticeable events that I remember during the canvass.

Q. Where were you on the day of the election?

A. I was at Edgefield Court-House.

Q. What was your observation of the manner of conducting the election there; state whether force and violence were manifested towards the colored people or whether they were deprived of the right to vote in any way, to your knowledge?

A. I live off a mile from the village, on the road leading to Columbia. I got down to the village about half past six or seven o'clock. The polls had been open for some time, and the white people were in possession of the polls when I got there. After staying about some little time on the square, the first incident I remember was Colonel Randall, of the United States Army, coming up to me and saying that the deputy United States marshal had reported that the polls were obstructed, that the negroes were not allowed to vote. I said I had no knowledge of any obstruction. I said, "You can see for yourself." I was standing then, I suppose, about thirty steps from the foot of the court-house steps, which are fifteen or twenty feet high. The white men were occupying the entire space of those steps, and at the door of the court-house only so many were allowed to go in at a time. I saw no obstruction; I had heard no complaint from the managers, and I said, "You can see that the voters are passing in and voting and coming out." He looked, and said he saw no obstruction, and went back to headquarters, and, I presume, reported to General Brannan. While standing there, I told him that I thought the real cause of complaint was that the negroes had heretofore generally been in possession of the polls, and kept them until one or two o'clock, but that on this occasion the white people had resolved to vote, and had got possession of the polls and proposed to keep them until they got through voting.

I was back and forth from that precinct to box No. 2, (which was perhaps a half a mile away,) at which there was a company of soldiers stationed under command of Captain Kellogg. There was a slight disturbance at that box. Fortunately I arrived in time to suppress that. The first indication of violence was a negro man having a pistol and making some demonstrations, and I rode up to him and ordered him to put up his pistol. This *mêlée* caused some considerable excitement for a few moments, and there were some demonstrations, but I appealed to both parties and begged them not to have any disturbance, and the negro was arrested and carried off. Not long after that, a company of soldiers came up there to box No. 1, and when I got back there I found the soldiers had arrived, and I found Lieutenant Hoyt in charge of the front door of the entrance. There was a line of sentinels around in front, and they frequently had to use their bayonets to keep back these people from crowding into the door. I walked into the arena and suggested to the lieutenant that he did not have sentinels enough to keep the people back; that I thought perhaps he had better open an avenue from the door to the fence just opposite, and he wanted a couple more sentinels for that. He sent off to Captain Kellogg and did get more sentinels. They were posted and an avenue opened; and from that time the voting was continued by allowing six or eight or ten men to come in at a time, as they were wanted by the managers. These men were selected by one of the officers on duty at the time. The point of egress was through the window, where there were two sentinels posted. There was a large crowd of colored people who went up to that poll, and, in fact, all of them left precinct No. 1 to the white people in the main, and I should say that there were perhaps from five to six hundred who did not get an opportunity to vote—not that there was a purpose on the part of the soldiers or the democrats to prevent it, but it was simply a physical impossibility for them to do so. They could not have voted in the nature of things.

Afterward, in the evening, the crowd came into town for the purpose of voting at precinct No. 1, about half past four; but they did not do so. I am told that some witnesses, Jesse Jones and some others, say that they were prevented from doing so. If there was anybody prevented them, I do not know it. On the contrary, I appealed to them and told them if they wanted to go and vote I would go with them. I recognized two negroes who did attempt it. With the exception of the noise, shouting, and so on, which generally pertains to elections, especially when there is as much excitement as we had, I saw nothing unusual. I saw nobody intimidated and I saw nobody attempt to frighten anybody.

Q. Jesse Jones has sworn before this committee that you said to the white people, in his presence, that "We have just outwitted them this time." State whether you made any such remark.

A. I have no recollection of having made any such remark, and I do not think it possible that I did. There was nobody present at the only time I could possibly have made such a remark, which was in this interview between Colonel Randall and myself, and I have just stated that. We were entirely alone, and I don't remember that there was anybody within fifteen steps of us.

Q. Do you know Jesse Jones?

A. Yes, sir.

Q. Do you know his general reputation?

A. I think I do.

Q. Is it bad for truth?

A. I think it is bad; I know it is bad.

Q. Would you believe him on oath?

A. I could not, sir.

Q. Harrison N. Bowie swore before this committee that on one occasion you said in a speech that P. Simpkins and L. Cain would be killed if they did not desist from their course as radical rascals. I ask you whether you made any such speech as that or any such remark?

A. I did not. If I mentioned Bowie's name during the campaign I certainly have no recollection of it. I am not so stupid as to threaten to kill him.

Q. I ask you whether you ever threatened to kill Bowie, or Simpkins, or Cain, or said in any speech that you knew they would be killed?

A. I never said any such thing; I never used any such expression. He refers in his evidence to a remark I made on that occasion, when Chamberlain was there, and says I said there would not be a republican in Edgefield after this election. Well, I said jocularly to those people who were in front, in a pleasant way, that I thought it would be very difficult to find a man who would admit that he was a republican in Edgefield, because we would beat them so badly—in that sense. It was said in a jocular way, and I don't know that I intimidated any one by it.

Q. Do you know Harrison N. Bowie?

A. Yes.

Q. Do you know his general reputation?

A. I think I do.

Q. What is it?

A. Bad.

Q. Bad for what?

A. Bad for truth. I must do Bowie this justice, to say that I do not think he is as notorious a liar as Jesse Jones. I think perhaps he is a man of better character in that respect than Jesse Jones; but I happen to have some personal knowledge of Jesse's facility in that respect myself. However, that does not constitute evidence of general character.

I call attention specially to what I now read; he is now speaking on the subject of the Hamburgh riot, and this is the special purpose for which I read from his testimony to-day:

Q. I ask you now if you know anything of what is commonly called the Hamburgh riot, which transpired in July last at the town of Hamburgh, in this State; and, if you say yes, give the committee to understand all you know about it within your own knowledge, or any fact you may have derived from any negro connected with it.

I will mention here that the subcommittee held that what the negroes said, they being on one side and the white people on the other side of the riotous proceedings, was regarded as testimony, and what a white man said about the negroes in connection with any such disturbance was received as testimony.

A. I am very happy, indeed, to have the opportunity to do so. There has been so much said about it, so many misstatements have been made, so much bitterness exhibited by the partisan newspapers, that I am very happy in having an opportunity to be able to put upon record, before a tribunal of this kind, my testimony, under oath, in reference to it.

The first knowledge I had of the Hamburgh matter was communicated to me by Colonel Thomas P. Shaw, at Edgefield Court House. This difficulty occurred on Saturday the 8th of July. On Friday evening, the 7th of July, Colonel Shaw, with his brother, the Rev. William Shaw, came to Edgefield Court House to confer with me upon some professional business, together with Mr. Norris and Mr. Addison, which business, I presume, it is unnecessary to mention. At any rate, they came upon professional business with me. After getting through with the business in Mr. Norris's office, Colonel Shaw said to me that Mr. Robert J. Butler desired me to be in Hamburgh at four o'clock the next evening, to represent himself and his son-in-law in a trial there.

Q. I will ask you right here if you are any relation to Robert J. Butler who sent for you on that occasion?

A. None at all.

Q. Are you any relation to A. P. Butler, who has been examined here to-day?

A. None at all.

Q. He belongs to a different family entirely?

A. Yes; Colonel Shaw even went so far as to say that Mr. Butler mentioned the fee of $25. He said that if I would come down there the following day he would pay me $25. I said to Colonel Shaw that he might say to Mr. Butler that as at present advised I should go if I could get any conveyance, as the time for the train had already passed. Well, I did succeed, about nine o'clock the next morning, in getting a buggy, and I hitched my horse to it and went. I heard from Colonel Shaw that there had been some disturbance at Hamburgh between these young men and the negroes, but the character of it he did not know. I took the buggy and left Edgefield, I suppose, about nine o'clock. The weather was very hot, and after reaching a point about seven miles from the village I met Dr. George Wise coming down the hill just as I reached what is known as Horse Creek. He asked me if I had heard the news from Hamburgh——

(Mr. CHRISTIANCY objected to the conversation between witness and Dr. Wise.)

The WITNESS. Mr. Chairman, I would like to have the matter definitely understood as to what testimony I may be allowed to give. I have seen the evidence given by these negroes and other people with reference to myself, and it seems to me that there was no limit to the statements that they made when they felt called upon to malign and traduce my character; and I think it would be a very great hardship if I in vindicating myself should be restricted to the rules of evidence.

Mr. CAMERON. It has been our endeavor from the begining to restrict them within the rules of evidence. Sometimes witnesses have departed from that rule and made statements before we could stop them, but it has been the endeavor of the committee to hold every witness as nearly as possible to the rules of evidence.

The WITNESS. If that has been your purpose, I must say that it seems to me that the committee has failed most consummately in doing it; because I have read Dr. Adams's testimony, and he has stated what he has heard, and the messages that I sent and the messages that he sent. I simply say this in justice to myself.

Mr. CAMERON. That was in the matter of the negotiations that were carried on.

The WITNESS. No, sir; however, I do not propose to argue that point with the committee. I will simply state, then, that I do not want to transgress any of the rules, and I shall not do it if know it. I think it my duty, however, to say that I have nothing whatever to conceal about this matter, and I would like that fact to go upon record. I want the entire statement brought forth, if it can be. I want it in all its deformities, if there are any. I want the truth, and nothing but the truth. It did occur to me in looking over the evidence that great latitude had been given these people in maligning my character, which was, I thought, unjustifiable. I simply state this, that I heard on the highway that the rumor had been circulated in the country that these two young men were to be mobbed by the negroes. The report that this gentleman gave to me was that they were not convicted at this trial, and he had heard that they were to be mobbed, and that there was a great deal of excitement in the country about it. I proceeded on the way to Hamburgh, and I suppose I got within five or six miles of the place, when I saw two or three men preparing to go to Hamburgh; and proceeding further I saw perhaps eight or ten more, by whom I was joined. I got as far as Summer Hill, and there I requested that these gentlemen should remain. I think it was about two o'clock when I got there.

By Mr. MERRIMON:

Q. Who were with you?

A. Five or six persons, who came along with me when I was on the road. I

went into Hamburgh in my buggy alone. As I passed down the main road leading from Edgefield to Hamburgh I passed the house of this young man Henry Getzen. He was sitting out in his porch, and I called to him from the road and begged him to go across the field to his father-in law's, Mr. Robert J. Butler's, who lived on the Martintown road, and say that I was on my way to Hamburgh, and that I wished him to meet me in town. I went on and drove up to the store of Mr. George Damm, which is the first store that I reached going into town. I think he was the only person that I saw there at that time. I told him that my horse was very much fatigued, that the weather was very hot, and asked that my horse might be fed. I think it must have been between two and three o'clock then in the afternoon. He said he had no oats to feed him, but would go and get some. I told him no; to water him or something of that kind, and I went into the store. I had been there, I suppose, five or six minutes, when Mr. Robert J. Butler came in.

Q. State who was with him and how he came there?

A. He came there in his buggy. I think his son, Tommy Butler, came in with him on horseback. He came in in a buggy, with a little negro boy.

Q. How were they armed?

A. I didn't see any arms on Mr. Robert Butler at all. Young Tommy Butler had a carbine on his horse, and perhaps a pistol. I dare say Robert Butler had a pistol, but I didn't see it. I said, "I want you to let me know what is the matter; what is this trouble about?" Mr. Robert Butler sat down and gave me an account of the collision that had occurred between his son-in-law and son and this company of militia. After he had given me an account of it, he said that this man Rivers had appointed four o'clock to have the matter investigated; but he said: "I want you to get in the buggy and go up and see the ground yourself with me." I did get in the buggy, and went up with him and surveyed the point at which it was reported that the company had met these two young men—the well, ditch, &c.—and after looking at it we came back to Mr. Damm's.

When passing along the center of the street to get into this street that runs along the river I saw Mr. Butler standing in the door; I saw Tommy for the last time, I think, until here the other day I saw him in Columbia. As I came back Mr. Sparnick, a lawyer from Aiken and judge of probate, was reported to me to be in town and I requested Mr. Getzen to go up and see him and bring him down to Mr. Damm's store. He went, and Sparnick came back and appeared to be very anxious about this thing; said he hoped some measures would be adopted to put a stop to it. I told him that I was certainly very anxious indeed that there should be; and there was some conversation of a general character. I then said to him, "Now Mr. Sparnick, I see that there are a great many negroes in town and there is a good deal of excitement in the country, and if a collision does take place, which is certainly to be deprecated, I cannot undertake to be responsible for it." He then said to me, "Suppose I go up, see these people, and bring them down and have a conference." In the mean time a negro man, by the name of Sam. Spencer, a leading republican there—I was eating some lunch which Robert Butler had brought in his buggy in a basket. I had asked for some dinner, being very hungry, and I got the lunch and took it into the back part of Mr. Damm's place, and just as I got there Spencer came in and said, "I would like to see you on private business." I went into a back room and had a talk with Spencer, and he said he thought if we could have a conference with the officers of the company it could be settled. I said certainly, I would be very glad to see them; that Mr. Sparnick had gone up to see them now. He said, "I think they have some objection to coming here now." Mr. Damm said, "Why? I don't see any reason why." Spencer said they were afraid of the armed men. I said, "I see no armed men here. Mr. Robert Butler himself is here, and his son Thomas is here," and I think his other son Harrison had come, and perhaps Henry Getzen. "I don't see any danger in their coming, but if there is any objection I am perfectly willing to meet them there." Spencer said, "Are you willing to meet them at my house?" I said, "Certainly." He said, "I will go up and bring them down." I said, "Very well." His house was very near to Damm's store; I didn't know at the time where it was. Spencer went off and did not return. The hour for the trial, four o'clock, approached. I waited, I suppose, a half hour or three-quarters, for Sparnick and himself to come back. In the mean time these colored people would pass this door that I was in and hawk at me and scrape their feet on the sidewalk, and do a great many things that were disgusting, but I had made up my mind not to get into a bad humor about it, and took no notice of it. I got into the buggy and went down to Rivers's office, and as we rode up to the door this man, who was afterward said to be Rivers's constable, by the name of Ben. Nelson, was sitting up in the door with his feet on the door-facing. Mr. Butler spoke and said to him, "Nelson, is the trial-justice in?" He said, "No, he isn't in." Butler said, "I would be glad if you would go around and say to him that I have my counsel, General Butler here." Nelson said, "No, I am not going to do any such thing; Mr. Rivers told me to stay here." His manner was extremely offensive and entirely unjustifiable by any conduct on my part or any interference. I think, however, that I should state that pending this the Rev. Mr. Mealing and Dr. Shaw drove up in a buggy, and that was the crowd that was around Judge Rivers's office—Dr. Shaw, Mr. Mealing, Henry Getzen, (Robert J. Butler's son-in-law,) and Tommy Butler and myself and Mr. Robert J. Butler. There was a crowd of negroes assembled there. I got out of my buggy and walked to the door and said very quietly to Nelson, "Is the trial-justice here? I have come here as counsel for these people, and I would like to see him." He still sat there with his feet upon the facing of the door fanning himself very offensively. He said, "No." I said, "Will you go and see him and tell him that I have come to have this matter investigated?" He said, "No, I am not going to do any such thing;" and then I did lose my patience and my temper both, and spoke to him in a manner very much more graphic than polite. I told him to get out of that chair and give it to me. He said. "No," there was a chair for lawyers. I said, "No, sir, I want this one and I intend to have it." After a while he got up and said, "You can shoot me." I said, "No, I have no such purpose." I then walked out and went and got in the buggy again, and Mr. Butler then said to me, "There is General Rivers's private secretary," I think he called him—a black man by the name of Edwards—"and if you will speak to him I think he will go to see Rivers." I said, "No, I am not going to do any such thing; I do not propose to speak to him again, because I do not propose to be insulted. You can do so if you choose," and he did speak to him. He went off and brought Rivers. I got out of the buggy again and went into the office. Just at this juncture I want to make another statement in connection with that.

After I had been there about an hour I saw that these people meant mischief, as I thought. I could see no occasion for this demonstration or insubordination on their part, and thinking that lawlessness might prevail, I sent across the river for a reporter of the Chronicle and Sentinel newspaper. When he came I invited him into the office. "Now," said I to him, "I want you to take down exactly what is said here. I have nothing to conceal here." He went in with me to Judge Rivers's office.

After Rivers had taken his seat I said, "I would like, as a preliminary matter, to inquire whether or not you are sitting in the capacity of a major-general of militia or as a trial-justice?" Rivers said that would depend upon circumstances. That if the facts were of such a character as to justify his interfering as a trial-justice, he would do so; if not, otherwise. Then he said, "I am sitting here as a peace officer." I said, "That is immaterial to me; I merely wanted to know. I want to investigate the facts of this difficulty, and either capacity will be perfectly agreeable to me."

When we had reached this point this Spencer came into the office. He came up to me and said, "General, I think if you could suspend this trial awhile, we can settle it." I said, "Certainly, I have no objection to suspending it at all." I said, "Just ask the judge; if he suspends it, I am perfectly agreeable." He then went up and applied to Rivers himself.

I would like the committee to bear that in mind, because an entirely different construction has been put upon it in saying that I asked the adjournment of the court. He came in and I said, "If the trial-justice says so, I am perfectly willing." Prince Rivers got up then and said, "The case is suspended for ten minutes." I said, "That is time enough for me." About that time the intendant of the town, a colored man by the name of Gardner, came in and walked up and said to me, "General, I think if you could come around to the council chamber"—which was just beyond Damm's store from where I had gone—"I think these officers would meet you, and this matter can be all arranged." Said I, "Certainly, I am perfectly willing to go," and I went around there with him. I think, perhaps, I got into the buggy and went around to the council chamber, and sat there, I suppose, for twenty-five minutes or more. That was the first time that anything had been said about arms. He said to me that he was very sorry that there was any trouble there, and all that sort of thing. I said, "I see no occasion in the world for any disturbance here, and I am surprised that you, by virtue of your official position as intendant of this town, have not taken it in hand." He said, "I don't know anything about it." We talked very quietly, and I said, "Now, it seems to me that the best solution of this difficulty is for these people to send these arms back to Governor Chamberlain. There is no occasion for them here, and nobody is going to trouble these people; all I can say is that it seems to me that would be the best solution of it;" in which he entirely acquiesced, and thought that that would be reasonable, and I supposed he concurred in the idea. I did not demand the arms at all, and I simply made the suggestion to him in those words.

Q. Did you demand the arms on that or any other occasion?

A. I am coming to that after a while. I said to him that I thought that would be the best solution of the difficulty, and he concurred in it. I waited twenty-five or thirty minutes. These people did not meet me again, and I confess that I was getting a little tired of that sort of thing. I got in the buggy and went over to the city of Augusta. I remembered that I wanted to send some supplies up to my plantation, and I said to Harrison Butler, "If you will drive me over to Augusta I will get my supplies, and then go out and spend the night with your father." I thought there was no possible chance for a trial. I suppose I was gone a half or three-quarters of an hour in Augusta. I found that there was a great deal of excitement in Augusta; a great many people asking what the condition of things was in Hamburg. I said, "Very bad; and I would not be surprised at any time if a riot were to break out there." I came back, and on the bridge on which the highway crosses the river I met four of these people again: this man Sam. Spencer, Picksley, and Edwards, and Simms. They followed me and said, "General, we were going over as a committee to look for you." I said, "What is the matter now?" They said, "We think we have got this matter in such shape as that it can be settled." I then drove back to Damm's store. Spencer asked me to drive around to his house and he thought they would meet me there. I went around there, and when I got back I found that the crowd of white men had been increased to perhaps fifty or sixty; they had come in mounted, and the excitement was increased. I drove up to Spencer's, and I suppose I waited there fifteen or twenty minutes, and still the officers did not come. Lieutenant Cartledge did come up and speak to me. He said that he had come down there and wanted peace. Said I, "Certainly, I want nothing else but peace." I waited some little time, and they did not come, and I drove around to look for Mr. Butler, really intending to go out to his house. When I drove around the square beyond the bank building, on the street that runs under the railroad, I stopped there for some little time talking with this man, and a messenger came and said that Prince Rivers wanted to see me. I said, "You go back and tell Prince Rivers that if he wants to see me he can come to me. I have been four or five times now, and I don't propose to go again; if he wants to see me let him come to me." He did come to me and said, "General, if these people will give up their arms and send them off, what security have you to offer?" I said, "There is no trouble about the security." He said, "Will you guarantee their safety down to Columbia?" "I have nothing to do with that," I said: "I am here professionally, but I do not hesitate to say, as a citizen of the country, that I have no doubt that there will not be any trouble; but if you want security, I take it that there are ten or twenty of the best men in Aiken County who will be security for these arms until they are deposited in the State arsenal, where they belong. I will say that to you, but beyond that I have no right to say anything;" and I rode off. He said to me, "I think that is a fair proposition, and I will go up and see these people." They had assembled in their drill-room. He said, "If they do not do it they must take the consequences."

By Mr. CHRISTIANCY:

Q. This must have been along toward night?

A. Yes, sir; it was along toward sunset. I rode off from him, and about the time I got about to the corner again, diagonally across the square from this drill-room, the rumor was circulated around that the negroes were going to fight; that they were not going to give up their arms; and very soon after the firing was again commenced and was kept up, I suppose, on both sides. I rode then to the corner of the bank building, which is near Rawle's house, and where Doc Adams said he took refuge behind the lattice later in the night; and I suppose that firing kept up an hour on both sides. The whites who were firing were on that side, and I remained there.

There were several attempts to burn the town. I remember seeing the fire blaze up at one point, and I told somebody that they ought to go up and put it out, and they did so and put the fire out. It was set on fire three times after the negroes were driven out of the building and most of them arrested. I rode around to Sibley's corner, and in the mean time quite a large crowd of people had come over from Augusta. I recognized a few gentlemen who appeared to be walking around there, but the great majority of the crowd I did not know. I rode around, and one of these men came rushing up and said, "General, let us set this house on fire." I said, "No; it will never do; it is wrong to do that." The man was drunk. He said that he had seen Mr. Sibley, to whom the building belonged, and he had said he didn't care a damn; to burn it. I rode off. There were a great many outrages perpetrated. Captain Conway came across the river on horseback, and from him I got information that these people had come from some distance in batteaux and canoes, and, said he, "I think if you will assemble them together and make them a speech they will go back." I said, "Then go around and gather them up, and I will do so." I did not see any occasion for their remaining there, and I did make a request, saying that the trouble was all over, and asking that they would go back across the river.

It was reported to me that some thirty of these negroes had been arrested and were under guard some fifty yards below, toward the South Carolina bridge. These people were very respectful to me, but one man said, "All right; we will go, and then we will sing out 'warehouse.'" I suppose that they were going through stores and warehouses, committing a great many depredations. I suppose that the crowd would go into the warehouses and other places and commit depredations, and they rushed off. I then said to these men, "I have no idea of remaining here all night. I can't control these people, and I am going off." By that time there had been three men killed—Jim Cook and Moses Parks, colored men, and young Merriwether, a white man. Merriwether was the first man killed, and of course the crowd was naturally excited and a good many of them were drunk. They were infuriated by this thing and had passed entirely beyond my control or that of anybody else. I suppose about twelve or one o'clock Colonel A. P. Butler went down there, and he and his friends went off just about the time I did, and I left the crowd committing depredations in the town, and I have no doubt that they committed a great many of them. He said to me, "What is to be done with these negroes?" I said, "I don't know, unless you send them to Aiken." He said, "I

have no warrant for them, and I am not going to send them off." I said then, "I suppose you had better release them," and he acquiesced in that view of it. That was Colonel A. P. Butler. I then went off with Robert J. Butler, and went up through the low grounds of his plantation to his house. Next morning I rode up to what they call the dead-ring, and there I recognized one of the men as being a man who had worked for me two years before, Willis Merriwether, and I spoke to him and asked him if he hadn't had enough of the militia, or something of that sort. I knew none of the other negroes. I rode off, and the next morning I heard that those men had been killed. This man Cook was killed, and Parks and Merriwether, before I left there. It was represented to me that Cook was looking over the fence, attempting to get over the inclosure which Adams spoke of here.

He says in his evidence that I had a conversation with him in his room. I never saw the negro, that I know of, in my life. I do not know that I ever heard of him before. He was pointed out to me about a month afterward as I was passing.

He also testified to seeing me at that ring just before those people were taken out and shot. That is utterly false.

By Mr. MERRIMON:

Q. One witness swears—Harry Mays or Dock Adams, I am not sure which—that he heard you tell them to shoot one or more men in that ring about three or four o'clock in the morning.

A. There is not a word of truth in that. I was at Mr. Robert Butler's house at that hour.

I may mention here that three or four other witnesses support this statement on the part of Mr. Butler.

Q. What time did you leave?

A. I think about twelve o'clock, in company with Mr. Robert Butler and his son Tom, and another man by the name of Shaw. We stopped at his mill, I suppose about half an hour, and then went on up, and I didn't know that the negroes had been killed until the next day. These two men were killed and were lying in the street when I left. Most of them that I saw after they were arrested had their shoes off. I supposed that Cook had taken off his shoes so as to enable him to make less noise in attempting to escape.

Adams says he heard me talking to Attaway at Rawle's house at the veranda. I may perhaps have been around there once. He says that was my headquarters. I had no headquarters. I certainly had a little more sense than to go and get in range of the guns, and that would have been exactly in range. I did not speak to him and did not see him. I did not know that Attaway had been arrested even.

Q. Did you have any control of that mob at all?

A. Not the least. No human power could have controlled them after the first shot was fired. It was an unbridled mob. The men that brought that artillery over there I do not know. One man came up to me who wore spectacles, and another who had beard. I remarked to this man Conway that it was curious that I did not recognize these people, and he said to me, "These are factory people, and the Irish have come over here for the purpose of plunder, and these men are drunk." I had no more control over that mob than I would have over a northeast hurricane. I did try, as long as I could, to prevent what outrages I could, but it would have been impossible for me or any other human power to control it. I certainly did all I could for three hours—a great deal more than I should ever do again—to prevent it.

These people have all said that I went in there at the head of two hundred armed men, and that there were fifteen hundred armed men in town. I think there were, perhaps, sixty men from the South Carolina side of the river, generally a class of people who do not commit outrages of that sort, and, I presume, one hundred and fifty or two hundred people from the city of Augusta. I could only make a rough estimate. There were enough to do a great deal of damage and commit a great many wrongs. I have no dobut of that. I went at the head of no army, and had no more idea of having a difficulty when I left home than I have at this instant with this committee. I had no pistol, and nothing more dangerous than a copy of the revised statutes of South Carolina. I deplore it as much as anybody. I had that copy of the statutes in my buggy, for I really did not know what the nature of the investigation was to be, but I thought that might cover everything.

Q. State whether you had any political motive in going there, or in anything that you did there?

A. I never had any political motive about it. Some negro has said—I think one that I met on the bridge—that I said that this thing was to be kept up until November. I never made use of any such language. The canvass in the State did not begin until August 16, and these democratic clubs were being organized, and the canvass had not really begun. It had been very strongly urged by men in the country to run Governor Chamberlain at that time, and I had no idea of having a difficulty, and never dreamed that there would be one. I had no more idea that there would be a riot than a man living in the Sandwich Islands. That statement is utterly and entirely false.

Q. Is it within your knowledge that any person else had any political motive in what was done there?

A. None at all. So far as I am concerned I had no idea of any political importance being attached to the riot; it was a mere *émeute*, one of those sudden, spasmodic riots that break out without being really preconsidered.

Q. Do you know anything about the organizing of that militia company? If you do, tell us what you know about it.

A. Well, I did not know at the time, but I have put myself to some trouble to learn something about it.

I want to state one other fact in connection with it. After these events transpired, such a different account of them appeared in the democratic papers from what actually occurred that this reporter whom I have mentioned wrote me a letter; and, although I know that this note is not competent in any legal sense, and that it is not competent for me to state its contents, yet I think I may say that he stated in that letter that he had not written a line in regard to the matter for any of the Augusta papers. There was a great hurrah made in the papers, and I was condemned without any investigation being made into it, and he wrote to me that he had not written any account for the Augusta papers. It seems to have been picked up by Tom, Dick, and Harry and to have been made the most of, and just put in in that way.

I afterward came to Columbia to see Governor Chamberlain in regard to it, and went down to his office and stated to him substantially as I have stated here. His reply to me was, "I don't see how you are to be blamed for it. The only horrible thing is the killing of these negroes after they were prisoners; that is murder." Said I, "Certainly, that is murder; there is no civilized man can justify that thing; but I had no control over it." He intimated to me that there was no blame to be attached to me. Mr. Youmans, of this city, was with me. The Northern papers took up the matter, and heaped such epithets as "bloodhounds from hell," and all those complimentary allusions, and of course I was very much annoyed about it.

I requested Mr. Youmans afterward to go to the adjutant-general's office and inquire if these people had been commissioned. The adjutant-general had stated that they were regularly commissioned militia.

Mr. Stone was sent over there by Governor Chamberlain as attorney-general of the State, and he made what I think a very unfair report. He did not seem to me to find out the facts. He simply went to the negroes who had been implicated, and made his report accordingly. Subsequently, in a communication which has been published, I denounced that report. In that report he says that this company was reorganized in May, 1876, and that it was the same company that had been organized under Governor Scott's administration in 1872.

When I had this interview with Governor Chamberlain I said to him, "I must say to you, as a citizen of this country, that you are perpetrating a cruel wrong upon these people to allow these arms to stay there—a great wrong, that is unjustifiable." Said he, "I did not know anything about the guns." Whether he did know anything about them or not I do not know.

Mr. Youmans went to the adjutant-general's office for the purpose of ascertaining about this matter of the militia company, but he said that he could find no evidence of any commissions having been issued. I know nothing of the legality or illegality of the militia, but I would like to refer the committee to the law upon this subject.

[Section 9 of the act of March 17, 1874, reorganizing the militia, was read by the witness, as follows:]

"SEC. 9. No company can be mustered in unless at least eighty-three men have been enlisted therein. Companies now in the service of the State shall at once reorganize under the provisions of this act, by the members signing proper enlistment-rolls, and being mustered into the service of the State as a part of the national guard; and for the purpose of such reorganization sixty men shall be considered the minimum. Such companies not reorganizing, as herein provided, on or before the 1st day of January, A. D. 1875, shall be disbanded, and the commanding officer of the regiment to which any such company may be attached is hereby authorized and required to take possession of all arms, accouterments, or other military property belonging to the State, in the possession of such company; and any member thereof who shall refuse or neglect to deliver the same shall be deemed guilty of a misdemeanor, and upon conviction, shall be punished by fine not exceeding $100, nor less than $10, or by imprisonment not exceeding thirty days, and the said property, wherever found, may be taken possession of by the commanding officer of such regiment, or by any officer or soldier acting under his orders: *Provided*, The general commanding the division to which such company or companies may be attached shall have power to extend the time for the reorganization herein required upon the recommendation of the regimental commander."

The WITNESS My information, derived from Major Stone, was that this company was not reorganized until May, 1876, and my information further was that they had no authority from the major-general either to have the arms or to reorganize.

Q. Who was the major-general?

A. Prince R. Rivers, sir; so reported. A great many of those guns had been distributed all around the State.

By Mr. CHRISTIANCY:

Q. You do not mean to have your statement of the law entered as a part of the testimony, I suppose?

A. No, sir; that is a matter of argument, as to whether it is a legally organized company.

Q. Do you know a man in Hamburgh named Louis Schiller?

A. Yes, sir; I have known him for ten years.

By Mr. MERRIMON:

Q. Do you know his general character?

A. I think I do.

Q. What is it?

A. In what respect?

Q. For truth?

A. I think it is bad, sir; he is a man of no character whatever.

Q. I ask you, sir, whether any member of that militia company told you at any time who fired first in that riot, who saw the ammunition?

A. Yes, sir; a man by the name of Pompey Currey told me.

By Mr. CHRISTIANCY:

Q. Do you know, yourself, who fired the first shot?

A. I really don't know who it was, because I was clear across the block when I heard the firing.

By Mr. MERRIMON:

Q. State whether you ever made any effort to have that Hamburgh matter investigated judicially?

A. I did, sir; after this thing assumed the proportions that I stated it did, and I heard that this investigation was going on, and that the jurymen consisted of parties implicated, entirely of negroes, and the negro trial-justice and some of the jurymen were the parties implicated in the riots, then I supposed, of course, that political capital was trying to be made out of it, and I sent word to the attorneys that if any warrants were issued for me, if they would let me know, I would report at Aiken at once; and a warrant was issued, and I went down and appeared before Judge Maher and, on application for bail, it was granted to all the parties concerned, in the sum of $1,000, by Judge Maher——

By Mr. CHRISTIANCY:

Q. One thousand dollars each?

A. One thousand dollars each; that is, in each case; and the court met on the first Monday of September and all the parties implicated reported again, and I, through my counsel, demanded that a bill of indictment should be given to the grand jury; and my information was that the judge continued the cases upon his own motion. It has been alleged by a man by the name of Albert Carroll, who lives at Aiken, that the reason that the case was not tried was that the court was intimidated.

Q. Both those statements are on information merely?

A. No, sir; one of the witnesses (Carroll) who has testified here has testified that they went down there and intimidated the court with arms, and all that sort of thing. I was entirely ignorant of any purpose to intimidate anybody. There was eighty of us included in this warrant, and I suppose they may have had a party of their friends with them, but I don't think there was at the outside one hundred and fifty white men who accompanied them in Aiken. If there was any disposition to intimidate any one, I did not see it. The men had to come with their wagons, some of them thirty miles, and they brought their supplies with them and camped out and did not appear in the town, but remained out two or three miles. Some of them did not come in at all, and everything was very quiet in Aiken.

I, through my lawyers, demanded to have this case referred to the grand jury for the purpose of having an investigation, but it was denied me, and has been persistently denied me since. The court is now in session, and I am informed that no bill has been given out; and I have never had an opportunity to have an investigation. I have demanded of Governor Chamberlain that he proceed to have an investigation, but it has been denied; for what purpose, I do not know. He is charged with the execution of the laws of the State, and he has declined to do it.

If I am the red-handed ruffian and bloodhound that I have been accused of being, either his government is imbecile and utterly worthless or I should have been put in the penitentiary long before this. There is no escape from that dilemma. I have not only asked for this investigation, but I have demanded it again and again.

Q. I ask you whether, under the law of this State, one charged with willful murder is entitled to bail?

A. No, sir; he is not.

By Mr. MERRIMON:

Q. I notice that your State constitution says that the Legislature shall provide for a registration of the voters, of the electors of the State, and the provision seems

to be peremptory. Has any law been passed since the present constitution went into effect on the subject?

A. Not within my knowledge. I can state in that connection that there has never, I think, been an assemblage of a democratic convention in the State since that time that has not urged upon the Legislature the enactment of a registration law in obedience to what is considered to be a mandatory provision of the constitution.

Q. Witnesses have been repeatedly asked in the course of this examination whether or not you have talked with them. I ask you whether you have rendered the minority of the committee any assistance, and, if you say yes, under what circumstances?

A. I have done all that I could to assist the minority of this committee, at its request. You requested me, or some gentleman in the State who was familiar with it to come here representing that you were a stranger, which we all knew, and unfamiliar with the history of the last year and the people of the State, and I responded to that request; and I have been in attendance here since last Tuesday to give you what assistance in that respect I could, at some very considerable inconvenience to me.

Q. I ask you whether you have suggested to any witness any statement that he did not voluntarily make?

A. I have not. I have merely attempted to get at the substance of what they were going to state with a view of facilitating your investigation. I have understood that Mr Corbin and other gentlemen have been aiding the majority of the committee in that way, and I have done so for the minority, at very considerable personal inconvenience, too.

By Mr. CHRISTIANCY:

Q. There is one point to which I wish to call the attention of General Butler in order to give him a chance for explanation. It is a question of law and was not a proper thing to go into the evidence, but inasmuch as you have already stated it I want to give you a chance to modify your statement if you desire to do so. I see that your constitution provides that all persons shall before conviction be bailable on sufficient securities, except in case of murder when the proof is conclusive or the presumption great, so that there might be many cases where persons charged with murder would be bailable?

A. Oh, certainly, on the charge of murder.

Mr. MERRIMON. You notice I used the words "willful murder."

The WITNESS. There are many instances where parties have been charged with murder and been entitled to bail; but if upon an investigation of the matter the judge decides that it is murder, then, as a matter of course, under the provisions of the constitution the person would not be bailable. If it should appear upon an investigation before the judge that it was murder, of course under the provision of the constitution he would not be entitled to bail.

By Mr. CHRISTIANCY:

Q. The point which I refer to you have not reached. Take a case where it is murder or nothing, if you please, if you can imagine a case of that kind; if the judge should be of the opinion that the evidence was weak and that it was a case that needed investigation, he could take bail?

A. Oh, certainly; it has been done time and again.

Q. It is only where the proof is evident that the prisoner is not bailable?

A. Yes, sir.

By Mr. MERRIMON:

Q. You spoke of persons coming to you; I wanted to ask you at the time if it was difficult for you to move about from place to place; and, if so, specify any reason for it.

A. I have got but one leg, and go on crutches now. I do find great difficulty in getting up and down the steps.

Q. I meant in that riot?

A. I was wearing my artificial leg at that time; but of course it is difficult for me to get about. I was not going on crutches then.

Mr. President, there is much testimony touching the Hamburgh riot that sustains the substance of what General Butler has sworn to in that deposition; and taking all the testimony together, considering the character of the witnesses and all the circumstances, I do not hesitate to declare to the Senate and to the country that it is my solemn conviction that it does General Butler great injustice to impute to him that riot and the crimes perpetrated during its progress. I do not believe that he instigated, nor do I believe that it was in his power to control it. It was a furious outburst, the result, as I have said, not only of the lawsuit pending before the negro magistrate, but as well of a long accumulation of outrages and crimes perpetrated by a vicious class of negroes in and about the town of Hamburgh.

I will advert, now, sir, to one or two other matters before I take my seat. I have already stated that the government of South Carolina, at and before the last election in that State, was absolutely under the control of the republican party and republican officials from governor down. It was stated, not once and not in a corner, but publicly and everywhere in South Carolina, that there was a deliberate and willful purpose and conspiracy to carry the election in South Carolina, notwithstanding the misrule that had prevailed there, by the unlawful use of the Army of the United States. I am sorry to say that much of the testimony taken tended strongly to show that that suggestion had real foundation. Not only the State authorities had control of the election there in November last, but all the Federal power that could be brought to bear was brought to bear there. There were over a thousand deputy-marshals in South Carolina at the time of the election. Federal troops were stationed, I believe, in every county, or nearly every county, in the State. The city of Columbia had a regiment or two stationed there; and one gentleman, a man of high character and who knew much about public sentiment and public affairs in South Carolina, General McGowan, swore that although he did not complain of the Army, for the Army officers demeaned themselves as gentlemen, he believed the presence of the Army had affected the vote in that State adversely to the democrats ten thousand votes. From the evidence, I concur in the view taken by him in that respect. The troops were everywhere, and the truth is, that the people there, the white people particularly, were under the dominion of the troops, for, when they moved, everybody from the highest to the lowest submitted, not through fear, but through necessity and wise policy. There was no resistance to the Army anywhere, nor was there any hostility to it, so far as I could see or learn.

There is a common impression that the negroes there all voted the republican ticket. That is a very false impression; it is a mere inference. But if any reasonable disinterested person will consider the misrule that had prevailed in South Carolina for years—and I wish I had time to refer to it here—if he will see that the negroes themselves had come to the conclusion that a change was necessary, he will come to the conclusion that it was not strange that thousands of negroes changed their party relations.

Much of the testimony that I could bring to the attention of the Senate, if I had time to read it, would show that many negroes changed their party relations because of their convictions that a change of rule was necessary. One negro canvasser there on the democratic side, a very intelligent man for a negro, and one who had canvassed most of the State, swore that there were twelve thousand negro voters in the democratic clubs, and that he believed ten thousand or more voted for Hampton. It is false to say that negroes did not vote for Hampton. In fact, thousands of them voted for him. I remember having had a conversation with some negroes, and I asked them if they were afraid of Hampton. They said "No, we are not afraid of Hampton; we are willing to risk our lives and our fortunes and our liberty with him." They did say, however, in addition, that they were fearful that they would not have a Hampton always to rule over them. They seemed to have a profound respect for him, and the greatest confidence in his justice toward them. They voted for him without constraint.

There is evidence going to show that there was a concerted purpose to prostitute the Army of the United States in that State in the late election in behalf of the so-called republican party there. As one of the subcommittee I endeavored to take all the testimony about the use of the Army there while it was in possession of the State-house and interfered with the organization of the Legislature, but I was not allowed to do it; the evidence was excluded by the majority of the committee; but I did get in some testimony on that subject, and disagreeable to me as it is, I feel that it is due to this contest to call the attention of the Senate to the part that the contestant, Mr. Corbin, had in that transaction.

Mr. Butler has been assailed here mercilessly when he cannot be heard. It is proper and fitting and just that I should bring to the attention of the Senate the part the other contestant took in the troubles in South Carolina in connection with the last election there, unpleasant as it is for me to do it. I had understood that the controversy about the disturbances there was not to affect this contest—that this testimony would not be needed nor would it be produced; but as it has been produced on one side and in aid of one contestant, it is fair and just that we should hear both sides. I propose now to present testimony which goes to show that there was a conspiracy in South Carolina to use the Army of the United States to control the election there in favor of the republican party.

It will be remembered that Governor Chamberlain issued a proclamation of insurrection down there after he had had an interview with the authorities here in Washington. I believe this was in October of last year.

Anybody who will read his own testimony as brought out by the cross-examination, and that of other witnesses of high character, judges and other high officers, will see that that proclamation of insurrection was absolutely false. There was no more insurrection there at the time he issued that proclamation than there is in this Senate Chamber or in this city at this moment. All the judges certified and some of them swore that there was no insurrection and no cause for the proclamation. The courts were all open; the officers of the courts and all officers in the State were going about their daily business, and the business of the government went on orderly everywhere. There was no opposition to the officers of the law anywhere at the time. The inference is plain that that proclamation was issued for the purpose of making a pretext to apply to the President for troops to be sent down there to control the election and secure not only the Legislature and the administration of the State government to the republican party, but to secure the election of the gentleman who comes here and claims to be seated in this body as a republican Senator or some other one in his place of that party.

Let me call your attention to certain testimony on that subject. Judge Cooke, of South Carolina, is a man far above mediocrity in point of ability and general intelligence. The testimony proves that he was a respectable judge of the circuit courts there. He has been a judge there for several years; he has been a republican for eight years up to about the time of the late election. It was proven by witnesses who were introduced—at last, however, certain witnesses were cut off under circumstances that I may have occasion to mention—that he was a highly respectable man, and that he was worthy of credit, and all the witnesses swore that they would believe him upon oath. I was not allowed to introduce many witnesses that I wanted to introduce on that subject; but enough swore it to satisfy any reasonable mind that Judge Cooke was a respectable man, entitled to be believed by anybody, and, besides that, he was a republican, and had been the confidential friend of Governor Chamberlain and other leading republicans in the State. I must say that I believe what he swore. Now, let me call your attention to what he said.

I will not read all his testimony, but only the material parts of it. The following are material extracts from his testimony:

COLUMBIA, SOUTH CAROLINA, *December* 28, 1876.

THOMPSON H. COOKE sworn and examined.

By Mr. MERRIMON:

Question. Please state your business, your place of nativity, and your age.

Answer. I hold the office of circuit judge of the eighth circuit; the State is divided into eight circuits. I was born in Fairfield County, about eighteen miles above this place; lived here several years, and for many years in the county of Orangeburgh, below here, until within the last four years. Upon my election as judge of the eighth circuit I moved to Greenville, where I now live.

Q. What is your age?

A. I was forty-five the 1st day of last July.

Q. With what political party have you been acting for the last six or eight years?

A. Well, sir, I claim to be a republican, and I have been acting with that party for the last eight years, until about two months before the late election came off.

Q. What party are you acting with now? And, if you say with the democratic party, state any reasons that have led you to co-operate with that party.

A. As I have already stated, since about two months prior to the late election I have been co-operating with the democratic party, supporting the election of General Hampton for governor in this State, for the reason that I became convinced so thoroughly in my mind that the republican party, that had so often and so repeatedly pledged itself to reform, was inadequate to any such task, and did not really mean to reform, in my judgment. For that reason I gave my whole efforts to the election of General Hampton as governor in this State, advocating in the mean time the election of Hayes and Wheeler up to a very short time before the election. I was led to think that from the course of things in this State and in the American public generally that the republican party was drifting away from the principles which I regarded as the fundamental principle, and that it was tending to anarchy and despotism, and I determined in my own mind that the safety of the country depended on the election of a democrat as President of the United States.

Q. I direct your attention now to the proclamation of Governor Chamberlain stating that there was insurrection in South Carolina, and his application to the President for troops. State the condition of your circuit at and before and since that time, and whether there was any necessity at that time for troops—military movements in South Carolina?

A. I have never seen the people of the eighth circuit more peaceable than they were during the entire campaign, nor have I ever seen them more peaceable than since the campaign was over.

By Mr. CHRISTIANCY:

Q. What counties does the eighth circuit consist of?

A. Abbeville, Anderson, Oconee, Pickens, and Greenville Counties. Governor Chamberlain and myself had repeated conversations on the subject of sending troops to that circuit, and the understanding between us was that if I should come to the conclusion that troops were necessary I would so inform him; and I have never to this day seen any necessity for sending troops there, and I never have informed him of any such necessity. He acted upon the suggestion of some few white republicans.

By Mr. CAMERON:

Q. Do you know that of your own knowledge that he acted upon their suggestion?

A. I know that they made the application.

Q. You may state the facts without stating inferences.

A. I don't wish to state what I do not know.

Q. Well, you know what legal evidence is.

A. Yes, sir.

By Mr. MERRIMON:

Q. Were the courts open and the civil officers in exercise of their legal duties?

A. Yes, sir.

Q. Was there any resistance to either?

A. None whatever.

Q. Were you engaged in the late canvass; and, if so, will you state how many speeches you made, and where?

A. Well, it would take me some time to narrate the places that I addressed meetings at.

I introduce that testimony to the end that the Senate may see who this man was, and know what he said of the condition of his judicial circuit at the time of the proclamation of insurrection. I come now to that portion of his testimony that bears on the charge made against the republican party in South Carolina in reference to the use of the Army of the United States:

Q. Do you know a person in this city by the name of D. T. Corbin, and if you say yes, state who that is?

A. I believe Mr. D. T. Corbin is United States district attorney for South Carolina. I know him.

Q. What are his political affiliations?

A. I believe he passes as a republican, sir; and always has, as far as I know.

Q. State whether you had any conversation with him during the late campaign, or immediately preceding, and if you say yes, state the conversation as nearly and accurately as you can, and when and where you had such conversation?

A. About the middle of August, I think it was, in coming to this city from Greenville, Mr. Corbin and myself were both on the train, and somewhere between here and Newberry, I cannot say exactly at what point, but at Pomaria, or somewhere thereabouts, I moved my seat over in front of Mr. Corbin for the purpose of talking with him. I cannot pretend to be exact in the use of his very language, because I do not know that I could be accurate, but the impressions made upon my mind and the substance of the conversation I think I can state.

Mr. CHRISTIANCY. You need not give your impressions, but the substance of what he said.

The WITNESS. Yes, sir. I asked Mr. Corbin what he thought of the situation, the political lookout of South Carolina—the State was thoroughly aroused even at that early day—and he said to me that it looked like the people of the State were determined to carry it; the democratic party were determined to carry the State, and that they would carry it unless something was done to check this growing enthusiasm. I then said to him if there was any way possible to check it, and he said that he thought there was; that if two or three riots or rows could be gotten up in South Carolina, and about thirty, fifty, or one hundred negroes killed, it would be the means of saving the State to the republican party, and perhaps the nation to the republican party.

He went on further to state that in order to accomplish this it would be necessary to make some cases for the United States court; that the circuit court—saying "your court" to me—was ineffective for the accomplishment of that, and that it would be necessary to make a case before the United States court, where the juries could be so managed as to insure conviction. I then asked him if he did not think such a case could be worked up out of the Hamburgh riot. He said that he was fearful that such was not the case, but he was going to Columbia for the purpose of consulting with Governor Chamberlain about the situation. I saw them together the next day at Governor Chamberlain's house. This was, I think, about the 12th or 13th, if I am not mistaken, of August, about a month and perhaps a few days before the Ellenton and Rouse's Bridge riots. When Mr. Corbin made this remark to me I thought but very little about it.

Mr. CAMERON. No matter what you thought; state what was said.

Mr. MERRIMON. You can state whether, when the Ellenton riots took place, you remembered the conversation.

The WITNESS. I did.

Q. And adverted in your mind to the conversatien you had had with Mr Corbin?

A. I did, sir.

Q. You say you saw him the next day with Governor Chamberlain; state anything that you heard there.

A. I saw him at Governor Chamberlain's house.

Q. What was said there?

A. Mr. Corbin came out about the time the governor came out; they had been dining, I think, together, and they came out together, and Mr. Corbin and a gentleman by the name of Cobb left the house together. Judge Mackey and myself took a seat in the piazza and remained some time talking with the governor. They did not pause when they came out—those two gentlemen, Mr. Corbin and Mr. Cobb. I heard nothing there between them or from either one that I think is pertinent to this issue at all.

Q. Well, state whether you had any conversation with Governor Chamberlain on the subject of the campaign, and, if so, when and where and what?

A. I did, I think, on the Greenville road, between Hodges and Greenwood stations, on, I think, the 23d of August. Governor Chamberlain had been to a political meeting at Abbeville, and had requested me to go over there and attend that meeting in company with him. I went from Greenville on the 21st—on Monday, I think it was—to Hodge's, and met him and went down to Abbeville; and the next day—the 22d, I think it was—the meeting came off. On his way back to Columbia I went down as far as Greenwood; the up train met the train bound south at Ninety Six, about ten miles below Greenwood; I went down there on some little business, and during the trip down he and I had some little chat together about the situation, and he stated to me that from every appearance the campaign was going to be a very hard one, and that something would have to be done to bring troops in here to suppress this enthusiasm and induce the negro to vote the republican ticket; that something would have to be done to bring the troops in here. I do not know what he meant. I think that was on the 23d day of August.

Q. Can you state any other fact as coming from Governor Chamberlain or Mr. Corbin of a like character?

A. I only know that the general sentiment of the leading——

Mr. CAMERON. Please state facts and not impressions.

The WITNESS. Well, I am not going to state impressions. When I speak of the sentiments I mean the expressions of various leaders in the State.

That is as much as I care to read at this moment. After that conversation with Mr. Corbin, after the "Ellenton riot," of which we have heard so much took place, Mr. Corbin, then district attorney of the United States, as the evidence here taken shows, had a large number of the white people in the neighborhood of Ellenton arrested upon warrants issued by a United States commissioner, and they were taken to Aiken Court House, in Aiken County. They were detained there for some time, and as many as about two hundred witnesses—negroes engaged in the Ellenton controversy, he summoning only one side, I believe not a single white man—were kept at Aiken Court House several days, and there he examined them, taking down in writing their testimony. That was very soon after the riot took place. He had arrested only white men, and all democrats. I believe he had one democratic negro arrested. After that these witnesses, as many perhaps as two hundred or two hundred and fifty, were taken under the direction of Mr. Corbin, at the expense of the Government, to attend the circuit court of the United States at Columbia, in November last. They were detained there during the whole term of the circuit court where they were under his direction and manipulation. After the term of the court expired the negroes were not allowed to go home, but under the order of Mr. Corbin, as I learned, they were detained there for many days to await the coming of the subcommittee to Columbia to be examined as witnesses touching outrages.

Mr. Corbin examined those witnesses that were sent to the subcommittee, and from the manner in which they testified it was manifest to my mind (and I think I am qualified to judge on that subject, for I have examined witnesses in courts of justice for many years) that they had been thoroughly trained. The spirit of what they all told was in the same direction, and they testified without let or hinderance. They all traveled over the same line of assault on the white people. It was plain that there was a purpose, a studied purpose, right or wrong, to implicate, criminate, and injure the white people. It is proven by men of the highest character that many of them swore to deliberate falsehoods. They swore to many things which are disproved, and they swore to many other things that in the nature of things could not be disproved further and otherwise than as they contradicted themselves and were unworthy of credit for truth.

I declare to the Senate that it would be monstrous to condemn on such testimony the people of South Carolina as they have been condemned here and elsewhere. It is cruel and monstrous that intelligent men will denounce a people as they have been denounced, upon the testimony of such men as most of those who testified before that committee.

And, sir, it is just to the white people that I should state one other fact. After we had examined witnesses there for a month, many of the leading men of that State made application to the committee and begged us not to stop. They said "You have made a partial examination; we want you to examine more witnesses here, and then we wish you to go to Charleston and elsewhere, and examine about the votes there and on the Combahee River." We staid there a month. The committee felt it was their duty to stop, and without giving the

white people as full an opportunity to be heard as they desired. Mr. Butler had been maligned, slandered, misrepresented, and I must say, had not a fair or just opportunity to be heard in view of the concerted and studied assaults made upon him.

I am not here to-day to go into a discussion of the condition of South Carolina and the philosophy, because there is philosophy in it, of their fortunes and their condition for the last twenty years. If it becomes necessary I may advert to this subject on some future occasion. But the course this debate has taken has made it my duty to say what I have said without premeditation in behalf of the contestant, Mr. Butler; and, sir, it has pained me to call the attention of the Senate to the testimony against the contestant, Mr. Corbin, but it was just and due, as such unjust and uncalled-for warfare had been made on one side, that the other side should have at least a little hearing.

Mr. CAMERON, of Wisconsin. Mr. President, I did not expect to be drawn into a discussion to-day of the facts or any of the facts developed by the subcommittee that proceeded under the order of the Senate to South Carolina last December for the purpose of investigating certain matters with which that subcommittee was charged; and yet, notwithstanding the extreme provocation which my friend from North Carolina has given me to go into an extended discussion of these matters, I will refrain. The Senate has now been in session nearly twenty-six consecutive hours. The Senator from North Carolina has a physical advantage over me; I do not mean to say that he has not many other advantages over me. He had the good fortune to be able to pair last evening with a clever member on this side of the Chamber, and he is just as fresh and vigorous this morning as I ever saw him before in all my life.

Mr. MITCHELL. And the clever member staid up all night.

Mr. CAMERON, of Wisconsin. The clever man with whom he paired staid up all night but was very careful not to vote.

The Senator from North Carolina starts out with the statistical argument to prove that there was no intimidation in the State of South Carolina during the political campaign of 1876. I have but little faith in this so-called statistical argument. The Senator will remember that Mr. Haskell, chairman of the democratic State committee for that State, came before us day after day, time after time, and completely overwhelmed us with statistics. He finally made a table which we have included in the volumes which are now laid upon the tables of Senators.

Mr. MERRIMON. May I interrupt the Senator? The statistics that I have read are the statistics that all parties down there do not dispute.

Mr. CAMERON, of Wisconsin. We shall see about that directly. Mr. Haskell having resorted to the statistical argument, General Elliott, on the part of the republicans, resorted to the same argument. The table which he made is also included in these volumes of testimony, and I refer the Senate to those two tables. I hope they will study them, and after they have studied them carefully I think they will know less, if possible, about the facts that are claimed to be proved by those statistics than they did before they looked at them at all.

If I were going to prove that intimidation did exist in that State during the canvass of 1876, I would not refer to the statistical argument.

Mr. MERRIMON. I do not think you would.

Mr. CAMERON, of Wisconsin. I would refer to the sworn testimony of unimpeached and unimpeachable witnesses, given before our committee; I would refer to the fact that fifty or a hundred witnesses—I have not counted them and do not know definitely the number—swore before the committee that prior to the Hamburgh massacre they were threatened by leading white men; by leading democrats they were told "if you continue to vote the republican ticket and continue to act with the republican party something dreadful will happen in South Carolina." Republican curiosity being excited by threats of that kind, very frequently they asked, "Well, what is going to happen?" "Oh, well, I cannot tell you exactly, but something dreadful is going to happen." Upon being pressed still further, they would say, "John, Dick, Joe, and other leading republicans will be killed." "Why will they be killed? What have they done?" "Oh, they are leaders in the republican party, and unless we get rid of them we cannot overthrow the republicans in this State."

I say, Mr. President, that a great number of witnesses swore to these threats made to them and made to others in their presence; and if nothing had happened after those threats had been made we might reasonably have concluded that nothing was meant by them. But something did happen; something happened on the 8th day of July, 1876. That something happened at Hamburgh; and if you will examine the testimony of these witnesses you will find that what happened at Hamburgh was merely a carrying out of the threats that had been made for weeks and months prior to that time. I am satisfied, and my republican associate on the committee, who has long been accustomed to making judicial investigations, and looking upon testimony with the eye of a judge, is satisfied that that something which occurred at Hamburgh did have a political significance, and that many who were engaged in it intended it for political effect, and that it did have political effect.

I do not propose to go into a discussion of the testimony, to analyze it for the purpose of showing the connection of General Butler with that unfortunate transaction. I have no doubt that he deeply regrets to-day that he happened—I will say "happened"—to have any connection with it at all. The testimony given before the committee in regard to the connection of General Butler with the affair at Hamburgh on the 8th of July is contradicted; there is no doubt about that. Many witnesses swore that they saw him placing his men; that they heard him give the command to fire. General Butler contradicts that.

Mr. MERRIMON. And others too.

Mr. CAMERON, of Wisconsin. Yes, sir; and others too. He was there; there is no doubt about that. I do not pretend to say now whether the statements made by those who swore that they heard him give the command to fire, that they saw him placing his men, that they saw him having general charge of the democratic rifle clubs assembled there at that time—I do not, I say, now intend to analyze the testimony for the purpose of showing whether those statements are true or whether the statements made by the witnesses who contradict those allegations are true.

The testimony is contradictory, and the only way that any person can arrive at a correct understanding of it is to read all the testimony and analyze it. I do not claim that we ought to believe everything, for instance, that is sworn to by Captain Adams. Captain Adams was the leader of the republicans there that night, and I think I do not exaggerate when I say that nearly all the democrats who were there assembled recognized General Butler as their leader. Whether or not he could have controlled the excesses that occurred there that night I shall not now stop to inquire.

Again, quite a number of witnesses swore that General Butler was there as late as three o'clock in the morning and that he was connected with the transactions that took place after midnight and before three or four o'clock in the morning. General Butler himself swore that he left Hamburgh and went to the residence of Robert J. Butler, his client, between twelve and one o'clock. Several other witnesses swore to that also.

I refer to this merely to show that the testimony is contradictory and that the real facts can only be arrived at by careful examination of the testimony and analyzing it. General Butler himself has given his version of this Hamburgh affair. He not only gave his version of it before the committee but he has written several letters on the subject. I will call the attention of the Senate to what General Butler says in one of his letters. General Butler on the 16th day of July in the year 1876 did not hesitate to declare that if every negro engaged in the riot had been killed in the suppression, it would have been excusable, if not justifiable.

If you will examine the letter which he wrote on that day, and which was published in the New York papers, you will find the sentence which I have read.

Mr. MERRIMON. Does the Senator read from it now?

Mr. CAMERON, of Wisconsin. I am reading from his letter.

Mr. MERRIMAN. In what?

Mr. CAMERON, of Wisconsin. From his letter to the New York Journal of Commerce. He further stated in his letter that the tribunal of the written law had been appealed to and ignominiously failed; delay would have been fatal to the safety of the lives, families, and property of the unoffending peaceable citizen. He proceeded: "Prompt, short, sharp, decisive action was necessary under the dictates of the unwritten inalienable law known as self-preservation, the first of all laws."

Mr. WADLEIGH. Will my friend the Senator from Wisconsin tell me in what volume I can find that?

Mr. CAMERON, of Wisconsin. It is in the letter. I have an analysis of it here. I cannot tell the Senator where it is, but he will find it in the third volume by referring to the index.

Mr. MERRIMON. Is the Senator reading from the letter itself or from an analysis of it made by somebody else?

Mr. CAMERON, of Wisconsin. I am reading an extract from the letter. The letter you will find in the third volume of the testimony which I see the Senator has before him. He can ascertain for himself by referring to it whether the extract is a correct one or not. The Senator has read the testimony that General Butler gave before the committee. He gives, as I have already stated, his own version of what occurred at Hamburgh on that day. In his testimony before the committee he accuses the poor republicans there of many things, but the most serious charge that he makes against any one is against a colored constable called Bill Nelson. He says that Bill Nelson "sat in the door with his feet up against the door-casing fanning himself very offensively." Now, "fanning himself very offensively," I take it, is not a crime at common law; and I doubt if it is a crime in any statute of any State, unless it be under the unwritten law, or the unwritten statutes—that may be a contradiction of terms—of South Carolina. Poor Bill Nelson sat there "fanning himself very offensively!"

The Senator from North Carolina complains that the secrecy of the committee was broken and divulged by some one. He did not state by whom; but of course I know to whom he referred. But the Senator ought to have remembered that we had a democratic reporter in the committee-room during the whole time that we were at Columbia taking testimony, and that that democratic reporter furnished the items, or that somebody did. I do not know who.

Mr. MERRIMON. I beg my friend's pardon.

Mr. CAMERON, of Wisconsin. He had the best opportunity in the world.

Mr. MERRIMON. I was allowed, as the minority, a clerk; and my friend will remember that secrecy was enjoined upon that clerk, and upon everybody in the room. Certain proceedings of the committee did get out, but they got out through the clerk of the committee, and I had to bring the matter to the attention of the committee.

Mr. CAMERON, of Wisconsin. I am sorry that I must disagree with my friend in regard to that. The notes of the testimony were taken by this democratic reporter who was in the room with the committee, and who was an assistant to my friend, the Senator from North Carolina. Those notes of the testimony were given to somebody outside, I will not say to whom now, but in a very short time they were all over the city of Columbia, so that really there was no secrecy about our proceedings. I, for one, never hesitated a single moment, after I ascertained that there was no secrecy about the matter, that the testimony which we took was spread broadcast, not only over the city of Columbia, but over the State of South Carolina, and over the whole nation so far as anybody was interested in it—I say I never hesitated for a single moment in divulging what occurred in the committee. I really do not take very kindly to the lecture which my associate on the committee has seen fit to give me to-day on the subject.

The Senator has said something and General Butler in his testimony said something which has been read about the general policy of the democratic campaign in South Carolina. That was a sort of dual policy. General Hampton had been nominated for governor, and he was making a canvass of the State. He would go around and make a conciliatory speech, much more so than some other distinguished citizens of the State, who were not inclined so much in that direction as he was. Sometimes they would go with him and make a speech of a directly opposite character. For instance, on the evening of the day on which he was nominated for governor a ratification meeting was held in the yard of the State-house at Columbia. There was a distinguished gentleman there from Mississippi, one General Ferguson; and my friend on my left here, [Mr. MCMILLAN,] who was with me on the committee in Mississippi a year ago last summer, will recollect General Ferguson. He testified before our committee. He either went of his own accord, or was sent to South Carolina as a political missionary, and he made three or four speeches in that State.

Mr. DAWES. He went as an expert!

Mr. CAMERON, of Wisconsin. He went as a democratic expert, my friend suggests. In a report of the speech which he made, and which was reported the next morning in the Charleston News and Courier, he recommended to the South Carolinians there assembled that they should adopt what he denominated and what the people of this country denominated the Mississippi plan. He was on the same platform, the same stand, with General Hampton. I think General Ferguson made the first speech. He told them that if they would adopt the Mississippi plan, they could easily overcome the forty thousand republican majority of the State of South Carolina. Perhaps I had better refer to some of the testimony in regard to that. General Ferguson's speech at Columbia at the ratification meeting called to ratify the nomination of Hampton was detailed to the committee. General Ferguson said that he had come back to tell the people of South Carolina how they could carry the State of South Carolina. In Mississippi they (the democrats) thought it was impossible to carry the State, but they had resolved in their minds that the thing was worth trying. "I will state," he said, "that there was one county in Mississippi that I paid some attention to."

The witness went on to say:

He gave an instance of how a majority of three or probably four thousand (I think he said) republican votes were overcome, and they carried the county by 600 majority, I think, at the last election; and by following the leaders and attending their meetings, and insisting upon being heard at republican meetings, and replying, and checking the lying, as he termed it, that was uttered by the carpet-baggers and scalawags, and by assuring the masses that they did not desire to injure them, but letting the leaders understand that if anything occurred there—if there was the slightest trouble—their lives—

That is the lives of the leaders—

should be forfeited.

General Elliott reported a part of this speech to the committee. This is a part of Elliott's report of that speech.

Mr. MERRIMON. Whose testimony are you reading from?

Mr. CAMERON, of Wisconsin. General Elliott's testimony.

Mr. MERRIMON. Who is he?

Mr. CAMERON, of Wisconsin. He at that time claimed to be the attorney-general of the State of South Carolina. They resolved to go to this campaign meeting, and they went in large numbers; and when the white leaders of the republican party got there they crowded before them and gave them notice that they should not speak there that day unless these men were allowed to reply; and he said—

One spoke, but when he "commenced to lie about the good people of Mississippi" he was told that he would have stop right there.

Now I will read some further testimony in regard to that mass-meeting. I examined General Elliott in regard to it. I put this question to him:

Q. Was General Hampton present at that meeting?
A. Yes, sir.
Q. Did he make a speech?
A. Yes, sir; he spoke.
Q. Did he dissent in any way from the views expressed by Ferguson and Gary?
A. Oh, no, sir; he made a different kind of speech, of course, from the others, but he did not refer to anybody else's speech, or comment upon any one's speech.
Q. He did not say, "Now, gentlemen, the plans proposed by General Ferguson and General Gary will not do; that must not be adopted," did he?
A. Oh, no, sir,

He was further asked:

Q. General Hampton was present at this meeting addressed by Ferguson?
A. Yes, sir; he was there.
Q. Did General Hampton get up and protest that they must not use any such measure in South Carolina?
A. No, sir. I heard every speech made that evening.

I think this will illustrate the "true inwardness" of the democratic campaign in South Carolina in 1876. The Senator has read the testimony of General Butler in regard to what took place at Edgefield Court House on the 8th day of August, the day that the first republican meeting of the campaign was held in that town. I will not stop to read the testimony, but the testimony shows, to begin with, that the meeting was appointed by the republicans not as a meeting for joint discussion at all, but as a republican meeting purely and solely. It appears, however, that word had been sent out into Edgefield County and the adjoining counties ordering—that is the word they use down there—"ordering" the rifle clubs to come in, so that on that day, before Governor Chamberlain and the other republican speakers who accompanied him had reached Edgefield Court House, there were at least a thousand mounted red-shirt democrats in Edgefield Court House, and they were not very quiet or orderly or gentlemanly in their conduct. Governor Chamberlain and those who were with him were insulted as they were coming into town by these mounted democrats.

The democrats went and took possession of the speaking-stand and the ground before the hour arrived for the republican meeting to commence. General Gary and General Butler were on the stand, and they insisted on making speeches; also General Butler states in his testimony, in substance, that he informed them unless they were permitted to reply there should be no speaking there that day. If Senators will examine this testimony they will find that the republicans had agreed on six or eight or ten meetings throughout the State prior to the nomination of Chamberlain for governor. Governor Chamberlain intended to address each one of these meetings. I think the first meeting was held at Edgefield, and if you will examine the testimony, even the testimony of the democratic witnesses, even the testimony of General Butler himself, you will find that Governor Chamberlain and his republican associates did not have a very pleasant time there that day. It appeared from the testimony of the witnesses before the committee that out of this series of meetings, with the exception I think of one, the transactions that had taken place at Edgefield were duplicated at each one of these meetings in substance.

The Senator has seen fit to attack Governor Chamberlain for issuing a certain proclamation. Governor Chamberlain in his testimony before the committee went into that subject very thoroughly, and I think he succeeded in satisfying the majority of the subcommittee that he did a very wise and prudent thing when he issued that proclamation. He told the committee how many rifle clubs he had ascertained in his official capacity there were in that State; that he had information in regard to their strength and in regard to the purpose of those rifle clubs. Just before that this Ellenton massacre had taken place. I will not go into the details of that massacre, though I think no testimony has been read here in regard to that very unfortunate occurrence. Some forty or fifty persons were killed during those troubles. I have not counted up the number, but I can very easily ascertain how many were killed.

Mr. MERRIMON. Enough in all conscience, but not half that number.

Mr. CAMERON, of Wisconsin. No matter about the exact number. Every person who was killed save one was a black man and a republican. Only one white man was killed.

The Senator also finds fault with the Army. Well, I do not think that the democrats in South Carolina have much love for the Federal Army.

Mr. MERRIMON. The Senator does me injustice. I did not find any fault with the Army. They went where they were bid to go and did their duty as they were directed. What I find fault with is that the Army was prostituted by those who ought not to have done it.

Mr. CAMERON, of Wisconsin. And the Senator said that General McGowan swore that the presence of the Army there had made a change of ten thousand votes in the result of the election. I agree with General McGowan that the presence of the Army there did make a change of ten thousand votes. It made a change of more than ten thousand votes in the result of the election, but the change was not a democratic change, it was a republican change. Witness after witness came before the committee and swore that they would not have dared to go to the polls unless the troops were there. The Senator says that not fifty men in all the State, so far as the testimony appeared before the committee, were intimidated. My understanding of this testimony is very different from his understanding of it. The Senator will remember that very many republican witnesses testified that they would not have dared to go to the polling-places at all unless the soldiers were there.

Mr. MERRIMON. What I mean is this: We examined probably

two hundred and fifty witnesses, and I do not think as many as fifty, taking the witnesses on both sides, swore that they were prevented from voting through fear.

Mr. CAMERON, of Wisconsin. I think a great many more than fifty witnesses testified upon that subject. I think a great many more than fifty witnesses testified that they would not have dared to go to the voting-places unless they had known that there was some Federal protection for them.

The Senator says, however, that more democratic colored men were intimidated than republican colored men. I will call the attention of the Senate to a few of the democratic colored men who were intimidated and to what they said about it. One of the martyrs of republican intolerance who came before the committee was a man named Jeremiah Whitlock. Jeremiah went on to state to the committee that in 1868 he remarked to his wife that he would go democratic. His wife observed to Jeremiah in response to this, if he would do it she would leave him. Jeremiah had been married for quite a number of years, and that threat did not have as much influence upon him as though he had more recently entered into that blissful state. Jeremiah did go democratic and his wife did leave him, and Jeremiah swore before the committee that he was very gladly intimidated.

Mr. EATON. Will the Senator permit me to ask a question?

Mr. CAMERON, of Wisconsin. Certainly.

Mr. EATON. Is that the opinion of Jeremiah or is it a senatorial opinion? [Laughter.]

Mr. CAMERON, of Wisconsin. That is the testimony of Jeremiah, and Jeremiah was a democrat. We found that nearly all the colored ladies in South Carolina were republicans. They seemed to have no sympathy whatever with the democratic party. Here is another democratic colored man who was intimidated. His name was William G. Childs, and this was his testimony in regard to what he heard:

At a barbecue on my place I heard a woman say if her husband voted the democratic ticket, and voted for her children to go back into slavery and to be without education, and things of that kind, she would leave him and have nothing more to do with him. A good many women who were present at that time spoke up and said they would do the same.

A colored democrat named Jonas Weeks came before the committee, and this Jonas Weeks had the honor at one time of being a slave of the great and good General Hampton. He testified that he got more to eat when he was a slave than now, and "if it is so fixed I had to be a slave, I would rather be a slave." He said "I have a wife and two children, and she cussed me; and I had on a dirty shirt and she wouldn't give me no clean shirt to put on." The question was put to him—

Q. Your wife is a republican?
A. Yes, sir; she claims to be a republican, and all them does; but I said she wasn't true to me because I supported General Hampton.

Another colored democrat went on to testify that he was a democrat. He stated as his special grievance that on one Sunday night at a colored meeting—

I got up and commenced talking, and then as soon as I commenced they—

Referring to the colored brethren and sisters who were present—

run out of the house and would not hear me, and I brought my remarks to a close just as quick as possible.

[Laughter.]

Another witness was invited to a wake, and he goes on to testify:

One of the women who was in the house there, she commenced laughing when we got down to pray, and my wife looked around and says, "You have got nothing to laugh at;" and she just begun to laugh worse; and I just brought the prayer to a close as quick as possible, and says to my wife, "give me a pipe full of tobacco, get your bonnet, and let us go home."

This question was put to him:

Q. When you got down to pray she laughed?
A. Yes, sir; making fun to hear a democrat praying for her. [Laughter.]

The next question was:

Q. She said it was funny to hear a democrat pray?
A. Yes, sir; that is so.

There was a democratic orator. I do not know but that it was the democratic orator whom my friend from North Carolina referred to. His name was George Meade. He describes his failure to secure an audience thus:

A. I went on to Meeting street from there. I spoke there that evening.

By Mr. MERRIMON:

Q. Was that in the town?
A. No, sir. Well it was a store. There was only one store that I saw there.
Q. What was done to you there?
A. Lots of colored people were sitting around there when I got up and started to speak; and as soon as I got up, says they, "Let's leave that nigger there; no use to listen at him;" and they went back there somewhere; I don't know where they went.

By Mr. CAMERON:

Q. You thought that was a great indignity, did you not?
A. They said they heard me five mile speaking.

Here is another colored democrat, and I think my friend from North Carolina will remember him. He was examined by the Senator from North Carolina.

Q. Did the colored men ever abuse or maltreat you for being a democrat?
A. They won't wash a shirt for me in Edgefield County, and if they do they charge me two prices, and say they are going to get all the money out of the democrat niggers.
Q. They say they won't wash your clothes for you?
A. They say if they do they are going to charge double price, and get all the money out of the democrat niggers.
Q. Do you remember any other fact connected with your experience during the late campaign?

That conundrum was propounded to him by the honorable Senator from North Carolina.

A. I have got to make some statement about how we got to get along with the colored women.

By Mr. MERRIMON:

Q. Yes; we want to hear about that.
A. If I got to pay twenty-five cents a shirt, and you pay dollar a month for your washing and I pay twenty-five cents a shirt, and change shirts as often as you do, I want to know how I'm going to keep up with the times. I wouldn't say anything about the colored women only that they intimidated me so bad.

All this talk about intimidating colored democrats is the merest bosh and farce that ever was attempted to be played before any audience.

Mr. MERRIMON. No more, sir, than on the other side—not a whit.

Mr. CAMERON, of Wisconsin. I do not agree with you there. We did not ascertain that any colored democrats had been shot, or scourged, or driven off from their land, or refused employment. It appeared before the committee that it was a very common thing, and in fact it was not denied, for the democrats who own the land to say to their negro employés—to say right out "Unless you vote the democratic ticket you cannot stay on my place."

Mr. MERRIMON. Do you call that intimidation?

Mr. CAMERON, of Wisconsin. I do call it intimidation. These men are poor; they have families on their hands; they have no means of supporting those families except by the labor of their own hands. Nearly all the lands in the State are owned by democrats, and nearly all the employers in the State are democrats. If these poor men cannot get employment, if they cannot get lands upon which to work, the result is inevitable: they must starve or leave the State. I say it is intimidation; and I say it has been one of the most effective means of intimidation employed in that State; and I say it is one of the most effective means employed in other States in the South.

But, Mr. President, I did not intend to be betrayed into saying as much as I have already uttered. The Senator from North Carolina has said that upon some future occasion he will discuss this so-called South Carolina question. I think, perhaps, that upon some other occasion I may be tempted to do the same thing.

The VICE-PRESIDENT. The pending question is on the amendment offered by the Senator from Oregon [Mr. MITCHELL] to the resolution of the Senator from Ohio, [Mr. THURMAN.]

Mr. MITCHELL. The time having transpired fixed by my amendment in which this subject is to be made the special order, I ask general consent to modify it.

The VICE-PRESIDENT. The Senator has the right to modify it.

Mr. MITCHELL. I will modify it, so as to add to the resolution the following:

And that this resolution be made the special order for to-morrow, at half past twelve o'clock p. m.

The VICE-PRESIDENT. Will the Senate agree to the amendment?

Mr. EATON. Has not that amendment already been voted upon?

Mr. MITCHELL. No, sir; it has not.

Mr. EATON. I thought an amendment was voted upon making the subject the special order for half past twelve.

The VICE-PRESIDENT. It has not been voted upon.

Mr. HOAR. If I correctly understand the amendment, it fixes an impossible time.

Mr. MITCHELL. No, sir. Half past twelve to-morrow is a possible time.

Mr. HOAR. I understand that in legislative parlance to-morrow is the next legislative day, as for instance if we should pass such a resolution on Saturday that would mean if the Senate sat on Monday the subject would be taken up on Monday at half past twelve.

Mr. MITCHELL. That is just what I do mean by the amendment.

Mr. HOAR. But I understand that we are to-day in the session of Monday.

Mr. MITCHELL. That is true.

Mr. HOAR. Therefore a resolution ordering something to be done "to-morrow at half past twelve" means that it shall be done on Tuesday at half past twelve, and that time has passed by. The gentleman should say "Wednesday at half past twelve o'clock."

Mr. MITCHELL. I am willing to so modify my amendment. My opinion, however, is that "to-morrow" would mean Wednesday, but I am willing to say "Wednesday."

The VICE-PRESIDENT. "To-morrow" has reference to the pending legislative day. The Chair thinks the Senator from Massachusetts is correct.

Mr. MITCHELL. Very well. I will modify the amendment and say Wednesday.

The VICE-PRESIDENT. The question is upon agreeing to the amendment as thus modified.

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

The yeas and nays were ordered.

Mr. EATON. Let the amendment be reported

The VICE-PRESIDENT. The amendment will be reported.

The CHIEF CLERK. It is proposed to add at the end of the resolution the words:

And that this resolution be made the special order for Wednesday, November 28, at half past twelve o'clock p. m.

Mr. MITCHELL. That is right.

The Secretary proceeded to call the roll.

Mr. INGALLS, (when his name was called.) I am paired with the Senator from North Carolina, [Mr. RANSOM,] who is detained from the Chamber by illness. My colleague [Mr. PLUMB] is unavoidably absent from the city, and is paired with the Senator from Missouri, [Mr. ARMSTRONG.]

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

Mr. PADDOCK, (when his name was called.) As I before stated, I am paired with the Senator from Arkansas, [Mr. GARLAND.] If he were here, he would vote "nay" and I should vote "yea."

The roll-call was concluded.

Mr. DAWES, (after having first voted in the affirmative.) I paired for a short time with the Senator from Georgia, [Mr. GORDON.] I do not see him in the Senate Chamber, and I desire to withdraw my vote.

The result was announced—yeas 26, nays 28; as follows:

YEAS—Messrs. Allison, Anthony, Booth, Bruce, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Christiancy, Conkling, Dorsey, Edmunds, Hoar, Howe, Jones of Nevada, Kirkwood, McMillan, Matthews, Mitchell, Morrill, Oglesby, Rollins, Saunders, Spencer, Teller, and Wadleigh—26.

NAYS—Messrs. Bailey, Bayard, Beck, Cockrell, Coke, Conover, Davis of Illinois, Davis of West Virginia, Dennis, Harris, Hereford, Hill, Jones of Florida, Kernan, Lamar, McCreery, McDonald, McPherson, Merrimon, Morgan, Patterson, Randolph, Saulsbury, Thurman, Voorhees, Wallace, Whyte, and Withers—28.

ABSENT—Messrs. Armstrong, Barnum, Blaine, Dawes, Eaton, Ferry, Garland, Gordon, Grover, Hamlin, Ingalls, Johnston, Maxey, Paddock, Plumb, Ransom, Sargent, Sharon, and Windom—19.

So the amendment was rejected.

The VICE-PRESIDENT. The question is, Will the Senate agree to the resolution of the Senator from Ohio? on which the yeas and nays have been ordered.

Mr. ALLISON. I ask that the resolution be reported.

The VICE-PRESIDENT. It will be reported.

The Chief Clerk read as follows:

Resolved, That the Committee on Privileges and Elections be discharged from the consideration of the credentials of M. C. Butler, of South Carolina.

The Secretary proceeded to call the roll.

Mr. ALLISON, (when Mr. BLAINE's name was called.) I desire to say that the Senator from Maine [Mr. BLAINE] is paired with the Senator from Oregon, [Mr. GROVER.] The other Senator from Maine [Mr. HAMLIN] is paired with the Senator from Connecticut, [Mr. BARNUM.]

Mr. DAVIS, of Illinois, (when his name was called.) I am paired with the Senator from Michigan, [Mr. CHRISTIANCY.] If he were here, he would vote "nay" and I should vote "yea."

Mr. EATON, (when his name was called.) As this is a vote on the main question I desire my action to appear on the record. Therefore I state that I am paired with the Senator from California, [Mr. SARGENT.] If he were present, I should vote for and he would vote against the resolution.

Mr. INGALLS, (when his name was called.) I am paired upon this question with the Senator from North Carolina, [Mr. RANSOM.] If he were present, he would vote for the resolution and I should vote against it.

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

Mr. MAXEY, (when his name was called) I desire to state that I am paired with the Senator from Michigan, [Mr. FERRY.] I would vote "yea" and he would vote "nay," if the Senator from Michigan were present.

Mr. INGALLS, (when Mr. PLUMB'S name was called.) My colleague [Mr. PLUMB] is unavoidably absent from the Senate and is paired with the Senator from Missouri, [Mr. ARMSTRONG.] If he were here, he would vote against the resolution and the Senator from Missouri would vote in favor of its adoption.

The roll-call having been concluded, the result was announced—yeas 29, nays 27; as follows:

YEAS—Messrs. Bailey, Bayard, Beck, Cockrell, Coke, Conover, Davis of West Virginia, Dennis, Garland, Gordon, Harris, Hereford, Hill, Jones of Florida, Kernan, Lamar, McCreery, McDonald, McPherson, Merrimon, Morgan, Patterson, Randolph, Saulsbury, Thurman, Voorhees, Wallace, Whyte, and Withers—29.

NAYS—Messrs. Allison, Anthony, Booth, Bruce, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Conkling, Dawes, Dorsey, Edmunds, Hoar, Howe, Jones of Nevada, Kirkwood, McMillan, Matthews, Mitchell, Morrill, Oglesby, Paddock, Rollins, Saunders, Spencer, Teller, and Wadleigh—27.

ABSENT—Messrs. Armstrong, Barnum, Blaine, Christiancy, Davis of Illinois, Eaton, Ferry, Grover, Hamlin, Ingalls, Johnston, Maxey, Plumb, Ransom, Sargent, Sharon, and Windom—18.

So the resolution was adopted.

Mr. EDMUNDS and Mr. THURMAN addressed the Chair.

The VICE-PRESIDENT. The Senator from Vermont.

Mr. EDMUNDS. I object to the present consideration of the credentials——

The VICE-PRESIDENT. The Chair holds, then, that the subject goes over under the fiftieth rule of the Senate.

Mr. THURMAN. I move, Mr. President, that the Senate do now adjourn.

Mr. EDMUNDS. I believe I have the floor. I wish to suggest to the Senator who proposes to adjourn until to-morrow that I do not know whether we should meet instantly, if we adjourned now in that way, or would not meet until to-morrow. I suppose the Senator means that we adjourn to Wednesday.

Mr. THURMAN. Mr. President, I move that we now adjourn. We must be called in the session of Tuesday.

Mr. EDMUNDS. May I ask the Chair what is the effect if we simply adjourn at this moment, in point of law? At what time do we meet again?

The VICE-PRESIDENT. The Chair holds that if the Senate adjourns now it will meet to-morrow at twelve o'clock.

Mr. THURMAN. Then I move, Mr. President, that the Senate adjourn to half past three o'clock, Tuesday.

Mr. EDMUNDS. Mr. President, I move that the Senate adjourn. I am happy to join with my friend in getting an adjournment once.

The VICE-PRESIDENT. The Senator from Vermont moves that the Senate do now adjourn.

Mr. EATON. The longest time will be put first.

The VICE-PRESIDENT. The motion to adjourn is first in order.

Mr. GORDON. Is the motion amendable?

The VICE-PRESIDENT. The motion to adjourn is not amendable. The motion is that the Senate do now adjourn.

Mr. GORDON called for the yeas and nays.

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

Mr. DAVIS, of Illinois, (when his name was called.) I am paired with the Senator from Michigan [Mr. CHRISTIANCY] on all these questions.

Mr. PADDOCK, (when his name was called.) On this vote I am paired with the Senator from Arkansas, [Mr. GARLAND.] I do not see him in the Chamber; therefore I will observe the pair.

The roll-call having been concluded, the result was announced—yeas 26, nays 28; as follows:

YEAS—Messrs. Allison, Anthony, Booth, Bruce, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Conkling, Dawes, Dorsey, Edmunds, Hoar, Howe, Jones of Nevada, Kirkwood, McMillan, Matthews, Mitchell, Morrill, Oglesby, Rollins, Saunders, Spencer, Teller, and Wadleigh—26.

NAYS—Messrs. Bailey, Bayard, Beck, Cockrell, Coke, Conover, Davis of West Virginia, Dennis, Gordon, Harris, Hereford, Hill, Jones of Florida, Kernan, Lamar, McCreery, McDonald, McPherson, Merrimon, Morgan, Patterson, Randolph, Saulsbury, Thurman, Voorhees, Wallace, Whyte, and Withers—28.

ABSENT—Messrs. Armstrong, Barnum, Blaine, Christiancy, Davis of Illinois, Eaton, Ferry, Garland, Grover, Hamlin, Ingalls, Johnston, Maxey, Paddock, Plumb, Ransom, Sargent, Sharon, and Windom—19.

So the Senate refused to adjourn.

Mr. THURMAN. Mr. President, now I renew my motion, if it is necessary, that we adjourn to half past three o'clock of Tuesday, the 27th instant.

Mr. EDMUNDS. I make the point of order that the rules only provide for adjourning over for at least one day, and that it now is Tuesday.

The VICE-PRESIDENT. Will the Senators permit the Chair to state his view of this question? The Chair holds that, under the fiftieth rule of the Senate, the subject-matter from which the committee has just been discharged must lie over one legislative day. He thinks this legislative day can be terminated only by an adjournment of the Senate. The rules of the Senate provide that the next legislative day shall begin to-morrow at twelve o'clock. That is the opinion of the Chair. Of course he is subject to the Senate.

Mr. THURMAN. I wish to understand the Chair. Does he hold that if we adjourn to half past three o'clock to-day, or any other hour to-day, that will not put an end to the session of Monday?

The VICE-PRESIDENT. The Chair thinks not.

Mr. THURMAN. We are now in the legislative session of Monday. Do I understand the Chair to say that, if we adjourn to half past three or four or any other hour to-day, that will not put an end to the legislative session of Monday?

The VICE-PRESIDENT. The Chair thinks not.

Mr. THURMAN. With great respect for the Chair I must——

Mr. CONOVER. I was going to ask the Senator to withdraw his motion that I may make a motion to proceed to the consideration of executive business. I make that motion, Mr. President.

The VICE-PRESIDENT. Does the Senator from Ohio yield the floor to that motion?

Mr. THURMAN. I should like to have the sense of the Senate on the point. I entertain very seriously, with great respect for the better knowledge of the Chair, a different opinion, and in order that the Senate——

The VICE-PRESIDENT. The Chair knows not what the practice of the Senate may be in such case. He is governed by analogous practice in other bodies, and would be glad to hear the Senator from Ohio and other Senators on the question.

Mr. THURMAN. I should be glad if the Chair would submit that question to the Senate or make a ruling so that I could take an appeal, whichever is most agreeable to the Chair.

Mr. CONKLING. Mr. President, I should like to know what question, under the suggestion of the Senator from Ohio, the Chair would

or could submit to the Senate. It would not, I think, be the question formulated by the Senator from Ohio, because the rule of the Senate would as I understand it exclude that question. The Senator from Ohio, if I understand him, suggests that a motion now to adjourn until another hour to-day would terminate this legislative day. The Chair expressed an opposite opinion and expressed it with some abstinence. It seems to me that there can be no doubt of the correctness of the Chair's opinion in that regard. How can it be that a motion to-day to adjourn to another hour to-day can terminate this legislative day?

But I rose to call the attention of the Senator from Ohio and of the Chair to the fact that under the forty-third rule of the Senate that motion would not be in order. Regardless of what its effect might be, the motion itself would not be in order.

When a question is pending no motion shall be received but
To adjourn,
To adjourn to a day certain, or that, when the Senate adjourn, it shall be to a day certain.

And now I submit with some confidence to the Chair that before you reach the inquiry of the effect of such a motion if it could be made, you encounter the difficulty that the rule does not permit the motion to be made at all. To illustrate—it cannot be in order under this rule at twelve o'clock when the Senate convenes on any day for a Senator to submit a motion that the Senate now adjourn till four o'clock of the same day. The rule says, "that a motion may be made to adjourn. Under the standing orders of the Senate that carries the Senate over to twelve o'clock the next day." The rule further says that you may move to adjourn to a day certain, but I submit that does not mean to adjourn to an hour certain of the same day. Another rule provides for that by tolerating a motion for a recess. A motion applicable to a different hour of the same day is by the rules a motion for a recess. That the Senator does not make; but he says "I move to-day to adjourn to another hour to-day." I think the motion is not in order and it seems to me most manifest if it were in order that the Chair has stated exactly the effect when he says that that motion cannot terminate the legislative day, being a motion which itself defines the time when it is to operate within the legislative day.

The VICE-PRESIDENT. The Chair would state that the principle which controls him in his opinion is, that the motion of the Senator from Ohio violates a standing rule of the Senate which fixes the hour of twelve o'clock for the regular meeting of the Senate.

Mr. EATON. I was about to suggest, differing as I do from the Senator from New York, and with great diffidence, that a slight change in the motion of the Senator from Ohio would relieve him and the Chair and the Senate from any and all difficulties. This is Monday; it is not Tuesday; it is the legislative day of Monday; and if the motion is to adjourn until Tuesday, the 27th, at half past three or four o'clock, it becomes an adjournment for a day. That is my view of the law, and I have no doubt about it.

To adjourn to a day certain.

This is the legislative day of Monday; it is Monday now, so far as this Senate is concerned—so far as this legislative day is concerned; and if the motion were to adjourn to the legislative day of the 27th, if that be the day of the month, then the question would be entirely clear in my judgment.

The Senator from New York suggests that there is an invariable rule of the Senate, which is, that it shall adjourn until twelve o'clock of a certain day. This is one of the occasions upon which that rule becomes utterly impossible. It is not imperative; it is a rule that cannot be enforced, because the hour of the day for Tuesday has passed, although we are in session upon that day for Monday. I have no doubt on the subject myself, and I do not propose to discuss what the effect will be, and where we shall be when we get into the legislative session of to-morrow. That is entirely another matter. Let that matter take care of itself.

Mr. HOAR. Mr. President, I rise to a question of order. That is, that the Chair cannot now submit to the Senate or now rule what will be the proper order of business when the Senate meets on a future day or at a future hour of the same day.

The VICE-PRESIDENT. The Senator does not understand the Chair as having made a ruling of that kind?

Mr. HOAR. I do not understand that the Chair has made a ruling, but I understand that the Senator from Ohio has requested the Chair to submit to the Senate that question. The Chair having simply expressed for information, as was proper and usual, his opinion of what would be the order of business at a certain time, my point of order is that the request of the honorable Senator from Ohio to the Chair to submit that question to the Senate is out of time now; that a discussion of that kind on the question that is about to be submitted to the Senate is out of time now.

Mr. WHYTE. Mr. President, the hour of meeting is fixed by an ordinary order adopted on the first day of the session, which provides:

Ordered, That the hour of the daily meeting of the Senate be twelve o'clock meridian, until otherwise ordered.

The Senate is about to propose to order half past three o'clock of Tuesday for the meeting of to-morrow.

Mr. EDMUNDS. Mr. President, if my friend from Maryland were correct in his proposition, then the new order of the Senate "otherwise" must lie over for a day; and if that is the nature of the proposition I insist that it shall. The whole matter, perhaps, had better be disposed of in the way suggested by the Senator from Ohio, because there seems to be a special fitness that some new rule or old one violated should terminate this affair so as to have it entirely in keeping. But still I think it better to stick to the law and I will submit to my friend from Ohio and to his candid consideration that we now know not merely with our physical eyes, but we are bound to know it, the Chair is bound to know it as a matter of parliamentary law, that it is after twelve o'clock of Tuesday by the calendar, and Monday's session has lasted by twelve o'clock Tuesday, at which hour the Senate by its orders would have met on Tuesday, if it met at all, there being no preceding order to that time for a change, even if it could be made without a day's notice; and so the legislative day of Tuesday has lost its existence. Consequently I submit the only thing to do is to take a recess for the rest of this legislative day, if anybody wants to do it, until Wednesday—but of course that does not get us ahead any—or else to adjourn.

Mr. GORDON. May I ask the Senator a question?

Mr. EDMUNDS. Certainly, with pleasure.

Mr. GORDON. Suppose the Senator from Vermont had proposed yesterday at four o'clock in the afternoon that when the Senate adjourn it adjourn to meet at five o'clock on Tuesday and the Senate had voted for the motion and this debate had continued until three o'clock to-day, and this motion had then been made to adjourn, would not the effect be to bring us into a new legislative session at five o'clock to-day?

Mr. EDMUNDS. That is very possible. If before the time when Tuesday's daily meeting must begin by the rules and the orders, until they are changed, the Senate has fixed another hour for the meeting of the then next calendar day, I should think that result would follow most certainly; but the difficulty is that we have now, without any order of the Senate, passed the period at which it is possible to have a legislative Tuesday; it is lost because, by the standing orders of the Senate, the Tuesday's meeting must have been at twelve o'clock, which has gone by as the Chair says, and I think this is the first time anybody ever maintained the proposition that is now suggested upon that point. I certainly never heard the point made before.

Mr. THURMAN. Mr. President, the more I think of this, the more I am satisfied in my own mind that my first impression was correct. We have again and again and again, notwithstanding the rule providing that the Senate shall meet at twelve o'clock, adjourned to meet at an earlier hour; we have again and again adjourned to meet at eleven o'clock, at ten o'clock——

Mr. ANTHONY. By unanimous consent, as we suspend any rule.

Mr. THURMAN. I do not know of any unanimous consent about it.

Mr. CONKLING. Always, on the motion of the Appropriation Committee.

Mr. THURMAN. I cannot recall that it was always by unanimous consent. Undoubtedly unanimous consent would do it, but I know we have done that again and again. Now what says the Forty-third rule:

When a question is pending no motion shall be received but—
To adjourn.
To adjourn to a day certain or that when the Senate adjourn it shall be to a day certain.

We must remember all the time that we are in legislative parlance and contemplation in Monday. This in legislative parlance is Monday, and not Tuesday; and therefore it is perfectly competent to move to adjourn to Tuesday or Wednesday or Thursday; and it is perfectly competent to move to adjourn, as I think, to any particular hour of any particular day. I might move to adjourn to ten o'clock Wednesday or ten o'clock Thursday or eleven o'clock Friday, for the same reason that I now make that motion. I can move to adjourn to half past three o'clock on Tuesday, the 27th day of November. That was my motion. I do not understand the point made by the Senator from Massachusetts, that I am too late in asking the Chair to submit the question to the Senate.

Mr. CONKLING. Too early, not too late.

Mr. THURMAN. I thought he said too late. I do not understand what objection there is to the Chair submitting a question at any time.

Mr. HOAR. If the Senator will permit me, I will state what my point was. I understood that the Chair in answer to an inquiry—a very proper inquiry—very properly replied that, in his judgment, a certain order of business would be appropriate when we met after the adjournment, and that it was that question that the honorable Senator from Ohio desired the Chair to submit to the Senate, and it was to that question that some of the first remarks in this discussion were addressed. My point was that the Chair could not now, under the rule which authorizes him to submit questions to the Senate, submit what would be the proper order of business on a future day. That was my proposition.

Mr. THURMAN. I did not ask the Chair to do that.

The VICE-PRESIDENT. The Senator from Massachusetts is wholly mistaken. The Senator from Ohio asked no such opinion of the Chair.

Mr. THURMAN. Certainly not.

Mr. HOAR. Then I was mistaken; but that was the proposition which I stated at any rate.

Mr. THURMAN. Mr. President, I am so diffident of my own opinion upon a question of rules——

Mr. HOAR. The Senator from Ohio will permit me further to say in justification of myself, that my understanding, as I am informed by expressions in a low tone from some of the Senators near me, was the understanding of other Senators who sit near me. I am not alone.

Mr. THURMAN. I have no doubt of that. It was a mistake.

Mr. President, as I was saying, I am so diffident in my own opinion on a question of rules, against the better judgment of the Chair, that I am willing to withdraw this motion and make another, which I will make, and which I believe will be in order, although, under the ruling of the Chair, it cannot be considered to-day, still I think it is in order; at all events I will make it, and if there is objection as to its being out of order, we shall have the decision of the Chair upon it. I move that Mr. Butler, of South Carolina, be sworn as a Senator from that State.

Mr. EDMUNDS. That matter has gone over until to-morrow by the objection that I made before.

Mr. THURMAN. The motion goes over; but I can make the motion to-day.

Mr. EDMUNDS. That matter is not before the Senate now. It has gone over, on the discharge of the committee, until to-morrow, and you cannot make the motion to-day.

The VICE-PRESIDENT. The Chair holds that the whole subject-matter has gone over on the discharge of the committee. A subject-matter from which a committee is discharged in the language of the rule, lies over.

Mr. THURMAN. Does the Chair decide whether or not the motion I submit is in or out of order now? I do not ask that it be taken up now. I agree that it goes over, but I now make the motion.

The VICE-PRESIDENT. The Chair thinks the Senator may enter his motion subject to the decision of the Senate to-morrow when it is called up.

Mr. EATON. Let it be understood as entered, then.

The VICE-PRESIDENT. The Chair rules that the Senator may enter that motion simply in the nature of notice.

Mr. EDMUNDS. Then, Mr. President, as I happen to be on my feet, and before I move to adjourn, I give notice, by request, as the saying is, not being responsible for it myself, that immediately after the reading of the Journal to-morrow, the highest matter of privilege, on the report of the Committee on Privileges and Elections touching the credentials of Mr. Kellogg, will be moved. Now, Mr. President, I move that the Senate adjourn. We are all satisfied now, I believe.

Mr. THURMAN. Let us have an executive session.

Mr. EDMUNDS and others. Oh, no. Let us adjourn.

Mr. THURMAN. Let us have an executive session.

Mr. EDMUNDS. I insist on my motion to adjourn. It is cruelty to keep us here any longer.

The VICE-PRESIDENT. It is moved that the Senate adjourn.

The motion was not agreed to; there being on a division—ayes 27, noes 29.

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

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

The yeas and nays were ordered.

Mr. GORDON. May I ask a question for information? I should like to know from the Chair whether, if this executive session shall be ordered by the Senate, we can proceed to consider reports made to the last executive session?

The VICE-PRESIDENT. The Chair will answer that in executive session.

The Secretary proceeded to call the roll.

Mr. DAVIS, of Illinois, (when his name was called.) I am paired with the Senator from Michigan, [Mr. CHRISTIANCY.]

The roll-call having been concluded, the result was announced—yeas 28, nays 27; as follows:

YEAS—Messrs. Bailey, Bayard, Beck, Chaffee, Cockrell, Coke, Conover, Davis of West Virginia, Dennis, Eaton Gordon, Harris, Hereford, Hill, Jones of Florida, Kernan, Lamar McCreery, McDonald, McPherson, Morgan, Randolph, Saulsbury, Thurman, Voorhees, Wallace, Whyte, and Withers—28.

NAYS—Messrs. Allison, Anthony, Booth, Bruce, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Conkling, Dawes, Dorsey, Edmunds, Hoar, Howe, Jones of Nevada, Kirkwood, McMillan, Matthews, Mitchell, Morrill, Oglesby, Paddock, Patterson, Rollins, Saunders, Spencer, Teller, and Wadleigh—27.

ABSENT—Messrs. Armstrong, Barnum, Blaine, Christiancy, Davis of Illinois, Ferry, Garland, Grover, Hamlin, Ingalls, Johnston, Maxey, Merrrimon, Plumb, Ransom, Sargent, Sharon, and Windom—18.

So the motion of Mr. THURMAN was agreed to.

Mr. WITHERS. Before going into executive session, I ask that the doors be considered open that I may present some papers for reference to the Committee on Claims.

Mr. EDMUNDS. We cannot understand what business is being done. Let the order of the Senate be executed.

Mr. BAILEY. I ask leave to make a report from a committee.

The VICE-PRESIDENT. The Senator from Vermont objects. The Chair will suggest to the Senator that it had better be deferred until to-morrow, when it can be reported in open session.

Mr. BAILEY. Very well.

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a letter of the Secretary of the Treasury in relation to a judgment rendered by the Court of Claims in favor of Elijah S. Alvord, claimant; which was referred to the Committee on Appropriations.

EXECUTIVE SESSION.

The Senate proceeded to the consideration of executive business. After thirty-five minutes spent in executive session, the doors were reopened; and (at four o'clock p. m., Tuesday, November 27) the Senate adjourned until to-morrow, (Wednesday, November 28.)

HOUSE OF REPRESENTATIVES.

TUESDAY, *November* 27, 1877.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON.

The Journal of Friday last was read and approved.

REPEAL OF RESUMPTION ACT.

Mr. MORRISON. I ask unanimous consent of the House for a few minutes in which to make some remarks upon the currency question that I desired to make the other day, but was prevented from doing so by the operation of the previous question.

There was no objection, and leave was granted accordingly.

Mr. HUBBELL. I ask leave to have printed in the RECORD some remarks upon that subject.

The SPEAKER. The Chair will state that such leave has already been given by the House to all members who may desire to avail themselves of it. The Chair thinks that the proper interpretation of that leave would allow speeches on this subject to be handed in for printing in the RECORD at any time before the close of this extra session.

Mr. MORRISON. Mr. Speaker, during the progress and near the close of the debate on Friday last, I desired to submit some remarks upon the bill then under consideration to repeal part of the third section of the resumption act. In the great anxiety for a vote and a "record" on the question, I failed to obtain the floor for that purpose, and I ask the courtesy of the House now that I may say what I would have said then. This question of currency and money is centuries old, and has hardly been finally settled by the action of this House in this short session. The question is temporarily in the Senate, but it will be here again, and speedily too. For the purposes of discussion and right determination I trust it may be considered, not inappropriately, as still pending here. I have sought the attention of the House not to discuss the general principles of the subject under consideration, but to state as briefly as I may what I understand to be proposed by the pending bill, (now in the Senate;) what it repeals and leaves unrepealed; what changes it makes in the resumption law. Should this bill become the law, what is our paper currency to be and how issued? By the General Government or by national banks? And what provision, if any, does it contain for making all paper currency, whether issued or to be issued by the banks or by the Government, convertible into coin?

The bill leaves the volume or amount of Government legal-tender notes at $354,490,892, and repeals all provision for their redemption or for making them convertible into coin at any time, however remote. It leaves unrepealed so much of the resumption act as authorizes what is called free banking. The only remaining restriction upon unlimited banking is the amount of the bonded debt and the amount of the reserve or redemption fund required, which may be in legal-tender notes, both ample for a national-bank circulation of $1,500,000,000.

Limited even by the rules and principles of prudent and safe banking, requiring a reserve or redemption fund equal to not more than one-third the amount of circulation, the bonds for security and legal-tenders for reserve are sufficient for a bank-note circulation exceeding $1,000,000,000; but a banking system so limited would keep the legal-tender notes locked up in the banks or the Treasury for a redemption fund. So, then, the effect of the bill is to authorize national banks to issue all the paper currency hereafter to be issued which may amount to a thousand or fifteen hundred millions of dollars, as the interests of the owners of bonds may dictate. What they will issue will be measured of course by what can be profitably issued. If the friends of the pending bill are correct in their assertions as to the demand which exists for currency and the profits of national banking, then we may expect the largest issue authorized, for the bill removes all threats of resumption and relieves the banks from all obligation to redeem their notes, otherwise than in the notes of the Government, which the Government itself refuses to accept for half its dues and will not redeem.

In this bill all provision for their redemption or for making them convertible into coin, as promised on their face, is repealed.

This I believe is a correct statement of the provisions and effect of the bill and of what the law will be when the bill is passed. If it is incorrect some one will oblige me by pointing out wherein the statement of any part of it is not exactly true.

I desire to call the attention of our democratic friends from Ohio and from all the West who favor this bill and call it a repeal of the